

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

19 JULY 2010

The Planning and Development Board will meet in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday 19 July 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 **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).

- 5 **Revisions to PPS 3 (Housing) Garden Land and Densities** – Report of the Head of Development Control.

Summary

The Coalition Government has announced changes to its Planning Policy documents to enable greater emphasis on local identification of some planning requirements.

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

- 6 **Tree Preservation Orders Hurley and Fillongley** – Report of the Head of Development Control.

Summary

The Board recently made two Tree Preservation Orders, and following the period set aside for consultation, it now has to consider whether to confirm the Orders or not in light of any representations received.

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

- 7 **Budgetary Control Report 2010/2011 Period Ended 30 June 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 30 June 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)

Agenda Item No 4

Planning and Development Board

19 July 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, 16 August 2010 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/2009/0592	4	Wagstaff Farm Shawbury Lane Shustoke Change of use from haulage yard to residential development, erection of 14 private dwellings and ancillary works	General
2	PAP/2010/0102	15	Land to south east of Birch Coppice Business Park Dordon Outline planning application for the development of 49.9 hectares of land to south east of Birch Coppice Business Park to create 186,000 square metres of built floorspace for storage & distribution uses within Use Class B8 as an extension to Birch Coppice Business Park (Phase II). Details relevant to Access, Layout and Landscaping are submitted for consideration now with matters of Scale and Appearance of buildings reserved for consideration in a subsequent planning application. Details submitted for consideration now include the layout of proposed site roads and vehicle accesses, site drainage infrastructure works, construction of site roads, site levels for building development plateau and proposed site boundary landscaping. Details of the layout, scale and appearance of buildings are included now for illustrative purposes only.	General
3	PAP/2010/0113	17	Shaw House Freasley Common Siting of stable and store building and change of use of land to equestrian and agricultural (revised application)	General
4	PAP/2010/0215 And PAP/2010/0266	25	11 and 19 Browns Lane Dordon Change of use of premises to hot food take away (A5) use	General
5	PAP/2010/0267	41	95 Witherley Road Atherstone First floor extension	General

General Development Applications

(1) Application No PAP/2009/0592

Wagstaff Farm, Shawbury Lane, Shustoke

**Change of use from haulage yard to residential development, erection of 14 private dwellings and ancillary works,
For Wagstaff Developments Ltd**

Introduction

This report records receipt of this application as it is proposed to refer it to the Board for determination given that it involves a major development in the Green Belt. The development proposal will be described together with an outline of the Development Plan policies applicable in its determination. The major issues will also be identified. It is anticipated that a determination report will be brought to the August Board, depending on consultation responses.

The development proposal is for inappropriate development in the Green Belt. If the Council is minded to support the proposal, then, because of the floor area involved, the application will have to be referred to the Secretary of State under the 2009 Direction to see if he wishes to call-in the proposal for his own determination. The Council can refuse planning permission without referral.

The Site

The development site comprises 0.67 hectares of land close to the hamlet of Shawbury about 1.5 kilometres south east from the junction of Shawbury Lane with the B4114 at Church End. This is part of a larger holding of several hectares. This consists of a house, its garden, a number of outbuildings and former agricultural buildings together with agricultural land and land used for commercial purposes. There is a separate access to the house and one to the land. The whole site is set in open countryside with scattered houses and farmsteads as neighbouring property. Road access to the site is via narrow single carriageway lanes set between high banks with poor visibility and many bends. There is significant hedgerow and tree cover around the boundaries of the site. These features are illustrated on the plan at Appendix A.

Background

The site used to be a working farm, but land has been sold. In planning terms, there are a number of lawful uses at the site. These comprise:

- i) the residential house and its curtilage;
- ii) agricultural use of land,
- iii) a B2 General Industrial use for some of the former agricultural buildings by virtue of the grant of planning permission in 1994, and
- iv) a lawful use of land for haulage, vehicle repair and plant hire, together with ancillary office and storage space by virtue of the grant of a Certificate of Lawfulness in 2006. Together the business/commercial uses described in (iii) and (iv) amount to around 760 square metres of floor area as measured by their footprint.

The site has been the subject of planning enforcement action, and there is an extant Enforcement Notice, upheld at appeal, requiring the cessation of the use of the land the subject of the Notice, for the haulage and storage of primary and secondary aggregates; building materials, plant hire and as a training facility together with the removal of associated structures and the reinstatement of the land. The compliance period for these requirements expired on 22 December 2009.

The unauthorised uses described above continue on the site. Action to prosecute the failure to comply with the Notice requirements is currently not being pursued because the owner confirmed that he would be seeking compliance through the submission of a planning application that sought extinguishment of the other lawful commercial uses at the site, at the same time as undertaking the Notice requirements. That application is now submitted.

Members may better know the site as the base for Wagstaff Developments Ltd, which has operated from here for some time now. The Company is presently involved in the uses covered by the Enforcement Notice and the Certificate Use as described above. The haulage business is mainly involved with heavy landscape works, for instance the construction of lakes and pools, and general earth moving and landscaping associated with larger civil engineering projects, and the site is used as the base or depot for this work. Much of the heavy plant remains away from this site at the various construction sites, but the site is used for the overnight parking of HGV's and all repair and maintenance work is undertaken here. The site is also used as the general storage area for sand, gravel, planings, stone and bricks. Twenty staff are currently employed at the site, and these travel daily to the various construction sites. Survey work concludes that around 30 HGV movements in and out a day is common place. The morning peak is between 0500 and 0700 hours and the afternoon peak is between 1545 and 1730.

The application site for the residential redevelopment proposals matches that of the land covered by the 2006 Certificate, and this also includes the site of the 1994 permission. These lawful uses would be extinguished if the application is approved and then implemented. The land covered by the extant Enforcement Notice covers a wider area. However the repair, maintenance and office uses, together with the diesel and oil tanks would be removed through implementation of any planning permission. The remaining land is used for the open storage of aggregates and materials and as a parking area. This is required to be removed and re-instated through the terms of the Enforcement Notice. This land is also in the ownership of the applicant. These areas are shown on Appendix B.

The Proposal

In essence this involves the redevelopment of the site. This would involve the demolition of all buildings and structures included in the 1994 permission and the 2006 Certificate, together with the cessation of the uses and activities covered by the Certificate, and their replacement with fourteen new houses.

The proposed residential development would be on the site of the 1994 and 2006 Notices close to the existing and remaining outbuildings and house. All access would be via the existing "business" access to the site, but with an improved entrance. This would lead to the grouping of new houses which has been designed so as to replicate a farmhouse and ancillary agricultural buildings. Separate car/garage "barns" would be provided.

These proposed houses would include 5 three bedroom and 9 four bedroom properties, together with car port/barns for the garaging. In total this amounts to a footprint of 1100 square metres – 40% increase over that of the lawful uses as described above. The density proposed, in round terms would be 20 units per hectare No affordable units are provided. A financial appraisal has been submitted by the applicant that sets out his evidence and thus his argument for proposing the quantum of development, and for the case for not including any affordable units.

The development would include its own private foul water treatment works, and air heating and water heating is to be provided by a ground source heat pump.

The application is supported by a Design and Access Statement; a Planning Statement, a Transport Analysis, an Initial Ground Condition Survey, a Financial Appraisal and a Valuation Report.

The proposed layout and design of the houses is shown at Appendices C and D.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policy 2 (Development Distribution); Core Policy (Affordable Housing), Core Policy 11 (Quality of Development), and Policies ENV2 (Green Belt), ENV6 (Land Resources), ENV7 (Development of Existing Employment Land), ENV10 (Energy Generation and Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), HSG2 (Affordable Housing), HSG3 (Housing Outside Development Boundaries), HSG4 (Densities), TPT 6 (Car Parking)

Other Material Planning Considerations

Government Planning Policy Statements – PPS1 (Delivering Sustainable Development), PPS3 (Housing), PPS4 (Planning for Sustainable Growth), PPS7 (Sustainable Development in Rural Areas)

Government Planning Policy Guidance – PPG2 (Green Belts), PPG13 (Transport)

Observations

This development proposal is inappropriate development in the Green Belt, being for new residential development. As such there is a presumption that planning permission is refused. The applicant is arguing that there are other material planning considerations here of such weight, that they amount to the very special circumstances needed to override this presumption. The issue for the Board is whether it agrees with that this is the case. In essence the applicant is saying that the main consideration is that the development proposed would replace the lawful uses at the site, thus resulting in an overall environmental and highway benefit, which would not accrue if these lawful uses are allowed to continue. In other words, the benefits and dis-benefits of the proposed outcome are overall, significantly “better”, than those of continuing with the existing uses.

The Board will need to identify the benefits and dis-benefits of the existing uses, and balance those against those arising from the proposal. It will have to conclude whether these are marginal or material. If the former, then there might not be the weight needed to advance a “very special circumstance” case. In undertaking this assessment, it will have to conclude on whether the scale of the proposal is justified, and whether that weight is weakened in that the proposal fails to meet the Council’s

objectives on providing new housing in the Borough's main settlements, and on affordable housing provision.

The Board will also have to conclude on a number of other considerations that will then be put into the final balance on the determination – these will include the impact of the proposal on the openness of the Green Belt hereabouts; whether there are adverse highway, drainage or nature conservation impacts, the quality of the design and whether it is in-keeping.

Recommendation

That the Board takes the opportunity to visit this site in view of the issues involved in the determination of this application as described in this report.

BACKGROUND PAPERS

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

Planning Application No: PAP/2009/0592

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	23/6/10
2	Head of Development Control	Letter	24/6/10
3			

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.





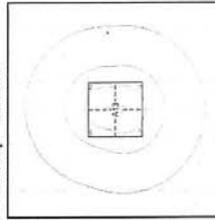
**10k Raster Mapping
Published 2009
Source map scale - 1:10,000**

This map was derived from Ordnance Survey's 1:10,000 vector map data. The data is a high resolution vector map which replaced the old 1:10,000 maps originally published in 1970. The data is high resolution showing buildings, lines and land boundaries as well as all relevant road number and classification. Boundary information (parish, district, county, unitary authority, district, civil parish and constituency).

Map Name(s) and Date(s)

SP29SW	SP29SE
1:10,000	1:10,000
SP29NW	SP29NE
1:10,000	1:10,000

Historical Map - Slice A



Order Details

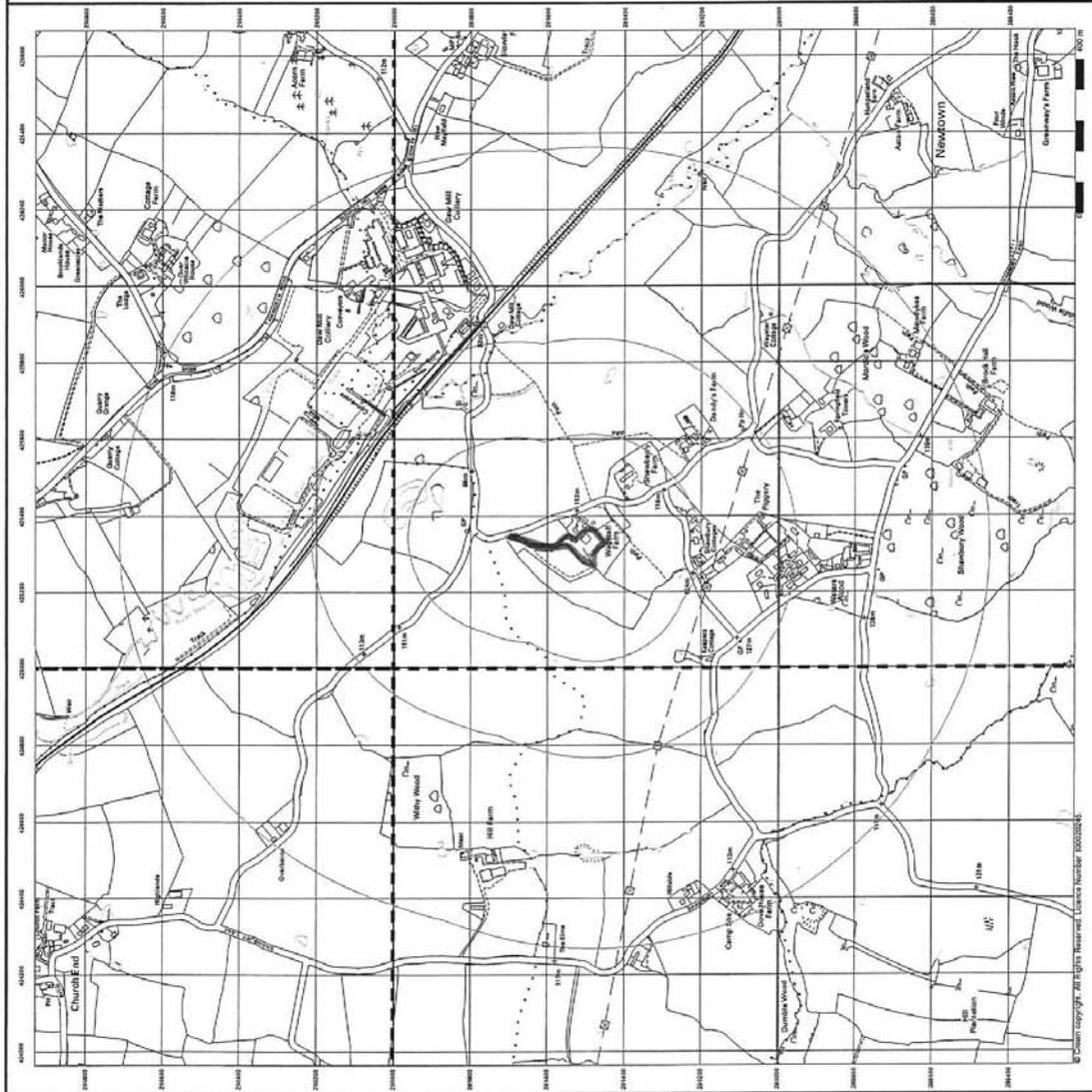
Order Number: 29779830_1
 Submission Ref: 145636T
 National Grid Reference: 426530; 266580
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 Search Buffer (m): 1000

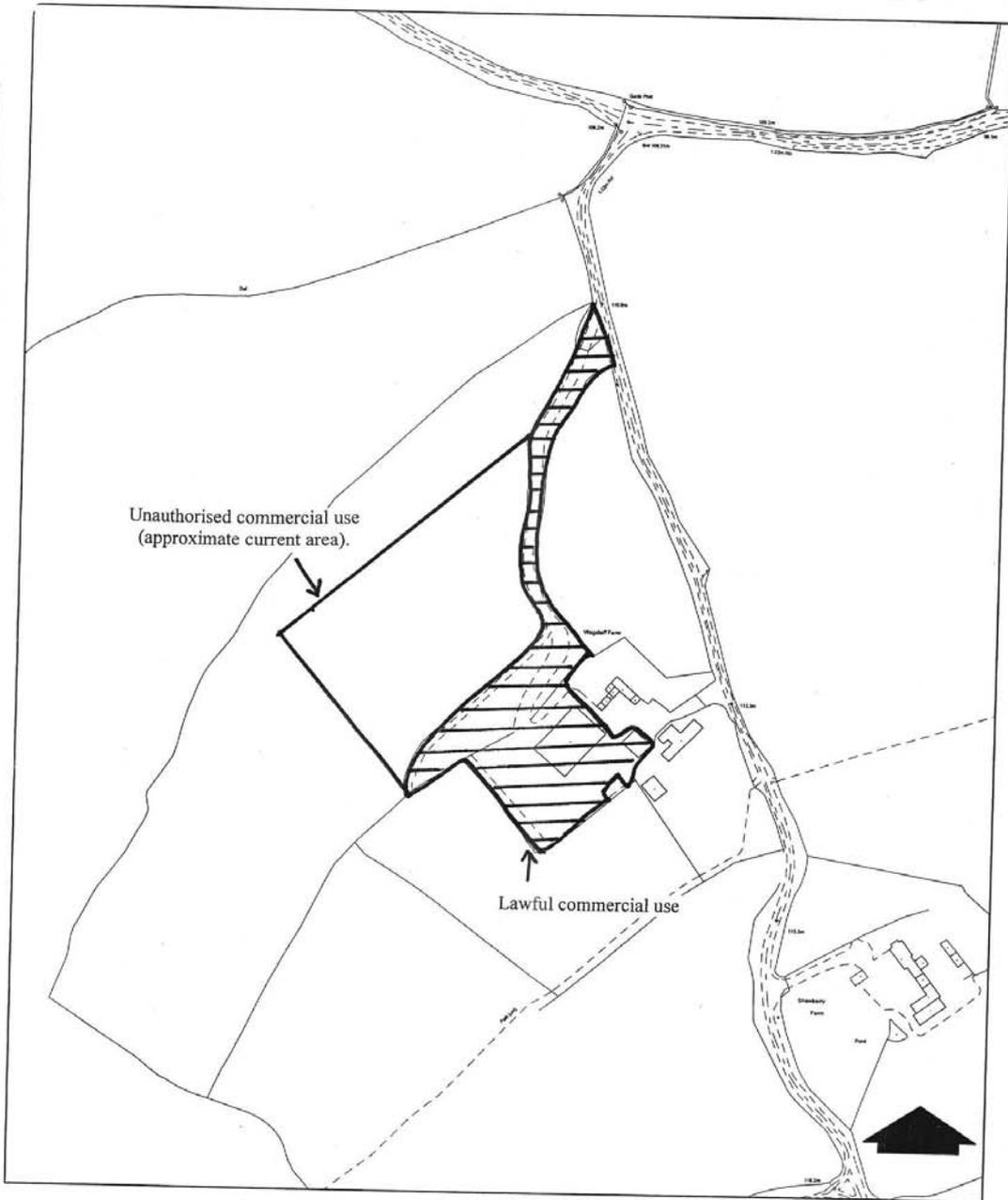
Site Details

Vagsstaff Farm, Coleshill, Birmingham, B46 2SG



Tel: 0844 844 852
 Fax: 0844 844 853
 Web: www.landmark.co.uk



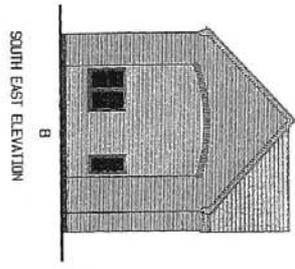
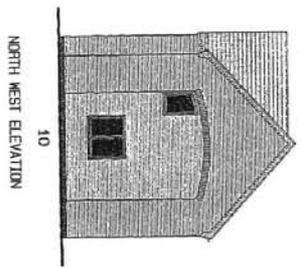
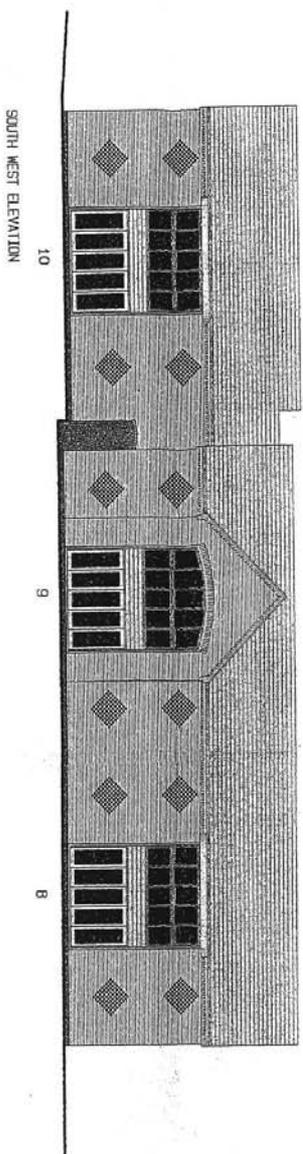
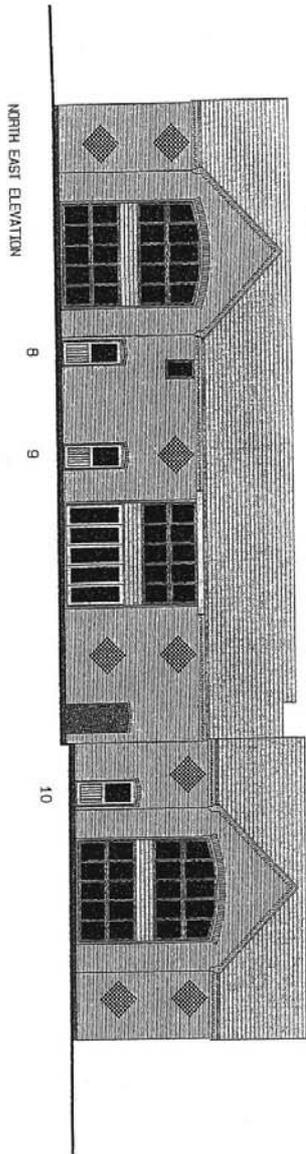


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17/01/2007



North Warwickshire
Borough Council

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NORTH HAVANZSCHMIDT
 ARCHITECTURAL FIRM
 11 JUN 2008
 ARCHITECTURAL DIVISION

PROPOSAL

PLANNING

**WAGSTAFF FARM
 PROPOSED HOUSINGS
 SITES 8, 9 & 10**

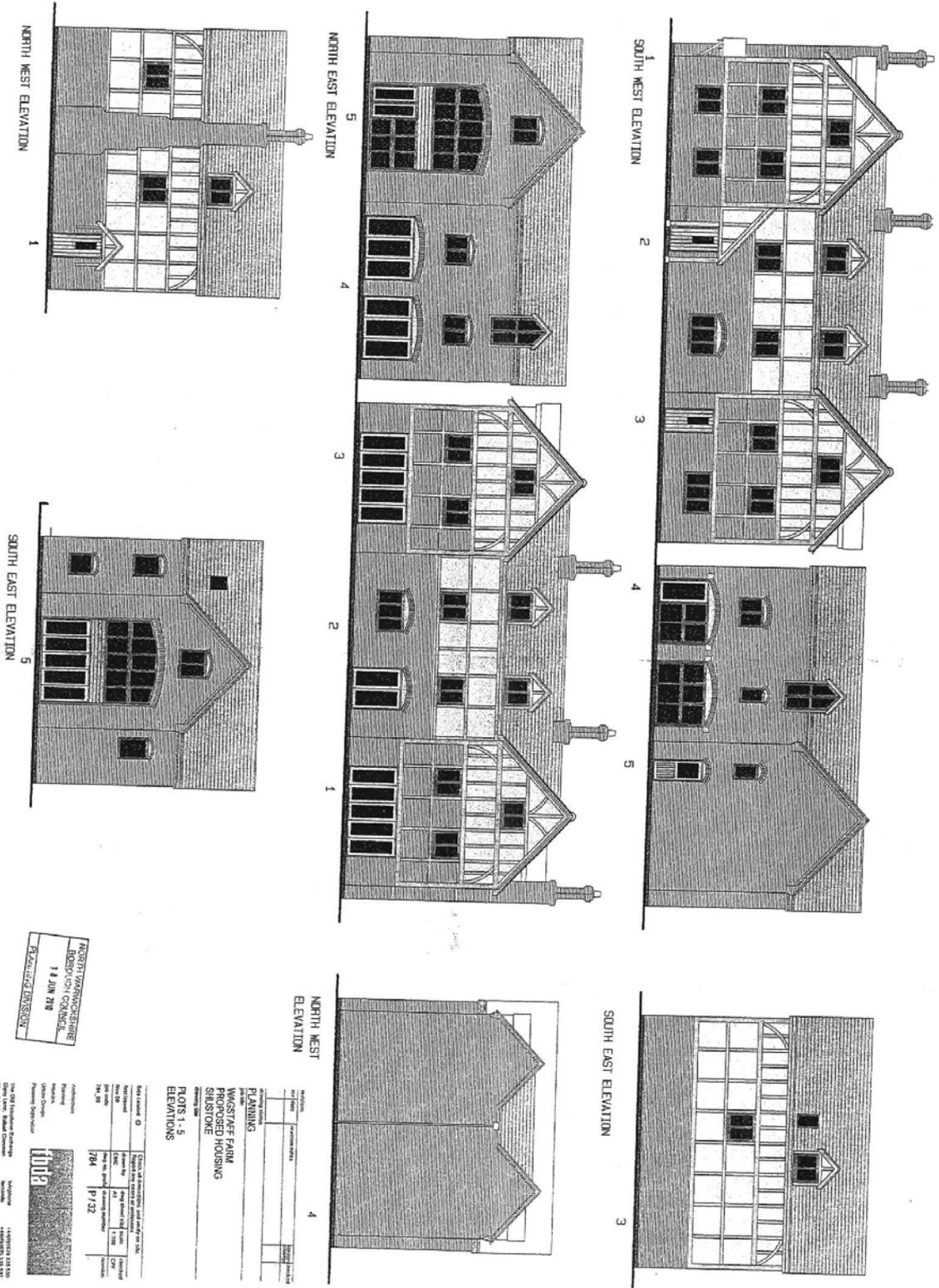
**PLOTS 8, 9 & 10
 ELEVATIONS**

Plot Number	8	9	10
Area (sq m)	1794	1794	1794
Area (sq ft)	19700	19700	19700
Area (acres)	0.41	0.41	0.41

10012

The Old English Cottage
 10012
 10012
 10012

2009 / 0502



ROBERT WAINWRIGHT
 ARCHITECTS
 11 JON ST
 FLEETWOOD

WAINWRIGHT ARCHITECTS
 11 JON ST
 FLEETWOOD

WAINWRIGHT ARCHITECTS
 11 JON ST
 FLEETWOOD

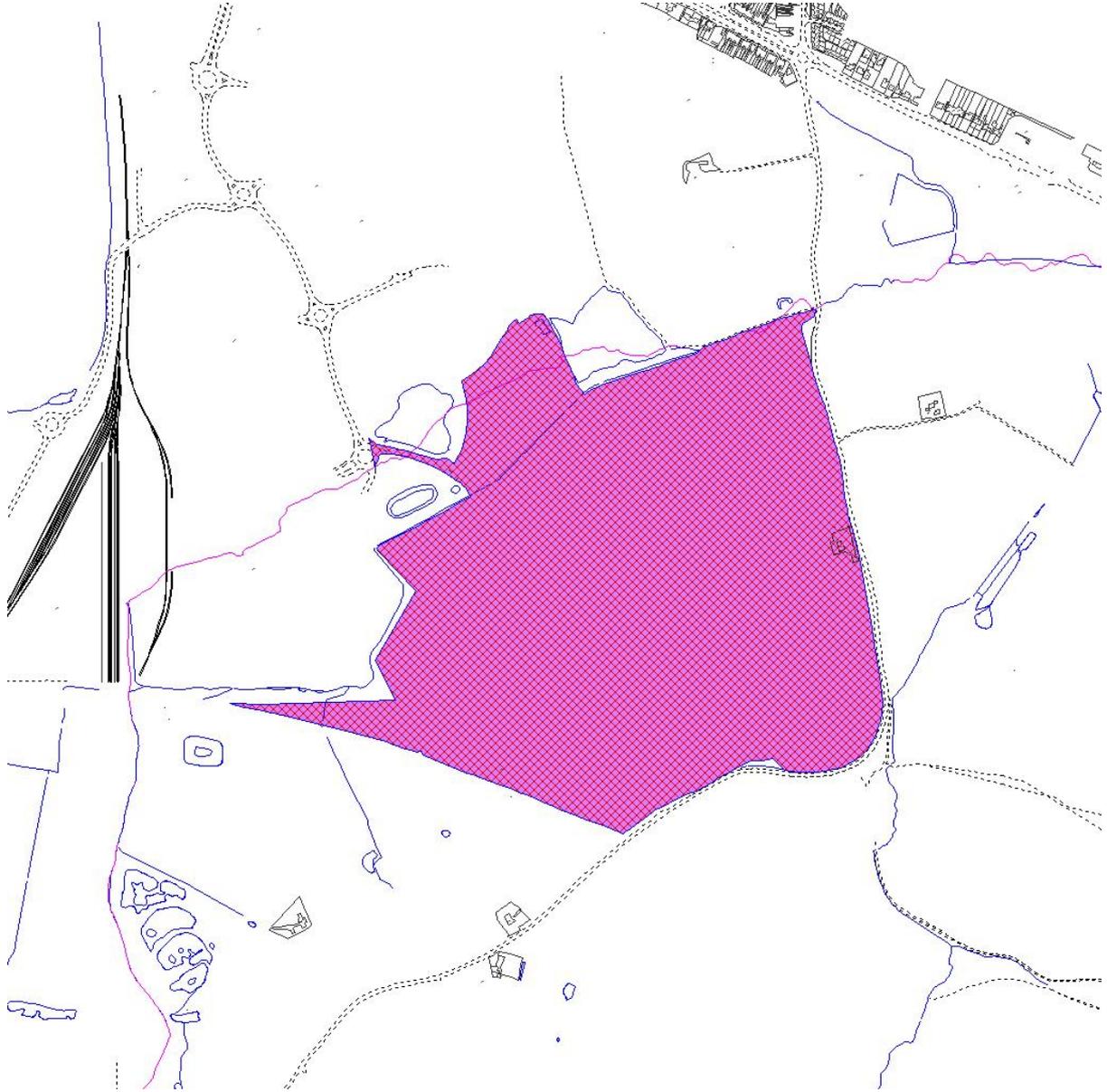
(2) Application No PAP/2010/0102

Land to south east of Birch Coppice Business Park, Dordon

**Outline planning application for the development of 49.9 hectares of land to south east of Birch Coppice Business Park to create 186,000 square metres of built floorspace for storage & distribution uses within Use Class B8 as an extension to Birch Coppice Business Park (Phase II). Details relevant to Access, Layout and Landscaping are submitted for consideration now with matters of Scale and Appearance of buildings reserved for consideration in a subsequent planning application. Details submitted for consideration now include the layout of proposed site roads and vehicle accesses, site drainage infrastructure works, construction of site roads, site levels for building development plateau and proposed site boundary landscaping. Details of the layout, scale and appearance of buildings are included now for illustrative purposes only.,
For I.M. Properties (Dordon) Ltd**

The report for this application will be circulated early next week.

The reason for this delay is because the Regional Spatial Strategy was revoked on 6 July 2010 and the report needs to reflect this changed circumstance.



(3) Application No PAP/2010/0113

Shaw House, Freasley Common, Dordon

**Siting of stable and store building and change of use of land to equestrian and agricultural (revised application),
for David Marklew**

Introduction

This application is reported to the Board because a Section 106 Agreement is involved in this application.

The Site

The site lies approximately 170 metres to the south of the existing dwellings in Freasley, in the countryside and is currently a vacant field.

The Proposal

To provide a stable and store building together with the change of use of land to a mixed equestrian and agricultural (revised application). A previous application (2009/0506), was approved last year for the same development, but the building was to be close to the rear boundary of the applicants dwelling house, and that of his neighbour. It is now proposed to re-locate the stable and store further away from the rear of the residential gardens. The proposal for a stable block will comprise of a stable for one horse and an additional bay for the storage of hay and land maintenance equipment. The building would measure 8 metres in length, 6 metres in width at its maximum point, 5.2 metres in width at its minimum point and 2.4 metres in height to the eaves and 4.1 metres in height to the ridge of the pitched roof.

Background

In 2009 planning permission was granted for the same sized structure as proposed as part of this application. However as the proposed siting has now changed, and so that two buildings are not built, a legal agreement has been submitted but as yet not signed by the beneficiary of the earlier permission as well as the land owner, saying that the 2009 permission would not be implemented.

Development Plan

Saved policies from the North Warwickshire Local Plan 2006 - ENV11 (Neighbour Amenities), ENV13 (Building Design)

Consultations

NWBC Environmental Health – no comments.

Observations

The application follows a previous approval (2009/0506), which the applicant no longer wishes to pursue, and so the current proposal is in effect an amended scheme. A legal agreement under Section 106 of the 1990 Planning Act, has been drafted so that the previous approval will not be taken up. The main difference between the two applications is that the siting of the building is in a different location, with the 2009 approval close to the rear of residential curtilages, and the current proposal at the opposite end of the field to the south of the residential properties.

The land earmarked for the siting of the stable is outside of the immediate residential curtilage and will occupy agricultural land. The proposal does not only seek permission for the stables but also for the change of use of the land for equestrian and agriculture, from its current use of agriculture.

The stables would be constructed of timber such as to resemble a rural building and the roofing materials would be a plain clay tile. The materials are considered to be acceptable for a rural location.

The siting of the building is 165 metres away from the nearest residential property of Bickley House, Freasley, and 155 metres beyond the southern boundary of its curtilage. The building would be visible from the rear of the applicants dwelling. There is existing landscape screening to the site boundary.

The use of the stables would for personal use only, and it is said that there would be no commercial element to the use of the stables.

It is considered that the development of stable and store building is appropriate within the countryside. The height, scale and massing of the building are considered not to lead to an over dominant, unsympathetic or incongruous development.

Recommendation

That subject to the Section 106 Agreement being signed, as outlined above, planning permission be granted subject to the following conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the revised plans numbered 100901A received by the Local Planning Authority on 9 June 2010 and the site location/block plan received by the Local Planning Authority on 18th March 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 with timber board cladding and roofing tiles to match the existing dwelling.

REASON

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

4. The stables and associated store hereby approved shall not be used for any commercial riding, livery, breeding or training purposes.

REASON

To prevent unauthorised use of the land.

5. The land use in association with the stable and store hereby approved shall not be used for residential use whatsoever and does not form part of the residential curtilage.

REASON

To prevent unauthorised use of the land.

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.

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.

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

North Warwickshire Local Plan 2006 (Saved Policies):

ENV1 - Protection and Enhancement of Natural Landscape, ENV11 - Neighbour Amenities, ENV13 - Building Design.

Justification

The proposal is appropriate development in the Open Countryside, allowing a personal equestrian use on the surrounding land to Shaw House, Freasley. Subject to control, there is not considered to be harm to neighbouring amenity, nor to visual amenity in this location, given that the scale, design and siting is acceptable, and materials reflecting the rural vernacular. The proposal is therefore in accordance with saved policies ENV1, ENV11, ENV12 and ENV13 of the North Warwickshire Local Plan 2006 and National and local policies as set out in Planning Policy Statement 7. There are no material considerations that indicate against the proposal.

BACKGROUND PAPERS

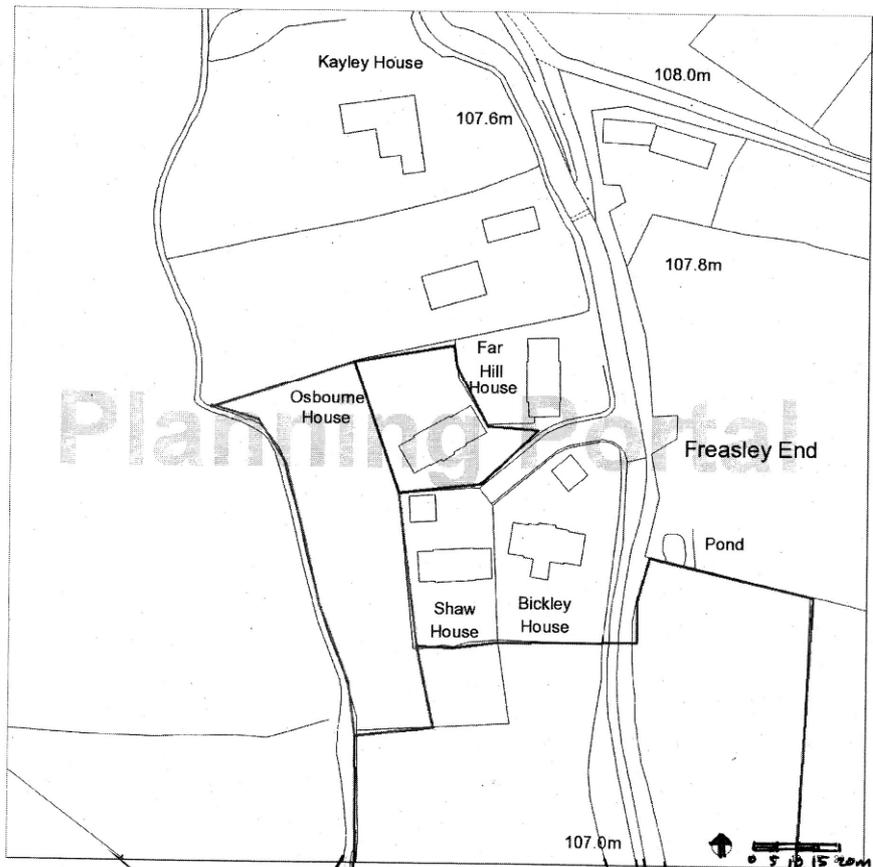
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2010/0113

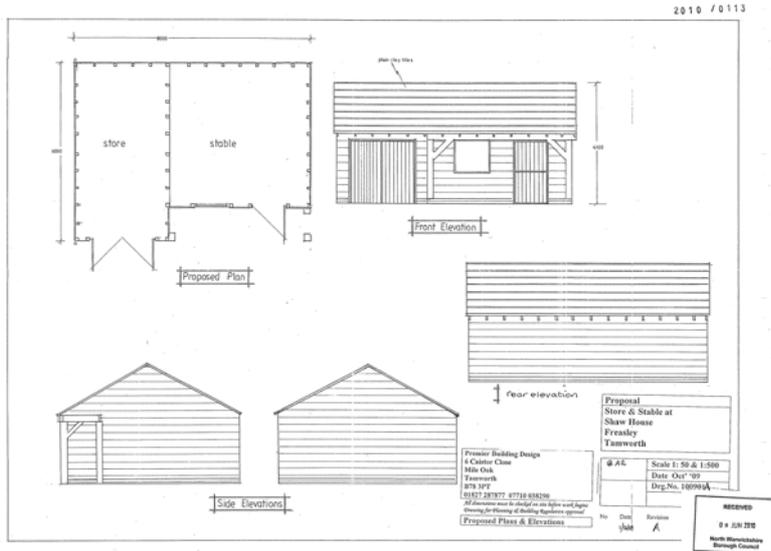
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	17/3/10
2	Development Control	Planning Application valid	28/5/10
3	Case Officer	Email to agent	07/06/10
4	Case Officer	Email to Agent	08/6/10
5	Case Officer	Email to Agent	08/6/10
6	Agent	Letter to Case Officer	09/06/10
7	Solicitor of Council	Email to Case Officer	09/06/10
8	Case Officer	Email to Council Solicitor	14/6/10
9	Case Officer	Email to Agent	15/6/10
10	Case Officer	Email to Agent	15/6/10
11	Case Officer	Email to Council Solicitor	15/6/10
12	Council Solicitor	Email to Case Officer / Agent	17/6/10
13	Council Solicitor	Email to Case Officer / Agent with revised S106	17/6/10
14	Agent	Email to Case Officer	21/6/10
15	NWBC Environmental Health	Consultation Response	21/6/10

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.



Proposed
Stable/store



View looking down the field towards the site



View from the centre of the field toward Shaw House and Bickley House

(4) Application Nos PAP/2010/0215 and PAP/2010/0266

11 and 19 Browns Lane, Dordon, and 19 Browns Lane, Dordon

**Change of use of premises to hot food take away (A5) use,
for Mr Mahfuz Balkaya - 11 Browns Lane, Dordon (2010/0215)**

**Change of use of premises to hot food take away (A5) use,
for Mr Gordon Patterson - 19 Browns Lane, Dordon (2010/0266)**

Introduction

These applications at 11 and 19 Browns Lane are reported to the Board, following a local member request concerned about the potential impact of the proposals.

The Sites

Both sites are within a parade of fourteen shops that serves the local area of Dordon. They are currently empty. The units provide a range of goods and services, but there are four existing takeaway units within the parade i.e. - Chip Shop, Indian/Bangladeshi, Chinese and Bangladeshi. The other shops along the parade include a Spar shop, a hairdresser, an Off Licence and a PC store. Of the fourteen units, five are vacant.

There are residential flats above this parade and the surrounding area is wholly residential in character. There is a lay-by in front of the parade.

The Proposals

Both applications are for the change of use of the premises to hot food take away (A5) use, with ancillary arrangements at the rear to extract odour levels.

Proposed hours in both proposals are from 1700 to 2300 on all days.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006 - ECON 5 (Facilities relating to Settlement Hierarchy), ENV 11 (Neighbour Amenities), TPT6 (Vehicle Parking)

Consultations

Environmental Health – No objection to either application

Warwickshire County Council as Highway Authority – No objection, but points out that if these applications are approved, there would be six take-aways in this parade. In these circumstances, the available parking may be insufficient, particularly when they are trading at the same time as the shops.

Representations

11 Browns Lane, Dordon (2010/0215)

Dordon Parish Council – No comments received

A petition with 217 signatures has been submitted from local people objecting to the proposal. This petition has been organised by owners of Dordon Fish Bar at 1 Browns Lane. The objections are as follows:

- There are already four hot food takeaways in the parade of shops, with four others locally, and one on the Watling Street. In total nine hot food takeaways/restaurants in Dordon already.
- The Dordon Fish Bar employs local people and the proposal if allowed could result in a loss of jobs.
- Vehicle parking can be a problem with fourteen flats above the shops and the shop keepers using the spaces, leaving the parking area congested especially when delivery lorries are there.
- Issues with regard to local youths hanging around.

19 Browns Lane, Dordon (2010/0266)

Dordon Parish Council – No comments received

The same petition as recorded above has been submitted.

Observations

For the purposes of this report, both applications will be considered together as exactly the same issues arise.

The sites lies within the development boundary of Dordon as identified within the North Warwickshire Local Plan 2006. As such the proposed use is appropriate. Whilst Policy ECON5 particularly directs such uses to town centres, it is considered that in this case, the site is wholly appropriate given the existence of a substantial parade of shop units serving the local community, and the fact that permissions have previously been granted here for this type of use. There is thus no objection in principle.

The main concern from those making representations is the cumulative impact of an increased number of take-aways in this parade. Members are aware that competition between different occupiers is not a planning matter, and thus consideration of the cumulative impacts, will revolve around the loss of retail activity; and whether existing adverse impacts are materially exacerbated, particularly from odour emissions or on parking pressures. The first of these matters is not considered to warrant a refusal as even with permissions for both of these applications, 56% of the units here would still be open to retail uses. It should also be remembered that take-aways are wholly appropriate in planning terms within retail frontages. More telling here, are the number of vacant units. More weight should be given to providing an opportunity to occupy these units such that the general appearance and environment does not decline as a result of having boarded-up properties. It is also pertinent that at some stage, market factors are likely to result in the loss of one or more of these units, and it is considered that the number of take-aways here will not be permanent.

The situation now is representative of the current economic situation, and the make-up of this parade will continue to change over time.

It is noteworthy that the Environmental Health Officers do not object.

The Highway Authority comment is well made. However, the proposed hours of these two proposals are for evening opening hours, and this can be controlled by condition. The lay-by in front of the parade can accommodate around 15 vehicles, which is considered to be sufficient at this time of the day for potentially six take-aways and the Spar shop.

Under the Use Classes Order as amended in 2010, planning permission is not required for the use to change from A5 (takeaway) to A1 (retail).

When considering the matters raised in the petition, the following point needs to be made from the start. It has been organised by the owner of one of the existing take-away outlets, and includes signatories who live some distance away. As a consequence it certainly carries weight, but that is lessened because of these two factors. In response to the matters raised then:

- There are already four out of the fourteen units being used as takeaways at present, however there are five empty too. It is accepted that there are others in the neighbourhood, but the immediate issue is whether it is better to have this use rather than for the units to remain empty?
- The competition between different businesses is not a material planning consideration. As far as the Council concerned, these two applications provide employment opportunities.
- Parking will always be an issue with such a parade of shops, but here, there are parking areas at the rear of the parade for the residential properties above; the proposed opening hours can be conditioned so as not to conflict with the main trading day, customers will walk to the parade given its centrality within a residential area, and deliveries will be temporary in occurrence.
- It is acknowledged that there may well be anti-social behaviour here already, but would empty shops and boarded up units exacerbate that more than having the units occupied?

Recommendations

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

11 Browns Lane, Dordon (2010/0215)

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered Plan 1 (layout and section), Plan 2 (site location plan) and Plan 3 (block plan) received by the Local Planning Authority on 10th May 2010.

REASON

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

3. There shall be no sale of hot food, other than between 17:00 hours and 23:00 hours on any day.

REASON

To prevent disturbance to the occupiers of nearby properties.

19 Browns Lane, Dordon (2010/0266)

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 11296.1 and site location plan received by the Local Planning Authority on 2nd June 2010.

REASON

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

3. There shall be no sale of hot food, other than between 17:00 hours and 23:00 hours on any day.

REASON

To prevent disturbance to the occupiers of nearby properties.

Notes are the same for both applications

5. 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.

6. 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>.
7. Advertisement Consent is required under a separate procedure of the Town and Country Planning Act 1990. Should any advertisements, signs, name boards, or other devices to attract attention, be intended in respect of this development, the Local Planning Authority will be pleased to advise you on all associated aspects prior to the erection of any such advertisements, and provide you with application forms.
8. 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
ENV9 - Air Quality
ECON5 - Facilities relating to settlement hierarchy
TPT6 - Vehicle Parking

Other Planning Considerations
Planning policy Statement 4 - Planning for Sustainable Economic Growth
Planning Policy Statement 7 - Sustainable Development in Rural Areas
9. During the application process, the Councils' Environmental Health Team, stated 'at the back of the shop there is a store and toilet. Toilets should not open out directly into rooms where food is handled. There is therefore the requirement for an intervening ventilated space between the toilet and the store'.
10. The extractor canopy, ducting and rear discharge point should comply with the relevant Environmental Health Standards.

Justification for both applications

- 1 The proposal to change the use of the shop (use class A1) to a Takeaway (use class A5) is not considered to be contrary to ECON5 of the Local Plan, as the application site is not within a defined Core Area and therefore the loss of an A1 unit is not contrary to policy. The opening hours of 17:00- 23:00 Monday to Sunday are considered to be acceptable. 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. No external changes are proposed, apart from a rear flue. There is existing car parking to

the front of the parade of shops. It is considered that the use of the building as a takeaway is acceptable, and will allow an existing empty unit to be used. There are existing takeaways within the parade of shops and within the area, but this is not considered to be unacceptable. The existing shop unit could generate greater vehicle movements through out the day. It is therefore in accordance with saved policies ENV11, ENV12, ENV13, ECON5, ENV9 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/2010/0215

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	6/5/10
2	Environmental Health	Consultation Response	19/5/10
3	Environmental Health	Consultation Response	21/5/10
4	Head of Development Control	Email from Cllr Winter	18/6/10
5	Case Officer	Email to agent	24/5/10
6	Agent	Email to case officer	25/5/10
7	WCC Highways	Consultation response	20/5/10
8	Owner Dordon Fish Bar	217 person petition, objection to the proposal	28/5/10
9	Case Officer	Email to agent	28/5/10
10	Agent	Email to case officer	2/6/10
11	Case Officer	Verbal consultation with Forward Planning Manager	8/6/10
12	Agent	Email to case officer	16/6/10
13	Case Officer	Case officer spoke to agent	22/6/10
14	Case Officer	Email and report to Councillors	15/6/10
15	Cllr Simpson	Email to case officer	17/6/10
16	Case Officer	Email to Cllr Winter	21/6/10
17	Cllr Winter	Email to case officer	21/6/10
18	Case Officer	Email to Cllr Winter	22/6/10

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.

BACKGROUND PAPERS

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

Planning Application No: PAP/2010/0266

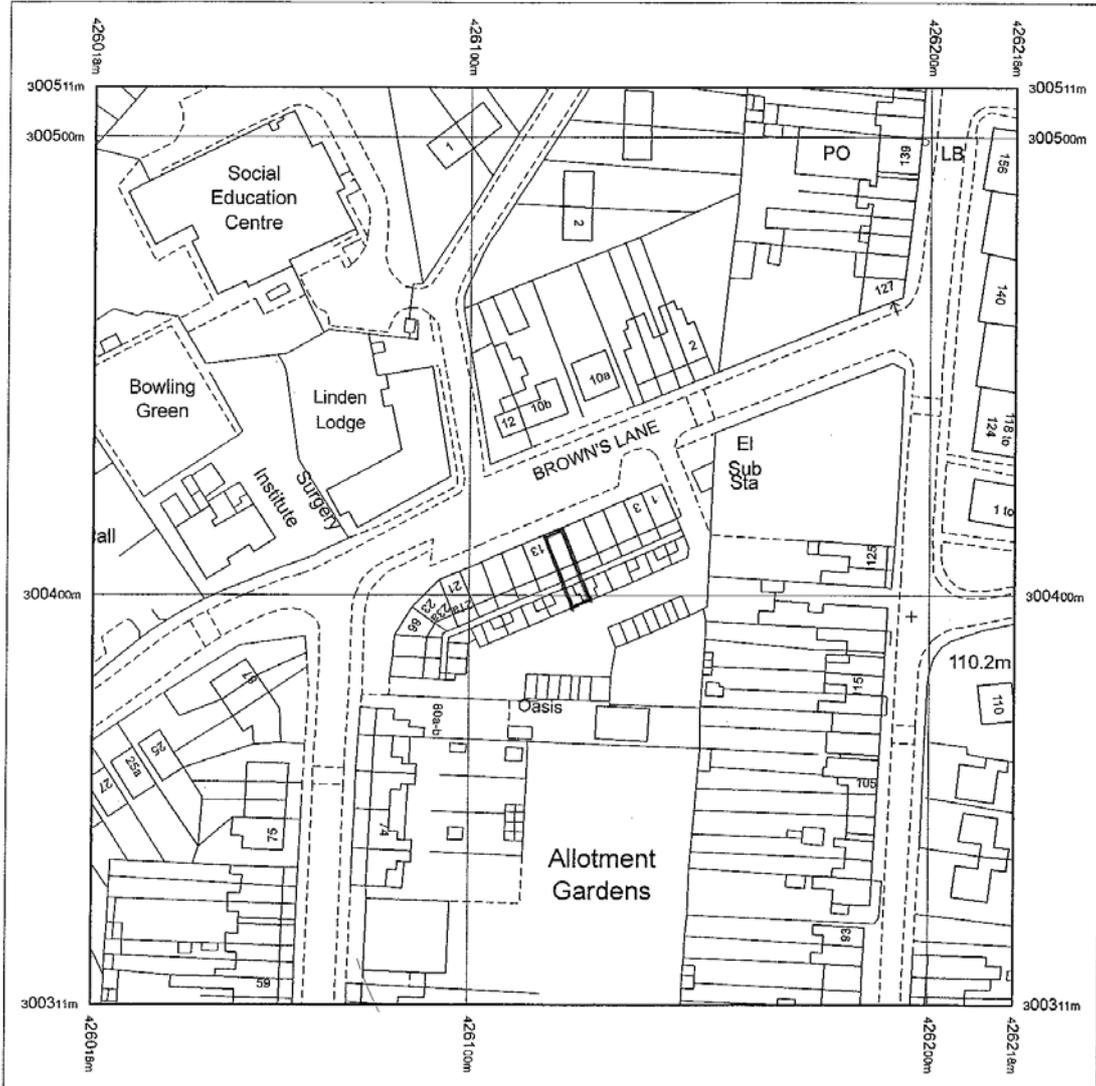
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	2/6/10
2	Owner Dordon Fish Bar	Petition of 200 people objecting to proposal	28/6/10
3	Case Officer	Email to agent	30/6/10

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.

Planning Application No: PAP/2010/0215 – Plan, draws and photos





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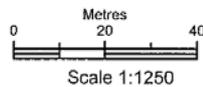
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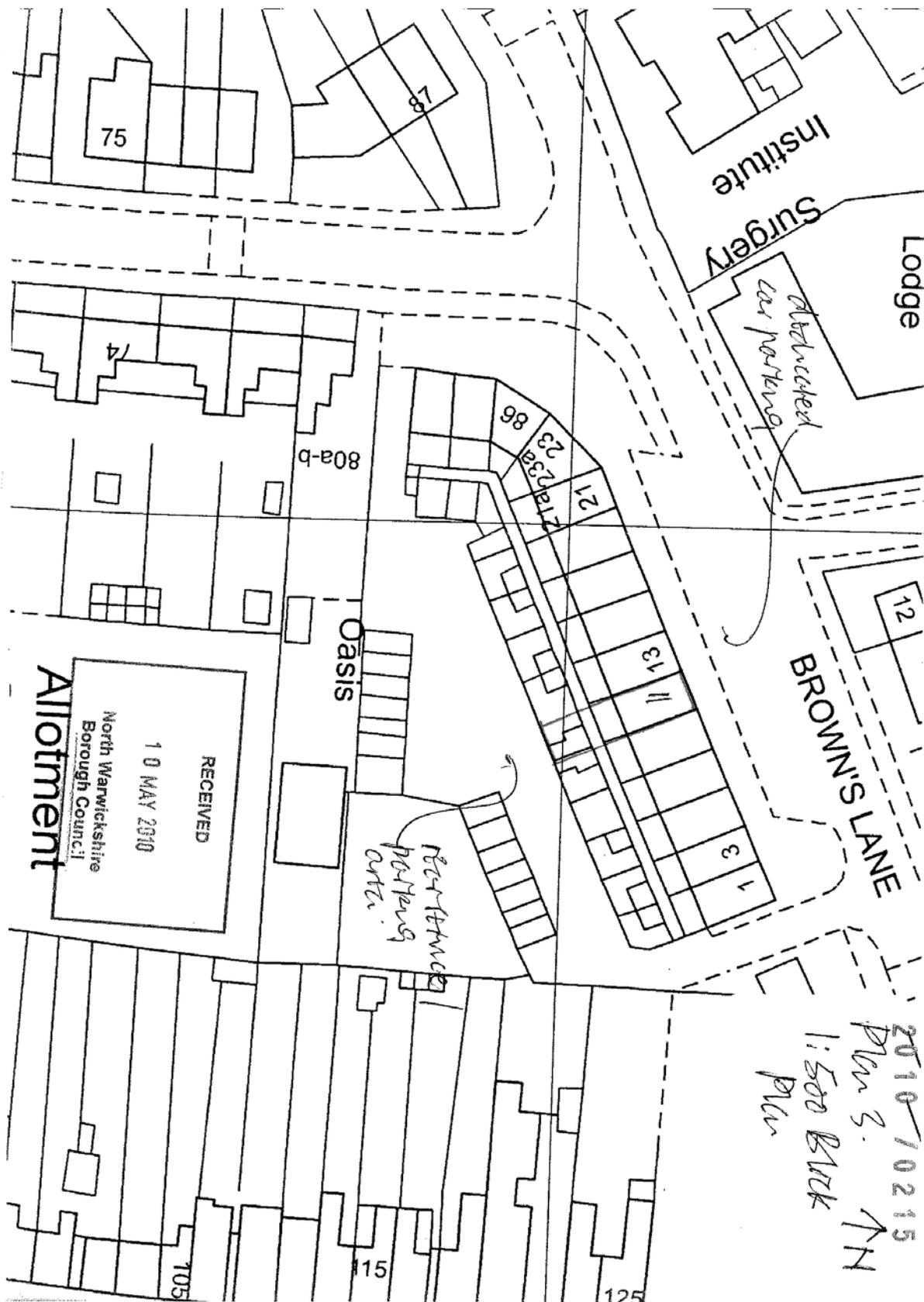
Plan 7

1:1250 location

Plan

10 MAY 2010

**North Warwickshire
Borough Council**

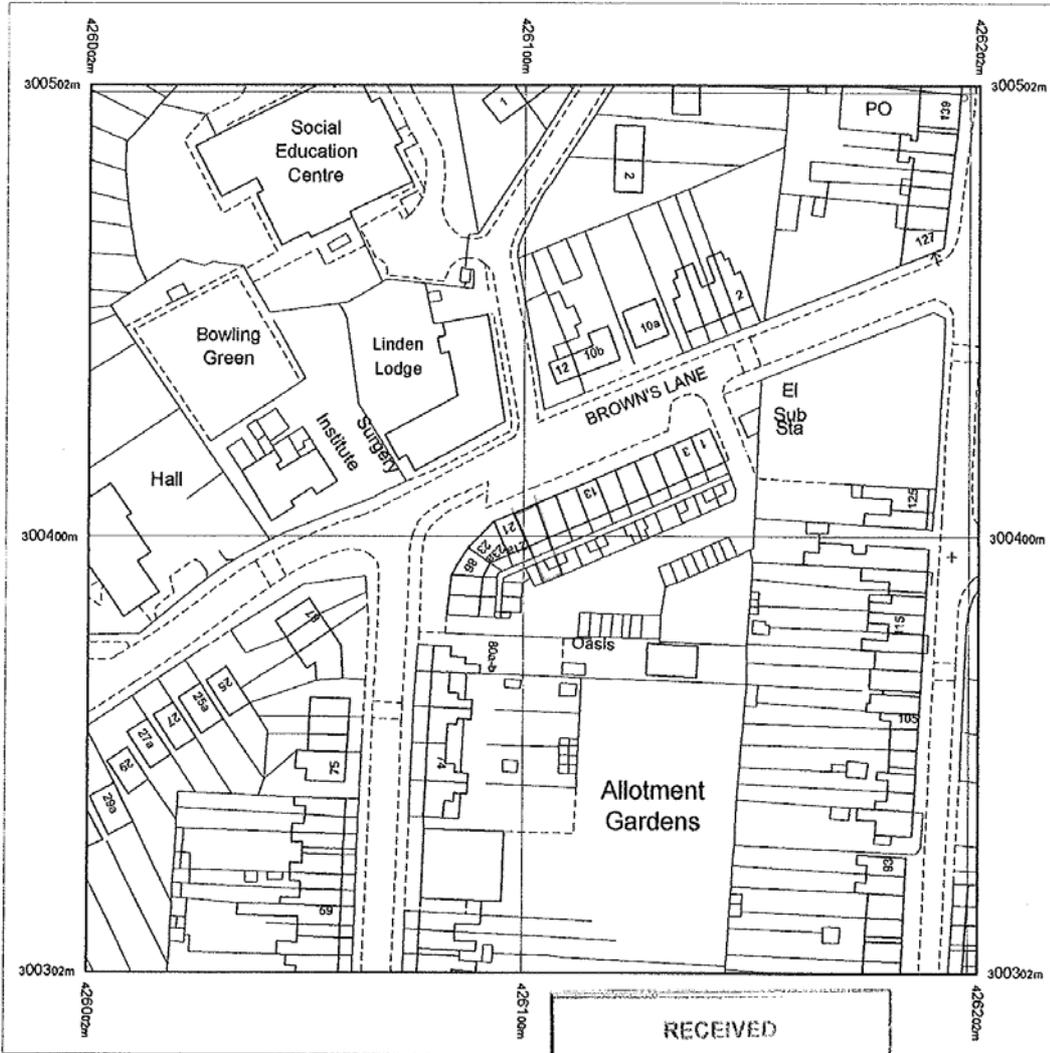


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 10 MAY 2010
 North Warwickshire
 Borough Council
Allotment

2010/0215
 Plan 3.
 1:500 Black
 plan
 ↑ N

Planning Application No: PAP/2010/0266 – Plan, draws and photos





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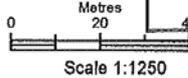
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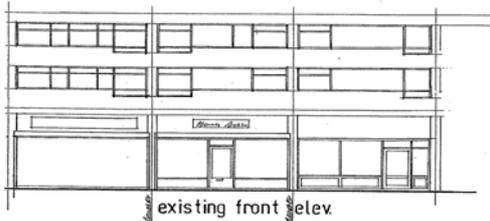
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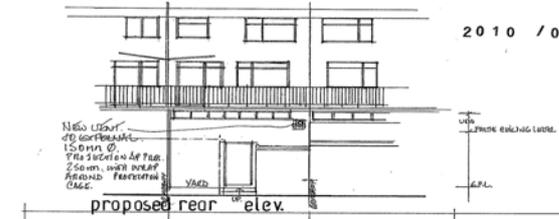
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DORDON
TAMWORTH B78 1TR



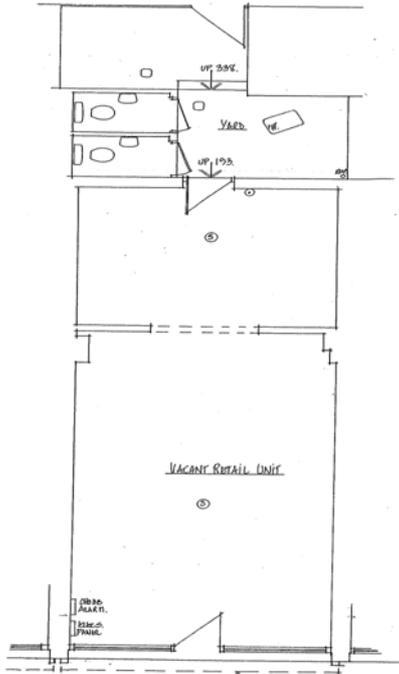
existing front elev.



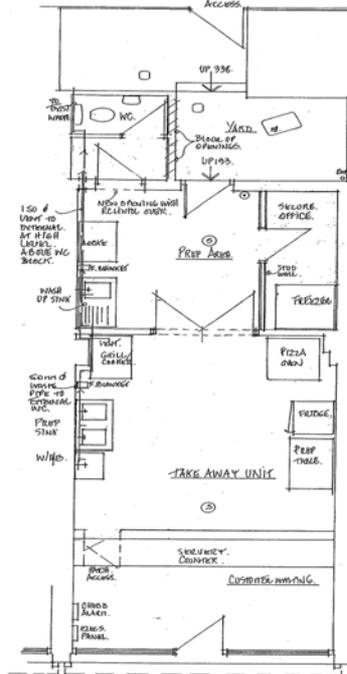
proposed rear elev.



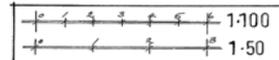
proposed front elev.



existing plan



proposed plan
PROPOSED TAKE AWAY



DESIGN 30 TEL: 01293 211118	
MR G. PATTERSON	
19 BROWNS LANE POLESWORTH	
MAY 2010	1-50 / 1-100
Sheet A2	11296-1

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(5) Application No PAP/2010/0267

95 Witherley Road, Atherstone

**First floor extension,
For Mr Richard Freer**

Introduction

This application is referred to the Board for determination as the applicant's wife is a Member of the Council.

The Site

The site is located along the Witherley Road in Atherstone. It is a detached dwelling and neighbouring dwellings are a mixture of detached houses and bungalows. Many of these have been extended. St Benedicts Roman Catholic School premises are to the rear of the site.

The Proposal

The proposal is for a first floor side extension above the existing garage and kitchen. It would be contained within the existing footprint of the house, as there are already single storey extensions to the rear of the property. There would be a 2 metre gap with the neighbouring property at 97 Witherley Road, and a 1.5 metres gap with no. 93. The house itself is set back some 22 metres from the Witherley Road, in common with its neighbours.

The proposed first floor side extension faces no. 97 Witherley Road. Two additional first floor windows would be added to the side of the property. Both the side windows would be to the bedroom and could be conditioned to be obscurely glazed to protect the amenity of no. 97. There is a principle window to the front of the bedroom and one to the rear en-suite.

Background

Planning permission was previously granted for a two storey and first floor side extension and ground floor front garage extension with balcony above (PAP/2006/0307 – granted 13/06/2006) This permission has now expired.

Development Plan

Saved policies of the North Warwickshire Local Plan 2006: ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design).

Other Relevant Material Considerations

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

Consultations

No responses received.

Representations

Atherstone Town Council – no objection.

Observations

There is no objection in principle to these extensions. The main issues are whether the design of the proposal is in keeping with the original dwelling house and the street scene in general, and secondly whether the proposal would have an adverse impact on the residential amenities of neighbouring properties.

The design is satisfactory. Attention has been paid to ensure that the roof pitch and arrangements fit in with the existing; that the extension is not over-dominant, and that the extension is set back so that there is limited potential to create any 'terracing' affect within the street scene. In view of the extensions constructed in the vicinity, the proposed one here is in keeping.

There will be no impact on the adjoining premises in terms of impingement of the 45-degree guideline, and given the premises are within an existing frontage where rear gardens are all overlooking each other, there is no substantive reason to consider refusal on these grounds. The new windows added to the side elevation will be obscurely glazed at first floor level.

Recommendation

That the application be **Granted** Subject to Conditions

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered 6, 7, 8 and 9 received by the Local Planning Authority on 27 May 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 with facing brick and roofing tiles to match the existing building.

REASON

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

4. Any windows on the Western elevation shall be glazed with obscured glass and shall be permanently maintained in that condition.

REASON

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

Notes

11. 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.
12. 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>.
13. The ecology division of Warwickshire County Museum has advised that there may be bats present at the property that would be disturbed by the proposed development. You are advised that bats are deemed to be European Protected species. Should bats be found during the carrying out of the approved works, you should stop work immediately and seek further advice from the Ecology Section of Museum Field Services, The Butts, Warwick, CV34 4SS (Contact Anna Swift on 01926 418060).

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

North Warwickshire Local Plan 2006 (Saved Policies) : ENV11, ENV12, ENV13 and SPG - A Guide for the Design of Householder Developments - Adopted September 2003.

Justification

The proposed extension complies with Development Plan policies and would not have a material adverse impact.

BACKGROUND PAPERS

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

Planning Application No: PAP/2010/0267

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	27/05/10
2	Atherstone Town Council	No objection	17/06/10

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.



Agenda Item No 5

Planning and Development Board

19 July 2010

**Report of the
Head of Development Control**

**Revisions to PPS 3 (Housing)
Garden Land and Densities**

1 Summary

- 1.1 The Coalition Government has announced changes to its Planning Policy documents to enable greater emphasis on local identification of some planning requirements.

Recommendation to the Board

That the changes be noted.

2 Background

- 2.1 Members will be aware of the proposal of the Conservative Party, when in opposition, to review the definition of “previously developed land”, in view of the perception that there was over development of neighbourhoods due to a requirement for high densities and through the loss of garden land. The Coalition Government has responded very quickly to this proposal and has published new guidance.

3 The Changes

- 3.1 The Government has amended Planning Policy Statement Number Three on Housing in two respects:
- i) Firstly, the national indicative minimum density of 30 dwellings per hectare is now deleted, and
 - ii) Secondly, “private residential gardens” are now excluded from the definition of previously developed land.
- 3.2 These changes do not mean that all residential development over 30 per hectare is prohibited or that there is a mandatory objection to such development. Neither does it mean that there is a mandatory objection to all development of all garden land. Planning applications will still be submitted. Each Planning Authority will continue to determine these applications. If they meet access, amenity and design considerations and are in keeping with the character and appearance of the area, they are likely to be supported. If they are not, then they can be refused planning permission. What has changed is there is not now a presumption that densities will generally be of the order of

30 or over, and that garden land, per se, will not necessarily be immune from new development.

- 3.3 Clearly, it is for each Local Planning Authority to provide the guidance for its own area based on an assessment of its own local character, bearing in mind the need to cater for new development to meet future needs. This will be addressed through the Core Strategy and its attendant Documents.

4 **Report Implications**

4.1 **Sustainability and the Environment**

- 4.1.1 The Council's future development plan policy will address the balance in preparing sustainable locations for new development, and protecting local character, vis-à-vis providing for future demand.

4.2 **Council Priorities**

- 4.2.1 This change is in line with the Council's priorities of protecting the Borough's rural character and heritage.

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
1	Communities and Local Government	Letter	15.6.10

Agenda Item No 6

**Planning and Development
Board**

19 July 2010

**Report of the
Head of Development Control**

**Tree Preservation Orders
Hurley and Fillongley**

1 Summary

- 1.1 The Board recently made two Tree Preservation Orders, and following the period set aside for consultation, it now has to consider whether to confirm the Orders or not in light of any representations received.

Recommendation to the Board

- a That the Tree Preservation Order in respect of the oak tree at the junction of Dexter Lane and Knowle Hill, Hurley be made permanent; and**
- b That the Tree Preservation Order in respect of the oak tree in the rear garden of 32 Holbeche Crescent, Fillongley, be made permanent.**

2 Background

- 2.1 The Board made two Tree Preservation Orders recently and the period for the receipt of objections has passed. As a consequence the Board has now to consider whether to confirm these Orders in the light of any representations received.

- 2.2 The first of the Orders relates to an oak tree at the junction of Dexter Lane with the Knowle Hill in Hurley. The report that led to the Order is attached at Appendix A. As a consequence of the formal consultation period, no representations had been received. It is considered that the Order should now be confirmed given the reasons outlined therein that led to the recommendation to the April Board.

...

- 2.3 The second relates to an oak tree in the rear garden of 32 Holbeche Crescent, Fillongley. The report that led to the Order is attached at Appendix B. No representations have been received as a consequence of the consultation period, and thus the Board has now to consider whether to confirm the Order. In light of the reasons given in the May Board report that led to the recommendation it is considered that this Order now be made permanent.

...

3 Report Implications

3.1 Financial Implications

3.1.1 There are limited circumstances which could lead to compensation being paid to the owner of the land on which the trees are located following a refusal to grant Consent for works to the trees.

3.2 Environment and Sustainability Implications

3.2.1 The confirmation of the tree preservation orders will contribute positively towards the sustainability of the local environment.

3.2 Links to the Council's Priorities

3.2.1 These conformations would support the Council's objective in retaining the rural character and appearance of the Borough.

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

Agenda Item No 9

Planning and Development Board

12 April 2010

Report of the
Head of Development Control

Proposed Tree Preservation Order
Land at the Junction of Knowle
Hill and Dexter Lane, Hurley

1 Summary

- 1.1 Attention has been drawn to a mature oak tree on land at the junction of Knowle Hill and Dexter Lane, Hurley following the receipt of a letter from Warwickshire County Council advising that it may be felled. The tree has been inspected and is considered worthy of a Tree Preservation Order.

Recommendation to the Board

That a Tree Preservation Order be made with immediate effect, in respect of a Pedunculate Oak (*Quercus robur*) tree for the reasons given in this report, 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 A site visit was undertaken by the Council's Tree Officer to assess the trees on the field boundary at the above address following correspondence from Warwickshire County Council advising that there was a threat of a large tree being removed.
- 2.2 The Council's Tree Officer has assessed the trees suitability for an Order and advises that there is a large mature Pedunculate Oak (*Quercus robur*) located on the boundary of a field situated at the junction of Knowle Hill and Dexter Lane, Hurley. The tree is a prominent specimen within the area and exhibits high public amenity and ecological value. Its position is shown on the attached plan and the Tree Officer's evaluation notes are appended to this report. The tree is in fair condition, with a long retention span. There appears to be no reason to currently justify the removal of the tree.
- 2.3 He therefore recommends that a total of one individual oak tree should be protected by this TPO. The TPO is being made to ensure that the tree is not felled and to ensure that significant works are not undertaken without justification.

3 Report Implications

3.1 Legal and Human Rights Implications

3.1.1 The owner of the land has the opportunity to make representations to the Council before any Order is confirmed as being permanent.

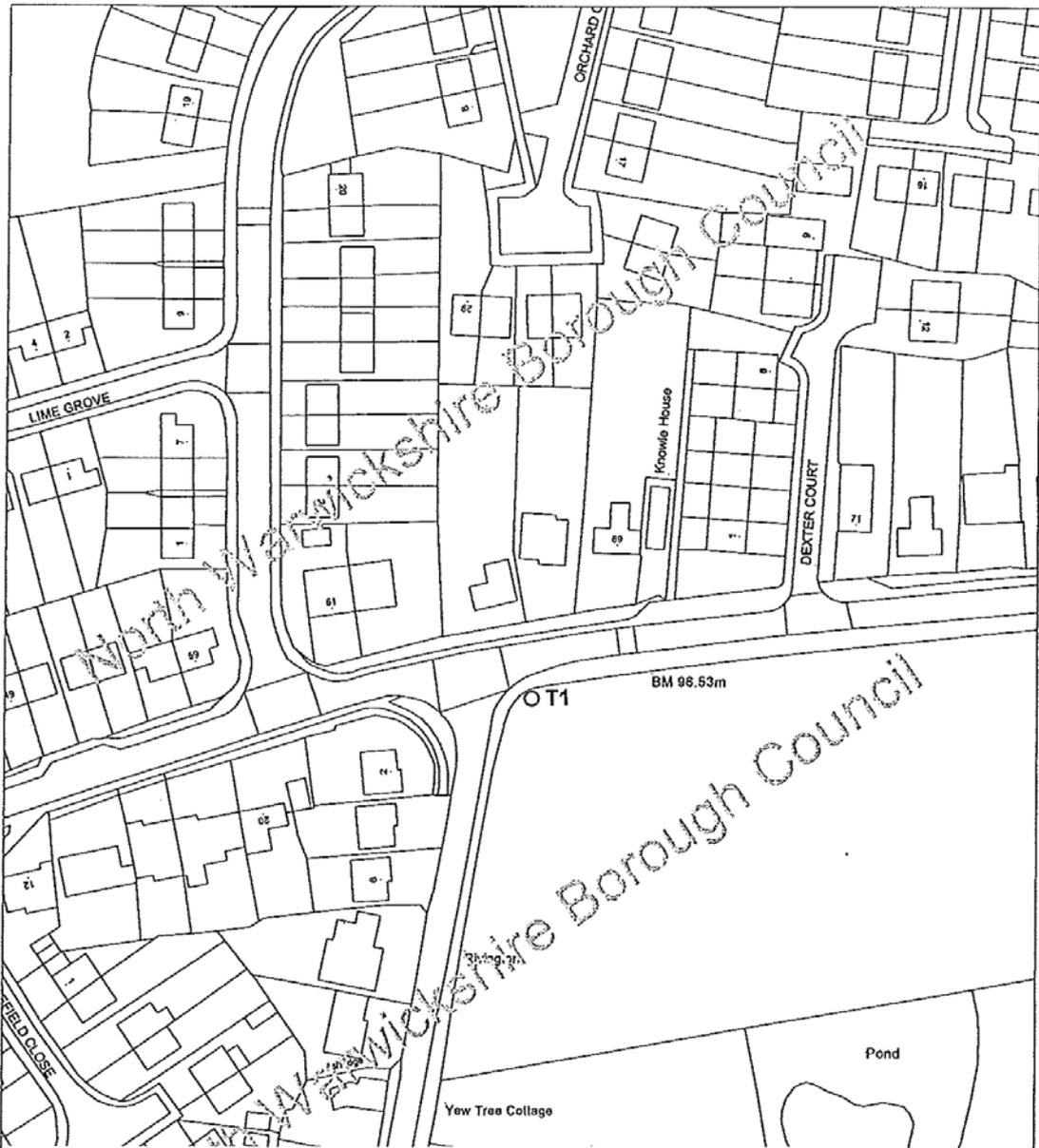
3.1.2 This tree has significant amenity value and it is thus important to protect it.

The Contact Officer for this report is Erica Levy (719294).

Background Papers

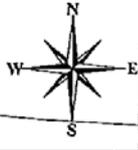
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
Letter	Warwickshire County Council		
Consultation	NWBC Tree Officer		March 2010



Tree Preservation Order: Land at Junction of Knowle Hill and Dexter Lane Hurley
 T1- Oak

Scale: 1:1250	Date: 10.03.10	File No.	Drawn By: J.S.
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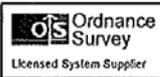


North Warwickshire Borough Council
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Development Control



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Agenda Item No

Planning and Development Board

17 May 2010

Report of the
Head of Development Control

Proposed Tree Preservation Order
32 Holbeche Crescent, Fillongley

1 Summary

- 1.1 A planning permission has been granted for development on land adjacent to an oak tree in the rear garden of 32 Holbeche Crescent. Site preparation works and construction methods have the potential to cause material harm to this tree should it not be afforded protection. The tree is a mature specimen of significant amenity and ecological value, has been inspected and is considered worthy of a Tree Preservation Order.

Recommendation to the Board

That an Emergency Tree Preservation Order be made with immediate effect, in respect of one oak tree for the reasons given in this report, 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 and Observations

- 2.1 A planning application was granted in October 2009 to erect four dwellings on the garage site adjacent to 32 Holbeche Crescent. At the time of application, the oak tree was noted, but it was considered that tree protection measures during the period of construction of the dwellings would be adequate. Further investigation and liaison with the Council's Tree Officer, the developer (which is North Warwickshire Borough Council) and owner of 32 Holbeche Crescent since the grant of permission initially raised concern over the impact the proposed dwellings, specifically their foundations and height, would have on the roots and canopy of this tree.
- 2.2 The site preparation works are scheduled to begin shortly. These do not require planning permission such that the tree would not be protected by way of the aforementioned condition. As these site preparation works are to be intrusive, in order to divert a public sewer, and also likely to include the demolition of garages below the canopy, there is concern that the tree is presently afforded no protection.
- 2.3 The tree is a mature pedunculate oak (*Quercus robur*) situated to the north of the main property and adjacent to the boundary wall and garage site. The tree is approximately 15.5m in height with an approximate average canopy spread of 6m. Due to its location, it is a prominent specimen as vehicles and pedestrians pass along the surrounding roads and footpaths, and it is particularly prominent on approach along the public footpath in the nearby field. It is considered that this tree adds significantly to the rural character of the area, and that it important that any development proposal in the vicinity does not compromise the long term health of the tree.

- 2.4 The tree has also previously been struck by lightning and has been significantly reduced. However the longitudinal scarring has increased the ecological value of the tree.
- 2.5 The tree referred to is shown in the photograph below.



Oak Tree at 32 Holbeche Crescent (T1)

- 2.6 As there is a potential threat to the long term retention and health of this tree by virtue of the forthcoming development, it is recommended that a new TPO be made to protect one individual oak tree as per the plan.

3 Report Implications

3.1 Legal and Human Rights Implications

- 3.1.1 The owners of the land have the opportunity to make representations to the Council before any Order is confirmed as being permanent.
- 3.1.2 The tree to be protected exhibits high amenity and ecological value.

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		May 2010

32 Holbeche Crescent, Fillongley



Date: 21/04/10
Scale: 1:500

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Borough Council

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Agenda Item No 7

Planning and Development Board

19 July 2010

Report of the Assistant Director (Finance and Human Resources)

Budgetary Control Report 2010/2011 Period Ended 30 June 2010

1 Summary

- 1.1 The report covers revenue expenditure and income for the period from 1 April 2010 to 30 June 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.

4.1 Overall Position

- 4.1.1 Net controllable expenditure for those services that report to the Planning and Development Board as at 30 June 2009 is £137,602 compared with a profiled budgetary position of £133,067; an over spend of £4,535 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 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 behind forecast by £8,952 due to a decrease in the larger value planning applications. This has been partially offset by reduced professional services costs of £3,996 compared with the current budget profile.

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

...

5.2 The position after three months is that the gross costs of planning applications is lower than expected due to lower professional advice costs and net costs of planning applications are higher than expected due to the reduction of the larger high value applications being processed. 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 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 £516,740 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 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 Report Implications

8.1 Finance and Value for Money Implications

8.1.1 The Council's budgeted contribution to General Fund balances for the 2010/2011 financial year is £145,310. This is expected to change by £25,000 as shown above. Income and Expenditure will continue to be closely managed and any issues that arise will be reported to this Board for comment.

8.2 Environment and Sustainability Implications

8.2.1 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 30 June 2010**

Description	Approved Budget 2010/2011	Profiled Budget June 2010	Actual June 2010	Variance	Comments
Planning Control	389,780	112,679	118,012	5,333	comment 4.2.1
Building Control Non fee-earning	67,130	3,905	3,905	-	
Conservation and Built Heritage	33,660	16,750	16,738	(12)	
Planning Delivery Grant	1,220	305	305	-	
Local Land Charges	(2,280)	(2,380)	(3,218)	(838)	
Civic Awards	-	-	-	-	
Street Naming & Numbering	7,230	1,808	1,860	52	
	496,740	133,067	137,602	4,535	

Appendix B

Key Performance Indicators for Budgets Reporting to the Planning and Development Board

	Budgeted Performance	Profiled Budgeted Performance	Actual Performance to Date
Planning Control			
No of Planning Applications	650	163	165
Gross cost per Application	£1,160.08	£1,128.73	£1,088.43
Net cost per Application	£599.55	£693.41	£715.22
Local Land Charges			
No of Searches	1,490	373	347
Gross cost per Search	£39.62	£30.22	£32.29
Net cost per Search	-£1.53	-£6.39	-£9.27
Caseload per Officer			
All applications	118	29.5	30.0