

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

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

The agenda and reports are available in large print if requested.

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

## **PLANNING AND DEVELOPMENT BOARD AGENDA**

**17 AUGUST 2009**

The Planning and Development Board will meet in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday 17 August 2009 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 Fox, Lea, B Moss and Sweet and membership of the various Town/Parish Councils of Councillors Fox (Shustoke), B Moss (Kingsbury), Sherratt (Coleshill) and M Stanley (Polesworth) are deemed to be declared at this meeting.)

- 4 **Minutes of the meetings of the Board held on 18 May, 15 June and 20 July 2009** – copies herewith to be agreed as a correct record and signed by the Chairman.

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

- 5 **Budgetary Control Report 2009/2010 Period Ended 31 July 2009**

### **Summary**

The report covers revenue expenditure and income for the period from 1 April 2008 to 31 July 2009. The 2009/2010 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).

- 6 **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).

- 7 **The Butchers Arms, Fillongley** - Report of the Head of Development Control

### **Summary**

The report brings Members up to date with outstanding matters to do with this site in Fillongley, following the partial quashing of a Listed Building Enforcement Notice.

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

- 8 **Killian Pretty Review Further Consultation** - Report of the Head of Development Control

### **Summary**

The Government has published the first of several consultation papers arising directly out of the Killian Pretty Review. This report deals with proposals in respect of the “life” of planning permissions and secondly with new procedures to deal with amendments to planning permissions.

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

- 9 **Diversion of Footpaths Applications** - Report of the Head of Development Control

## **Summary**

This report sets out the amount of costs that shall be reclaimed when processing public path orders to divert, extinguish and stop up footpaths and bridleways to allow development to proceed under Section 257 of the Town and Country Planning Act 1990 or to divert a footpath under Section 119 of the Highways Act 1980.

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

- 10 **Annual Performance Report 2008/9** - Report of the Head of Development Control

## **Summary**

The report sets out the annual performance over 2008/9 of the Development Control service comparing it with recent years, and also provides the first monitoring report following the recent Planning Review.

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

- 11 **Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April 2009 – June 2009** - Report of the Chief Executive and the Director of Resources

## **Summary**

This report informs Members of the actual performance and achievement against the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for the first quarter April 2009 to June 2009.

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

## **PART C - EXEMPT INFORMATION (GOLD PAPERS)**

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

### **Recommendation:**

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

- 13 **Progress Report on the Building Control Partnership** – Report of the Director of Community and Environment

The Contact Officer for this report is Ann Mclauchlan (719202).

JERRY HUTCHINSON  
Chief Executive

## NORTH WARWICKSHIRE BOROUGH COUNCIL

### MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

18 May 2009

Present: Councillor Simpson in the Chair.

Councillors Bowden, L Dirveiks, Fox, Jenkins, Lea, Morson, B Moss, Sherratt, M Stanley, Swann, Sweet, Winter and Wykes.

Councillors Fowler and Moore were also in attendance. With the consent of the Chairman, Councillor Fowler spoke on Minute No 3 Planning Applications (2009/0154 – Car Park, Park Road, Coleshill).

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

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

#### 2 **Minutes**

The minutes of the meetings of the Board held on 16 March and 20 April 2009, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

#### 3 **Planning Applications**

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

##### **Resolved:**

a **That in respect of Application No 2008/0523 (World of Spas and Landscapes, Watling Street, Grendon) sign A be approved subject to the conditions specified in the report of the Head of Development Control and sign B be refused for the reasons set out in the said report;**

b **That Application No 2008/0613 (Land adj Old School Court, Former garden of Cherry Tree House, The Common, Grendon) be approved subject to the following additional conditions**

**“5. The garage hereby approved shall be used solely as such and shall not be used for any other purpose.**

**6. No construction work whatsoever shall take place on the implementation of the garages, other than between 0800 and 1700 on weekdays and 0800 and 1300 on Saturdays. No construction work shall take place at any other time.”**

- c That Application No 2009/0043 (Alvecote Marina, Robey's Lane, Alvecote) be approved subject to the conditions specified in the report of the Head of Development Control;
- d That Application No 2009/0058 (Trevose, Coventry Road, Kingsbury) be approved subject to the following additional condition

**"13. No construction work whatsoever shall take place other than between 0800 and 1700 on weekdays and 0800 and 1300 on Saturdays. No construction work shall take place at any other time."**

- e That in respect of Application No 2009/0154 (Car Park, Park Road, Coleshill) a site visit be arranged and the following additional issues be raised
  - Design
  - Traffic impacts
  - Parking on surrounding roads
  - Opening/Delivery times

#### **4 Infrastructure Planning Commission Consultation Paper**

The Head of Development Control reported on a consultation paper from the Infrastructure Planning Commission setting out what was expected of prospective applicants as part of the mandatory pre-application consultation that they would have to engage in.

**Resolved:**

**That the paper be noted.**

**Recommendation to the Executive Board**

**That Officers be asked to establish a procedure for notifying Members of issues/events taking place in their Wards.**

#### **5 Emergency Tree Preservation Order 45 Rose Road Coleshill**

The Board is asked to confirm the making of an Emergency Tree Preservation Order in respect of an oak tree at 45 Rose Road, Coleshill.

**Resolved:**

- a That in the circumstances outlined, the Emergency Tree Preservation Order at 45 Rose Road, Coleshill be confirmed; and
- b That the matter be referred back to the Board once the consultation period has expired.

#### **6 Exclusion of the Public and Press**

**Resolved:**

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

**7 Building Control Partnership**

The Director of Community and Environment reported on the progress of the Building Control Partnership and Members were asked to agree a suggested course of action. Ian Powell and Kevin Bunsell from Nuneaton and Bedworth Borough Council were in attendance. A response from the Chief Executive at Nuneaton and Bedworth Borough Council to issues raised was circulated at the meeting.

**Resolved:**

- a That the report be noted;**
- b That the Partnership continues to operate for another 12 months;**
- c That given concerns around access to monitoring information, officers from both authorities review the monitoring and reporting process in consultation with the Board Chairman and Cabinet Member from Nuneaton and Bedworth and bring recommendations to the next meeting;**
- d That a report be submitted to the next meeting on proposals to increase the number of days and hours Building Control staff will be present at North Warwickshire offices; and**
- e That a quarterly report on the performance of the Partnership be submitted to the Board.**

**8 Review of the Planning and Development Division – Stage 3**

The Director of Community and Environment and the Head of Development Control reported on stage 3 of the review of the Planning and Development Division and Members were asked to agree a suggested course of action. Comments from Unison had been circulated prior to the meeting.

**Recommended to the Resources Board:**

**That the changes listed below are implemented to achieve savings whilst sustaining delivery of statutory responsibilities and corporate priorities:**

- a That the following posts that are already vacant are frozen:**
  - Assistant Planning Tech Support (part-time)**
  - Principal Planning Control Officer (job share)**
- b That the vacant post of Site Investigation Officer (full-time) be advertised internally with any consequential vacancy being frozen**

and that, if the post is not filled in that manner, a report be submitted to the Board on the implications:

- c That the job description for the post of Principle Planning Control Officer (PPCO) is reviewed and re-evaluated to reflect responsibilities in the new structure to support and deputise for the Head of Service;
- d That in order to sustain the service a Senior Planning Officer (SPO) is seconded for 17hours per week to undertake the responsibilities of the PPCO job share and is paid at the scale for that post for those hours but that the 17 hours lost in the SPO post is not back-filled and that this arrangement is reviewed 6 monthly;
- e That in order to retain professional expertise and enable delivery of statutory responsibilities and corporate priorities, the unfilled post of Senior Planning Policy Officer in the Forward Planning Team that has not been filled continues to be frozen and that work to support delivery of the LDF is commissioned from Planning Development Control officers through agreement of a shared work programme and that this arrangement is reviewed 6 monthly;
- f That in order to sustain a land charges function and increase resilience in Technical Support, the post of Local Land Charges Officer is reviewed to reflect reduced demand, to 17 hours per week on Land Charges and the balancing 20 hours are used to provide support to the Planning Technical Support Officer in validating and registering applications and other technical support duties
- g That whilst maintaining the role of technical planning support, in order to be able to meet changes that may arise through the development of new planning systems and processes and in order to increase resilience should further vacancies arise in technical support, the Planning Technical Support Team report directly to the Systems Support Manager and a service level agreement is drawn up to specify the work that will be supplied to the DC team
- h That quarterly reports be submitted to the Board on the workload and performance of the Development Control Section; and

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

- i That Members be asked to review the current arrangement of planning policy coming under the remit of the Executive Board.

#### **9 Stop Notice – Wren’s Nest, Heanley Lane, Hurley**

Under Section 100B(4)(b) of the Local Government Act 1972 ,the Chairman had agreed to the consideration of this matter by reason of the urgent need to take legal action. Further alleged breaches of planning control had occurred at the site in Heanley Lane, Hurley and Members were asked to agree a suggested course of action.

**Resolved:**

**That in respect of the site at Wren's Nest, Heanley Lane, Hurley, the Solicitor to the Council be authorised to issue a Stop Notice under Section 183 of the Town and Country Planning Act 1990, to cover the matters identified in the report of the Head of Development Control.**

M Simpson  
Chairman

## NORTH WARWICKSHIRE BOROUGH COUNCIL

### MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

15 June 2009

Present: Councillor Lea in the Chair.

Councillors Bowden, L Dirveiks, Fox, Jenkins, Morson, B Moss, Sherratt, Swann, Sweet, Winter and Wykes.

Apologies for absence were received from Councillors Simpson and M Stanley.

Councillor Phillips was also in attendance.

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

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

Councillor Swann declared a personal and prejudicial interest in Minute No 11 – Planning Applications (Application No 2009/0120 – Chevron, Kingsbury Oil Terminal, Trinity Road, Piccadilly, Kingsbury, Tamworth) left the meeting and took no part in the discussion or voting thereon.

#### 11 **Planning Applications**

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

##### **Resolved:**

- a **That Application No 2009/0115 (40 Morgan Close, Arley) be approved subject to the conditions specified in the report of the Head of Development Control;**
- b **That Application No 2009/0120 (Chevron, Kingsbury Oil Terminal, Trinity Road, Piccadilly, Kingsbury, Tamworth) be approved subject to the conditions specified in the report of the Head of Development Control;**
- c **That Application No 2009/0132 (Cole End Stores, 50 Lichfield Road, Coleshill) be approved subject to the conditions specified in the report of the Head of Development Control;**
- d **That Application No 2009/0151 (Caldecote Hall Estate Works, Caldecote Hall Drive, Nuneaton) be approved subject to the conditions specified in the report of the Head of Development Control; and**
- e **That in respect of Applications No 2009/0210 and 2009/0211 (Rectory Road, Old Arley)**

- i) the major issues identified in the report of the Head of Development Control be agreed; and**
- ii) a site visit be arranged prior to the determination of the applications.**

**12 Former Miners Welfare Site New Arley**

The Head of Development Control reported on works completed in default in respect of a Section 215 Notice at the former Miners Welfare site at New Arley.

**Resolved:**

**That the report be noted.**

**13 Emergency Tree Preservation Order 45 Rose Road Coleshill**

Having considered the representations received, the Board was asked to make permanent a Tree Preservation Order made in respect of an oak tree at 45 Rose Road, Coleshill.

**Resolved:**

- a That the Tree Preservation Order in respect of an oak tree at 45 Rose Road, Coleshill be made permanent; and**
- b That the owner be advised to contact a professional forester for advice about future works to the tree.**

**14 Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April 2008 – March 2009**

The Chief Executive reported on the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April 2008 to March 2009.

**Resolved:**

That the report be noted.

**15 Exclusion of the Public and Press**

**Resolved:**

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

16 **Breaches of Planning Control**

The Head of Development Control reported on an alleged breach of planning control at 39 Cherryfield Close, Hartshill and the Board was asked to agree a suggested course of action.

**Resolved:**

- a **That the Solicitor to the Council be authorised to issue an Enforcement Notice relating to the unauthorised change of use of 39 Cherryfield Close, Hartshill to a mixed use comprising a residential use together with the operation of a storage and distribution business; and**
- b **That the Notice require the cessation of the storage and distribution use and that the compliance period be six months.**

17 **Aston Villa Football Club Section 106 Agreement**

Under Section 100B(4)(b) of the Local Government Act 1972 ,the Chairman had agreed to the consideration of this matter by reason of the urgent need to approve the division of the monies.

The Head of Development Control reported on the proposed division of monies paid by the Aston Villa Football Club in accordance with the Section 106 Agreement. Members were asked to endorse the approach taken.

**Resolved:**

**That the approach taken, as set out in the report of the Head of Development Control, be endorsed.**

18 **Heart of England Promotions Ltd Wall Hill Road Fillongley**

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

The Head of Development Control reported on alleged breaches of planning control at Heart of England Promotions Ltd, Wall Hill Road, Fillongley and the Board was asked to agree a suggested course of action. Members were informed that compensation was payable if the Temporary Stop Notice was withdrawn or the activity was found to be lawful.

**Resolved:**

- a **That the Solicitor to the Council be authorised to issue a Temporary Stop Notice in respect of land at this site, so as to prohibit further building and engineering operations associated with the “adventure park” proposed for this site as set out in the Heart of England’s website;**
- b **That the owner be required to cease these operations for a period of 28 days as specified in the Notice;**

- c That the owner be invited to remedy the situation through the submission of a planning application;**
- d That a further report be brought to the Board at the expiry of the 28 days, outlining the current position and the range of options open to the Council to remedy any outstanding breaches of planning control;**
- e That the Council issue a Press Release explaining the reasons for this action: and**
- f That , in consultation with the Head of Development Control, the Chairman, Vice Chairman, Ward Members and Shadow Spokesperson, the Solicitor to the Council be given delegated authority to issue further Temporary Stop Notices if considered to be appropriate.**

Chairman

**Planning and Development Board  
15 June 2009  
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
4/4	2009/0151	Civic Society	No objection	10/6/09
		Mr Vine	Objection	9/6/09
		Mr White	Support	5/6/09

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**MINUTES OF THE  
PLANNING AND DEVELOPMENT BOARD**

**20 July 2009**

Present: Councillor Simpson in the Chair.

Councillors Bowden, L Dirveiks, Fox, Jenkins, Lea, B Moss, Sherratt, Swann, Sweet, Winter and Wykes.

Apologies for absence were received from Councillors Morson and M Stanley.

Councillor Phillips was also in attendance.

**19 Declarations of Personal or Prejudicial Interests**

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

**20 Planning Applications**

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

**Resolved:**

- a That consideration of Application No 2008/0513 (Manor House Farm, Green End Farm, Green End) be deferred for a site visit:**
- b That the current position in respect of Application No 2009/0154 (Car Park, Park Road, Coleshill) be noted;**
- c That Application No 2009/0192 (Betteridge Farm, Dingle Lane, Nether Whitacre) be refused for the reasons set out in the report of the Head of Development Control;**
- d That in respect of the proposed new freight connection at Nuneaton Station, Network Rail be advised that this Council supports the proposal in principle but objects to the routing proposed for HGV traffic through North Warwickshire. The preferred routing for HGV traffic is through Nuneaton as set out in the report of the Head of Development Control;**

**Recommendation to Council**

- e That Applications No 2009/0210 and 2009/0211 (Rectory Road, Old Arley) be approved subject to the amendment of condition x) to read as follows**

**'x) No dwelling house hereby approved shall be occupied until such time as all of the following highway measures have first been implemented in full to the satisfaction in writing of the Local**

**Planning Authority: the implementation of the traffic calming pad at the junction of the new access with Rectory Road and the provision of visibility splays measuring 2.4 by 70 metres as measured to the near edge of the public highway carriageway.**

**Reason**

**In the interests of highway safety.'**

**21 Exclusion of the Public and Press**

**Resolved:**

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

**22 Heart of England Ltd Old Hall Farm, Fillongley**

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

The Head of Development Control reported further on the situation at Heart of England Ltd, Wall Hill Road, Fillongley and the Board was asked to agree a suggested course of action.

**Resolved:**

- a) That all six planning applications referred to in the report of the Head of Development Control be reported to the Board for determination;**
- b) That prior to determination, the Board visit the site;**
- c) That the Solicitor to the Council be authorised to issue an Enforcement Notice in respect of the construction of a building for agricultural storage and forestry use, not in accordance with the approved plans, as referred to in the report;**
- d) That an early report is brought to the Board in respect of activities taking place in the woodland adjoining the site of the lake; and**
- e) That the owner of the site and his advisors be invited to meet the Chairman of the Board, the Opposition Planning Spokesperson and the Local Members, on a without prejudice basis, in order to discuss the owner's future intentions for his site.**

M Simpson  
Chairman

## Agenda Item No 5

### Planning and Development Board

17 August 2009

#### Report of the Assistant Director (Finance and Human Resources)

#### Budgetary Control Report 2009/2010 Period Ended 31 July 2009

#### 1 Summary

- 1.1 The report covers revenue expenditure and income for the period from 1 April 2009 to 31 July 2009. The 2009/2010 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 Introduction

- 3.1 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.

#### 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 July 2009 is £189,858, compared with a profiled budgetary position of £147,948; an over spend of £41,910 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 £38,146, due to a decrease in the larger value of planning applications. In addition there has been an increase in the need to

employ professional services for advice on specific applications, such as the Coleshill supermarket development, which means that spending is ahead of profile to date.

#### **4.3 Local Land Charges**

4.3.1 Fee income is currently ahead of the forecast position by £3,530, caused by a change in the mix of Land Charge searches (more full searches with higher fees). In addition, the cost of Warwickshire County Council advice is lower than budget due to the lower number of searches completed.

### **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 four months is that the gross and net costs of planning applications are higher than expected due to higher professional advice costs and the reduction of the larger high value applications being processed. The gross costs of Land Charges are lower than expected, as there has been a reduction in the costs from Warwickshire County Council, due to the lower number of applications received. There is a greater reduction in net costs 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

### **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. Despite the variance in planning income, the anticipated out-turn for this Board for 2009/2010 has been left at £523,080, the same as the approved budget. This reflects the possibility of some larger applications, which are expected towards the end of the calendar year.

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 use of General Fund balances for the 2009/2010 financial year is £ 376,250. 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 31 July 2009**

Description	Approved Budget 2009/2010	Profiled Budget July 2009	Actual July 2009	Variance	Comments
Planning Control	384,550	121,607	168,467	46,859	Comment 4.2.1
Building Control Non fee-earning	67,450	5,567	5,588	21	
Conservation and Built Heritage	28,560	9,327	9,310	(17)	
Planning Delivery Grant	870	290	290	-	
Local Land Charges	24,450	5,430	660	(4,770)	Comment 4.3.1
Civic Awards	2,710	897	924	27	
Street Naming & Numbering	14,490	4,830	4,620	(210)	
	<b>523,080</b>	<b>147,948</b>	<b>189,858</b>	<b>41,910</b>	

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

	<b>Budgeted Performance</b>	<b>Profiled Budgeted Performance</b>	<b>Actual Performance to Date</b>
<b>Planning Control</b>			
No of Planning Applications	570	190	187
Gross cost per Application	£1,349.68	£1,315.07	£1,356.83
Net cost per Application	£674.65	£640.04	£900.89
<b>Local Land Charges</b>			
No of Searches	1,600	533	505
Gross cost per Search	£48.45	£43.35	£43.32
Net cost per Search	£15.28	£10.18	£1.31

## **Agenda Item No 6**

### **Planning and Development Board**

**17 August 2009**

### **Planning Applications**

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

#### **1 Subject**

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

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

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

#### **3 Implications**

- 3.1 Should there be any implications in respect of:

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

#### **4 Site Visits**

- 4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.
- 4.2 Members are reminded of the "Planning Protocol for Members and Officers dealing with Planning Matters", in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

**5 Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site [www.northwarks.gov.uk](http://www.northwarks.gov.uk)
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 21 September 2009 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/2008/0429	4	<b>Land Adjacent to 40 Kiln Way, Polesworth</b> Outline - Erection of No.2 dwellings	General
2	PAP/2008/0482 & PAP/2008/0483	12	<b>Kingsbury Hall, Coventry Road, Kingsbury</b> Planning and Listed Building Applications for the Conversion and Refurbishment of the Hall into 9 apartments; conversion of outbuildings to 7 residential units and the construction of 13 new residential units.	General
3	PAP/2008/0513	20	<b>Manor House Farm, Green End Road, Green End</b> Creation of a private fishing pool with a conservation peninsular and a variety of water depths, including areas up to 2m depth and shallows, formation of new access and track.	General
4	PAP/2009/0242	33	<b>Waverton Avenue Allotments, Waverton Avenue, Warton</b> Erection of up to a maximum of 27 sheds on individual plots on allotment site	General
5	PAP/2009/0248	42	<b>Whitacre Garden Centre, Tamworth Road, Nether Whitacre Coleshill</b> Change of use to adjacent land currently used as overflow car park for the display and hire or sale of motor homes.	General

## **General Development Applications**

### **(1) Application No PAP/2008/0429**

**Land Adjacent to 40 Kiln Way, Polesworth  
Outline application for two dwellings for**

**North Warwickshire Borough Council**

#### **Introduction**

This application was reported to the February meeting of the Board. Because the applicant was the Council itself, the Board recommended that the case be referred to Council for determination with a recommendation that planning permission be granted. Appendix A is a copy of that report.

However prior to that, the matter was to be referred to Resources Board with a recommendation that a proportion of the receipt from the sale of this land be held as a contribution towards enhancements of open space elsewhere in Polesworth. In this way the case would be treated in the same way as if the land had been privately owned. The Board, in those circumstances, would have been looking for a financial contribution through a Section 106 Agreement. The matter was duly reported to Resources Board in March. It was resolved that £2000 be taken from the receipt of the sale of this land for the purposes as set out above.

This figure represents what would have been asked for through the Section 106 arrangements, and thus is acceptable in meeting the obligation for an Open Spaces contribution. As such therefore the matter can now be referred to Council for final determination.

#### **Recommendation**

That following the agreement of Resources Board that £2000 from the receipt of the sale of this land be used for the purposes as set out above, in lieu of a Section 106 Agreement, that Council be recommended to grant outline planning permission subject to the conditions set out in Appendix A.



## Appendix A

### General Development Applications

() Application No PAP/2008/0429

**Land adjacent to 40 Kiln Way, Polesworth**

**Outline application for two dwellings for**

**North Warwickshire Borough Council**

#### Introduction

The application is reported to Board because the applicant is the Council, and determination will have to be made by the Council.

#### The Site

This is presently a grass amenity area of 0.03hectares in extent, north of Kiln Way within an existing residential estate in Polesworth. It is bounded by roads on two sides being at the corner of a small cul-de-sac. The side gable, and garage of an adjoining house (number 40) bound the north side, together with the rear garden of another property (number 38).

#### The Proposal

The proposal is in outline, but shows two linked, staggered houses fronting the cul- de-sac with garages at the bottom of gardens accessed from Kiln Way where there is an existing access/turning area. The side gable of the proposed dwelling closest to number 40 (4.5 metres away) would be blank to match that of number 40. The distance between the rear of the proposed units and that of number 38 would be 19 metres. The overall scale, design and appearance would be very similar to the existing character of this part of the estate.

#### Background

This area of land was left in the original estate layout as a small grass amenity area. It was not designated as a play area. Presently the western half is left open, whereas the eastern half is surrounded by hedgerows.

The reason for the application is that its informal use as amenity space has had recurrent problems of anti-social behaviour and misuse, giving rise to complaints from residents, as well as posing risks to passing motorists. The site is in poor condition.

#### Development Plan

North Warwickshire Local Plan 2006 – Core Policy 2; Policies ENV 5, 11, 12, 13 and 14.

#### Other Material Planning Considerations

Draft Supplementary Planning Document – “ “ NWBC 2008

#### Consultations

Warwickshire County Council as Highway Authority – No objection

Warwickshire Museum (Ecology Unit) – A note to be added to clarify that should protected species be found, the Unit should be notified immediately.

Environmental Health Manager – The site is within the former Ensor brickworks site. A ground condition investigation and risk assessment must be completed. This will inform the developer of the most appropriate remediation measures to take if necessary. Conditions can cover this request.

Landscape Manager – The space was not significant in size to have been included as an informal green space in the PPG17 audit, and is thus not designated as contributing to the Borough's green space provision. The Area Profile for Polesworth and Dordon within that Audit, states that there is good access to informal green space across the area and that existing provision exceeds that required. As such, developer contributions would be directed towards enhancement of other green space in Polesworth, as identified by the PPG17 audit, particularly at Abbey Green Park.

### **Representations**

Three letters of objection have been received from local residents. The matters raised include:

- Loss of light to the rear of number 38, reducing the amenity currently enjoyed including the loss of the view
- The children will still continue to play here but in the road, making it more dangerous
- Children play here now, and this is an important amenity for them close to their homes
- It will lead to more on-street car parking and added congestion thus leading to safety issues.

There has been one letter submitted in support of the application. This refers to the site being an "eyesore", and that children playing here do cause dangers and risks to motorists.

### **Observations**

The site is within the defined development boundary for Polesworth and thus there is no objection in principle to this application, the proposed use being appropriate for the location. The site is large enough to accommodate the two units together with on site car parking and private amenity space. The design and appearance would certainly not be inappropriate to this estate. The main issues are thus those raised by the objections.

The present houses already overlook each other as they have facing rear elevations that are 21 metres apart. The proposal would bring the rear elevations of the development closer to the rear of number 38 by 2 metres. This is not considered to be such an adverse impact as to warrant refusal. This is because rear gardens here are already significantly overlooked, and because the two units will be at an angle to number 38, not immediately behind, thus lessening the likelihood of direct overlooking. The loss of a view is not considered to be a material consideration. The development of the site will lead to the loss of the space being available to children. Again this is not considered to be material, because there is other space available nearby; the space here was specifically not laid out or made available for ball games or as a play space, and the informal use of the space does pose a significant risk to both children and passing motorists. The development does provide on site car parking

space. It is also noticeable that the Highway Authority does not object. As a consequence it is not considered that the objections made would carry sufficient weight to lead to a refusal.

The issue of a contribution for the enhancement of other sites has been raised. The matters raised above, suggest that there is no reason to request a contribution as direct compensation for the loss of this open space, as the site is not included in the PPG17 Audit findings. However the additional houses will add to the use of amenity space elsewhere. The PPG17 audit recognises deficiencies elsewhere in Polesworth, and in order to be consistent with requests from future private planning applications on other private land, it is recommended that a contribution is needed for this purpose. However as the Council is the applicant and landowner here, it should pursue this consideration as a separate matter through its disposal of the land, ensuring that a proportion of the receipt is directed towards those deficiencies. If this was a private developer, a figure of £1000 per unit would be requested, in line with the Council's draft SPD on Open Space.

#### **Recommendation**

A) That this Board recommends to Council that outline planning permission be Granted subject to the following conditions:

- i) Standard outline condition number (i) reserving details of appearance and landscaping.
- ii) Standard outline condition (ii)
- iii) Standard outline condition (iii)
- iv) No work whatsoever shall commence onsite until such time as a ground condition investigation and risk assessment has first been completed and submitted to the Local Planning Authority. The report shall include a remediation method statement, if appropriate, dependent upon the findings of the site assessment.

Reason: In order to reduce the risk of pollution

- v) No work shall commence on site whatsoever until a Remediation Method Statement has been agreed in writing by the Local Planning Authority, and the measures identified in that Statement have been fully completed to the written satisfaction of the Authority through the submission of a Verification Report.

Reason: In order to reduce the risk of pollution.

- vi) No house hereby approved shall be occupied until such time as the requirements as set out in conditions 4 and 5 have been fully discharged.

Reason: In order to reduce the risk of pollution.

B) That prior to referral to Council, the Resources Board be recommended to safeguard a proportion of the receipt from the sale of this land, as a contribution towards enhancements of open space elsewhere in Polesworth, as set out in this report..

#### **Notes:**

- i) If protected species are found on the site, all work shall cease on site, and the Ecology Unit at Warwickshire Museum should be notified immediately (01926 – 418060)
- ii) Policies : As above

**Justification:**

The site is within the defined settlement of Polesworth and there is thus no objection in principle. The site is sufficiently large enough to accommodate the proposal whilst safeguarding both occupants and neighbour's residential amenities. The loss of the open space will reduce the potential for antisocial behaviour as well as the risk of accidents. There is adequate alternative space nearby. The dwellings will have on site car parking provision thus reducing the call on further on street parking. These considerations accord with Development Plan policy.

## BACKGROUND PAPERS

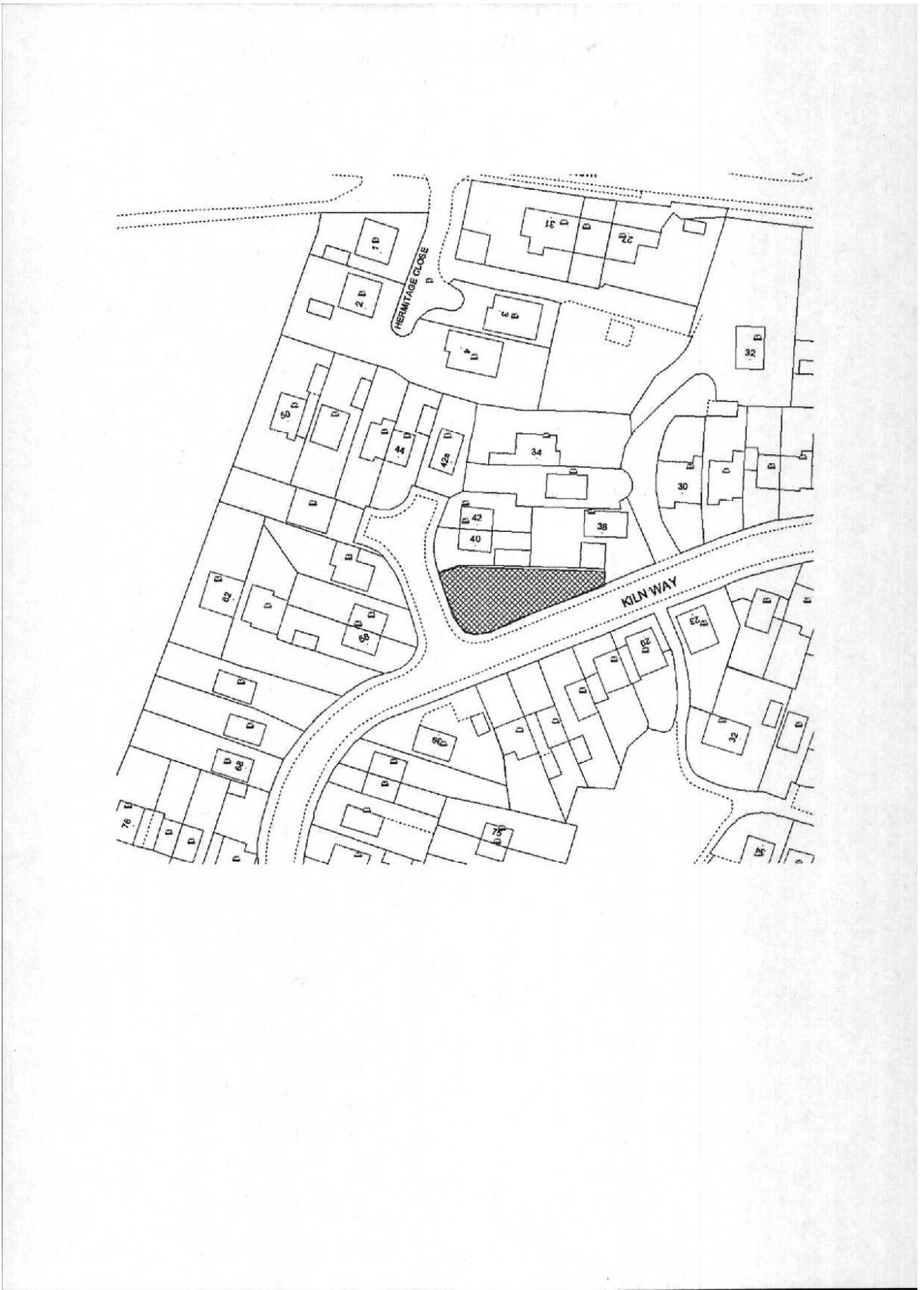
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

**Planning Application No: PAP/2008/0429**

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	31/7/08
2	Warwickshire Museum	Consultation	19/8/08
3	Landscape Manager	Consultation	19/8/08
4	Environmental Health Manager	Consultation	19/8/08
5	Warwickshire Highway Authority	Consultation	21/8/08
6	Mr Brookes	Support	27/8/08
7	Mr & Mrs Kuffa	Objection	21/8/08
8	Ms Lagoe	Objection	17/8/08
9	Mr & Mrs Clark	Objection	15/8/08
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.*



**(2) Application No PAP/2008/0482 and PAP/2008/0483**

**Kingsbury Hall, Coventry Road, Kingsbury**

**Planning and Listed Building Applications for the Conversion and Refurbishment of the Hall into 9 apartments; conversion of outbuildings to 7 residential units and the construction of 13 new residential units for**

**Mr I Fray**

**Introduction**

Members will recall the grant of permissions for this development involving the reuse and refurbishment of this Grade 2 Star Listed Building at Risk. Work has commenced and is well underway on the refurbishment of the Hall together with repairs to the curtain wall. The historical survey work associated with this has revealed more about the evolution of the Hall, and this had added to our understanding of how it has changed over time. This has led not only to valuable archaeological recording of these former undiscovered features, but has also given an opportunity to the owner and his architect to review the conversion of the Hall itself. A series of amendments has thus been submitted. In view of the interest shown by the Board in this site, these are reported to Board for determination.

**The Proposals**

Work within the roof space of the Hall, particularly when roof timbers and old masonry was explored in detail has revealed that there were dormer windows within that space. On the south east elevation, the evidence, through removal of the roof and interpretation of its structure, reveals that there was once a substantial dormer gable here, and that it would have been symmetrically located with the existing grander windows below. The first amendment is thus to reconstruct this dormer gable. It is illustrated at Appendix A.

On the opposite side of this wing on the north-west elevation, evidence again has been found to show that there were two much smaller actual dormer windows within the roof slope. The second amendment is to reinstate them - see Appendix B.

The condition of the stonework at the Hall generally is poor and more structural work is required to stabilise the building and to provide a suitable structure to convert. The east gable elevation is the worst, and because of the weaknesses here, more masonry needs to be removed than first envisaged. Hence steel supports are to be added, but these are to be hidden behind existing piers and lintols, and within new oak frames in the new windows. These alterations are shown at Appendix C. Additionally, one of the existing chimney stacks is to be demolished but not replaced, simply because it could no longer be supported structurally. This is shown on the Appendices.

The revelations consequential to the survey, have been used by the architect to review the proposed internal arrangements of the conversion - mainly because if the dormers are re-introduced, more light sources can be achieved, and thus room space can be reconfigured. This opportunity also coincided with a view that the approved apartments could be redesigned internally so as to provide more "user-friendly" living accommodation, which would increase the rental value, but retain the internal integrity of the building in overall archaeological and architectural terms. This has been achieved firstly by using the new dormer window openings to open up the roof space, and secondly, by enlarging some of the original openings at ground floor, that were shown to be windows, so as to become door openings, through a lowering of the outside ground level – see Appendices A and B. Consequential internal alterations are in fact very limited. Significantly, by proposing one less apartment at first floor level, the gaol can be preserved in its entirety rather than hiding it behind a separating wall. Because of the introduction of the dormers, the "lost" apartment can be added to the second attic floor.

One of the consequences of reviewing the internal arrangements has been to re-consider the communal access arrangements to them from the outside. In order to remove this unproductive space, it is proposed to increase the number of independent access arrangements direct from outside to the apartments. This will result in more external stairs as can be seen in the Appendices.

### **Development Plan**

Saved Policies from the North Warwickshire Local Plan 2006 – Policies ENV15 (Conservation) and 16 (Listed Buildings).

### **Other Material Planning Considerations**

Government Advice in PPG 15 (Planning and the Historic Environment) and PPG16 (Archaeology and Planning)

### **Consultations**

English Heritage – Considers that the reinstatement of the dormer windows is based on very sound archaeological and historic evidence and thus can be supported. The rebuilding of failed and weak masonry is inevitable given the neglect to the Hall over time, and the proposed reinstatement is justified in the circumstances. It has been sympathetically handled. The proposed internal arrangements; the enlarged openings and the loss of the chimney do not have a significant impact.

Conservation and Heritage Officer – Given the support from English Heritage, the design changes introduced are understood, but there is concern about the number of external stairs now being considered. Good design will still not conceal them.

### **Observations**

It is almost inevitable in a project of this importance and complexity that amendments are going to be proposed, as survey and repair work uncover previously unidentified structures and features, or just how weak and unstable, certain parts of the existing structure actually are. This set of amendments seeks to react to the findings of this survey and repair work. It is important here to retain an overall perspective. This project is significant and the ultimate objective is to reuse the Hall for an appropriate use whilst retaining its archaeological and historic importance

The proposals set out above are all coherent and are based on sound archaeological evidence. As it happens, the survey work has enabled the internal arrangements to be reviewed and this has provided an opportunity to retain significant features, as well as provide a layout that is more useable for the future occupiers. The rebuilding and adjustments to be made as a consequence of failed materials are fully justified on sound evidence, well considered and inevitable if the project is to be implemented. The lowering of the external ground levels so as to utilise openings as doors rather than windows is also a useful “device”. There is concern about the introduction of further external staircases, but these have been designed following discussion covering a range of options. The designs now proposed are noticeable, but they have the least visual impact compared to those options, e.g.-completely enclosed stair wells; glass structures, open spiral stairs etc. Given the overall objective of securing an outcome here, it is considered that although not entirely welcome, these stairs can be supported.

## **Recommendations**

That plan numbers 04/022/78E, 79F, 62E, 152 and 153 received by the Local Planning Authority on 28 July 2009, be approved as amendments to the Planning Permission reference 2008/0482, and the Listed Building Consent reference 2008/0483, both granted on 6 May 2009, subject to the conditions attached in both.

## BACKGROUND PAPERS

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

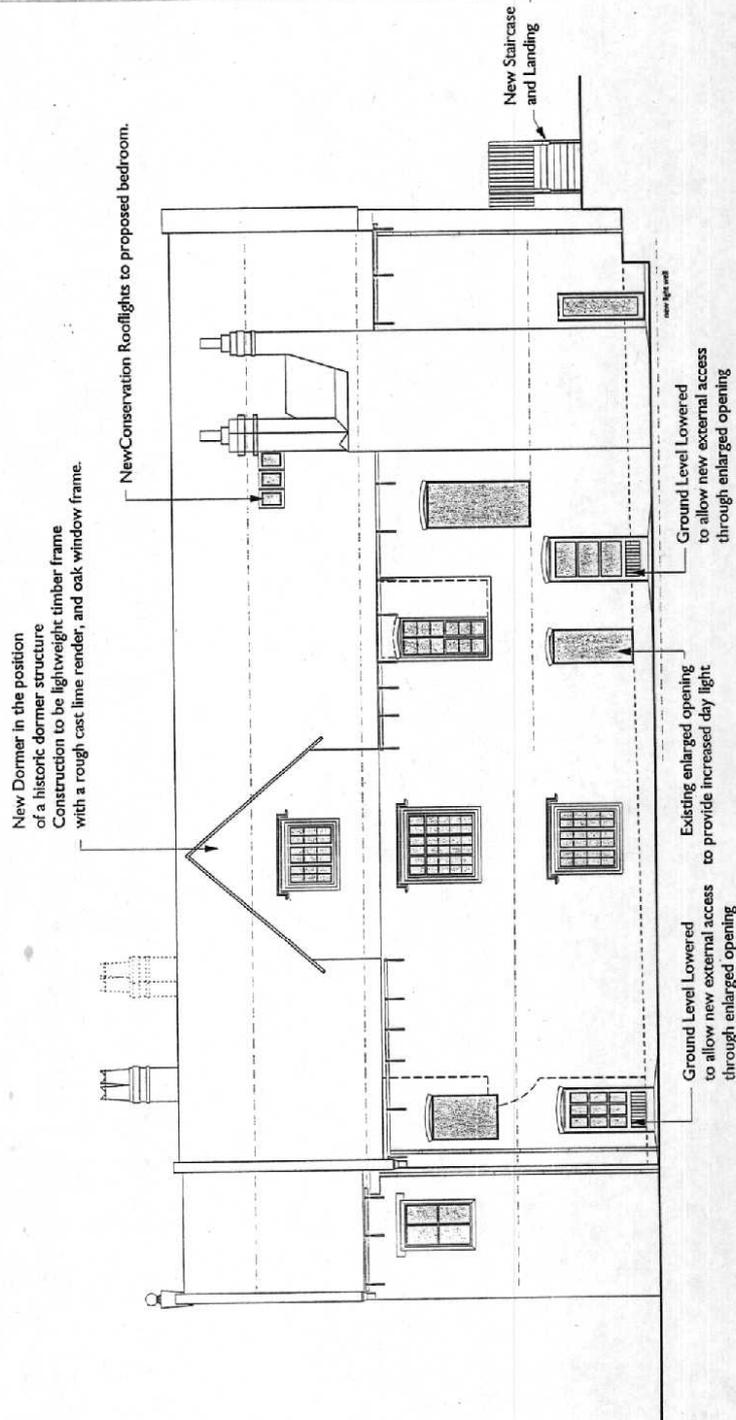
### Planning Application No: PAP/2008/0482& PAP/2008/0483

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	Agents	Letter	15/6/09
2	English Heritage	Consultation	1/7/09
3	Agents	Letter	13/7/09
4	Head of Development Control	E-mails	14/7/09 & 16/7/09
5	Agents	Letter	28/7/09

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

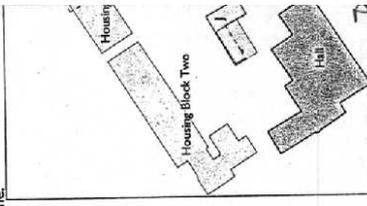
*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*





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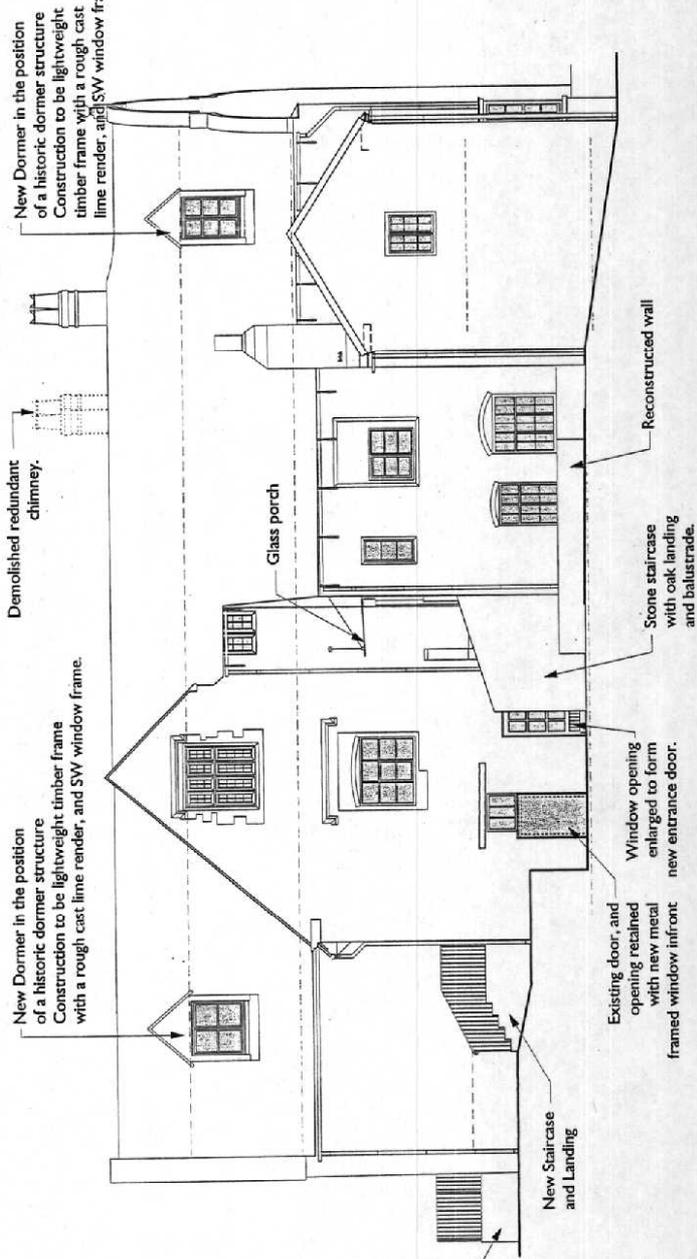


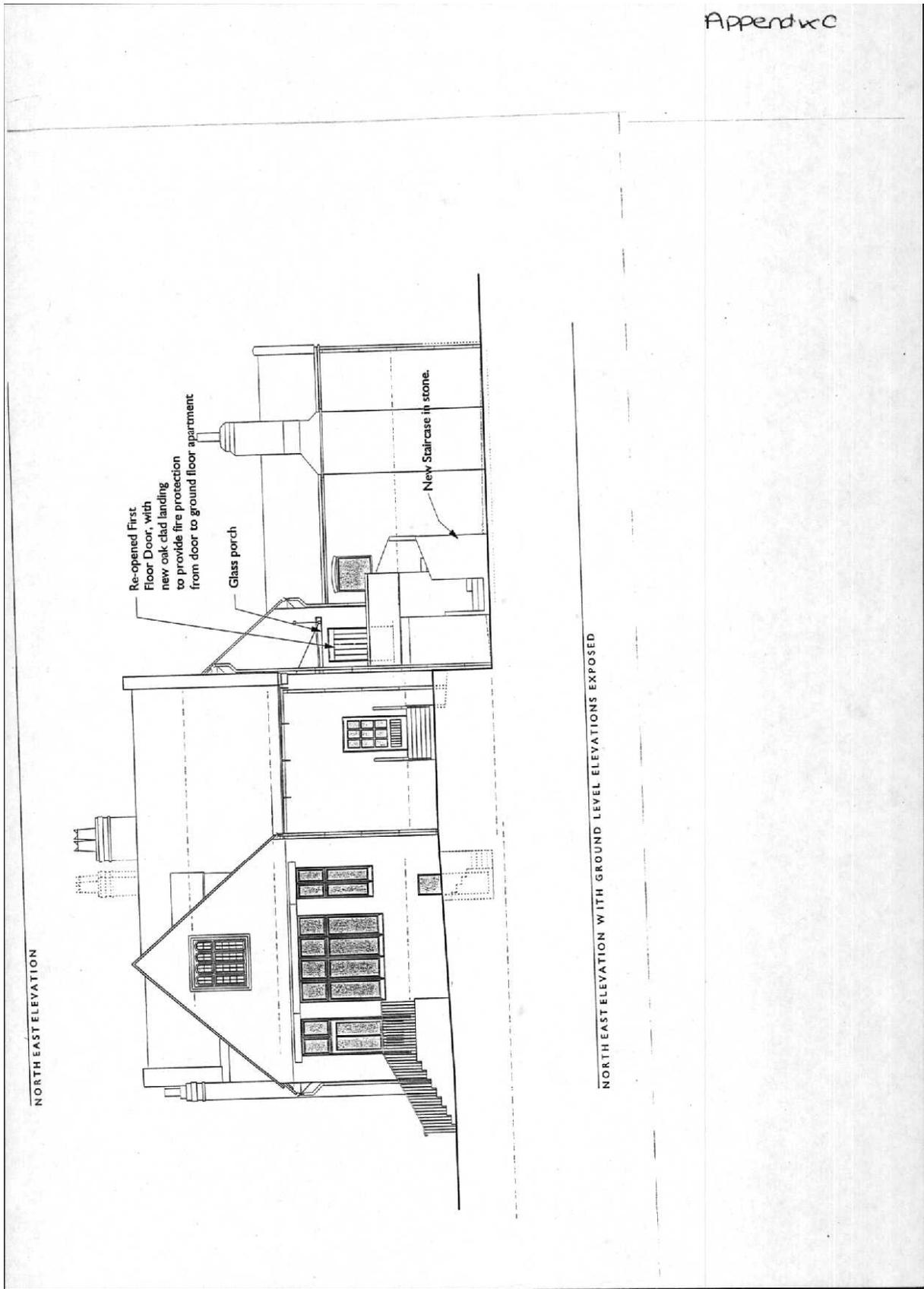
Appendix B

LEGEND

- retained
- demolished
- retained with new
- demolished within new
- modified with new

Hall  
 Barn A  
 Barn B  
 Barn C  
 Barn D  
 Barn E  
 Barn F  
 Barn G  
 Barn H  
 Barn I





NORTHEAST ELEVATION

NORTHEAST ELEVATION WITH GROUND LEVEL ELEVATIONS EXPOSED

**(3) Application No PAP/2008/0513**

**Manor House Farm, Green End Road, Green End, Fillongley**

**Creation of a private fishing pool with a conservation peninsular and a variety of water depths, including areas up to 2m depth and shallows, formation of new access and track,**

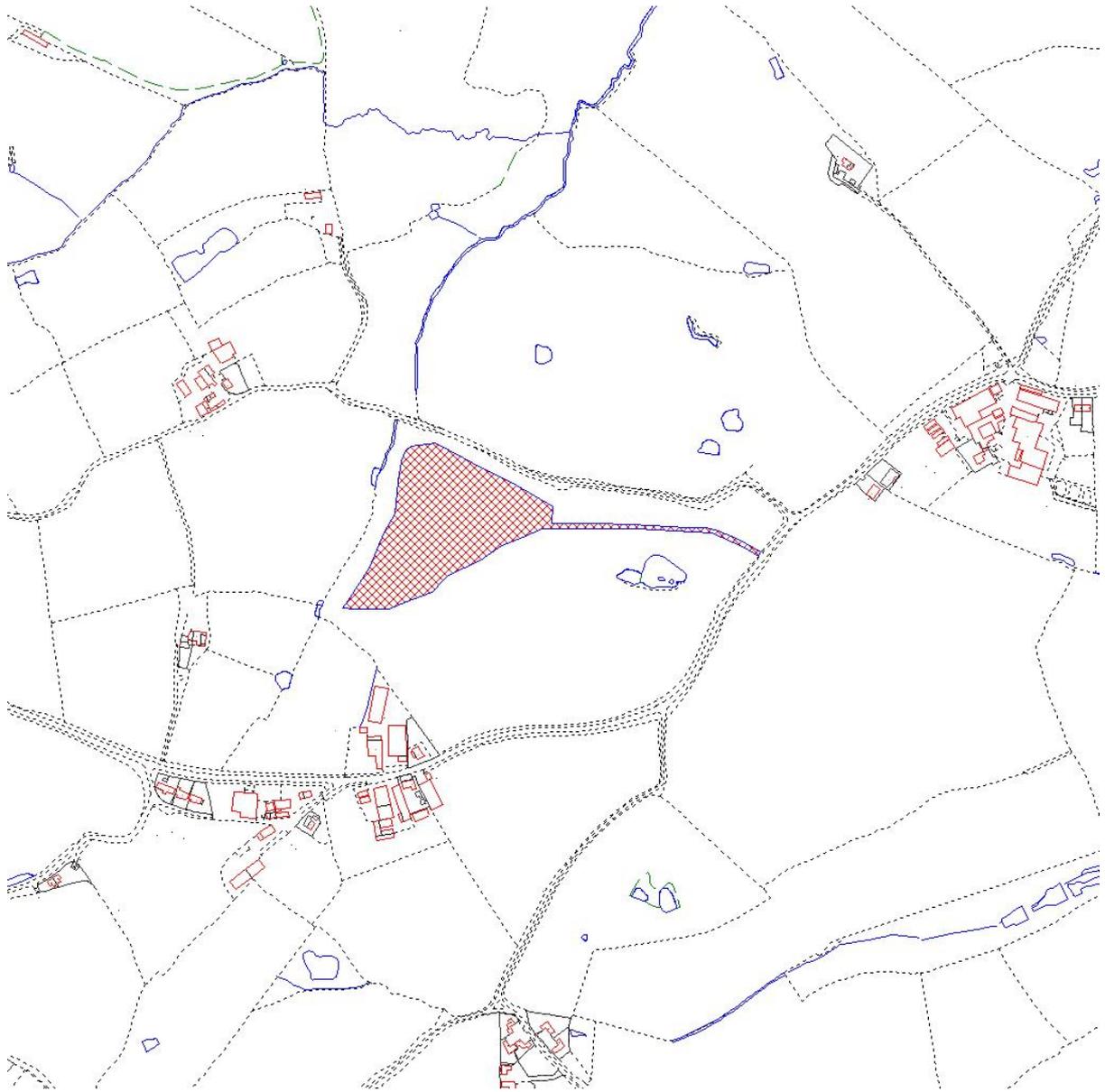
**For Mr Mike Gallagher Handy Aggregates Ltd**

### **Introduction**

Determination of this application was deferred at the last meeting in order that the Board could visit the site. That inspection has now taken place, and the case is now reported for determination based on the original recommendation. This, together with the previous report is attached at Appendix A.

### **Recommendation**

That planning permission be Granted subject to the conditions as outlined in Appendix A



### General Development Applications

() Application No PAP/2008/0513

**Manor House Farm, Green End Road, Green End**

**Creation of a private fishing pool with a conservation peninsular and a variety of water depths, including areas up to 2 metre depth and shallows, formation of new access and track for,**

**Mr Mike Gallagher, Handy Aggregates Ltd**

### Introduction

The application is referred to Board at the request of local Members concerned about the impact of the proposal.

### The Site

The site is a field measuring some 2.3 hectares, part of Manor House Farm, and is currently in use as pasture. The flatter, upper part includes an existing pond, it then slopes down towards the northern boundary with the Didgley Brook. The field is bounded by hedgerows and has an existing field gate access to Green End Road to the east. Solomon's Temple Lane runs to the north. This lane is some 2 metres lower than surrounding land with steep banks to either side.

The site is within the West Midlands Green Belt and is in the area categorised as Ancient Arden landscape in the published Warwickshire Landscape Guidelines. These include a landscape assessment undertaken to define the characteristics of the traditional rural landscapes across Warwickshire. Ancient Arden is defined as a varied undulating topography characterised by small scale farming within irregular field patterns and narrow winding lanes. Characteristic features include hedgerows and road side oaks and field ponds within permanent pasture and place names ending in Green or End. The area around the application site is typical of this in both character and name.

### The Proposal

Creation of a fishing pool for private use with water depth varying from 2 metres to shallows, and the formation of a temporary access road and vehicle access to Green End Road.

The proposed lake would occupy some 0.35 ha within the lower part of the field, it will measure some 130m by 70m, have a maximum depth of 2.5m and include a central island with a connecting land bridge, a feature designed to discourage larger birds, such as Canada Geese, due to the proximity to flight paths to Birmingham Airport. An overflow channel at the western end of the lake will discharge surplus water to the Didgley Brook via a reed bed system in two smaller ponds.

It is proposed the lake will be filled by surface water draining from the surrounding land and new field drains are proposed to channel water to the lake. The outfall from the existing pond will also be diverted to drain via the proposed lake. The existing outfall appears to run to Solomon's Temple Lane and this may be a contributory factor to flooding currently experienced on this lane following periods of high rainfall. No borehole for the abstraction of ground water is proposed.

The lake will be formed by the construction of an earth bund some two metres in height along its northern side. The level of the sloping ground beyond the formed bund will also be

raised. The existing ground levels will be raised by a maximum of two metres at the bund. The raised level will then be gradually reduced to provide a gentle gradient from the top of the bund to the existing ground level at a point some 60 metres distant. This will form a gentle taper to the outward facing slope of the bund with a gradient only slightly greater than the existing slope of the ground. This will disguise the bund when viewed from the north. It will however require more fill material than a narrower bund with a steeper outward slope.

The applicants state that they will require 37620 m<sup>3</sup> of inert fill material; 11220 m<sup>3</sup> of fill will be found from on site excavation; necessitating the import of some 26400 m<sup>3</sup> of inert fill material. This will require 2200 tipper lorry visits, resulting in a combined total of 4400 in and out lorry vehicle movements. The applicants estimate construction will take 12 months from commencement of the works with some 15 to 20 lorries normally visiting the site daily.

The proposed vehicle access arrangements have been the subject of discussion with the Highway Authority. A new vehicle access is proposed in the southeast corner of the field close to the junction of Solomon's Temple Lane and Green End Rd. A new access road 4m wide will be created across the upper part of the field to the construction site. Gates will be erected 20m from the public highway and a hard surface will be provided to the road between the gates and the highway. Tipper lorries will travel to and from the site only via Green End Road to the B4102.

### **Development Plan**

North Warwickshire Local Plan 2006 Saved Policies - CP3 (Natural & Historic Environment), CP11 (Quality of Development), ENV1 (Natural Landscape), ENV2 (Green Belt), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV14 (Access Design)

### **Other Relevant Material Considerations**

Government Advice:

Planning Policy Guidance Note 2 - Green Belts; Planning Policy Statement 7 – Sustainable Development in Rural Areas.

### **Consultations**

WCC Ecology – comment that the recommendations set out in the Ecological Evaluation Report should be adhered to and that the presence of protected species should be a material consideration.

WCC Highways – no objection subject to conditions.

Environment Agency – no objection

Birmingham Airport Authority – no objection

## Representations

Fillongley Parish Council - express concern over the number of lorry movements; the source of water to fill the lake, and the stability and safety of the earth bund on the sloping field.

Five representations have been received from local residents. These raise concerns over the number and the impact of lorries visiting the site on the local road network; that industrial and domestic rubbish will be deposited in the fill material; the effect of the lake on local land drainage and increased risk of flooding on adjacent farmland and Solomon's Temple Lane; the impact on the ecology and on farm animals grazing land downstream of the site; the impact of tipping operations on the amenity enjoyed by nearby dwellings with views over site and the inappropriateness of the resulting landform within the Ancient Arden landscape.

In response to these matters, the Highway Authority considers that the traffic impact can be mitigated by the imposition of appropriate conditions and legal agreements under the Highways Acts. These would cover adequate visibility at the new site entrance; to ensure lorries access the site via the prescribed route, and to enable the recovery of the cost of repairs required to the local road network as a result of any damage caused by vehicles accessing the site. The applicant has submitted a signed unilateral planning obligation setting out an undertaking to deposit a bond of £5000 with the Highway Authority as a financial contribution to repairs required to the local road network arising from damage caused by vehicles accessing the site during the construction period. The Highway Authority do not consider this to be necessary as they will require the applicant to enter into an agreement under the Highways Act.

The deposit of industrial and domestic waste material is controlled by other environmental legislation and under planning legislation such activity in Warwickshire is a County matter and would require the grant planning permission from the County Planning Authority. The applicant has approached the County Council who agreed that this proposal was not a County matter. The proposed earth works and bund will be formed by the deposit of suitable inert materials only, in accordance with guidelines for the deposit of such materials. Conditions to limit the type of fill material to be used and to require records of the source of material can be imposed. Given the use of such fill material only, the deposits are unlikely to be more attractive to vermin or pests than the existing land.

There is evidence of periodic flooding on Solomon's Temple Lane due to water draining from the application site. The formation of the lake is likely to have a beneficial effect as water falling onto the site will be drained into the lake and will therefore be held within the site. The ecological assessment submitted concludes more water is likely to be retained within the site following the creation of the lake.

In assessing the impact of the proposed lake, the ecological assessment concludes that providing it is implemented in accordance with recommendations made it will not have significant impact on existing habitats or animals, including farm animals.

There will be an unavoidable impact on the local environment and this will affect amenity during the period of construction. Conditions can be attached to mitigate this impact. The access route for HGV's will be prescribed and restricted by condition to mitigate the impact of lorry movements. In addition, restrictions on hours of working, the requirement for lorries bringing fill material to be covered and for the overall period for construction limited to 12 month period necessary.

The site will appear unsightly during the construction period; the sloping topography means the works will not be easily seen from Green End Road but will be more readily visible when viewed from the north. Construction is expected to take up to 12 months and although this is a significant period, it is finite. On completion, although the lake will be an unusual feature within the Ancient Arden landscape, the profile of the lake and bund, together with the proposed landscaping and planting on becoming established, will help to integrate the lake into the existing landscape thus reducing its visual impact.

## **Observations**

The proposal has been revised significantly since submission. A revised Certificate was also submitted in March when it became clear that all those persons with an interest in the land had not been properly notified of the application on first submission.

The proposed fishing lake is an appropriate use within the green belt. It is thus not inappropriate development, as defined within in Planning Policy Guidance Note 2, and as such this proposal is acceptable as a matter of principle. No built development is proposed, and given the conclusion below concerning impact on landscape character, the completed development will not have an adverse impact on openness. The proposal therefore complies with Policy ENV2.

Policy ENV1 seeks to protect the natural landscape. This site is in a very typical Ancient Arden landscape. The proposed lake will create a feature not normally found within the Ancient Arden landscape, where water bodies are commonly small field ponds within permanent pasture. The visual impact of the lake is thus a consideration. The sloping topography of the site limits visibility to the south and east; the lake will be visible from the west and south, where there are three farms within 0.5 km of the site. However the position and shape of the lake, the profile of the earthworks together with the proposed landscaping and tree planting will reduce the visual impact of the lake on the landscape, such that that impact will not be adverse.

The ecological assessment concludes that the lake will not be detrimental to the ecology of the area and will potentially increase the biodiversity of the area through the creation of new habitats to encourage species not currently present. These ecological benefits are considered to balance any visual impact due to the introduction of the lake. The proposal is thus considered to accord with Policies CP3 and ENV1.

The Highway Authority is satisfied the proposal will not compromise highway safety and that any impact on the local roads can be addressed through conditions. The temporary site access and site road will be removed and the land and existing field gate access re-instated following completion of the works. The proposal is thus considered to be in accord with Policy ENV14.

Whilst the works will have an impact on the local area during the construction period, this will be mitigated through the imposition of conditions to minimise this effect. The overall impact is not considered to amount to a significant loss of amenity for neighbouring properties and occupiers, and thus the proposal is not considered to be contrary to Policy ENV11.

## Recommendation

That the application be Granted planning permission subject to the following conditions:-

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

Reason

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered 08/033/03a; 08/033/05a received by the Local Planning Authority on 26/29/09; the construction phase management plan received on 15/9/2008, as amended by the details of fill materials to be imported and associated vehicle movements received on 16/12/2008; the construction ecological management plan received on 15/9/2008 and the details and plans numbered 08/033/04 and KL.073.001 received by the Local Planning Authority on 15/9/2008. For the avoidance of doubt the fishing lake approved is as shown on plan 08/033/03a and not as shown on plan KL.073.00.

Reason

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

3. No waste soils, including subsoils or other fill shall be imported to the site until a scheme of waste material importation control has been agreed with the local authority. This scheme shall ensure that a written record of all of the material deposited at the site to identify the quantity, source and type of material is maintained. The scheme shall also ensure material deposited at the site is sampled and that a written record of the sampling and the results is maintained. The written records shall be available for inspection at the site at all times.

Reason

In the interests of avoiding contamination and pollution of the ground water environment.

4. No development shall commence until a comprehensive survey to establish whether any protected species are present which could be affected by the proposed works has been submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of the conservation of protected species.

5. Access to the site for construction purposes shall be via the temporary new vehicle access to be provided to Green End Road only. The route for construction traffic accessing the site shall be via Green End Road directly to the B4102 Meriden Road. No other route shall be used. No development shall commence until appropriate traffic signs have been erected to identify this route and prevent other routes being used. The signs shall be erected in accordance with details previously submitted to and approved in writing by the Local Planning authority. The erected signs shall be maintained at all times during the construction period.

Reason

In the interests of highway safety.

6. The access to the site for construction traffic shall not be used until it has been surfaced with a bound material for the length between the position of the wheel cleaning equipment and Green End Road in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of safety on the public highway.

7. The development shall not be commenced until a turning area has been provided within the site so as to enable all vehicle types to leave and re-enter the public highway in a forward gear.

Reason

In the interests of highway safety.

8. No works shall commence and no material shall be imported or exported from the site unless measures are in place to minimise the deposit of extraneous material onto the public highway by wheels of vehicles accessing the site. Prior to commencement of the works hereby approved the developer shall install and maintain the proposed mechanical wheel cleaning equipment in the position shown on plan 08/033/05a and operate this in accordance with the Road Sweeping Methodology statement received on 26/2/2009. The equipment and methodology shall be maintained and operated throughout the construction period.

Reason

In the interests of highway safety.

9. No development shall commence until an inspection of the condition of Green End Road between the junction with the B4102 Meriden Road, and the site access has been undertaken, and the findings submitted to and agreed in writing by the Local Planning Authority.

Reason

In the interests on highway safety and to identify repairs required to the highway arising from use by exceptional traffic.

10. No development shall commence until full details of the design of the causeway linking the island to the bank, and an ongoing Landscape Management Plan have been submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan should comply with details published in CAA/AOA Advice Note 3 Potential Bird Hazards from Amenity Landscaping and Building

Design. The approved Landscape Management Plan shall be implemented for the life of the development.

Reason

To avoid risk to the safe operation of aircraft from large birds.

11. No development shall commence before details of protection measures proposed for existing trees and hedges on the site have been submitted to and approved in writing by the Local Planning Authority, and these approved measures have been installed.

Reason

In the interests of the protecting the landscape and amenities of the area.

12. No development shall commence until written notice has been given to the Local Planning Authority of the date the approved works will commence and a period of 14 days has elapsed since the giving of notice.

Reason

To limit the duration of the operation.

13. No material shall be imported, deposited or exported from the site after the expiry of a period of 12 months from the date works commenced.

Reason

In the interests of amenity

14. No work shall take place on site or materials shall be delivered to or tipped on the site; other than between 0800 hours and 1700 hours Mondays to Fridays; 0800 and 1300 hours on Saturdays and not at all on Sundays, Bank Holidays or other public holidays.

Reason

In the interests of amenity.

15. All vehicles carrying fill material into or from the site shall be sheeted or covered at all times.

Reason

In the interest of the amenity.

16. There shall be no chemical dosing of the ponds at any time.

Reason

To prevent pollution of the water environment

17. Any facilities for the storage of oils; fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage; the compound shall be at least equivalent to the capacity of the largest tank; vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points; associated pipework; vents; gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse; land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason

To prevent pollution of the water environment.

18. Within three calendar months of completion of the works detailed within this application, the site access road shall be removed and the land reinstated to its original condition and the temporary vehicle access shall be removed and the highway verge and hedgerows re-instated in accordance with details to be submitted to and approved in writing by Local Planning Authority.

Reason

In the interests of highway safety and the character of the area.

19. The landscaping scheme as shown on plan number KL.073.003 shall be implemented within the first planting season following the completion of the development hereby approved and in the event of any tree or plant failing to become established within five years thereafter; each individual tree or plant shall be replaced within the next available planting season to the satisfaction of the Local Planning Authority.

Reason

In the interest of the amenity.

20. The development shall be carried out in accordance with the section details as shown on the approved plan number 08/033/04; no more material shall be imported to the site than is stated to be required in the statement submitted by the applicant on 26/2/2006. A survey of the final ground levels on the site shall be undertaken and the results submitted in writing to the Local Planning Authority.

Reason

To ensure that the development is undertaken in accordance with the approved plans.

- 21 The lake hereby approved shall be used for private fishing by the applicant and shall not be used as a fishery operated for commercial gain.

Reason

In the interests of ensuring the amenity and highway safety.

Justification

The proposal is in accordance with Saved Policies CP3, CP11, ENV1, ENV2, ENV8, ENV11 and ENV14 of the North Warwickshire Local Plan 2006 and with national policy guidance as set out in Planning Policy Guidance Note 2 - Green Belts. There are no material considerations that justify an exception to policy. The proposal is appropriate development within the Green Belt. It is also considered that there will be no adverse visual impact. There will be ecological and bio-diversity benefits. Given that the Highway Authority do not object subject to conditions, it is considered that the proposal is acceptable in highway terms, particularly given the temporary nature of the construction period.

## BACKGROUND PAPERS

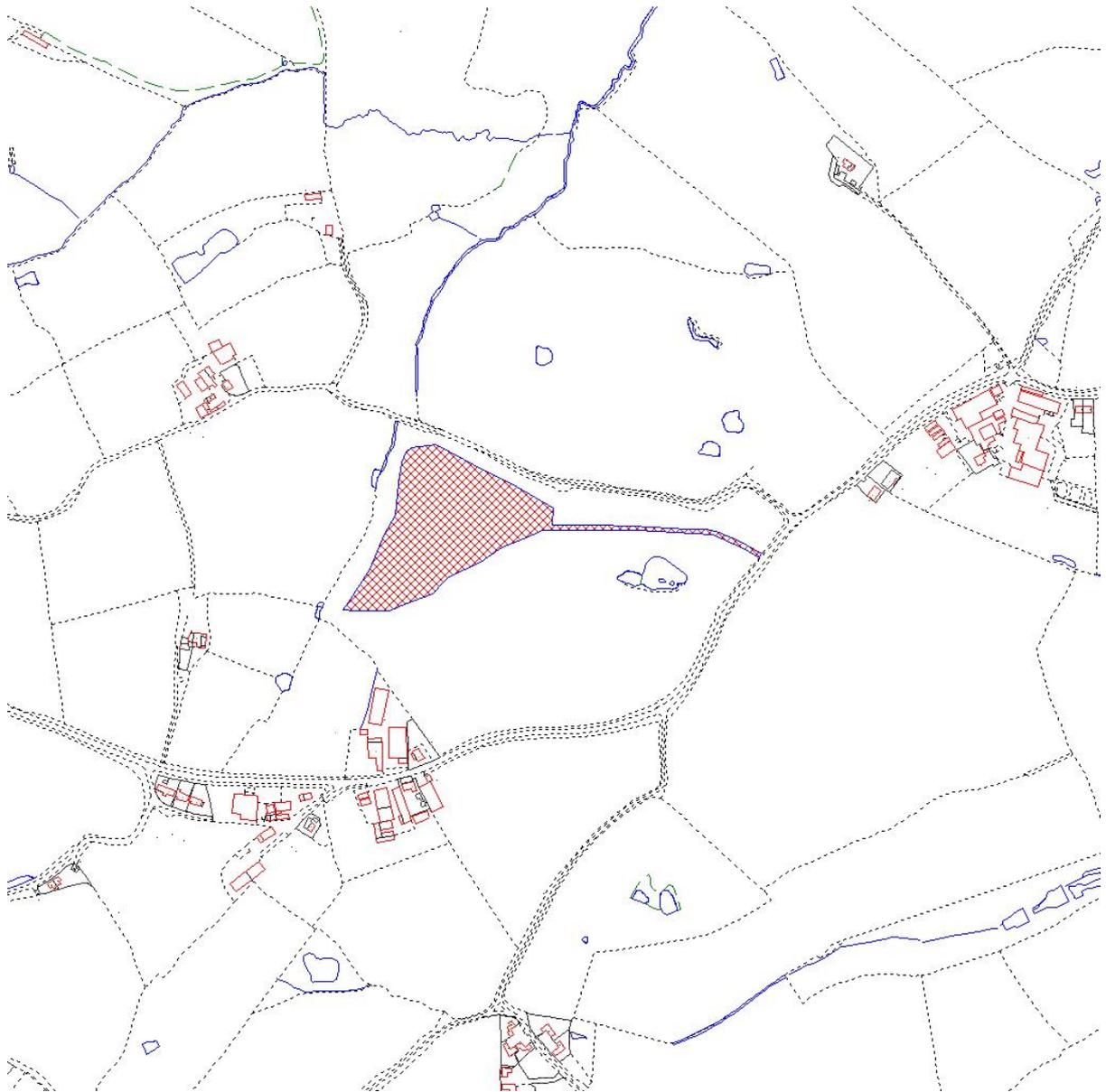
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

### Planning Application No: PAP/2008/0513

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	2/10/2008 22/12/2008 26/2/2009 26/3/2009
2	WCC Highways	Consultation	24/10/2008 21/3/2009 6/4/2009
3	WCC Ecology	Consultation	15/10/2008
4	Environment Agency	Consultation	19/12/2008 30/3/2009
5	Fillongley PC	Consultation	27/10/2008 29/3/09
6	Birmingham Airport Auth.	Consultation	19/12/2008
7	F & JH Kerby	Representation	27/10/2008 10/3/2009
8	Mr & Mrs K Kerby	Representation	27/10/2008 10/3/2009
9	E & D Kerby	Representation	27/10/2009 10/3/2009
10	DM Pearman	Representation	11/10/2008
11	A Goudie	Representation	20/10/2008
12	Mr & Mrs R Maycock	Representation	27/10/2008
13	Coleshill Civic Society	Representation	6/5/2009
14	ST Water	Consultation	16/4/2009
15	R Maycock	Representation	17/3/2009

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

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



#### **(4) Application No PAP/2009/0242**

##### **Waverton Avenue Allotments, Waverton Avenue, Warton**

##### **Erection of up to a maximum of 27 sheds on individual plots of an allotment site, For Mrs Lesley Aspley**

#### **Introduction**

The application is brought to the Board, as the land is owned by the Council. The Board will thus have to make a recommendation to Council in respect of its determination.

#### **The Site**

The allotments are accessed off Waverton Avenue, and occupy an area of land within the Warton development boundary of 0.85 hectares. The site is owned by the Council. Two access gates have been installed to the rear of 31 Waverton Avenue and to the side of 36 Waverton Avenue. A public footpath runs along part of the eastern boundary. To the rear of numbers 36 and 34 Waverton Avenue there is a car parking area for the allotment users. The site is fenced to the eastern and southern facing sides, and these are nearest to the dwellings on Waverton Avenue and the public footpath. To the northern and western facing edges of the site, hedges and trees will provide the boundary treatment. The layout of the site and shed positions can be viewed at Appendix A.

#### **The Proposal**

The proposal is for the erection of up to 27 sheds on the individual plots of the allotment site.

There are two types of shed proposed:

- One would be 1.8metres long, 1.2 metres wide and 2.42 metres high to the ridge of the roof, and the second, slightly larger at
- 2.5 metres long, 1.8metres wide and 2.42 metres high to the ridge of the roof.

These can be seen at Appendix B.

#### **Development Plan**

Saved Policies from the North Warwickshire Local Plan 2006 - ENV11 (Neighbour Amenities); ENV13 (Building Design), ENV14 (Access Design) and ENV5 (Open Space)

#### **Consultations**

Police – No objection, but suggest that the fencing is extended around the perimeter of the site and that the allotment society contacts the local crime reduction officer to discuss shed security.

WCC Highways – No objection in principle but as the Avenue belongs to the Borough Council, it would have to grant private easements for the allotment holders.

NWBC Landscape – The following comments are made:

- The site at Waverton Avenue, Warton is owned by the Council and we have been engaged with the Allotments Association in a project to bring about their regeneration. The site will shortly be leased to the Association, who will assume full management responsibility for it. The project to regenerate the site delivers both corporate priorities and priorities identified in the Green Space Strategy. We are therefore fully supportive of this application.
- The Avenue is also owned by the Council and is treated as a public road - there is no necessity for the Allotment Association or its Members to be granted any private easement.
- Officers in the Streetscape Division, with responsibility for the road, are fully aware of the allotments regeneration project. One purpose of the provision of sheds on the site is to reduce the likely number of vehicle movements to it as plot holders are local and most will walk to the site if they do not have to carry equipment. Some provision for car parking has, however, been made within the site to avoid the necessity of parking on Waverton Avenue itself.
- The response from the Police is noted. The boundary that has not been fenced is adjacent to agricultural land and has in fact been planted with a hawthorn hedge, which will form a secure boundary. If any additional fencing is to be considered it would only need to be temporary until the hedge is established.

### **Observations**

The site is within the development boundary for Warton and therefore the sheds and their locations are considered to be acceptable in principle. Their design, scale and size are all considered to comply with the relevant policy in the Plan. The provision of sheds on an allotments site is also considered to be appropriate.

However, the impact upon the neighbouring residential properties does need to be considered.

- Numbers 31 – 37 Waverton Avenue – The sheds proposed close to these properties are all some distance away (25 metres) or they are facing blank side gables.
- No.36 – 38 Waverton Avenue – Again the closest sheds would be between 20 and 30 metres from these houses.
- No.32 – 14 Waverton Avenue. These properties have views across the allotments, however due to the layout of Waverton Avenue, the nearest sheds are approximately 30metres in distance, and would not adversely impact upon amenity.

It was noted that all of the rear properties that back onto the allotment site, have 1.8 or 2 metres fences, or use the metal mesh fencing that has been installed as boundary treatment, and with the ridge line to the sheds being 2.42 metres high, it is considered that they would not lead to an overall loss of amenity, light or privacy.

The site will shortly be leased to the Waverton Allotment Association, who will assume full management responsibility for it. The project to regenerate the site delivers both corporate priorities and priorities identified in the Green Space Strategy. The Councils' Draft Green Space Strategy sets out in key policy SP17 and SP18 of Community Engagement, support for the establishment of allotment associations and support allotment associations to bring the regeneration of underused sites to establish new ones.

## Recommendation

That the application be referred to Council with a recommendation that 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 site location plan, block plan (showing the allotment plots) and images of sheds received by the Local Planning Authority on 3rd June 2009.

### REASON

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

3. There shall only be a maximum of 27 sheds contained within the allotment site, and the sheds shall only be used in connection with the allotment use and for no other reason whatsoever,

### REASON

In the interests of the amenities of the area

4. For the avoidance of doubt this planning permission only relates to the erection of a maximum of 27 sheds and no other development on the allotment site.

### REASON

In the interests of the amenities of the area.

### Notes

1. The Development Plan policies which are relevant to this Decision are as follows:  
North Warwickshire Local Plan 2006 (Saved Policies) : ENV11 - Neighbour Amenities, ENV12 - Urban Design, ENV13 - Building Design, ENV14 - Access Design, ENV5 - Open Space
2. The Police have suggested that the fencing is extended around the perimeter and that the allotment society contacts the local crime reduction officer to discuss shed security.

3. The Country Side Access Team of Warwickshire County Council, have no objection to the above planning application but have suggested that the applicant should be made aware that there is no public access to the site from Austrey Road by vehicle or on foot. Waverton Avenue is not adopted and is private, and the public footpath from Church Road follows the eastern pavement only as far as number 17, leaving a gap between there and Austrey Road. I understand the land (and the road) belong to North Warwickshire Borough Council so they would need to grant private easements for the allotment holders. You should take into consideration the above, when using the site.

### **Justification**

The use of the site for allotments is considered to be acceptable and as part of using the allotments, sheds are proposed for storage of tools and gardening equipment. A maximum of 27 sheds are proposed. 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. The site is within the development boundary of Warton and the design and positioning of the shed is considered to be acceptable.

## BACKGROUND PAPERS

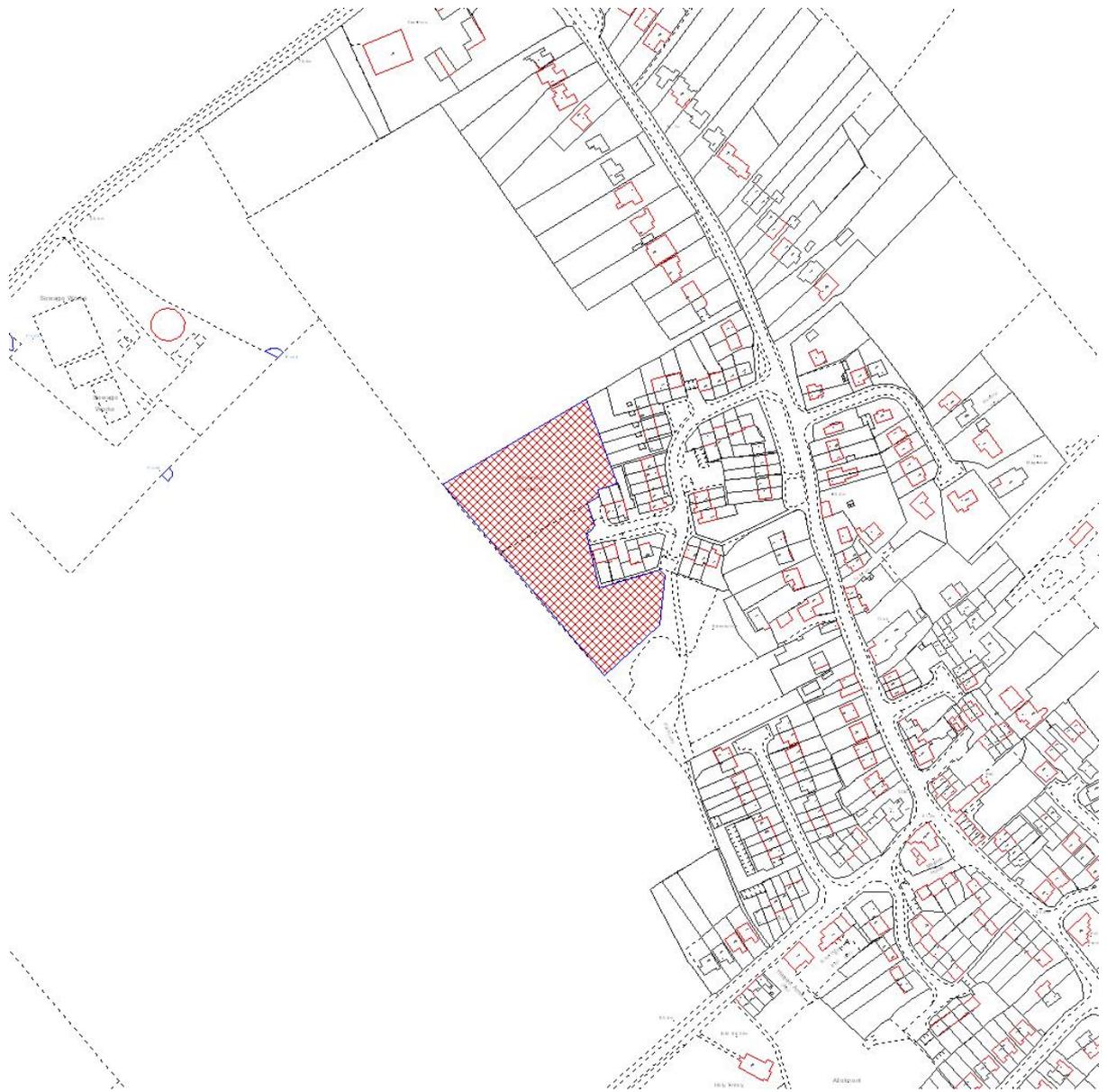
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

### Planning Application No: PAP/2009/0242

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	3/6/09 Application valid on 16/6/09
2	WCC Definitive Map Officer	Comments	24/6/09
3	Ian Griffin	Email to Streetscape Manager NWBC	24/6/09
4	Ian Griffin	Email to Landscape Manager NWBC	25/6/09
5	Ian Griffin	Letter to applicant	26/6/09
6	Ian Griffin	Further information from applicant	8/7/09
7	Alethea Wilson, NWBC Landscape Manager	Comments	8/7/09
8	Warwickshire Police	Consultation response	7/7/09
9	Ian Griffin	Letter to applicant	7/7/09
10	Adrian Allen, NWBC Streetscape Manager	Consultation Response	13/7/09
11	Applicant	Email response	13/7/09
12	Ian Griffin	Response to applicant	14/7/09
13	Ian Griffin	Email to applicant	27/7/09

*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

2009 / 0242



\* NOT DRAWN TO SCALE

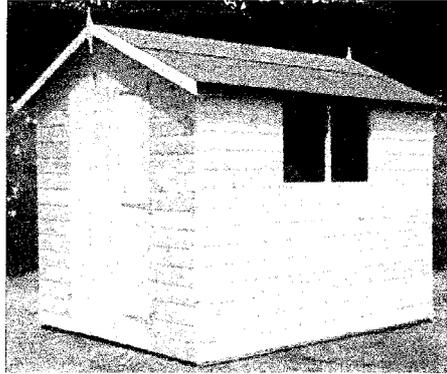
RB = Raised Beds - not marked out yet

Plots - \* F = Full H = Half Q = Quarter  = Unmarked Areas for Community Use

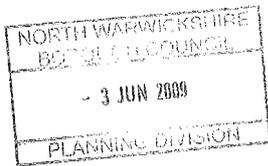
 = Steps  
 = Fences  
 = Hedges

# APPENDIX 2

2009 / 0242



Standard Shed 1.8m x 1.2m



Height  
confirmed as  
8ft to  
ridge  
(2.42 metres)  
JG.

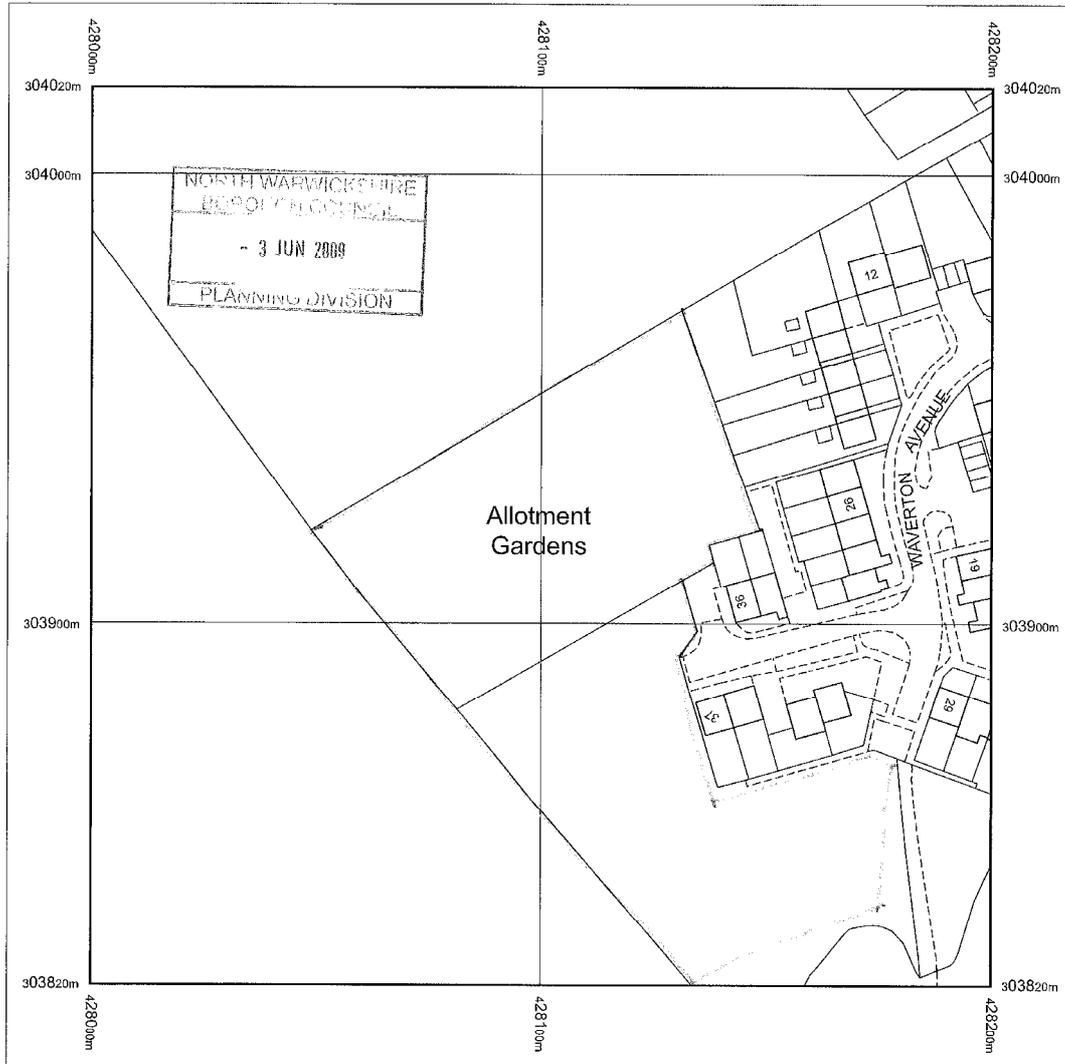


Standard Shed 2.5m x 1.8m

# APPENDIX 3



2009 / 0242  
OS Sitemap®



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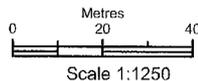
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<b>ALLOTMENT GARDENS</b>
WAVERTON AVENUE
WARTON
STAFFS, B79 0HJ

**(5) Application No PAP/2009/0248**

**Whitacre Garden Centre, Tamworth Road, Nether Whitacre, Coleshill**

**Change of use to adjacent land currently used as overflow car park for the display and hire or sale of motor homes.**

**For Mr Jonathan Southern - Whitacre Garden Centre Limited**

**Introduction**

This application is referred to Board because of the potential for enforcement action should the recommendation be agreed.

**The Site**

A rectangular area of 0.13 hectares of land to the south of the Tamworth Road and immediately to the east of the current garden centre site, and adjoining a private residential property known as Cherry Trees. The Garden centre car park is between the site and the main road and the centre's complex of buildings is immediately to the west. There is a scattering of residential properties in the area, and one has a common ownership boundary with the site.

**Background**

This site has been used in association first with successive nurseries – the Edwards and Ridley Nurseries - but more recently by the Whitacre Garden Centre. As such it has been in continuous use in connection with both the nursery and garden centre uses here for over 40 years. Prior to its current use it was used as an overflow car parking area, and for both storage and propagation uses by the Garden Centre.

**The Proposal**

This would be to change the use of this land from its current use as an overflow car parking area for the centre, to a base for the sale and hire of motor homes. This business use commenced a few months ago, and this application is thus a retrospective application seeking to retain this use. The site would accommodate around 15 such vehicles at any one time, and could still be used as an overflow car park. A small portable office, dark green in colour, has been placed on the site to act as an office. It measures some 10 by 3 metres and is 2.7 metres tall. Access would be through an existing field gate onto the existing garden centre car park and thence to the main road. It is anticipated that the business would sell 24/25 vehicles a year, and that there would be an additional 2500 visitors to the site in any one year. To put this in context, this would represent an additional 1.5% in the number of visitors, above those already using the existing garden centre. About 2 motor homes would be delivered a month to the site – these would be driven. The applicant has stated that vehicles will not be cleaned or serviced at the site. It presently operates in line with the Garden Centre hours of 0900 to 1730 Mondays to Saturdays and 1030 to 1630 on Sundays. It is anticipated that these hours may be reduced during the winter months in view of the seasonal nature of the business.

It is said that the “scale of operations at the Garden Centre is sub-optimal and unless development of the site in some form or other is permitted there is a danger that it would be unviable in the future”. The applicant has submitted financial figures that show a five figure loss at the garden centre for both of the last two years. He says that unless there can be an increase in throughput then these losses can not be sustained. 47 jobs at the Centre are therefore said to be at risk. An additional eight jobs are said to be provided as a direct consequence of the motor homes use.

The Company also point out that planning permissions have been refused for expansion of the site as a garden centre, and for the placement of an NHS mobile health unit at the centre in recent years. The loss of these projects is said to have impacted on the viability of the business.

## **Consultations**

Warwickshire Highway Authority – No Objection

Environmental Health Officer – Has concerns about the impact of the use on the adjoining occupier's residential amenities – particularly from noise and light and loss of privacy. This is because that house immediately adjoins the site and the boundary here is only a fence. Even with conditions there would still be concerns.

## **Representations**

Nether Whitacre Parish Council – Although the use may be conceived as a leisure or recreational use, it has no links with the garden centre and is thus inappropriate in the Green Belt. Whilst the Council is mindful of the need for increased footfall and for diversification at the present time, there is still insufficient of a case to warrant going against Green Belt policy. If permission is to be granted, then the Council wish to see a temporary period in order to monitor impacts; no repairs or servicing at the site and restrictive hours.

An agent acting on behalf of the occupiers of the neighbouring residential property has submitted an objection on their behalf. This refers to the use not being ancillary to the garden centre; inappropriate development within the Green Belt, the isolated and therefore unsustainable location of the site for retail uses vis-à-vis Government advice, the impact on the openness of the Green Belt, and the impact of the use on the residential amenity of the adjoining occupier. These matters are cross referenced to Development Plan policies.

## **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policy 1 (Social and Economic Regeneration); Core Policy 2 (Development Distribution), Core Policy 10 (Agriculture and the Rural Economy), Policy ENV2 (Green Belt), ENV11 (Neighbour Amenities), ENV13 (Building Design), ENV14 (Access Design), ECON5 (Facilities Relating to the Settlement Hierarchy)

## **Other Material Planning Considerations**

Government Advice in PPG2 (Green Belts); PPS3 (Planning for Town Centres), PPS7 (Sustainable Development in Rural Areas) and PPG18 (Enforcing Planning Control)

## **Observations**

### **a) Introduction**

This application is for a retail use of land within the Green Belt, and thus by definition is inappropriate development. The presumption is that planning permission should be refused. Moreover the site is not within any settlement boundary identified in the saved policies of the Development Plan, and therefore does not accord with the relevant policies in that Plan on the distribution of new development and the location of new retail development. As a consequence the proposal fails to comply with the two key core policies in North Warwickshire dealing with new development, as well as related Government advice. If there is to be a recommendation of approval here, then the Council has firstly to identify the very special circumstances that it considers are relevant, and then assess whether the weight to be accorded to them, is sufficient to outweigh the presumptions set out above. There are considered to be three such circumstances that need to be explored. These are identified below. Secondly, the Board will need to look at the impact of the proposal to see if that is adverse or, if it could be mitigated through the use of conditions.

## **b) Very Special Circumstances**

The first argument that could be used by the applicant as a very special circumstance, is that the site has been used in connection with the garden centre and/or nursery uses of the adjoining land for a substantive number of years and thus there is already a retail or commercial use to the land. This could be seen as a fall back position. This argument would carry little weight as the current retail use is wholly unconnected with the adjoining nursery/garden centre use and has no operational or trading links with it. It is a wholly new planning unit that operates independently of the existing centre. It is not essential for it to be located here.

The second is that the retail use here is not one that could or should be located within a town centre or a shopping frontage. It is simply unsuitable, and thus really requires a different type of location, one that is accessible to customers and one that has open space available. Again this carries little weight. Whilst it is agreed that the use is not appropriate within a shopping or town centre, it would be suitable within a settlement boundary, even if that meant being located on an existing industrial estate. There is a substantial amount of vacant floor space on existing industrial estates in the Borough where this use could re-locate. These sites have outside and inside space available.

The third is more substantial, and it is the one that the applicant asks the Board to give substantial weight to. This is based on the current trading position of the garden centre and the current economic situation. The rental income from this user to the Garden Centre represents a guaranteed cash flow that would help to sustain the viability of the centre and its benefit to the local economy, and particularly to local jobs. This is thus a form of diversification. There are policies in the Development Plan and advice in Government guidance that supports the rural economy and the retention of local jobs through diversification. This is a very special circumstance that, it is agreed does carry weight, and should not be disregarded in the assessment of the application. However it does rely on the motor homes business itself remaining viable.

## **c) Impacts**

It is considered that there are two main impacts to consider – the visual impact coupled with the openness of the Green Belt, and secondly the impact on the residential amenity of the occupiers of the adjoining dwelling house. This proposal will have a detrimental visual impact and impinge on the openness of the Green Belt hereabouts. There are likely to be up to 15 or 16 motor homes parked on site at any one time. It will not involve the temporary use of the land, and the motor homes will clearly be an alien feature in the landscape. The strength of advocating such an impact however is weakened because of the fall back position, whereby the site could be used for nursery uses involving poly tunnels and other storage containers as in the past. As the use involves vehicles and thus not plant or equipment reasonably to be expected in the countryside or indeed at a garden centre, then it is considered that the impact is sufficient to be adverse. Additionally, the use of this site would remove quite a substantial area available for overflow car parking. That would be displaced. It is highly likely that this would move across to the field on the other side of the road which is in open countryside. It too is used as an overflow car park but under permitted development rights as a temporary use. The increased use of this site for parking would have an impact on the openness of the Green Belt if it were to be used more intensively and frequently. The Board needs to consider whether these impacts can be mitigated. Conditions requiring significant landscaping would be needed, if the visual impact arising from this use of the site were to continue. This would be considered to be a disproportionate response, given, as Members are aware, that the simple solution of landscaping is not sufficient to overcome the loss of openness to the Green Belt, or the harm done to the Green Belt by thus allowing inappropriate development.

The Environmental Health Officer is concerned about the use being immediately adjacent to a residential property. Given that the applicant has said that no repairs or cleaning will take place, the impacts are limited to visual, loss of privacy and general disturbance. Again there

is fall back position in that the site could be used for a nursery purpose, quite lawfully, and that may involve a similar level of disturbance or loss of privacy. However activity with such a fall back use is to be expected, whereas this use would introduce an inappropriate commercial use to a countryside location. It is considered that given the existing occupiers have already evidenced disturbance, that there is a case here for treating the application as adverse to Policy ENV11. Conditions could be imposed limiting hours of operation; ensuring that screening was added, ensuring the homes are located a set distance away from the adjoining house, prohibiting cleaning and servicing and controlling any lighting at the site. These would be reasonable and proportionate, however they would still not overcome the fact that this site would be open to the public throughout the week on a permanent basis, and that is different to a use of the site under a fall back position.

#### **d) Conclusions**

It is considered that the principle of introducing this use to this site can not be accepted in planning policy terms. The policies concerned are the two most significant within the Development Plan relating to the control and distribution of new developments in the Borough. As a consequence, the very special circumstances and other material planning considerations that would warrant overriding these policies would need to be substantive. The one that does carry weight is the impact of the loss of this use on the garden centre's viability and thus the potential harm to the rural economy and the loss of jobs. This has added resonance in today's economic climate. The Council has refused intensification and diversification at this site previously because of the weight that it gives to its core Development Plan policies, and it is recommended that this approach should remain. These are the most significant policies in the Plan and wholly reflect Government advice on Green Belts and the need to locate development in sustainable centres. Additionally there are the adverse impacts as identified above.

Given such an approach, and in recognition of the argument put by the applicant, the Board should consider the grant of a temporary consent, not necessarily to monitor impacts, but in recognition of the current trading position of the Centre and the potential impact of closure. This would be appropriate and Members may wish to consider this option. However it is considered that as the Green Belt and Development distribution policies here are central to the Development Plan, and key to the Council's own priorities, and thus should be given more weight than others within the Plan, relating to the rural economy. The matter of principle should thus remain, as harm would be done to the Plan if those principles are not followed.

This leaves the Board with the need to consider whether it is expedient to commence enforcement proceedings, and it is considered that there is a course here that enables the Council to uphold its key planning policies whilst recognising the applicant's case. In short it is considered expedient to issue an Enforcement Notice requiring the removal of this use and the office building for the reasons outlined above, but that the compliance period be longer than usual. It is considered that a period of eighteen months is appropriate. Clearly there will be an impact on the motor homes business in that they will have to relocate to find other premises, but as indicated above, the Council can assist here in identifying a large number of vacant premises at suitable locations. There too will be an impact on the Garden Centre. This is considered to be more crucial given its situation and its local employment opportunities. A longer compliance period than usual will assist, and the one suggested allows for a further season's business to take place, as well as hopefully taking the business through the current economic climate. Government advice on enforcement action does indicate that particular attention should be given to the impact of such action on small businesses and on local employment provision, as well as being a last resort. The course of action set out above reflects this approach.

The Board here is faced with conflicting policy issues – retaining the Green Belt, upholding its development distribution policies and also seeking to ensure that the local employment opportunities and benefits to the local rural economy are secured. On balance it is considered that the course of action outlined above is reasonable and proportionate recognising all of these issues. Members may disagree, and if so they are invited to identify

which issues should be given greater weight in the balancing exercise that thus needs to be carried out.

## **Recommendation**

**A)** That planning permission be **REFUSED** for the following reasons:

- i) The application site is in the Green Belt and outside of any settlement defined by the saved policies of the North Warwickshire Local Plan 2006. The proposed use is inappropriate in such a location. It is considered that very special circumstances to warrant overriding the presumption of refusal in this situation are of insufficient weight to do so. This is because of the significance of these policies to the overall strategy of the Council in directing new development to sustainable locations; past decisions relating to this site for intensification and diversification, that it is not essential for this use to be at this site, and that it has no operational or other links to the existing garden centre use. The proposal does therefore not accord with saved Core Policy 2, and Policies ENV2 and ECON5 of the North Warwickshire Local Plan 2006, as well as Government advice in PPG2, PPS3 and PPS7.
- ii) It is considered that the proposed use would have adverse impacts, such that it would impact on the openness of the Green Belt hereabouts; have an adverse visual impact in itself, and that it would impact on the residential amenity of the occupiers of the adjoining residential property beyond that which they could reasonably expect to enjoy. The proposal is thus considered to be contrary to saved Policies ENV2 and ENV11 of the North Warwickshire Local Plan 2006, and to the guidance set out in PPG2.

**B)** That the Solicitor to the Council be authorised to issue an Enforcement Notice requiring the cessation of this use from this site and the removal of the office building from the site, for the reasons outlined in this report, with a compliance period of eighteen months.

## BACKGROUND PAPERS

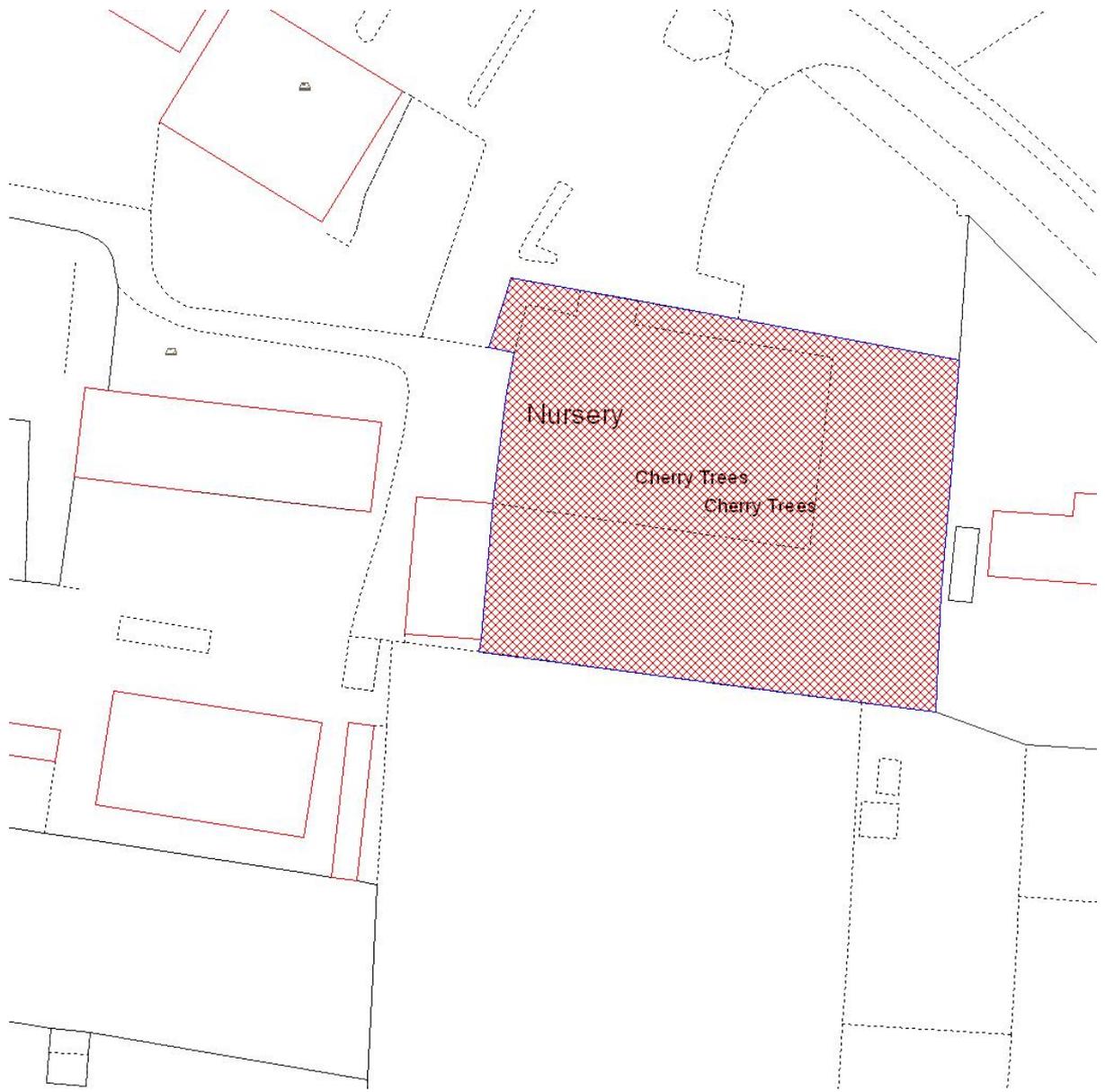
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

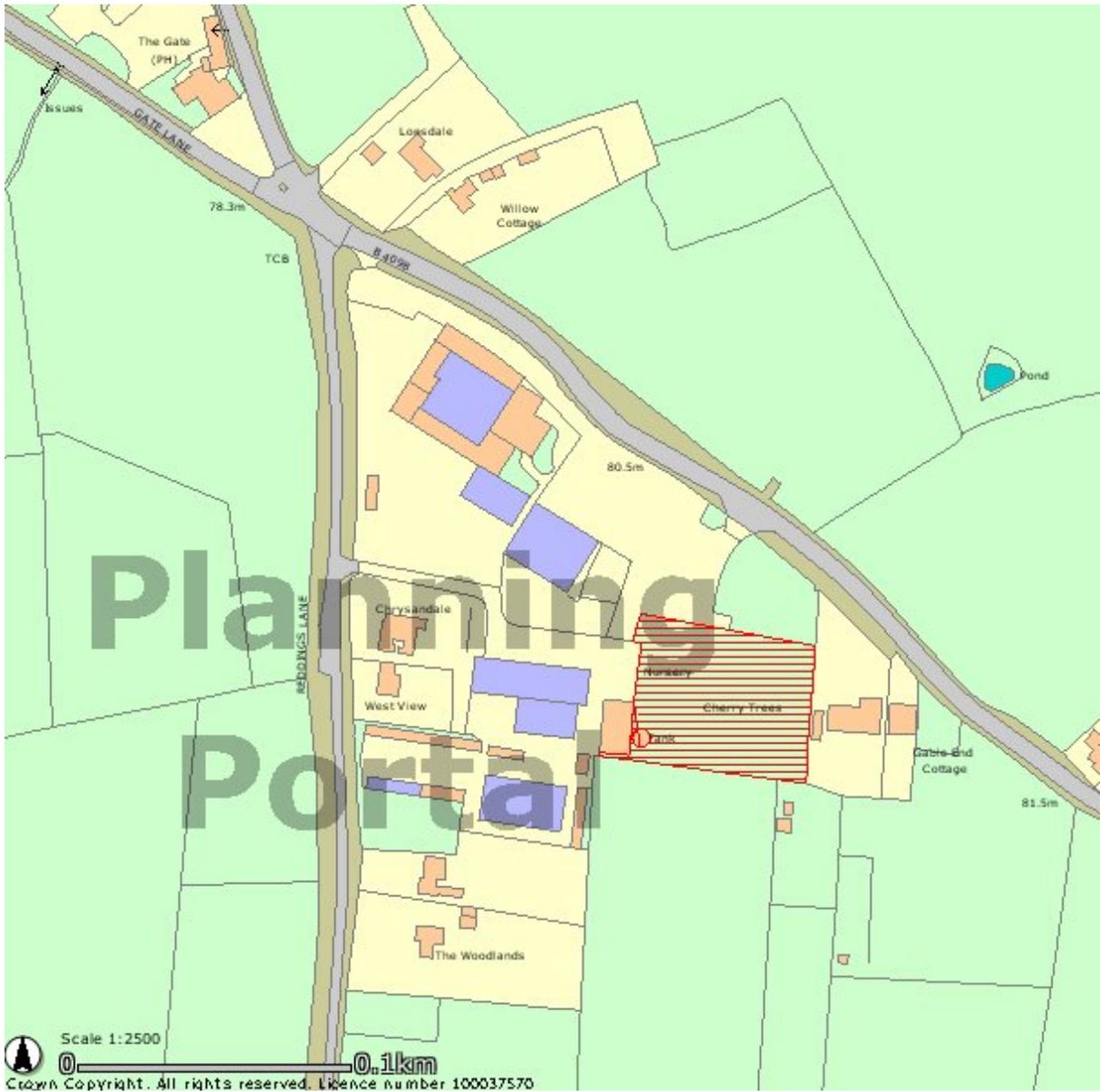
### Planning Application No: PAP/2009/0248

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	9/6/09
2	Applicant	Letter	18/6/09
3	Environmental Health Officer	E-mail	27/4/09
4	Nether Whitacre Parish Council	Representation	21/7/09
5	Warwickshire Highway Authority	Consultation	1/7/09
6	Colliers CRE	Objection	20/7/09
7	Head of Development Control	E-mails	4/8/09

*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 7

### Planning and Development Board

17 August 2009

#### Report of the Head of Development Control

#### The Butchers Arms, Fillongley

#### 1 Summary

- 1.1 The report brings Members up to date with outstanding matters to do with this site in Fillongley, following the partial quashing of a Listed Building Enforcement Notice.

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

**That the action taken by the Chief Executive under his emergency powers be noted given the circumstances set out in this report.**

#### 2 Background

- 2.1 A couple of years ago, the Council issued a Listed Building Enforcement Notice in respect of alleged unauthorised works to this Grade 2 Listed Building in the centre of Fillongley. Following an appeal, heard by way of a Public Inquiry, the Inspector dismissed most aspects of the appellant's case but not all – in short, certain of the Notice requirements were upheld, others were quashed. The appellant submitted a claim for all of his costs in respect of the Notice. The Inspector however granted a partial award of costs against the Council, relating it to only to those Notice requirements which were quashed.
- 2.2 A claim was duly submitted to the Council for £14k. The appellant's argument was that he considered 50% of his appeal time – both in preparation of the case and in Inquiry time – was spent on these particular requirements, and thus the claim was for half of his total costs. Officers disagreed because the quashed requirements were considered to be very detailed and minor matters, suggesting that 10% would be a more realistic proportion. The appellant was not prepared to negotiate. As a consequence he laid his claim directly before the Court. The Council lost the case, and was ordered to pay £12k in costs. The Council's legal representative considered that an appeal against this judgement would stand a very good chance of success. The Solicitor to the Council agreed and thus an appeal has been lodged, with the agreement of Management Team.
- 2.3 The purpose of this report is to point out that in this case, the Council has to pay the £12k to the Court, at the same time as paying for and lodging the appeal. If successful, this will be repaid, or whatever proportion is decided through the appeal procedure. Given the Court deadlines involved, and there being no budget available for this payment, the Chief Executive in consultation with the Leader of the Council and the Chair of the Board, has made the payment to the Court from Council reserves under his emergency powers. The Board is asked to note this action.
- 2.4 It should be pointed out that the arguments involved in the original Court case, and now in the appeal do not revolve around the merits or otherwise of the Notice. They are wholly to do with procedures for claiming costs.

### 3 Report Implications

#### 3.1 Financial and Value for Money Implications

3.1.1 A payment of £12,891.16 has been made to the Court under emergency measures, to cover the award and the cost of lodging the appeal. If successful at appeal, the full amount, less the cost of lodging the appeal, or a proportion of the payment as decided by the Court, will be refunded. Any sum not refunded will be funded from the Council's reserves.

#### 3.2 Legal and Human Rights Implications

3.2.1 The advice of the Barrister handling the Council's case to lodge the appeal, was agreed by Management Team.

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 8

### Planning and Development Board

17 August 2009

**Report of the  
Head of Development Control**

**Killian Pretty Review  
Further Consultation**

#### 1 Summary

- 1.1 The Government has published the first of several consultation papers arising directly out of the Killian Pretty Review. This report deals with proposals in respect of the “life” of planning permissions, and secondly with new procedures to deal with amendments to planning permissions.

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

**That the criticisms of these proposals, as set out below, be referred to the DCLG.**

#### 2 Background

- 2.1 In January the conclusions of the Killian Pretty Review (“KP Review”) into planning procedures and processes were reported to the Board. The Government’s response was reported in April. The Government has now published a further consultation paper on how it proposes to take forward two matters – one of which is from Review. This report outlines the changes that are proposed.

#### 3 Extending the “Life” of Planning Permissions

- 3.1 Whilst not within the Review, the Government has taken this opportunity to consult on a matter that has arisen as a direct consequence of the current economic downturn. Members will be aware that planning permissions have to be commenced within three years from the date of the permission, otherwise they lapse. The current downturn has led to many permissions lapsing in this way, or likely to lapse, as developers do not either have the confidence to commence work, or because their funding has been removed. In these cases, fresh applications would be needed, with a new fee and with all of the necessary documentation, if the developer wanted to renew his permission when confidence is restored. In other words, this would entail a complete replication of the original application. Given that the three year life of a planning permission used to be five years, there has been considerable pressure on Government to re-introduce the longer period. Government has decided not to do so, but in recognition of the situation, it is proposing two procedures.
- 3.2 The first is the introduction of a new form of application, an “extension” application, which could be used to extend the life of an unimplemented planning permission. It would only apply to “major” applications, and only to existing permissions that had been granted before 1 October 2009. The application would be solely limited to an extension of time, and no part of the proposal could be altered. The application would

be determined on the same basis as any other application, such that if there had been a material change in planning circumstances since the approval date, it could be refused permission to extend its life. The second procedure is immediately available, and can be used for current undetermined planning applications and for those submitted before or after 1 October 2009. All Authorities are being advised that, notwithstanding the three year default period, they do have an opportunity to use their discretion as to whether to grant a three or five year planning permission under Sections 91 and 92 to the 1990 Planning Act. Such discretion would clearly be used on a case by case basis.

#### **4 Amendments**

- 4.1 One of the main recommendations from the KP Review was to introduce a quicker procedure for dealing with amendments to planning permissions. The Government is proposing to take this forward in two ways. Which one is followed will depend on whether the amendment would be a “minor material” change, or a “minor non-material” change from the original permission. All major changes would by definition be material, and thus automatically require the submission of a fresh application as is the case now. The key is the definition of a “minor material” change. Government see this as, “...one that whose scale and nature results in a development which is not substantially different from the one which has been approved”. Local Planning Authorities would decide each case using this definition. Once it has been decided that the change is “minor but material”, then the following procedure would follow. Most planning permissions nowadays have a condition referring to actual plan numbers that are approved. If the proposed amendment is agreed as a “minor but material” change, then it is proposed that an application is submitted under Section 73 of the Act to vary the relevant plans condition. Consultations would be undertaken proportionate to the amendment. If there is no plans condition then a fresh application would presumably be needed. A different procedure is recommended if the amendment is a “minor but non-material” change. A new standard form will be required to be submitted as allowed under Section 96A of the Act, but it would not have the status of a planning application, and the Local Planning Authority would decide how to and if to consult.

#### **5 Observations**

- 5.1 Regretfully, these proposals show the difficulty of adjusting an existing legislative system to accommodate changed circumstances with the downturn, and of adapting inflexible procedures through further prescription. It could be argued that these suggestions add to the bureaucratic burden rather than reduce it. The change in the life of a planning permission was altered because Government considered that developers were “land banking” permissions and not implementing their developments until they could maximise their return through increased land value. The reduction to three years was designed to secure implementation almost immediately, so that needed development could be delivered. With the current downturn, the opposite view is to be taken so as to revert to longer permissions so as to avoid resubmissions and to delay commencements. Whilst the proposals set out above are practical and they should provide more flexibility, they again send mixed messages to communities and to Authorities.
- 5.2 The proposed alterations as far as amendments are concerned offer greater prescription and process bound procedures, rather than taking a flexible and pragmatic view as is the case now with practice in this Council. These changes are likely, given the Governments consultation paper, but it will be interesting to see what the reaction is from both the planning profession as well as the development industry.

## 6 Report Implications

### 6.1 Financial and Value for Money

6.1.1 There will be a fee receipt for these new types of applications, but the Government has not yet resolved on what fees should be charged.

### 6.2 Environment and Sustainability Implications

6.2.1 Extending permissions will help in ensuring that developments that are needed are “kept alive”, particularly when they provide development in line with Development Plan policies and Community Plan objectives.

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	DCLG	Greater Flexibility for Planning Permissions	June 2009
2	DCLG	Minor Material Changes to Planning Permissions – Options Study	June 2009

## Agenda Item No 9

### Planning and Development Board

17 August 2009

#### Report of the Head of Development Control

#### Diversion of Footpath Applications

#### 1 Summary

- 1.1 This report sets out the amount of costs that shall be reclaimed when processing public path orders to divert, extinguish and stop up footpaths and bridleways to allow development to proceed under Section 257 of the Town and Country Planning Act 1990 or to divert a footpath under Section 119 of the Highways Act 1980.

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

**That charges as set out in the report be referred to Resources Board with a view to adding it to the Councils scale of charges for the recovery of costs when making a public path diversion or extinguishment order.**

#### 2. Background

- 2.1 The Council has the power to make and confirm (where unopposed) Orders to divert or stop up Footpaths and Bridleways under the Town and Country Planning Act and under the Highway Act 1980.
- 2.2 An application may be made to a local authority requesting that it exercises its powers to make a Public Path Order to divert or extinguish a right of way in the interests of a landowner, lessee or occupier. When making an application the applicant agrees to pay the Council's costs in the making of the Order.
- 2.3 Should the authority decide to proceed with the application, then the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (S.I. 1993/407), amended by regulation 3 of the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 (S.I. 1996/1978), permit authorities to charge applicants the costs of making orders under: sections 26, 118, 118A, 119 and 119A of the 1980 Act.
- 2.4 The DEFRA Rights of Way Circular 01/09 confirms that Authorities should publish their scales of charges and should inform applicants in advance of the maximum charge for their application and that Authorities must not charge more than the costs they have incurred.
- 2.5 There are many stages involved in the making of a public footpath order and the process is likely to take 6 months to 1 year for a straightforward diversion whilst a contentious diversion can take several years.
- 2.6 Typical administration costs which may be incurred when making an order are set out in paragraph 5.6 of DEFRA Circular 01/09 and include:
- Notifications to landowners, statutory undertakers, prescribed organisations, other local authorities and other persons;

- Posting notices on site and elsewhere;
- An advertisement in one local newspaper for each of the stages of the order; namely making the order, confirming the order and coming in to force of the order (where the final stage is separately required). The newspaper must circulate widely and reliably in the area covering the order and under the requirement to obtain best value, less conventional publications such as free sheets may satisfy the requirement;
- Site inspections;
- Research into the status and previous history of the way;
- Negotiations with applicants and other interested parties before making the order;
- Preparing reports for Committee; and
- Preparing orders and notices.

2.7 Authorities can recover from applicants the costs of informal consultations (such as negotiations between authorities, applicants, landowners, user groups and any other interested parties) where they lead to orders being made. It is for the authorities themselves to decide what services are necessary to the making of a particular order and applicants should be made aware that these may vary according to the circumstances of the particular case.

2.8 A benchmarking survey has been carried with other authorities, specifically looking at their charging structure that is available on their web sites. Some authorities have a fixed charge with additional advertising costs whilst others included the cost of advertising in its administration charge.

Those authorities whose information was sourced are listed below.

	<b>Initial fee £</b>	<b>Advertising £</b>	<b>Administration £</b>	<b>Maximum £</b>
Bath and North East Somerset Council		The actual costs of two or three public notices in a local newspaper	£1,200	
Basingstoke & Dean Borough Council		Costs in the region of £400 per notice, for a total of approximately £1,200	£1,500	
Cheshire East Council		The actual advertising costs	£1,304.88 (£1,134.68 plus VAT)	
East Lindsey District Council		£180	£1,600	£1,780
South Kesteven District				£895

Council				
Charnwood Borough Council	£1,000 The fee for each additional path £200			Final payment of £2,000 paid before the order is confirmed and certified that the order is in place
Nottingham City	£150		£1,850 to include advertising	£2,000
Harborough District Council		Variable (At cost to the applicant)	£1,000	£1,000 +advertising
North West Leicester		Variable (At cost to the applicant)	£894	£894 +advertising

2.9 Adverts in the Atherstone/Tamworth/Coleshill Herald Group of newspapers will vary between approximately £300 and £500 although this will depend on the complexity of the route. An Order is normally required to be advertised 3 times (making, confirmation and coming into effect of the order)

2.10 Authorities may not seek payment in advance of the incurring of costs. Payment should therefore be sought after the advertisement of the making of the order has been placed with the local newspaper. Payment for subsequent advertisements in relation to the confirmation of the order should similarly only be sought after these have been placed with the newspaper, however, Authorities may defer confirmation or, in the case of opposed orders, referral to the Secretary of State, until payment has been made.

2.11 Given this background it is proposed to charge £1,000 for administrative work and up to £1,500 for advertising, making a maximum charge of £2,500.

The scale of charges for an application would also involve:

- Reimbursement of advertisement costs when occurred;
- Final payment of £1,000 paid before the order is confirmed; and
- If an application involves the diversion of more than one path, where it can be included in the same order, the fee for each additional path should be £200 payable.

It should be noted that if an order is opposed, then the costs of any resulting public inquiry cannot be recharged, ie if a Public Inquiry is called and Counsel is retained these costs fall on the public purse.

2.12 Applicants are not entitled to a refund other than under the following conditions:

- Where the authority fails to confirm an unopposed order;

- In the case of unopposed orders the authority fails to submit the order for confirmation to the Secretary of State without the agreement of the person who requested the order;
- Where proceedings preliminary to the confirmation of a public path creation order are not taken concurrently with proceedings for a public path extinguishment order; and
- Where the order cannot be confirmed because it has been invalidly made.

### 3 Report Implications

#### 3.1 Finance and Value for Money Implications

- 3.1.1 It is not anticipated that many applications would be received each year – probably just the one. The fees set out here are comparable with other Authorities and would cover anticipated costs.

#### 3.2 Equalities Implications

- 3.2.1 The proposed charge relates to the legislative requirement to make a charge for the application, and is not related to the applicant in any way.

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

## Agenda Item No 10

### Planning and Development Board

17 August 2009

#### Report of the Head of Development Control

#### Annual Performance Report 2008/9

### 1 Summary

- 1.1 The report sets out the annual performance over 2008/9 of the Development Control service comparing it with recent years, and also provides the first monitoring report following the recent Planning Review.

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

**That the report be noted, and that the situation in respect of application numbers be reported when the half year figures are available.**

### 2 Planning Applications

- ... 2.1 Table One sets out the annual performance for 2008/9 for this part of the service. It clearly identifies the reduction in applications received as a consequence of the economic downturn and changes to the permitted development legislation – 15% overall. Interestingly it is the householder applications that have seen the greatest reduction, whereas majors perhaps surprisingly have remained stable over the past few years. Whilst the number of decisions made has reduced as well, the percentage approved has again remained unchanged. This is a clear sign of consistent decision making.
- 2.2 All of the National Indicators (NI's) have been met and this means that Housing and Planning Delivery Grant for that year will not be abated. There has however been a slight reduction in performance over last year. As Members are aware this trend will continue as case officers begin to undertake work on the Core Strategy, as agreed under the recent review.
- 2.3 As indicated last year, it is not proposed to compare performance against other Authorities as all Authorities are now achieving consistently high performance levels, and the current economic situation is affecting Authorities in different ways.

### 3 Breaches of Planning Control

- ... 3.1 Table Two sets out the performance over the year for the investigation of breaches of planning control. Investigative work has clearly increased over previous years. Adopting a more targeted approach, it can be seen that work has concentrated on actual breaches of planning control, rather than on other matters. That work has been efficiently undertaken in that the times taken to handle cases are well above target. Once again the approach of the service to seek voluntary resolution through the submission of applications and voluntary action is marked.

### 4 The Review – First Quarter Report

- 4.1 At its last meeting, Members agreed a number of actions as part of the Third Stage of the review of the service. One was to provide a regular report on the application position, in order to monitor the capacity of the team, given that officers would be undertaking work in connection with the Core Strategy during the downturn, whilst application numbers were reduced.
- 4.2 The first quarter of 2009/10 saw 185 applications received. Coincidentally, this is exactly the same number as for the equivalent quarter last year. This suggests that matters may be improving a little, as this is quite a good comparison to make, because this time last year, the full impact of the downturn had not begun, and the changes to permitted development had not come into effect. The type of application received in the last quarter is showing a small increase in majors, from 5 to 7, but the householder category fell from 80 to 48 in that same quarter between last and this year. This fall illustrates a combination of the difficulty in households obtaining credit, as well as the changes to planning legislation. Fees are down over the two comparable quarters – from £90k for the first quarter in 2008/9 to £44k for this year – despite the application numbers submitted being exactly the same. This again clearly shows how sensitive fees are to the type of applications submitted. In the first quarter of last year, three of the five majors submitted amounted to £38k in fees, whereas all seven submitted in the same quarter this year, only amounted to £18k. So, the overall conclusion from the first quarter this year is that applications appear to be recovering but not with an equivalent increase in fees, as larger development proposals are not coming forward.
- 4.3 There are known to be larger development proposals “waiting in the wings”, either for recovery in the economy, for example proposals at Britannia Mill and the Victor Works in Atherstone, or they are awaiting the outcome of the Examination in Public into the RSS, which will be known later this year. This will particularly impact on proposals at the Regional Logistics Sites.
- 4.4 This past quarter too has seen three significant cases taking up a substantial amount of officer time. There have been two large and complicated Public Inquiries, particularly the travellers at Hurley, which is still ongoing. The second was for a bungalow at Dosthill Lake. The third case involves all of the enforcement work, and now the subsequent planning applications on the Heart of England site at Fillongley. These high profile cases take a considerable amount of time to deal with, and do impact on the team’s ability to turn around planning applications. This is the reason why performance for the first quarter has fallen slightly, compared with last years annual figures - 86% to 83% for majors; minors have remained the same at 83%, and others have fallen from 91% to 88%.
- 4.5 As a consequence of the recovery in applications submitted, and the three cases referred to above, there has been no opportunity for case officers to assist the Forward Planning team with the preparation of the Core Strategy, as anticipated through the Planning Review. However, it has been accepted that performance could fall further in order to free up time to undertake this work, and some initial work has begun, particularly on the Employment Land Review. The next monitoring report will be able to look at applications and fees received over the first half year, and to see how performance has fallen whilst work on the Core Strategy is pursued.
- 4.6 The Planning Board resolved in the planning review that the vacant post of Site Investigation Officer should be advertised internally. This has happened, and an appointment has been made. The successful candidate starts in mid-August, and is presently in a part time post, so there is now unlikely to be the full saving as anticipated.

## 5 Report Implications

### 5.1 Financial and Value for Money Implications

5.1.1 The reduction in fees over the first quarter is significant, but it doesn't relate to an equivalent reduction in planning applications, which show signs of recovery. Larger applications, and thus fees, are anticipated in the second half of the year.

5.1.2 The appointment referred to below has reduced the saving anticipated on freezing the post of Site Investigation Officer from £20.5 k to £10k.

### 5.2 Human Resources Implications

5.2.1 An appointment has been made following the internal advertisement for the role of Site Investigation Officer.

### 5.3 Environment and Sustainability Implications

5.3.1 This appointment will enable a wider scope of investigation into breaches of planning control to take place in line with the Council's current Enforcement Policy, thus helping to meet environmental and sustainability objectives in the Development Plan.

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

## PLANNING CONTROL SERVICE IMPROVEMENT PLAN – MONITORING REPORT

**TABLE ONE: HANDLING APPLICATIONS**

Measure	Year 2005/2006	Year 2006/2007	Year 2007/2008	Year 2008/2009	Commentary
<b>Processing Applications</b>					
A) Total number of applications received divided as follows:	860	783	761	666	Overall 15% reduction
• Change of use	6.5%	5.49%	5.51%	7.51%	Greatest fall is in householder applications
• Householder	42.5%	44.83%	44.54%	38.14%	
• Major developments	3.6%	3.96%	2.89%	3.61%	
• Minor developments	29.3%	30.14%	27.59%	28.98%	
• Others	18%	15.58%	19.45%	21.77%	
B) Total number of Decisions	880	795	760	674	
C) % of all applications granted permission	72%	76.60%	76.97%	76.70%	Shows consistent decision making
D) % of all applications determined in eight weeks (BVPI)	83%	87.92%	73.68%	85%	National Indicators are 60%, 65%, 80% respectively
• majors in 13 weeks	57%	74%	84.21%	86%	See report for reasons
• minors in 8 weeks	83%	87%	88.77%	83%	
• others in 8 weeks	94%	94%	93.99%	91%	
E) % of all householder applications determined in eight weeks.	97%	97%	97.04%	91.63%	
F) % of all applications determined under delegated powers (BVPI)	96%	94%	94%	95%	

**TABLE ONE: HANDLING APPLICATIONS (Cont'd)**

<b>Measure</b>	<b>Year 2005/2006</b>	<b>Year 2006/2007</b>	<b>Year 2007/2008</b>	<b>Year 2008/2009</b>	<b>Commentary</b>
G) % of departure applications allowed of the total planning applications granted permission.	0.11%	0%	0%	0.15%	
<b>Appeals</b>					
H) Number of Appeals lodged	25	37	25	16	
I) % of Appeals allowed (BVPI)	43%	26.47%	15.38%	22.73%	
<b>Fees and Costs</b>					
j) Fee income from all applications	£327,005	£337,211	£384.024	£304.388	Reflects the economic downturn
K) % of all applications that are non-fee earning.	11.5%	9.45%	10.91%	10.81%	
L) % of fees that come from householder applications.	14.5%	12.75%	5.87%	9.50%	

## PLANNING CONTROL SERVICE IMPROVEMENT PLAN – MONITORING REPORT

### TABLE TWO – BREACHES OF PLANNING AND ENFORCEMENT

Measure	2003/2004	2004/2005	2005/2006	2006/2007	2007/2008	2008/2009	Commentary
<b>Reports of Alleged Breaches</b>							
A) Number of notifications	242	215	256	231	209	249	
B) % where a breach identified	43	48	50%	62%	45%	71%	Reflects a more targeted approach
C) Average working days from notification to site visit	10	9	9	6	5	5	
D) Average working days from notification to assessment	12	9	10	8	7	7	
E) % of assessments in 21 days	93	93	93	84%	85	86	
F) Once a breach is established – mode of resolution (%)							
• Retrospective planning application or certificate application	62	53	44	47	50	48	
• voluntarily removed	16	40	42	38	33	34	
• not expedient to take action	10	5	3	2	3	4	
• enforcement action authorised	10	1	9	11	12	14	
• other action, eg injunctions	2	0	0	0	0	0	
• outstanding							
G) % of notifications resolved, or where no breach identified in twelve weeks	93	92	84	97%	74%	91%	
H) Fee income from retrospective applications	£ 4810	£ 8725	£ 9265	£ 8445	£ 9040	£ 7555	
I) Number of Enforcement Notice Appeals lodged (not necessarily relating to Notices served this year.	4	4	10	7	3	9	

**TABLE TWO – BREACHES OF PLANNING AND ENFORCEMENT (Cont'd)**

<b>Measure</b>	<b>2003/2004</b>	<b>2004/2005</b>	<b>2005/2006</b>	<b>2006/2007</b>	<b>2007/2008</b>	<b>2008/2009</b>	<b>Commentary</b>
J) Number of cases where Court Action authorised (not necessarily relating to cases reported this year).	0	3	3	5	4	2	

## **Agenda Item No 11**

### **Planning and Development Board**

**17 August 2009**

#### **Report of the Chief Executive and the Director of Resources**

#### **Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April 2009 – June 2009**

### **1 Summary**

- 1.1 This report informs Members of the actual performance and achievement against the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for the first quarter April 2009 to June 2009.

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

**That Members consider the achievements 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 Introduction**

- 3.1 This report is the first report for the 2009/10 year and reflects the Corporate Plan, which has been agreed for 2009/10. A key change to last years reports were the introduction of new national indicators and the removal of some of the best value performance indicators. The new national indicators include some of the existing best value performance indicators. Management Team have agreed which existing performance indicators are to be monitored during this year. The indicators relevant to this board are shown in Appendices A and B. There are no new national indicators relevant to this board. The indicators shown are the ones which are being monitored for this Board on a local basis only.

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- 3.2 Management Team receive monthly reports from each division and are monitoring performance on an exception basis i.e. they are reviewing all the red and amber responses. This report informs Members of the progress achieved during the first quarter from April to June 2009 on all of the Corporate Plan and Performance Indicators relevant to this Board. The following definition has been applied using the traffic light warning indicator of red, amber and green.

Red – target not achieved

Amber – target currently behind schedule and requires remedial action.  
Green – target achieved.

#### 4 Progress April 2009 to June 2009

- 4.1 Attached at Appendices A and B are reports showing all the Performance Indicators and Corporate Plan targets relevant to this Board. The report is split into divisions as appropriate. The report includes individual comments where appropriate against each of the targets and indicators prepared by the relevant division. The report shows the following status in terms of the traffic light indicator status:

##### Corporate Plan

Status	Quarter 1 Number	Quarter 1 Percentage
Red	0	0%
Amber	1	33%
Green	2	67%
Total	3	100%

##### Performance Indicators

Status	Quarter 1 Number	Quarter 1 Percentage
Red	1	33%
Amber	1	33%
Green	1	33%
Total	3	100%

#### 5 Conclusion

- 5.1 The progress report shows that 100% of the Corporate Plan targets and 66% of the performance indicator targets are currently on schedule to be achieved. Members are asked to consider the achievement overall and to identify any areas of concern which require further investigation.

#### 6 Report Implications

##### 6.1 Safer Communities Implications

- 6.1.1 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.

## 6.2 Legal and Human Rights Implications

6.2.1 The new national indicators have been specified by the Secretary of State for Communities and Local Government as part of a new performance framework for local government as set out in the local Government White Paper Strong and Prosperous Communities.

## 6.3 Environment and Sustainability Implications

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

## 6.4 Risk Management Implications

6.4.1 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.

## 6.5 Equalities

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

## 6.6 Links to Council's Priorities

6.6.1 There are a number of targets and performance indicators included relating to protecting and improving our environment, defending and improving our countryside and rural heritage and working with our partners to tackle crime.

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
31	Apr-09	Increase Section 106 contributions for Open Space provision and off site landscaping through the adoption of the Open Space Planning Document in Summer 2009	Planning and Development	DCE/ACESC	Forward Planning Manager	Countryside & Heritage		Work on a final SPD is not being progressed at current time due to work on Core strategy	Amber	↔
32	Apr-09	To apply the Enforcement Policy as amended	Planning and Development	DCE	Head of Development Control	Countryside & Heritage		Ongoing - annual performance report due Planning & Dev Board August 2009	Green	↔
39	Apr-09	Using the planning system to protect our best old buildings and ensure that new build design is in keeping with the character of the area, including continue to Implement the Partnership Schemes in Conservation Areas for Atherstone	Planning and Development	DCE/ACESC	Forward Planning Manager	Countryside & Heritage		Work is continuing on the scheme. All work must be completed by end of November and claimed by the end of December 2009	Green	↔
42	Apr-09	Maintaining a three-year cycle for the Civic Award Scheme by holding an event in 2012	Planning and Development	DCE	Director of Community & Environment	Countryside & Heritage		Work will be carried out during 2011 for this.		

PI Ref	Description	Division	Section	Year End Target	2008/9 Year End	National Best Quartile	SPARSE Best Quartile	Performance	Traffic Light Red/Amber/ Green	Direction	Comments	Suggested reporting interval	Board
NI 157a	Processing of planning applications as measured against targets for major application types	Development Control	Development Control	65	86.67%			83.33% (1st Qtr)	Green	↑		Q	Planning and Development Board
NI 157b	Processing of planning applications as measured against targets for minor application types	Development Control	Development Control	85	82.91%			83.33% (1st Qtr)	Amber	↔	Await full year results against target	Q	Planning and Development Board
NI 157c	Processing of planning applications as measured against targets for other application types	Development Control	Development Control	95	90.96%			88.46% (1st Qtr)	Red	↓	Planning review agreed performance would fall as work is taken up on LDF	Q	Planning and Development Board