

To: The Deputy Leader and Members of the Planning and Development Board

(Councillors Simpson, Bates, Bell, Chapman, Dirveiks, Fowler, Gosling, Hayfield, Hobley, Humphreys, Jarvis, Parsons, H Phillips, Reilly, Ridley and Ririe)

For the information of other Members of the Council

For general enquiries please contact the Democratic Services Team on 01827 719237 via e-mail – democraticservices@northwarks.gov.uk

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

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

PLANNING AND DEVELOPMENT BOARD AGENDA

4 NOVEMBER 2024

The Planning and Development Board will meet on Monday, 4 November 2024 at 6.30pm in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire.

The day after the meeting a recording will be available to be viewed on the Council's YouTube channel at [NorthWarks - YouTube](#).

AGENDA

- 1 **Evacuation Procedure.**
- 2 **Apologies for Absence / Members away on official Council business.**
- 3 **Disclosable Pecuniary and Non-Pecuniary Interests**

REGISTERING TO SPEAK AT THE MEETING

Anyone wishing to speak at the meeting, in respect of a Planning Application, must register their intention to do so by 1pm on the day of the meeting, either by email to democraticservices@northwarks.gov.uk or by telephoning 01827 719237 / 719221 / 719226.

Once registered to speak, the person asking the question has the option to either:

- (a) attend the meeting in person at the Council Chamber; or
- (b) attend remotely via Teams.

If attending in person, precautions will be in place in the Council Chamber to protect those who are present however this will limit the number of people who can be accommodated so it may be more convenient to attend remotely.

If attending remotely an invitation will be sent to join the Teams video conferencing for this meeting. Those registered to speak should join the meeting via Teams or dial the telephone number (provided on their invitation) when joining the meeting and whilst waiting they will be able to hear what is being said at the meeting. The Chairman of the Board will invite a registered speaker to begin once the application they are registered for is being considered.

- 4 **Minutes of the meeting of the Board held on 7 October 2024** – copy herewith, to be approved and signed by the Chairman.

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

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

Summary

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

- 5a **Application No: PAP/2018/0755 - Land to the east of the former Tamworth Golf Course and north of the B5000 at Robeys Lane, Alvecote**

Outline residential development

5b Application No: PAP/2024/0418 - Dordon Village Hall, Browns Lane, Dordon, B78 1TL

Refurbish Village Hall. Single storey 1970 extension will require demolition and a double storey structure will be built with pitch structure roof and roof lights

5c Application No: PAP/2024/0189 - Sunnyview, Dingle Lane, Nether Whitacre, Coleshill, B46 2EG

Demolition of existing garage block and the erection of a single self/custom build dwelling (Resubmission PAP/2023/0208)

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

6 Tree Preservation Order Millfield House, Common Lane, Corley – Report of the Head of Development Control

Summary

At the May 2024 Planning and Development Board, Members of the Board approved that a Tree Preservation Order (TPO) be made in respect of five trees at Millfield House, Common Lane, Corley. A temporary six-month TPO was placed on five trees which came into force on 25 June 2024

The Contact Officer for this report is Amelia Bow (719418).

7 Appeal Update - Report of the Head of Development Control

Summary

The report updates Members on recent appeal decisions.

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

8 Exclusion of the Public and Press

To consider, in accordance with Section 100A(4) of the Local Government Act 1972, whether it is in the public interest that 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.

9 Tree Preservation Order - Report of the Head of Development Control

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

- 10 **Exempt Extract of the Minutes of the meeting of the Planning and Development Board held on 7 October 2024** – copy herewith to be approved as a correct record and signed by the Chairman.

STEVE MAXEY
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

7 October 2024

Present: Councillor Simpson in the Chair

Councillors Barnett, Bates, Bell, Chapman, Clews, Dirveiks, Fowler, Hayfield, Hobley, Humphreys, Jarvis, Parsons, O Phillips, Ridley and Ririe

Apologies for absence were received from Councillors Gosling (Substitute Councillor O Phillips), H Phillips (Substitute Councillor Barnett) and Reilly (Substitute Councillor Clews)

Also in attendance was Councillor Watson who, with the permission of the Chairman, spoke on Minute No 31e - Application No PAP/2019/0451 (Blackgreaves Farm, Blackgreaves Lane, Lea Marston, Sutton Coldfield, B76 0DA)

28 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

29 **Minutes**

The minutes of the meeting of the Planning and Development Board held on 2 September 2024, copies having previously been circulated, were approved as a correct record, and signed by the Chairman.

30 **Budgetary Control Report 2024/25 Period April - August 2024**

The Interim Corporate Director – Resources (Section 151 Officer) reported on the revenue expenditure and income for the period from 1 April 2024 to 31 August 2024. The 2024/2025 budget and the actual position for the period, compared with the estimate at that date, were given, together with an estimate of the outturn position for services reporting to this Board.

Resolved:

- a That the report be noted; and**
- b That a supplementary estimate of £225,000 be approved for recommendation to Resources Board to fund the costs of appeals in the current year.**

31 **Planning Applications**

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

Resolved:

- a **That Application No PAP/2023/0520 (Priory Farm, Robeys Lane, Alvecote, Tamworth, B78 1AR) be granted subject to the completion of a Section 106 Agreement and the conditions set out in the report of the Head of Development Control as amended in the supplementary schedule circulated at the meeting. ;**

[Speaker: Louise Hinsley]

- b **That in respect of Application No PRE/2024/0125 (Atherstone Sewage Treatment Works, Carlyon Road, Atherstone) the Council does not object to the proposal.;**
- c **That in respect of Application No MIA/2024/0028 (7, Bray Bank, Furnace End, Coleshill, B46 2LN) the plans received on 30 August 2024 be approved as a non-material amendment to planning permission PAP/2021/0660 dated 11 January 2022;**
- d **That Application No's PAP/2024/0174 and PAP/2023/0168 (Waterworks House, Station Road, Nether Whitacre, Coleshill, B46 2AJ)**
- i **Application No PAP/2023/0168 – Planning Permission be granted subject to the conditions set out in the report of the Head of Development Control; and**
- ii **Application No PAP/2024/0174 – Listed Building Consent be granted subject to the conditions set out in the report of the Head of Development Control**

[Speakers: Ashley Kilgas and Peter Halfpenny]

- e **That the determination of Application No PAP/2019/0451 (Blackgreaves Farm, Blackgreaves Lane, Lea Marston, Sutton Coldfield, B76 0DA) be deferred in order that the applicant submit further information in respect of his business plan relating to any expected increase in Membership as a consequence of the proposal;**

- f That the determination of Application No PAP/2024/0189 (Sunnyview, Dingle Lane, Nether Whitacre, Coleshill, B46 2EG) be deferred to enable the applicant the opportunity to respond to the matters raised by the speaker in respect of the submitted Unilateral Undertaking, and also in order that the Head of Legal Services could provide advice on those same matters;

[Speaker: Jim Thompson]

- g That in respect of Application No PAP/2024/0134 (Cow Lees Nursing Home, Astley Lane, CV12 0NF) the Council is minded to grant planning permission subject to the case being referred to the Secretary of State under the 2024 Direction to see if she wishes to call-in the case for his own determination;
- h That in respect of Application No PAP/2018/0755 (Land to east of former Tamworth Golf Course, north of Tamworth Road - B5000 and west of M42, Alvecote)
 - i That delegated authority be given to the Chief Executive in consultation with the Chairman of the Board, Opposition Spokesperson Councillor H Phillips and Councillor Ridley to finalise the terms of the 106 Agreement; and
 - ii That the Heads of Terms as set out in the report of the Head of Development Control be noted as guidance.

[Speaker: Mark Bassett]

32 **PAP/2024/0377- Works to Tree(s) in a Conservation Area St Marys and All Saints Church, Coventry Road, Fillongley**

The Head of Development Control referred the decision to the Board in respect of Application No PAP/2024/0377 in order to inform Members of the Local Planning Authority's decision to not object to the works to four trees at St Mary and All Saints Church.

Resolved:

That the decision made be noted.

33 **Tree Preservation Order Hall Farm, Farthing Lane, Curdworth**

The Head of Development Control reported to the Board that an Emergency Tree Preservation Order was served on the owner and adjacent premises at this address on 11 July 2024 following information that the tree was under threat. The Board was asked to consider whether this should be confirmed or not following consideration of representations that had been submitted.

Resolved:

That in respect of the Willow Tree (T1) located at Land at Hall Farm, Farthing Lane, Curdworth, the Tree Preservation Order not be confirmed for the reason set out in the report of the Head of Development Control.

34 Appeal Updates

The Head of Development Control brought Members up to date with recent appeal decisions.

Resolved:

That the report be noted.

35 Exclusion of the Public and Press

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 paragraphs 5 and 6 of Schedule 12A to the Act.

36 Authorisation to extend existing Injunction/seek new Injunction

The Head of Development Control sought authority to extend an existing Court Order or seek to begin Injunctive proceedings again (if the existing Order could not be extended).

Resolved:

That authorisation be granted to the Head of Development Control to commence proceedings to extend the existing/or seek new Injunction to prevent further unauthorised development of land for the reasons outlined in the Report of the Head of Development Control.

37 Tree Preservation Order

The Head of Development Control sought recommendation for the making of a Tree Preservation Order.

Resolved:

- a That a Tree Preservation Order be made; and**
- b That consultation then be undertaken and that in the event of an objection being received to the Order, the matter be referred back to the Board, but that if no objections were received, confirmation of the Order be delegated to Officers,**

**in consultation with the Chairman and Opposition
Spokesperson of the Board and local Members.**

M Simpson
Chairman

**Report of the
Head of Development Control**

1 Subject

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

2 Purpose of Report

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

3 Implications

- 3.1 Should there be any implications in respect of:

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

4 Site Visits

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

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday 9 December 2024 at 6.30pm in the Council Chamber

6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at:
https://www.northwarks.gov.uk/info/20117/meetings_and_minutes/1275/speaking_and_questions_at_meetings/3.

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
5/a	PAP/2018/0755	1	<p>Land to the east of the former Tamworth Golf Course and north of the B5000 at Robeys Lane, Alvecote</p> <p>Outline residential development</p>	General
5/b	PAP/2024/0418	6	<p>Dordon Village Hall, Browns Lane, Dordon</p> <p>Refurbish Village Hall. Single storey 1970 extension will require demolition and a double storey structure will be built with pitch structure roof and roof lights</p>	General
5/c	PAP/2024/0189	15	<p>Sunnyview, Dingle Lane, Nether Whitacre, Coleshill, B46 2EG</p> <p>Demolition of existing garage block and the erection of a single self/custom build dwelling (Resubmission PAP/2023/0208)</p>	

General Development Applications

(5/a) Application No: PAP/2018/0755

Land to the east of the former Tamworth Golf Course and north of the B5000 at Robeys Lane, Alvecote

Outline residential development

Introduction

Members will recall that it resolved to grant an outline residential planning permission at the above site at its September meeting, subject to conditions and to the completion of a Section 106 Agreement. The Heads of Terms of that Agreement were reported to the October meeting. The Board resolved to delegate final agreement of these Terms to the Chairman, the Opposition Planning Spokespersons and the Chief Executive, on the basis that the Terms as reported be treated as a guide for the final Agreement.

Confirmation

The applicant submitted an amended Schedule of Terms following the October meeting and these were referred as the Board resolved. These Terms have now been agreed.

They are attached as Appendix A.

Additionally, Members will recall that the Tamworth Borough Council was considering the application for the new access arrangements onto the B5000 as part of the overall proposal. Planning permission has now been granted by that Council.

Recommendation

That the Board notes confirmation of the Heads of Terms for this Agreement.

LAND AT ROBEYS LANE, TAMWORTH

S106 HEADS OF TERMS

PLANNING APPLICATION REF: 2018/0755

15.10.24 – Final and agreed with NWBC

1. Affordable Housing

- 1.1. 30% of the total number of on-site dwellings (C3) across the Development shall be provided as affordable housing subject to a reduction in the overall percentage where the Council receives Gifted Units (see below).
- 1.2. The overall affordable housing provision of 30% will comprise the extra care scheme (100 units) as affordable rent, with the balance of affordable housing 50% affordable rent and , 50% discount to open market value (or First Homes) unless (i) it is agreed between the developer and Council that a proportion of Gifted Units is to be provided; and (ii) otherwise proposed by developer and agreed by Council.
- 1.3. The overall affordable housing provision of 30% will reduce if the developer transfers affordable housing to the Council as Gifted Units. Any phase that includes gifted units will also provide other affordable tenures within the affordable housing provision for that phase (but for the avoidance of doubt the Gifted Units will form part of the affordable housing provision).
- 1.4. Submission of an Affordable Housing Scheme for each phase setting out the number, location, tenure mix and house type mix of the affordable housing in that phase. For the avoidance of doubt, the Extra Care scheme will be included within the Affordable Housing Scheme. The scheme to be submitted to the Housing Officer at the Local Planning Authority.
- 1.5. The Affordable Housing Scheme for a Phase of the development shall be submitted to and approved by the Council. In relation to such Affordable Housing Scheme and where it includes the provision of Gifted Units:
 - 1.5.1. The number and house type (size) of the Gifted Units will be determined through a mechanism in the S106 agreement, with the associated reduction in affordable housing units and increase in general market units.
 - 1.5.2. For the avoidance of doubt, the Site total number of affordable housing will reduce in accordance with this mechanism. A future phase is under no obligation to over provide to equalise back to 30%.
- 1.6. Requirement for delivery of affordable housing on each phase by occupation of 90% of open market dwellings in that phase.
- 1.7. Delivery of the affordable housing will follow the below cascade:
 - 1.7.1. The affordable housing will be sold to a registered Affordable Housing Provider.
 - 1.7.2. If this is not possible, the Council may choose to step-in as the Affordable Housing Provider.
 - 1.7.3. If this is not possible, the Council may choose to step-in and take the affordable housing as Gifted Units. The Gifted Units will be transferred for zero cost and a corresponding number of future affordable housing will be disposed of as private market units (as per the mechanism referred to above at paragraph 1.3.2).
 - 1.7.4. If the Council or other Registered Provider is unable to receive the affordable housing, then the units will be disposed on the open market and commuted sum to the value of 15% of the net sale receipts of those plots sold on the open market shall be paid to the Council, once disposed.

1.8. Eligibility criteria for the affordable housing to be inserted into the Section 106.

2. Extra Care Units

2.1. Identification of land for the Extra Care Units to be prior to the occupation of [xxx] dwellings on the site and in the approximate location as shown on the Parameter Plan (ref. 8186-L-12 Rev Z or otherwise amended).

3. Green Infrastructure

- 3.1. Defined as public open space land that requires landscaping outside of the boundary of dwellings as shown on the Parameter Plan but to be approved through Reserved Matters. This excludes the Sports Hub.
- 3.2. All Green Infrastructure to be identified in future Reserved Matters applications.
- 3.3. Green Infrastructure to include:
 - 3.3.1. LEAP x 2
 - 3.3.2. NEAP x 1
 - 3.3.3. MUGA x1
 - 3.3.4. Footpaths
 - 3.3.5. Strategic planting including the buffer to Alvecote Wood
- 3.4. The phased delivery of the Green Infrastructure to be in accordance with the relevant Reserved Matters Approval and to be fully completed prior to the occupation of 90% of dwellings of that phase.
- 3.5. A Management Plan to be submitted for approval by the Local Planning Authority. This should indicate future management responsibilities.

4. Local Centre

- 4.1. Identification of land for commercial/employment uses within Local Centre prior to occupation of [xxx] dwellings on the site and in the approximate location as shown on the Parameter Plan (ref. 8186-L-12 Rev Z or otherwise amended).
- 4.2. Provision of services and access to the Local Centre prior to the occupation of xxx dwellings on the site.
- 4.3. Submission of a marketing plan to the Local Planning Authority for commercial/employment uses within the Local Centre prior to the occupation of [xxx] dwellings on the site.
- 4.4. Implementation of the approved marketing plan for a period of two years provided that after that period the marketing obligation shall come to an end in respect of any elements which have not been successfully le/sold.

5. Health Care Contributions

- 5.1. Payment of financial contribution of £1,419,738 to the Local Planning Authority in instalments. The first payment to be made prior to the occupation of [xxx] dwelling.
- 5.2. Funds to be used to increase capacity of [x].

6. Sports Hub

- 6.1. Identification of the sports hub site prior to the occupation of [xxx] dwellings on the site. It will be in the location broadly set out on the Parameter Plan (ref. 8186-L-12 Rev Z or otherwise agreed).
- 6.2. Reserved Matters approval will be sought prior to the occupation of [xxx] dwellings on the site. The specification will be two adult sized grass pitches (not lit) and served by a pavilion consisting of changing facilities.
- 6.3. The construction of the sports hub to be delivered prior to the occupation of [xxx] dwelling.
- 6.4. The sports hub to be transferred to either a local community group, charity or on-site management company.

7. Leisure Contribution

- 7.1. Payment of financial contribution of £1,696,229 to the Local Planning Authority in instalments. The first payment to be made prior to the occupation of [xxx] dwelling.
- 7.2. Funds to be used to support delivery of [x].

8. Primary School

- 8.1. Identification of the primary school site prior to occupation of [xxx] dwellings on the site. It will be in the location broadly set out on the Parameter Plan (ref. 8186_L-12 Rev Z or otherwise agreed).
- 8.2. Provision of services and access to the primary school site prior to occupation of [xxx] dwellings on the site.
- 8.3. Owner to elect to proceed with either 8.4 or 8.5 below.
- 8.4. Offer to transfer the primary school site to the Local Planning Authority prior to occupation of [xxx] dwellings on the site. The Owner will make payment of the financial contribution in sum of £12,285,036 for construction of the primary school on the primary school in instalments to be agreed.
- 8.5. Owner to construct the primary school on the primary school site to the agreed specification (to be appended to the Section 106 or agreed at a later date). The primary school will then be transferred to the Local Education Authority prior to the occupation of [xxx] dwellings on the site.

9. Secondary Education

- 9.1. Payment of financial contribution in sum of £6,670,656 in instalments.
- 9.2. Funds to be used for increasing capacity at Polesworth Secondary School or towards a new secondary school within the Polesworth area and which serves the secondary education needs of the residents of the proposed development.
- 9.3. The contribution will be made prior to the occupation of [xxx] and will be in instalments.

10. Public Transport

- 10.1. Payment of financial contribution in sum of £1,575,000 for public transport to the Local Planning Authority and paid in instalments. The first payment will be prior to the occupation of [xxx] and the following payments to be made per annum after that for a total of five years.
- 10.2. Funds to be used for bus service improvements, provision of bus infrastructure and bus provision to the site (by rerouting existing services).

11. Highways Improvements

- 11.1. Payment of a financial contribution in the sum of £751,800 for the improvements to the B5000/Bridge St Polesworth junction. The payment will be made to the Local Planning Authority.
- 11.2. The payment of the contribution will be made prior to the occupation of [xxx] and will be in instalments.
- 11.3. Payment of a financial contribution in the sum of £[x] for the Traffic Regulation Order to the Local Highway Authority. The payment will be made on request by the Local Highway Authority and in accordance with the phasing plan approved by the Local Planning Authority.
- 11.4. Monitoring Surveys at Robey's Lane signalised bridge. Payment of financial contribution of £20,000 for the annual monitoring of traffic flows by Warwickshire County Council for a period of 10 years following the occupation of the 100th dwelling. Should the surveys determine that a calibration of the Robey's Lane signalised bridge is necessary, payment of a contribution, of no more than £2,500, for the calibration of the signals.

12. Sustainable Travel Promotion

- 12.1. The Owner to deliver and promote sustainable transport information to all dwellings.
- 12.2. The content of the information to be approved by the Local Planning Authority.
- 12.3. To promote Road Safety, a contribution of £50 per dwelling is to be made to the Local Planning Authority to fund training and education for vulnerable road users within the area. The payment will be made pre-occupation of the first dwelling in each respective residential phase.

13. Library Contribution

- 13.1. Payment of the financial contribution of £27,798 to the Local Planning Authority and paid in instalments. The first payment will be made prior to the occupation of [xxx] dwelling.
- 13.2. Funds to be used for increasing capacity at [x].

14. Monitoring

- 14.1. Payment of £[x] to the Local Planning Authority in the monitoring of the obligations within this agreement.

General Development Applications

(5/b) Application No: PAP/2024/0418

Dordon Village Hall, Browns Lane, Dordon, B78 1TL

Refurbish Village Hall. Single storey 1970 extension will require demolition and a double storey structure will be built with pitch structure roof and roof lights, for

Dordon Parish Council

1. Introduction

- 1.1. This application is referred to the Planning and Development Board because the signatory on the application form on behalf of the Dordon Parish Council is also a North Warwickshire Borough Councillor and sits on the Planning and Development Board.

Under the Council's Scheme of Delegation, any application which is submitted any Member of the Council is required to be decided at the Planning and Development Board.

2. The Site

- 2.1. The application site is Dordon Village Hall which is located on the corner of Browns Lane and Kitwood Avenue within the Dordon development boundary as identified in the North Warwickshire Local Plan 2021. To the immediate east of the site is the Dordon Institute. To the north, west and south are residential dwellings.
- 2.2. The Location Plan is at Appendix A.

3. The Proposal

3. Full planning permission is sought to refurbish the Village Hall. The existing single storey 1970 extension will require demolition and a double storey structure will be built with a pitched roof and roof lights in its place.
- 3.2 The proposed extension will be on the east elevation. The extension will have eaves heights which vary from 2.6m to 3.2m and a ridge height of 8.4m. The extension will extend by a width of 21.9m
- 3.3 Proposed elevation plans and floor plans are attached at Appendix B and C.

4. Background

- 4.1. There are two previous planning permissions for the Village Hall. Planning permission was granted in 1961 for an extension (HIS/1901/5858) and in 1993 for an extension to the rear, external alterations, a new wall, relaying of footpaths and relocation of access (FAP/1993/2457).

5. Development Plan

North Warwickshire Local Plan 2021 - LP2 (Settlement Hierarchy); LP21 (Services and Facilities), LP29 (Development Considerations), LP30 (Built Form) and LP34 (Parking).

Dordon Neighbourhood Plan 2023 - DNP8 (Achieving High Quality Design) and DNP11 (Protecting and Enhancing Community Facilities).

6. Other Relevant Material Considerations

National Planning Policy Framework 2023 (the 'NPPF').

7. Consultations

Environmental Health Officer – No objection.

8. Representations

None received.

9. Observations

a) Principle of Development

- 9.1. Dordon Village Hall is an established community asset and has been in the community since 1924. The Hall is now a widely used hub offering services such as the Dordon Community Café, Tam Webster Veterans Centre, Dordon Community Store and Dordon Youth Club. The Hall also holds classes which include cooking, art, choirs and Tai Chi. It is therefore clear the role that the village hall plays in the community.
- 9.2 One of the objectives of the Dordon Neighbourhood Plan (2023) is for development to protect and where possible enhance the existing provision of community facilities, especially the Village Hall. Dordon Neighbourhood Plan policy DNP11 states that proposals for the enhancement of community facilities including the Hall will be supported.
- 9.3 Local Plan policy LP21 seeks to protect community facilities, which includes village halls, to ensure the vitality of villages and towns. The maintenance of existing services and facilities is an important consideration for the Council because of the role they play in making a settlement work. Dordon is a Category 1 Market Town as identified in the settlement hierarchy of LP2 and is therefore a key settlement in North Warwickshire.

9.4 Given the above support of village halls in the Borough, the principle of development is accepted. The Development Plan has to be taken as a whole therefore it is also pertinent to consider if there are any adverse impacts arising from the extension.

b) Character and Appearance

9.5 Local Plan Policy LP30 states that *'all development in terms of its layout, form and density should respect and reflect the existing pattern, character and appearance of its setting. Local design details and characteristics should be reflected within the development'*. Dordon Neighbourhood Plan Policy DNP8 seeks for all proposals to *'respond to the local character of both the surrounding area and the immediate neighbouring properties and provide a clear rationale for how this is taken into account in the design of the proposals'*.

9. Dordon Village Hall does occupy a key position on the junction of Browns Lane and Kitwood Avenue and is therefore visible. The existing extension currently has a flat roof. Flat roof extensions are generally unacceptable and therefore, encouragement is given to the fact the new extension will be replacing the existing flat roof with a pitch roof.

9.10. The proposal will reflect and respect the original host building. The design of the proposed extension is sympathetic to the existing Hall as the proposed render and roof tiles will match the materials of the existing which means that visually, the extension should seamlessly tie into the rest of the building. The existing wooden windows and doors will be replaced with UPVC which given the durability and efficiency of UPVC is encouraged.

9.11 Due to the layout of the road, the extension will be seen from the street scene however, given it is betterment to what is already there and that the pitched roof will better reflect the existing, it is concluded that the design, layout and materials proposed are a good choice. The proposed plaque which will be positioned on the south elevation is also a nice design choice and an acknowledgment to the Hall's history. In bringing the above together, the proposal is in accordance with LP30 and DNP8.

c) Neighbouring Amenity

9.12 Local Plan Policy LP29 points 9 states that development should *'avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution'*.

9.13 Dordon Village Hall is situated within a residential area. As such, it is not considered that there will be an adverse impact on neighbouring amenity as a result of the extension. Whilst the extension has the potential to increase the service offerings of the Hall, due to the local nature of a village hall, it is not considered that any increase in the number of people visiting and using the village hall will have an adverse impact on neighbouring properties. Any increase

in activity and noise will be limited to the inside of the building and will not adversely increase external noise.

- 9.14 There are existing windows in the Village Hall. Whilst the fenestrations on the south and east elevations will be changing to accommodate the extension, it is not considered that the additional windows and/or new placement of windows will cause an adverse impact on overlooking to the neighbouring properties along Browns Lane to the south, Kitwood Avenue and Ashlea to the west and Dukes Road to the north. This is because the use of the site will not be changing. There are separation distances of 35m to 2 Dukes Road, 31m to 9 Ashlea and 23m to 1 Ashlea. These are considered adequate.
- 9.15 Overall, it is considered that the plans accord with LP29 point 9 and there is no adverse impact on the neighbouring properties more than would be reasonably acceptable in this location.

d) Highways and Access Impacts

- 9.16 Local Plan Policy LP29 point 6 states that development should '*provide safe and suitable access to the site for all users.*'. Policy LP34 (Parking) requires development proposals to have particular regard to adequate vehicle parking provision.
- 9.18 The proposed extension will not have an impact on the available space for cars to park. There are currently 20 parking spaces, and all 20 car parking spaces will remain.
- 9.19 Whilst the expansion of Dordon Village Hall may mean that more services can be provided, it is not considered that this will impact on the existing parking provision. Dordon Village Hall is a community facility which is predominately used by surrounding residential dwellings. It is therefore considered that many of the customers currently walk to the Village Hall and will continue to do so.
- 9.20 Overall, existing access arrangements are to remain and will not be impacted by the extension. There will be no adverse impacts on the highways network meaning the development will accord with LP29 point 6 and LP34.

e) Conclusion

- 9.21 The proposal is in accordance with the North Warwickshire Local Plan 2021 and the Dordon Neighbourhood Plan. Encouragement is given to the improvement of Dordon Village Hall to ensure its longevity and to ensure that services can be continued to be offered to the local community.
- 9.22 The design of the extension, including the pitched roof, and the materials proposed of the extension are in keeping with the character of the host dwelling which is 100 years old. It is considered that there is no adverse impact on the neighbouring properties more than would be reasonably acceptable. There are no highway or access impacts. Therefore, notwithstanding any adverse comments that may be received, it is officer's recommendation that the proposal be supported subject to conditions.

Recommendation

That the application be **GRANTED** subject to the following conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans and drawings titled:
Site Location Plan, received by the Local Planning Authority on 25/09/2024.
Existing Wall to be Removed, Drg no. C5834/012, dated September 2024, received by the Local Planning Authority on 25/09/2024.
Proposed Ground Floor, Drg no. C5834.010 A, dated May 2024, received by the Local Planning Authority on 13/09/2024.
Proposed First Floor, Drg. C5834/011 B, dated May 2024, received by the Local Planning Authority on 13/09/2024.
Proposed Elevations 1 of 2, Drg no. C5834/020 B, dated May 2024, received by the Local Planning Authority on 13/09/2024.
Proposed Elevations 2 of 2, Drg no. C5834/021 A, dated May 2024, received by the Local Planning Authority on 13/09/2024.
Proposed Sections, Drg no. C5834/030 A, dated May 2024, received by the Local Planning Authority on 13/09/2024.
Extract from Drawing Sketch, SK090924-001, received by the Local Planning Authority 13/09/2024.
Sketch Site Plan. Drg no. C5834/SK160124-009, dated January 2024, received by the Local Planning Authority 13/09/2024.

REASON

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

3. The new works shall be carried out with materials to closely match the existing building in colour, coursing and texture.

REASON

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

Notes

1. The proposed works may require building regulations consent in addition to planning permission. Building Control services in North Warwickshire are delivered in partnership with six other Councils under the Central Building Control Partnership. For further information please see Central Building Control - Come to the experts (centralbc.org.uk), and https://www.planningportal.co.uk/info/200187/your_responsibilities/38/building_regulations
2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>
3. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/thecoalauthority
4. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

PAP/2024/0418



Dordon Parish Council, Dordon Village Hall, Browns Lane, Dordon, Warwickshire, B78 1TL

NOTIFY PLANNING OFFICER
DORDON PARISH COUNCIL
RECEIVED
25/09/2024
PLANNING & DEVELOPMENT
DIVISION



Location Plan shows area bounded by: 425933.79, 300338.62 426075.21, 300480.04 (at a scale of 1:1250), OSGridRef: SK2609 40. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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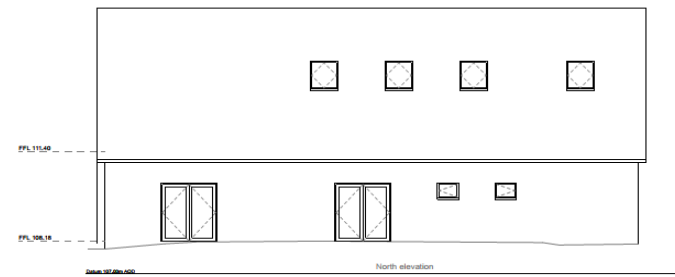
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Appendix B

PAP/2024/0418



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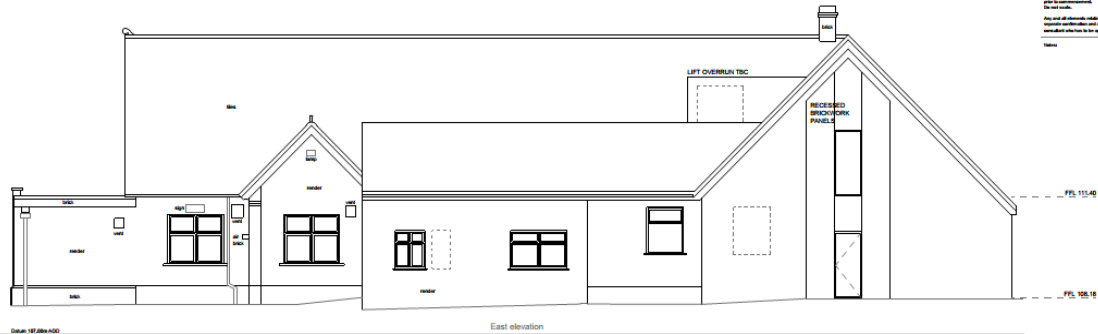


NORTH WARWICKSHIRE
BOROUGH COUNCIL
RECEIVED
13/09/2024
PLANNING & DEVELOPMENT
DIVISION

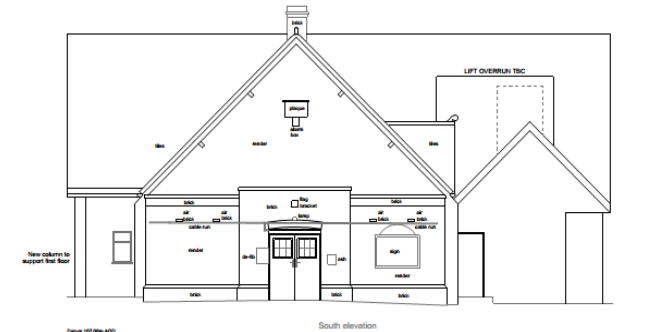
A 388234 - Proposed elevation panels
A 388234 - Proposed elevation panels
Rev. Date: 05/05/2024
Status: PRELIMINARY
Client: Dordon Parish Council
Project: Dordon Village Hall
Title: Proposed Elevations 1of2
Drawn: CW Date: May 2024
Checked: JPH Scale @ A3: 1:100
File No: CS834 / 020 B
City No:
ARCHITECTS: J.P. ARCHITECTS
ARCHITECTS: J.P. ARCHITECTS
PROJECT MANAGER: J.P. ARCHITECTS
LANDSCAPE ARCHITECTS: J.P. ARCHITECTS

Proposed Elevations 1of2

PAP/2024/0418



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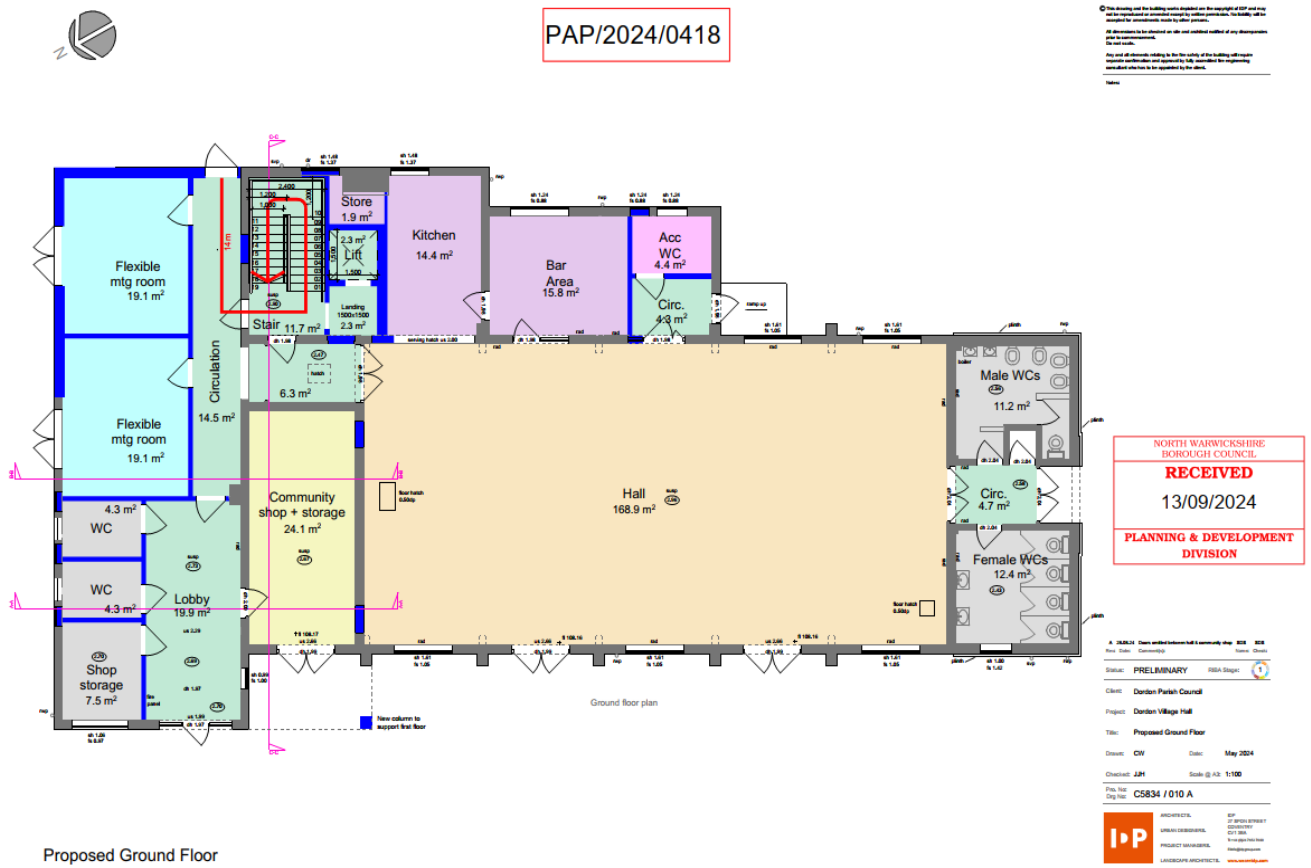


NORTH WARWICKSHIRE
BOROUGH COUNCIL
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13/09/2024
PLANNING & DEVELOPMENT
DIVISION

A 388234 - Proposed elevation panels
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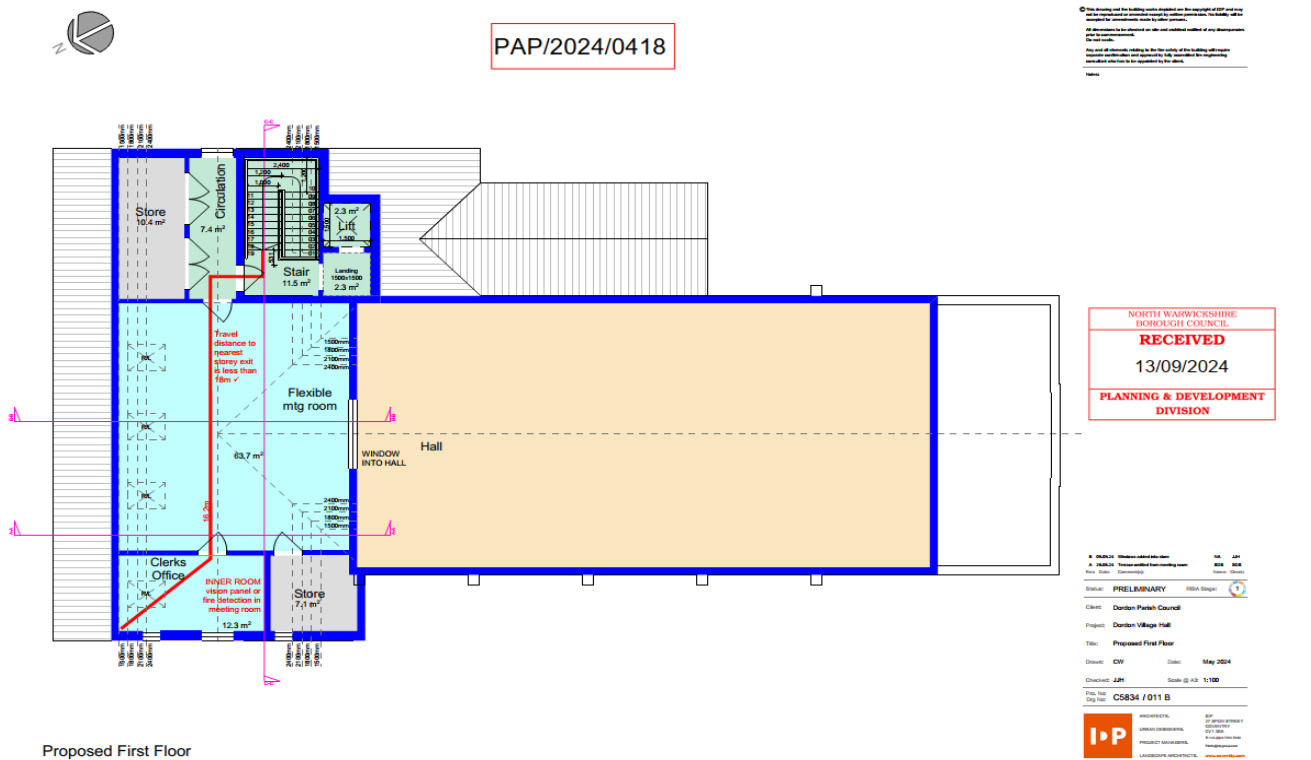
Proposed Elevations 2of2

PAP/2024/0418



Proposed Ground Floor

PAP/2024/0418



Proposed First Floor

General Development Applications

(5/c) Application No: PAP/2024/0189

Sunnyview, Dingle Lane, Nether Whitacre, Coleshill, B46 2EG

Demolition of existing garage block and the erection of a single self/custom build dwelling (Resubmission PAP/2023/0208), for

Mr & Mrs Bignall

Introduction

The Council resolved to grant planning permission for the redevelopment of this site at the September Board meeting. The matter was referred to the October meeting in order that the Board could agree planning conditions and to review a Unilateral Undertaking made by the applicant. A copy of that report is at Appendix A.

At that meeting, the Chairman of the Nether Whitacre Parish Council addressed the Board and queried the content of that Undertaking. As a consequence, the Board deferred making a decision in order to enable the applicant to comment on those queries, as well as to seek legal advice on them.

The Queries Raised

The speaker has provided a written note. This is attached at Appendix B.

In short, the queries revolve around whether the proposal is actually a “self-build” proposal.

In particular, it refers to the entries made by the applicant on the Council’s Self-Build Register. Those who might wish to have an interest in self-build and custom building should register that with the Council and the applicant has done so. The Council keeps that Register. It is said that from the entries made in that Register, the proposed building is to be “bought from a catalogue” as an “off-plan” building and thus the owner has had no input into the final design and layout. Additionally, in this case the applicant is not the person who will reside in the building – it being for a family member.

Observations

It must be stressed from the outset, that the application seeks permission for the construction of a “single self/custom build dwelling”. The Board has resolved that this application is consistent with this description, subject to planning conditions and a Unilateral Undertaking to ensure that this is the case and thus to ensure that this site will qualify towards the Council’s duty to meet demand for self-build and custom house building in the Borough as expressed through its Self-Build Register.

In this case, the applicant has bought the land with no planning permission in place and chosen to select a design from a whole range of self-build options so as to provide suitable accommodation for the immediate family member who will be the first occupier. The definition of self-build and custom housebuilding means, “the building or completion by individuals, associations of individuals or persons working with or for individuals or

associations of individuals, of houses to be occupied as homes by those individuals". The proposal would accord with this definition, as the Applicant would be "working with" the individual who will be the occupier; the house would be "completed" by the individuals concerned and because they have instigated the development themselves, whether that be by purchasing a "kit", employing a design or build contractor, employing consultants, or managing the whole process themselves.

In respect of the Undertaking, then this confirms that the house would be a "self-build" dwelling under the appropriate legislation. An Undertaking controls the use of the land and thus it is entirely proper for the land-owner to be the signatory. The form that the use of that land takes is defined in the Undertaking.

As a consequence of these matters, the Board is advised that the Board's resolution is sound.

However, on a point of clarification, it is recommended that the Unilateral Undertaking as submitted be amended so as to include a copy of the planning permission Notice and the conditions there-in appropriately referenced. If the Board agrees, then this can be dealt with under delegated powers.

Recommendation

That subject to the amendment to the submitted Unilateral Undertaking as reported above being made to the satisfaction of the Head of Legal Services, planning permission be granted, subject to the conditions as outlined in Appendix A.

General Development Applications

(6/f) Application No: PAP/2024/0189

Sunnyview, Dingle Lane, Nether Whitacre, Coleshill, B46 2EG

Demolition of existing garage block and the erection of a single self/custom build dwelling (Resubmission PAP/2023/0208), for

Mr & Mrs Bignall

Introduction

At the Planning and Development Board meeting held on 2 September 2024, members resolved to grant planning permission. As the resolution was contrary to officer recommendation - one of refusal - no conditions were set out within the associated board report.

Accordingly, it was agreed that the application would be reported back to a subsequent meeting to allow for planning conditions to be prepared, and a signed Unilateral Undertaking (UU) to be submitted by the applicant.

The UU has now been received (Appendix 1) which contains an obligation requiring the proposed dwelling be constructed as a "self-build dwelling" and occupied as such for three years.

The proposed conditions are set out within this report.

Observations

s.70(1) of the Town and Country Planning Act 1990 provides that where a planning application is made to the Local Planning Authority, they may grant planning permission unconditionally, or subject to conditions as they think fit. The power to impose conditions is broad; however, the courts have made clear that such power is not uncontrolled/unfettered.

Planning Practice Guidance adds that this power needs to be considered in the context of material considerations and relevant case law - Paragraph: 002 Reference ID: 21a-002-20190723. Moreover, any planning condition must satisfy the 6 tests set out at Paragraph 56 of the NPPF:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

It is considered that the conditions set out within the recommendation are appropriate, well-reasoned, and would meet each of the six tests referenced above.

RECCOMENDATION

That, subject to the completion of a Unilateral Undertaking, the following conditions are agreed:

Standard conditions

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the site location plan, the proposed site plan (D1998.2B), and the proposed plans and elevations (D1998.1), all received by the Local Planning Authority on 16th April 2024.

REASON

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

Pre-commencement conditions

3. With the exception of demolition, no development shall commence until a drainage plan for the disposal of surface water and foul sewage has been submitted to and approved by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of the dwelling.

REASON

In the interests minimising the likelihood of flooding incidents and damage to the environment, property, or life.

4. Notwithstanding the approved drawings, with the exception of demolition, no development shall commence until full details of the dimensions, surfacing, drainage and levels of the access, car parking and manoeuvring areas have been submitted to and approved in writing by the Local Planning Authority.

The details shall demonstrate that the width of vehicular access does not exceed 3.5m (measured from the near edge of the public highway carriageway) and that positive drainage measures are to be incorporated.

The unit shall not be occupied until the access, parking and manoeuvring areas have been laid out strictly in accordance with the approved details and retained thereafter free from any impediment to their designated use.

6f/70

REASON

In the interests of Highway Safety and to ensure sufficient parking provision in line with NWBC's adopted Parking Standards.

5. With the exception of demolition, no development shall commence until details of the finished floor levels of the building hereby approved, and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, have been submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed strictly in accordance with the approved details.

REASON

To ensure that construction is carried out at a suitable level having regard to drainage, access, the visual amenity of the area, and the openness of the Green Belt.

Pre-occupation conditions

6. Prior to the occupation of the dwelling a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of the dwelling, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

REASON

In the interest of the visual setting of the development and the surrounding area.

7. Prior to first occupation of the dwelling hereby approved, a bin storage facility capable of holding a minimum of 3 x 240 litre wheeled bins shall be provided within the curtilage of the dwelling. The storage facility shall remain permanently available for that purpose at all times thereafter.

REASON

To enable effective storage and disposal of household waste and in the interests of the amenity of the area and highway safety.

6f/71

8. Prior to their incorporation into the building(s) hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

REASON

In the interests of the visual amenities of the area.

Other conditions

9. No gates, barriers or means of enclosure shall be erected across a vehicular access within 6 metres of the highway boundary. All such features erected beyond that distance should be hung to open inward away from the highway.

REASON

In the interests of highway safety

10. No development whatsoever within Class A, AA, B, and E of Part 1, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site without details having been submitted to and approved by the Local Planning Authority, in writing.

REASON

In recognition of the very special circumstances warranting the approval of planning permission and thus retain planning control over future development in the interest of the openness of the Green Belt, and to ensure the provision of sufficient external amenity space.

11. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays, and bank holidays.

REASON

To safeguard the amenities of nearby occupiers.

12. In the event that suspected contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

REASON

To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

Notes

1. The Local Planning Authority has worked with the applicant in a positive and proactive manner through early identification of the planning issues and suggesting amendments to the proposal. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

DATED 17th Sept

2024

DARREN BIGNELL (1)

to

NORTH WARWICKSHIRE BOROUGH COUNCIL (2)

UNILATERAL UNDERTAKING

SECTION 106 DEED

Under Section 106 of the Town and Country Planning Act 1990 (as amended) relating to land adjacent Sunnyview, Dingle Lane, Nether Whitacre, Coleshill, B46 2EG.

1

6f/74

5c/22

Planning Ref no. PAP/2024/0189

THIS DEED is made the 17th day of September Two Thousand and Twenty Four.

BY:

- (1) **DARREN BIGNELL** of The Cottage, Dingle Lane, Nether Whitacre Coleshill, B46 2EG ("the **Owner**") of the first part;

TO:

- (2) **NORTH WARWICKSHIRE BOROUGH COUNCIL** of The Council House, South Street Atherstone, Warwickshire CV9 1DE ("the **Council**") of the second part;

1. **DEFINITIONS**

Wherever the context so permits in this Deed the following shall have the following meanings:

"The 1990 Act"	means the Town and Country Planning Act 1990 (as amended)
"The Application"	means an outline planning application under reference No.PAP/2024/0189 for the Development
"Commencement of Development"	means the carrying out of any act pursuant to the Planning Permission which constitutes a material operation as defined by Sections 56 (4) and 93 of the 1990 Act other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance (other than demolition), archaeological excavations, investigations for the purposes of assessing ground conditions, remedial work in respect of contamination or other adverse ground conditions, erection of any temporary means of enclosure and the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly
"The Council"	means North Warwickshire Borough Council or any successor to its statutory functions

"The Development"	means the construction of 1no. Self Build Dwelling pursuant to the Planning Permission
"Dwelling"	means a residential unit permitted to be constructed on the Land pursuant to the Planning Permission and for the avoidance of doubt shall comprise of the Self Build Dwelling and reference to "Dwellings" shall be construed accordingly
"the Land"	means the area of land shown edged red on the Plan shown in Appendix A
"Occupation"	means the date at which a Dwelling is first occupied for the purposes permitted by the Planning Permission but excluding occupation of a Dwelling where that Dwelling is being used solely for the purpose of a show home/flat (where no persons are resident) in the course of marketing the Development and not including occupation by personnel engaged in construction fitting out or decoration or occupation in relation to security operations and "Occupied" and "Occupy" will be construed accordingly
"the Owner"	means Owner of the Land and such expression shall include successors in title to the Owner
"Plan"	means the plan attached to this Deed
"The Planning Permission"	means the permission to be granted pursuant to the Application and subject to clause 14 of this Deed any new permission granted pursuant to Section 73 of the 1990 Act and any approved non material amendment(s)
"Protected Occupation Period"	means the period of three years beginning with the first Occupation of the Self Build Dwelling by the initial owner and ending on the third anniversary thereof
"Self-Build and Custom Housebuilding"	means self-build and custom housebuilding as defined by Section 1 of the Self Build and Custom Housing Building Act 2015 as amended by the Housing and Planning Act 2016
"Self-Build Dwelling"	means (for the purposes of this Deed) a Dwelling to be either constructed or commissioned as part

	of the Development by a person or persons who intend to live in the said Dwelling and which meets the definition of Self Build and Custom House Building and provided in accordance with the provisions of Schedule 1 to this Deed and reference to "Self Build Dwellings" shall be construed accordingly
"Self-Build Plot"	means a plot on the Development on which a Self-Build Dwelling is to be constructed and which has unfettered access for vehicles and pedestrians to a public highway and be provided with access to foul drainage mains water and mains electricity supply available at the plot boundary within the duration of the Planning Permission and reference to "Self Build Plots" shall be construed accordingly
"Working Day"	means any day from Monday to Friday (inclusive) which is not Christmas Day Good Friday or a statutory bank holiday or a day falling within the period 24 December to the immediately following 2nd January (inclusive)

2. CONSTRUCTION

- 2.1 Words of masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice-versa and words denoting persons shall include bodies companies incorporated associations and partnerships and vice versa.
- 2.2 Reference to any statute or statutory provisions includes a reference to:-
- 2.2.1 that statute or statutory provision as from time to time amended extended re-enacted consolidated or replaced; and
- 2.2.2 all statutory instruments or orders made pursuant to it whether before or after the date of this Deed
- 2.3 The term "the Owner" shall include their assigns and successors in title to their legal interest in the Land or any part or parts thereof at the date hereof and to the rights and obligations created by this Deed.
- 2.4 A covenant not to do something includes a covenant not to permit or suffer that thing to be done.
- 2.5 Any covenants obligations or other commitments given by more than one party to this Deed shall be joint and several and where any party consists of two or more persons obligations

expressed to be made by or with that party are deemed to be made by or with such persons jointly and severally.

- 2.6 The headings in this Deed are for ease of reference only and cannot be taken into account in its interpretation.
- 2.7 Where the agreement, consent, approval or expression of satisfaction (or anything of a like nature) from the Council is required by the Owner or any other party then such agreement, consent, approval or expression of satisfaction shall not be unreasonably or arbitrarily withheld or delayed.
- 2.8 Where there is reference to an officer of the Council in this Deed such reference shall include the officer referred to and any future officer (howsoever named) that carries on the same or similar function to the officer referred to AND any officer to whom such officers have delegated responsibility.

3. HISTORY

- 3.1 The Council is the appropriate Local Planning Authority for the purpose of the 1990 Act in respect of the area which includes the Land.
- 3.2 The Council is also the housing authority for the purposes of the Housing Act and as housing authority is required by Section 8 of the Housing Act to consider housing conditions in its district and the needs of the district with respect to the provision of further housing accommodation.
- 3.3 The Owner is the freehold owner of the Land registered with title absolute at the Land Registry under Title No. WK529912.
- 3.4 The Council and the Owner are entering into this Deed to make provision for regulating the Development in the manner hereinafter appearing.
- 3.5 The Application was submitted on behalf of the Owner to the Council and validated on the 16th April 2024.
- 3.6 The Owner has agreed to offer this Deed with the intention that the obligations contained in this Deed shall bind the Land and may be enforced by the Council against the Owner as set out herein.

4. PLANNING OBLIGATIONS

The covenants contained in Schedule 1 to this Deed are planning obligations for the purposes of Section 106 of the 1990 Act.

NOW THIS DEED WITNESSETH as follows:

5. BINDING EFFECT OF THE AGREEMENT

- 5.1 This Deed is made pursuant to Section 106 of the 1990 Act Section 111 of the Local Government Act 1972 Sections 8 and 9 of the Housing Act and all other enabling powers and it and the covenants contained in it are enforceable by the Council pursuant to such Acts
- 5.2 The Owner in respect of the Land hereby covenants and undertakes in respect of each and every part of the Land to observe and perform the covenants which are contained in Schedule 1 to this Deed with the intent that the same shall bind the Land and be enforceable without limit of time not only against the Owner but also (subject to clauses 8.11 and 8.12 of this Deed) against each and any of their successor in title and any person claiming any legal or equitable estate or interest in the Land or any part or parts of it as if that successor and person had also been an original covenanting party

6. EFFECTIVE DATE

The provisions of this Deed shall come into effect upon the;

- 6.1 grant of Planning Permission; and
- 6.2 Commencement of Development

7. WARRANTIES

The Owner hereby warrants to the Council that in respect of the Land:

- 7.1 he is at the date of this Deed the registered freehold proprietor of the Land registered with title absolute at the Land Registry under Title No. WK529912 free from any encumbrances other than those contained mentioned or referred to in the register to that title; and
- 7.2 he has obtained all necessary permissions and consents required from any covenantees or any other persons to him entering into this Deed and that he enters into this Deed with full capacity and ability to observe and perform the obligations hereunder

8. DECLARATIONS

IT IS HEREBY AGREED AND DECLARED

- 8.1 The planning obligations on the part of the Owner shall be in addition to and not in derogation of the Planning Permission.

- 8.2 Nothing in this Deed shall be construed as restricting the exercise by the Council of any powers exercisable by it under the 1990 Act or any other Act regulation or byelaws.
- 8.3 This Deed shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been at any time issued by the Council or any other appropriate person or authority pursuant to the provisions of the 1990 Act.
- 8.4 Subject only to clause 14 and to the provisions of Sections 106A and 106B of the 1990 Act the terms and conditions of this Deed can only be varied by a supplemental deed
- 8.5 No waiver whether express or implied by the Council of any breach or default by the Owner in performing or observing any of the covenants of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants or from acting upon any subsequent breach or default in respect thereof by the Owner.
- 8.6 The Owner waives any rights to claim compensation arising from any limitation or restriction on the planning use of the Land under the terms of this Deed.
- 8.7 If the Planning Permission at any time is quashed or revoked or is otherwise withdrawn by any statutory procedure or expires before Commencement of Development this Deed shall cease to have effect.
- 8.8 The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
- 8.9 If any individual clause or paragraph in this Deed is subsequently held to be unenforceable by a court the parties agree that the offending clause or paragraph shall cease to be binding and will be severed from this Deed PROVIDED THAT the severing of such a clause or paragraph shall not affect the continuing enforceability of the remainder of this Deed.
- 8.10 The validity construction and performance of this Deed shall be governed by English law and each party agrees to submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising under this Deed.
- 8.11 No person shall be liable for a breach of this Deed:
- 8.11.1 after he shall have parted with all interest in the Land or that part in respect of which such breach occurred but without prejudice to liability for any subsisting breach which occurred prior to parting with such interest; and
- 8.11.2 to the extent that such breach relates to any part of the Land in which the person has no interest
- 8.12 Statutory undertakers or other utility suppliers with an interest in the Land only by virtue of the location of their structures or other apparatus on the Land (including electricity substations, poles stays gas governor stations and/or pumping stations) are specifically excluded from liability under this Deed

- 8.13 Nothing in this Deed shall be construed as prohibiting or limiting any right to develop the Land (or any part or parts thereof) in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed which does not require the variation or revocation of this Deed.

9. NOTICE OF DEED

- 9.1 The Council will on completion of this Deed register it in the local land charges register pursuant to the provisions of the Local Land Charges Act 1975; and

10. COSTS OF PREPARATION OF AGREEMENT

- 10.1 The Owner covenants to pay the Council's reasonable and proper legal costs in relation to this Deed on the date hereof
- 10.2 The Owner covenants to pay the Council its monitoring and administrative fees in the sum of £100.00 (one hundred pounds) within 30 (thirty) days of the date of this Deed

11. DISPUTES

- 11.1 In the event of there being any dispute between the parties hereto in respect of any of the terms of this Deed such dispute shall be determined in accordance with this clause and either party to the dispute may at any time require by notice in writing to the other party to the dispute an independent expert to be appointed to resolve the dispute
- 11.2 The expert (who shall be an appropriately qualified person to resolve the dispute in question) may be agreed upon by the parties to the dispute and in default of such agreement within one month of a requirement being made pursuant to this clause shall be appointed by the President for the time being of the Royal Institution of Chartered Surveyors on the application of either party to the dispute made at any time after the said period of one month
- 11.3 Notice in writing of his appointment shall be given by the expert to the parties to the dispute and he shall invite each to submit within a specified period (which will not exceed four weeks) any written representations each wishes to make to him
- 11.4 The expert shall act as an expert and not as an arbitrator and he shall consider any written representation submitted to him within the said period and shall not be in any way limited or fettered thereby and shall determine the dispute in accordance with his own judgment
- 11.5 The expert shall give notice in writing of his decision to the parties to the dispute within 2 months of his appointment or within such extended period as the parties may together allow
- 11.6 The decision of the expert shall be final on all matters referred to him save in the case of manifest error or fraud
- 11.7 If for any reason the expert shall fail to make a decision and give notice thereof within the time and in the manner herein before provided either party to the dispute may apply to the

President of the Royal Institution of Chartered Surveyors for a substitute to be appointed in his place which procedure may be repeated as many times as necessary

- 11.8 Each party to the dispute shall bear its own costs save that the fees of the expert and of the Royal Institution of Chartered Surveyors shall be in the expert's determination
- 11.9 Nothing in this clause shall be construed as ousting the jurisdiction of the courts to enforce the provisions of this Deed.

12. NOTICES

- 12.1 Any notice consent or approval required to be given under this Deed shall be in writing and shall be delivered personally or sent by pre-paid first class post or recorded delivery post
- 12.2 The address for service of any such notice consent or approval as aforesaid shall in the case of service upon the Council be at the address aforesaid or such other address for service as shall have been previously notified by the Council to the Owner in the case of service upon the Owner will be at their last known address (if an individual).
- 12.3 A notice consent or approval under this Deed shall be deemed to have been served as follows:

- 12.3.1 If personally delivered at the time of delivery; and
- 12.3.2 If posted at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authority within the United Kingdom

and in proving such service it shall be sufficient to prove that personal delivery was made or that the envelope containing such notice consent or approval was properly addressed and delivered into the custody of the postal authority in a prepaid first class or recorded delivery envelope (as appropriate) as the case may be.

13. TERMINATION OF THIS DEED

- 13.1 This Deed will come to an end if:
 - 13.1.1 The Planning Permission is quashed, revoked or otherwise withdrawn or modified at any time so as to render this Deed or any part of it irrelevant, impractical or unviable;
 - 13.1.2 The Planning Permission expires before the Commencement of Development

14. SECTION 73 VARIATION

- 14.1 In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the 1990 Act for Development of the Land and unless otherwise agreed between the parties, with effect from the date that the new planning permission is granted pursuant to Section 73 of the 1990 Act:

- 14.1.1 The obligations in this Deed shall (in addition to continuing to bind the Land in respect of the Planning Permission) relate to and bind all subsequent planning permission(s) in respect of the Land granted pursuant to Section 73 of the 1990 Act and the Land itself without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to Section 106 of the 1990 Act;
- 14.1.2 The definitions of Application, Development and Planning Permission in this Deed shall be construed to include references to any applications under Section 73 of the 1990 Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permission(s); and
- 14.1.3 This Deed shall be endorsed with the following words in respect of any future Section 73 application:

"The obligations in this Deed relate to and bind the Land in respect of which a new planning permission reference [PAP/2024/0189] has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)"

ALWAYS PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any application under Section 73 of the 1990 Act or the appropriate nature and/or quantum of Section 106 obligations insofar as they are materially different to those contained in this Deed and required pursuant to a determination under Section 73 of the 1990 Act whether by way of a new deed or supplemental deed pursuant to Section 106 of the 1990 Act.

SCHEDULE 1

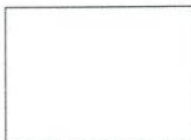
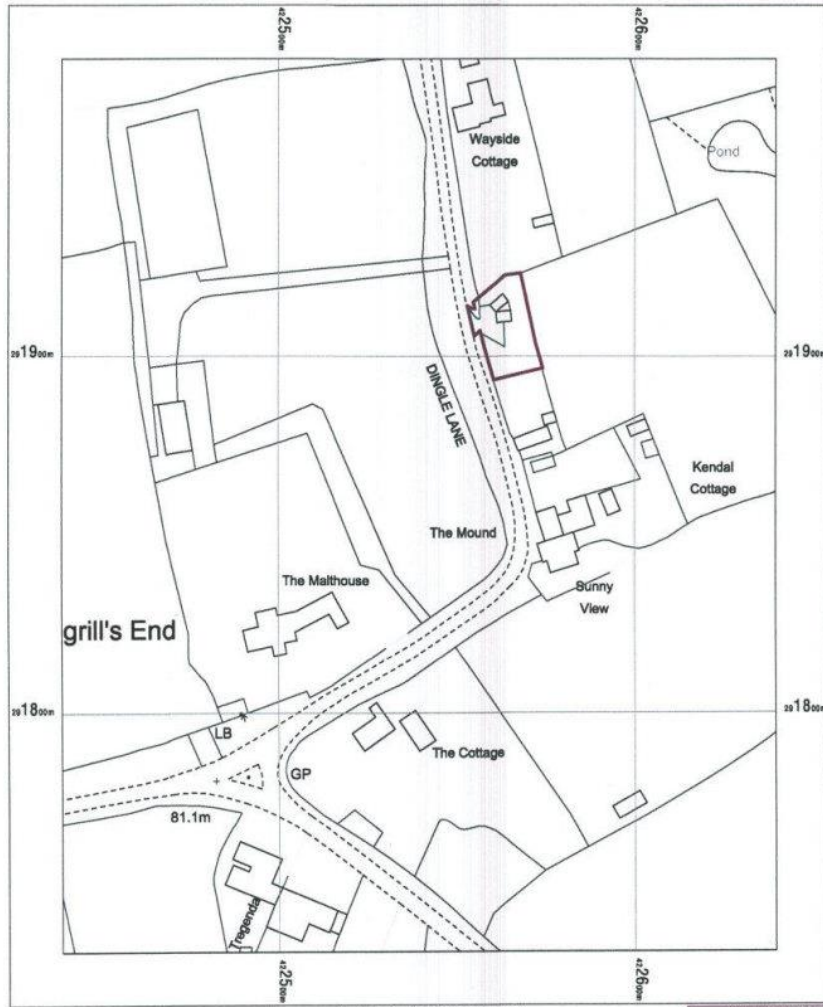
Self-Build and Custom Housebuilding

The Owner covenants to the Council as follows:

1. Completion of the Self-Build Dwelling shall be deemed to be either when either the NHBC Buildmark Certificate; a new homes warranty (or similar equivalent certification) shall have been issued in respect of such Dwelling or when the Council's building control consultancy or approved inspector certifies it complete if earlier.
2. To ensure that the Self Build Plot/Self Build Dwelling is sold and/or Occupied (as the case maybe) in accordance with the terms of this Schedule 1.
3. To provide the Self Build Plots and Self Build Dwellings subject to the terms of this Deed together with rights being granted over all access roads and footpaths; all services and conducting media serving the Self Build Plots and Self Build Dwellings.
4. Each Dwelling shall be constructed as a Self-Build Dwelling on a Self-Build Plot in accordance with the design and layout into which the first owner and occupier of each Dwelling has had primary input
5. Not to Occupy or allow the Self Build Dwellings to be Occupied otherwise than by a person who at the date of first Occupation inhabits the Self Build Dwellings as his/her sole residence.
6. Not to dispose of any of the Self Build Plots or Self Build Dwellings (as the case maybe) otherwise than by way of a mortgage or charge or to a purchaser who complies with the requirements of this Schedule by way of a freehold transfer
7. Not less than 10 Working Days prior to entering into a binding agreement for the sale of a Self Build Plot and/or Self Build Dwelling (as the case maybe) (or transferring it where there is to be no exchange of contracts) to certify and provide written evidence to the Council that the proposed sale of the Self Build Plot and/or the Self Build Dwelling (as the case maybe) is in accordance with the terms applicable to it in this Deed.
8. The first Occupation of each Self Build Dwelling shall not take place otherwise than by a person or persons who:
 - 8.1 had a primary input into the design and layout of the Self Build Dwelling (as built); and
 - 8.2 shall occupy the Self build Dwelling for the Protected Occupation Period as his/her sole residence in accordance with this Schedule 1; and

8.3 who is registered with the Council and recorded on the register maintained pursuant to section 1 of the Self Build and Custom House Building Act 2015 (as amended).

9. At least 2 months prior to the first Occupation of the Self Build Dwelling the Owner shall notify the Council of the details (including the name and address) of the person or persons who intends to take up first Occupation of the Self Build Dwelling or shall procure such notification.



OS MasterMap 1250/2500/10000 scale
Monday, February 5, 2024, ID: HMC-01147583
www.themapcentre.com
1:1250 scale print at A4, Centre: 422539 E, 291858 N
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NORTH WAIRWICKSHIRE
BOROUGH COUNCIL
RECEIVED
16/04/2024
PLANNING & DEVELOPMENT
DIVISION



Authorised Signatory

SIGNED as a DEED by
DARREN BIGNELL
in the presence of;



Name of Witness:

KATHRYN ABRATHAM

Signature of Witness:



Occupation of Witness:

WEDDING COORDINATOR

Address of Witness:

1, HOWLAND COTTAGES
SHUSTON
B46 2LQ

APPENDIX B

PAP/2024/0189

J Thompson, Chair. NWPC

Chair.... Board....

As Chair of the Nether Whitacre Parish Council I am here to speak in support of Mr Browns recent decision for refusal of this planning application on 2nd.Sep

This application does not meet the planning criteria for approval as was so rightly put and we agree. The Planning officer report shows the planning reasons for refusal in great detail.

We are aware that the board can vote in a direction contrary, but the reasons and arguments must be based solely on planning matters.

We do not believe that this was the case at the last board meeting. The video recording of the evening adds weight to this.

Newly introduced here is a Unilateral Undertaking.
The core strand of the UU is one of Self build.

The applicant has declared to planning under the title 'self build register 2023, that

In (3a) is this a

Self-build / contractor-built one-off home whereby an An Individual (Mr Bignal) purchases a plot of land and builds a house to live in. They may do some or all of the build themselves, or employ a builder, architect and in some cases, a project manager to oversee the build. Box ticked YES

In (3b) is it a kit?. Box not ticked.

And in 4, when asked

Will this self/custom build property be your sole residence? If so please tick this box to confirm that the custom build property would become your main residence for at least three years after completion.

Box not ticked, but written, It is for a family member.

Furthermore this is not a self build plot.

The Self build and custom housebuilding act of 2015 provides a Legal definition of self build/custom build.

It requires that the relevant authorities must be satisfied that the owner of the home will have primary input into its final design and layout.

This building is to be bought from a catalogue, off plan.

The owner is expected to be the one who lives in it. This is not the case.
The dwelling is for a relative.

On these two items alone the legal definition has not been met. This is not a self build.

There are also two refused appeals of nearby applications which add signifivant weight to refusal. These are also lodged with planning.

In summary, no special circumstances at all have been put forward by the applicant to justify the development in, not just green belt but washed over Green belt. It is not permitted.

Considering the weight of planning concerns highlighted against this application, we respectfully request that this application is refused.

Thank you.

Agenda Item No 6

Planning and Development Board

4 November 2024

**Tree Preservation Order
Millfield House, Common Lane,
Corley**

**Report of the
Head of Development Control**

1 Summary

- 1.1 At the May 2024 Planning and Development Board, Members of the Board approved that a Tree Preservation Order (TPO) be made in respect of five trees at Millfield House, Common Lane, Corley (See map at Appendix A). A temporary six-month TPO was placed on five trees which came into force on 25 June 2024.
- 1.2 The reason this is being referred back to Board is to confirm that no objections were received during the consultation period following formal notice being served and that, in consultation with the with the Chairman, the Opposition Spokesperson and the local Members, the Order was made permanent on 2 October 2024.

Recommendation to the Board

That Members note the Confirmation of the permanent Tree Preservation Order at Millfield House, Common Lane, Corley, as made.

2 Background

- 2.1 During the determination of planning application PAP/2024/0029, Officer's attention was drawn to the importance of the trees at Millfield House given the location of the trees in the Green Belt, the proximity of the trees to the footprint of the proposed replacement dwellings and the screening benefits the trees provide to the site. Warwickshire County Council's Forestry Officer attended the site and carried out a TEMPO to establish the worthiness of protecting the trees. The TEMPO identified that three trees merited protection, with scores above 16, and two trees were TPO defensible, scoring between 12 and 15. The five trees are in good health, are prominent from Common Lane, are considered to contribute significantly to the character of the area and do provide a shielding benefit between the neighbouring properties. As such, it was concluded that the trees are worthy of protection by means of a TPO, particularly given the development that has been granted planning permission.
- 2.2 The Order was served following the granting of planning application PAP/2024/0029 for the demolition of the existing dwelling and replacement with two detached dwellings at the May Board.

- 2.3 A temporary TPO came into force on 25 June 2024 and remained in force for 6 months. A printed, signed and sealed Regulation 5 TPO notice was served by hand on 28 June 2024 to the site, to the four neighbouring properties and to Corley Parish Council. A Regulation 5 Notice was also served via recorded delivery to the Highway Authority.
- 2.4 The deadline for recipients to provide their comments and/or make an objection was 29 July 2024. No comments nor objections were received.
- 2.5 As such, in accordance with the approval at the May Planning and Development Board, the confirmation of making the Order has been delegated to Officers, in consultation with the Chairman, the Opposition Spokesperson and the local Members. The Chairman, the Opposition Spokesperson, and the Ward Councillors for Fillongley were consulted via two emails circulated to them on 13 September 2024 and 23 September 2024 to let them know of the Officer's intentions to make the TPO permanent. No objections were received from the Councillors who were consulted with.

3 Conclusion

- 3.1 As no objections have been received and given the amenity value the trees provide, it is confirmed that a permanent TPO has been made under Section 201 of the Town and County Planning Act 1990. The Order was as made, without any modifications and confirmed on 2 October 2024.
- 3.2 Confirmation of the Order was hand delivered on 3 October 2024 to the site, to the four neighbouring properties and to Corley Parish Council. A copy was also sent to the Highway Authority.
- 3.3 Land Charges have been made aware and the relevant information is on deposit for if members of the public wish to view the documents.

4 Report Implications

4.1 Financial and Value for Money Implications

- 4.1.1 There are no implications in making this Order. As the Order is confirmed, then there may be implications, in that compensation may be payable, if Consent is refused for works to one of the protected trees in the future.

4.2 Legal and Human Rights Implications

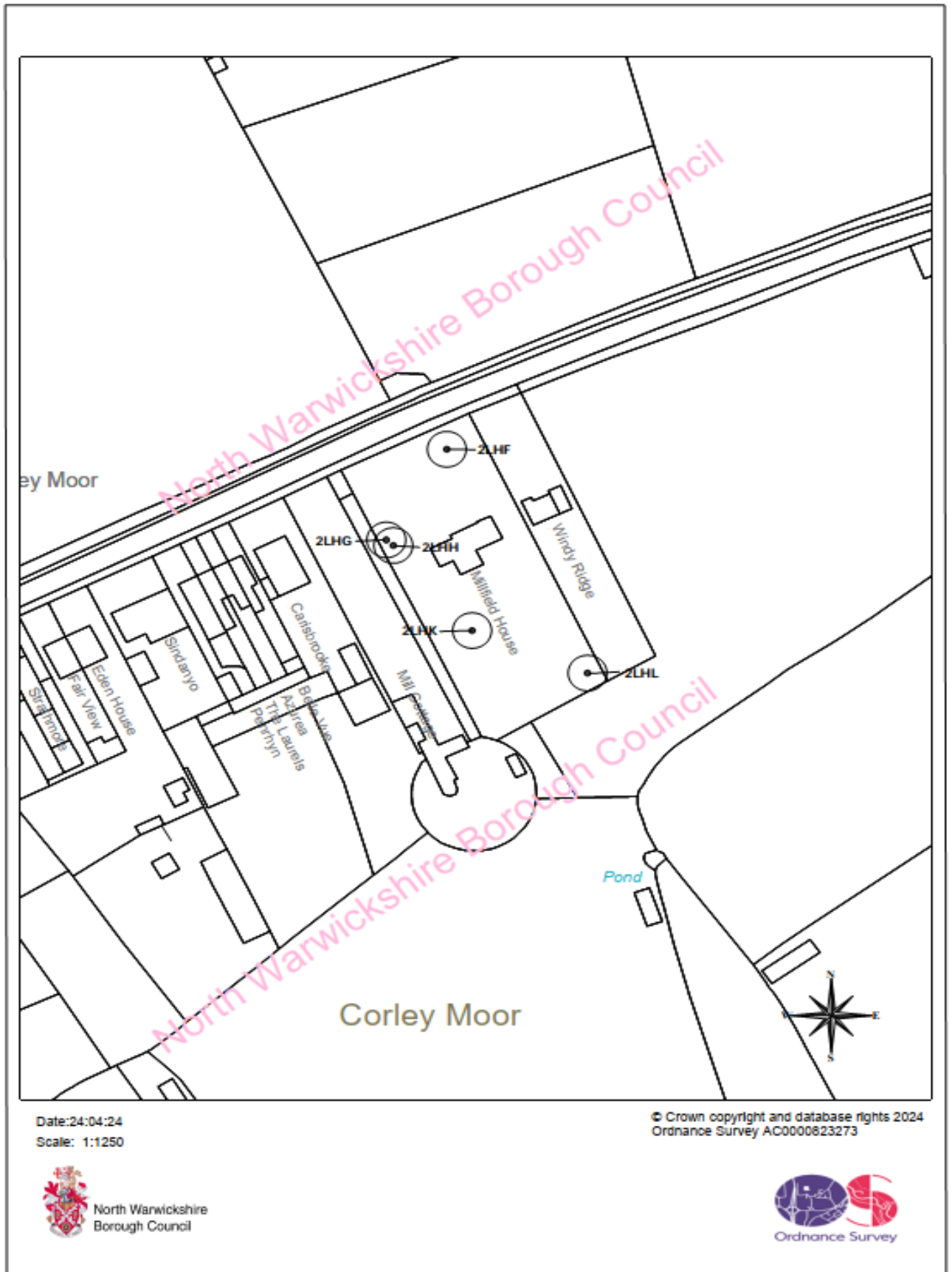
- 4.2.1 The Town and Country Planning Act 1990 only allows a TPO to be made if it is expedient to do so in the interests of amenity. Officer's, in consultation with relevant Members, are satisfied that this is the case having considered all the facts and so, the Order has been confirmed. The owners of the land will have a legal responsibility to maintain the tree and protect it from harm. Applications will need to be made to the Local Planning Authority in order to carry out works to the tree.

4.3 **Environment and Sustainability Implications**

- 4.3.1 The trees protected exhibit value for both the present and the future public amenities of the area, given its appearance and prominence in the Green Belt and screening affect. As such, environmental and sustainable implications of the Order have been considered.

The Contact Officer for this report is Amelia Bow (719418).

Appendix A



Agenda Item No 7

Planning and Development Board

4 November 2024

**Report of the
Head of Development Control**

Appeal Updates

1 Summary

1.1 The report updates Members on a recent appeal decisions.

<p>Recommendation to the Board</p> <p>That the report be noted.</p>

2 Appeal Decisions

a) Fern Cottage, Corley

2.1 This appeal dealt with an extension to this property which is located in the Green Belt. The Inspector found that the extension was disproportionate and that it was not in keeping with the character of the original cottage. The appeal decision is at Appendix A.

...

b) Village Farm, Ansley

2.2 This appeal related to the residential redevelopment of these former farm buildings, but with a proposal that extended beyond that part of the site within the Ansley settlement boundary and into the Green Belt. The Inspector found that this constituted inappropriate development. Highway harm was also found. There were no considerations of such weight on the other side of the planning balance to clearly outweigh these combined harms. The appeal decision is at Appendix B.

...

c) Water Orton, HS2 Appeal

2.3 This was an appeal in respect of a Schedule 17 application by HS2 Ltd. It related to the design and appearance of ancillary development in the vicinity of the Bromford Tunnel. The Council argued that the works were functionally dependent on the Tunnel and that as there was an outstanding High Court Challenge to that Tunnel, it could not comment on these proposed ancillary works and thus had not determined the application. The Inspector argued that there was no outcome of the Challenge, and thus concluded that the Secretaries of State's decision to allow the Tunnel still stood and thus dealt with

... the case on its own merits. He did not find a case for agreeing that the works should be modified given the setting of the Tunnel and the nearby Motorways
The appeal letter is at Appendix C.

3 Report Implications

3.1 Links to the Council's Priorities

3.1.1 The Ansley and Corley decisions reflect the Council's priority of retaining the Borough's rural character.

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

Appeal Decision

Site visit made on 24 September 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Appeal Ref: APP/R3705/D/24/3340521

Fern Cottage, Tamworth Road, Corley, Warwickshire CV7 8AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Przemyslaw Malinowski against the decision of North Warwickshire Borough Council.
 - The application Ref is PAP/2023/0418.
 - The development proposed is a single storey rear, 2 storey side and rear extension and internal alterations.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development given in the banner heading above includes 'internal alterations'. Internal works are not an act of development although I recognise the relevance of them as part of the overall scheme. The Council's decision notice also made reference to a 'new vehicle access'. Whilst permission for this element of the scheme was not explicitly sought, I am satisfied it is part of the proposal and integral to it. Moreover, the appellant has commented upon this element of the refusal and I have therefore considered the merits of it here and this has been done without prejudice to any party.
3. The National Planning Policy Framework (the Framework) was revised on 19 December 2023. This is the same date as a decision was made by the Council on the application. I am also aware of the consultation draft from July 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. References to paragraph numbers in this decision relate to the December 2023 version of the Framework.

Main Issues

4. The main issues are:
 - a) whether the proposal would be inappropriate development in the Green Belt having regard to development plan policies and the Framework,
 - b) the effect of the proposed development on the openness of the Green Belt,
 - c) the effect of the proposed development on the character and appearance of the area,

- d) the effect of the proposed development on highway safety, and
- e) whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

5. The appeal site is located within the Green Belt. Policy LP3 of the North Warwickshire Local Plan 2021 (NWLP) is consistent with the Framework in stating that inappropriate development in the Green Belt will not be approved except in very special circumstances. Paragraph 154 of the Framework sets out that the construction of new buildings is inappropriate in the Green Belt. Exceptions to this include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. This is reflected in criterion b) of policy LP3 which states that extensions will be considered to be disproportionate based on the merits of each individual case and both quantitative and qualitative criteria will be used in this assessment. The policy clarifies that the original building is defined as that which was present on 1 July 1948 or that which came into being after this date.
6. The evidence provided is not definitive on the size and extent of the original dwelling. In addition, the appellant and Council do not agree on the original, existing and proposed floorspace and volume. However, it is apparent that the dwelling has been altered and extended since its original construction through the flat roofed extensions to the rear¹. Furthermore, and in any case, the plans and elevations clearly show the proposed extension represents a substantial increase in floorspace and volume over the existing dwelling. Even if I were to regard the existing dwelling as the original building, which I do not, the proposed extension would still represent a disproportionate addition.
7. The proposed extensions would increase the width, depth and height of both the original and existing building. The level of extension would clearly be disproportionate over and above the size of the original building and the development therefore represents inappropriate development in the Green Belt and this would conflict with policy LP3 of the WLP and the Framework.

Effect on openness

8. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness is an essential characteristic of the Green Belt. It is epitomised by the lack of buildings or development and has both a visual and spatial aspect.
9. The existing building is sited close to the front site boundary although it is largely screened from public vantage points by well established planting. The proposed increase in the size of the building would nevertheless result in it being more noticeable. Visually this would be more prominent but, because of the screening, the effect of the proposed development on the Green Belt's visual openness would be limited.

¹ HIS/1901/0247 dated 10 November 1988

10. There would however be a harmful reduction in the spatial openness of the Green Belt because of the increase in size of the dwelling, establishing development where there was previously none. In this regard, the extension would not preserve the openness of the Green Belt, thereby conflicting with the aims of including land within the Green Belt when assessed against the Framework. This harm would be in addition to the inappropriateness of the scheme.
11. I have considered the demolition of the existing outbuildings and the removal of these would be a small benefit to openness. However, this does not offset the harm caused by the proposed extension to the dwelling. The extension is a much larger structure in both floorspace and volume in addition to reaching a much greater height. By comparison the outbuildings are low scale diminutive structures. Moreover, there is no mechanism within which I am reasonably able to restrict the construction of further outbuildings as 'permitted development' and therefore there remains the potential for these structures to be replaced and that would harm openness.

Character and appearance

12. The existing building comprises a fairly modest Victorian era cottage. Despite various alterations and extensions that have been added to it, it still retains the general form of this style of dwelling. This harmonises with its surroundings as a traditional style cottage on the outskirts of the village of Corley.
13. The proposed extension would substantially re-model the dwelling including a wrap-around extension and increasing the width, depth and height of the building. It would erode the character of the cottage and due to its position and countryside location, also result in harm to the character and appearance of the area.
14. I recognise that the site, despite its proximity to the road, remains fairly secluded. Whilst this does work in favour of the scheme, it is not sufficient to justify an extension which would harm the traditional and fairly diminutive character of the existing dwelling. I therefore conclude that the development would be harmful to the character and appearance of the existing building and locality. Although the extension would replace some of the piecemeal flat roofed extensions that have already been constructed, these are of a small size and are not readily prominent in the street scene. The proposed extension would fundamentally change the scale and character of the dwelling which would be more harmful than the existing, modestly sized, flat roof additions. It therefore conflicts with policy LP30 of the WLP which requires development to respect and reflect the existing pattern, character and appearance of its setting and ensuring that local design detail and characteristics are reflected within the development.

Highway safety

15. The development incorporates the repositioning of the existing access to the site from a point directly onto the main carriageway of Tamworth Road to a point further to the south which leads into a small lay-by. The existing access comprises a pair of inward opening gates that are directly on, or at least very close to, the boundary with Tamworth Road.

16. There are limited details on the precise dimensions and construction of this proposed access, however the location of this within the lay-by is an enhancement in its own right as vehicles will no longer enter or exit onto the main carriageway. This would lead to a substantial reduction in the potential for conflict between vehicles because, at a minimum, vehicles would no longer have to wait or pause on the main road while gates are opened or closed.
17. Notwithstanding the comments of the Highway Authority, it is not clear whether any gates are proposed for the new access. As no details of these have been provided, and, as this element of the scheme was not explicitly applied for, I have considered this new access as not proposing any gates.
18. I recognise that the new access serves an area that does not appear to be able to accommodate space for vehicles to be able to turn and manoeuvre within the site to achieve forward facing entrance and exit movements. Moreover, the parking spaces appear to be substandard. However, additional space does appear to be available in order to achieve these parking spaces and manner of access and egress if the garage is retained for vehicle parking.
19. I am satisfied that conditions could be imposed to ensure parking provision to accord with space standards, forward entry and exit and to restrict the formation of gates on the boundary with the highway. Given that this access would be in a safer position away from the main carriageway and could be enhanced with such conditions, it could accord with WLP policy LP29 with conditions. This element of the proposal therefore complies with this policy and the Framework which seek to provide safe and suitable access.

Other considerations

20. I have noted references to a nearby property which had extensions to it permitted in 2020. However, I have no details on the particulars or circumstances of this case such that any weight I could afford it is limited. I have further considered that the extension would not result in any harm to the living conditions of neighbours, however this is a neutral consideration and does not weigh for or against the proposal.

Green Belt Balance and Conclusion

21. The proposal would amount to inappropriate development in the Green Belt and no other circumstances that would clearly outweigh this harm have been identified. The development would further be detrimental to the character and appearance of the area. The proposal therefore conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed.

Nick Bowden

INSPECTOR



Appeal Decision

Site visit made on 14 August 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Appeal Ref: APP/R3705/W/23/3334684

Village Farm, Birmingham Road, Ansley, Warwickshire CV10 9PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Daniel Swift on behalf of Swift Homes and Developments against the decision of North Warwickshire Borough Council.
 - The application Ref is PAP/2022/0156.
 - The development proposed is the demolition of workshops/building, construction of 6 no. 3 bed, 7 no. 4 bed, garages, associated parking and access.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues for consideration are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect on highway safety;
 - the effect on flood risk with regard to surface water drainage;
 - the effect of the development on the living conditions of the occupiers of the neighbouring properties with specific regard to privacy and outlook;
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposal would make adequate provision for affordable housing;
 - the effect on biodiversity;
 - whether the proposal would include appropriate measures for renewable energy generation; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether or not the development would be inappropriate development

3. Paragraph 154 of the Framework states that, other than the exceptions listed, the construction of new buildings should be regarded as inappropriate in the Green Belt. The exceptions include part g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
4. Policy LP3 of the North Warwickshire Local Plan 2021 (NWLP) reflects the Framework and sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Other than in instances where allocations are proposed, Green Belt within the Borough will be protected accordingly.
5. The appeal site comprises a group of former agricultural buildings located to the front part of the site adjacent to the highway and an extensive area of hardstanding beyond and is bound in part by hedge and tree planting. The main part of the site is within the settlement boundary and falls within the housing allocation in the NWLP; *H12 Land at Village Farm, Birmingham Road, Ansley*. However, the land within the site adjacent to the rear boundary extends beyond the development boundary and the allocated site and is located within the Green Belt. The appeal submissions clearly indicate that the rear half of the footprint of the proposed buildings on plots 8 to 11, and the rear gardens associated with those dwellings, would be located on the land beyond the settlement boundary and within the Green Belt.
6. The planning application form indicates the existing use of the site is a haulage business and workshops and the appellant's Statement of Case sets out that the existing and lawful use is for HGV parking and hardstanding. If I were to accept that were the case, in order to meet the exception at the first limb of paragraph 154 g) of the Framework, it is necessary for the development to not have a greater impact on the openness of the Green Belt than the existing development.
7. The appeal proposal seeks to redevelop the site, including the demolition of the existing workshops/building, and the construction of 13 two storey dwellings. At the time of my site visit, the part of the appeal site which lies within the Green Belt comprised an area of hardstanding on which a vehicle and small number of HGV trailers were parked and was devoid of buildings.
8. The proposal would introduce a considerable amount of built development where there is currently none. I have limited information regarding the number and length of time HGVs are parked on this part of the site. Nonetheless, in terms of height, while any domestic paraphernalia within the rear gardens of the properties which could not be controlled through the removal of permitted development rights would be likely to be modest in scale, the proposed 2 storey dwellings would be significantly taller and of greater visual bulk than parked vehicles. They would also be more permanent in nature. The proposed

dwellings on plots 8 – 10 would therefore be harmful to the openness of the Green Belt in spatial terms.

9. The increase in height of the part of the dwellings on the rear part of the site within the Green Belt over and above that of the parked HGVs would lead to the proposal having a greater visual prominence. The proposed dwellings would be set back from the highway and behind the development to the front of the site. Nonetheless, they would, along with their rear garden areas, be seen from nearby residential properties to the south of the site. The part of the development that would encroach into the Green Belt would also be visible in views across the surrounding agricultural land, including public footpaths and in longer distance views along Birmingham Road on the approach to the village from the north. The presence of existing buildings on the front part of the site and on land adjoining and opposite the appeal site, would not diminish this visual impact.
10. Although the appellant has made reference to the second limb of paragraph 154 g) of the Framework and the provision of affordable housing within the scheme, the units proposed on the part of the site within the Green Belt would be open market units.
11. For the foregoing reasons, the development would result in harm to openness of the Green Belt. Accordingly, the proposal would have a greater impact on the openness of the Green Belt than the existing development. Consequently, it falls outside the exception at paragraph 154 g) of the Framework and would therefore constitute inappropriate development in the Green Belt. In that regard the proposed development would fail to accord with Policy LP3 of the NWLP and the aims of the Framework in relation to the protection of Green Belt land. In accordance with the Framework, substantial weight should be given to any harm to the Green Belt.

Highway safety

12. Vehicular access to the dwellings to plots 3 and 13 would be via private driveways directly from Birmingham Road, with the remainder of the dwellings proposed to be served by a new shared access from Birmingham Road between the driveways, which leads to a turning head within the site. A footpath is shown along the internal driveway in part.
13. The Highway Authority (HA) has raised several concerns with regards to the design of the scheme, including the lack of a Stage 1 Road Safety Audit (RSA). It may be that some of the points could be addressed using planning conditions, or other highway legislation. However, it seems to be that the position of the individual driveways in relation to both the location and design of the bellmouth junction at the entrance to the site, the ability for larger vehicles including refuse vehicles to turn within the site and pedestrian safety may have implications in terms of the layout of the site.
14. Notwithstanding the appellant's view that the assessment of the suitability of the access arrangements should lie with the HA rather than a third party though the carrying out of a RSA, based on the evidence before me, I cannot be certain that the proposal would not have an adverse effect in terms of highway safety.

15. I note the appellant's contention that the proposal would offer benefits in terms of highway and pedestrian safety given the historic commercial use of the site which involved HGV movements, which were largely unconstrained by planning conditions. However, given the likelihood of increased pedestrian movements associated with the proposed development, and the access arrangements, including the position of the existing site entrance, are materially different to the existing situation, there is nothing substantive before me to support these assertions.
16. For the reasons set out above I conclude that the proposal would harm highway safety. Accordingly, the proposal would conflict with criterion 6 of Policy LP29 of the NWLP which requires development to provide safe and suitable access to the site for all users. For the same reasons, it would conflict with paragraph 114 of the Framework, which seeks to ensure that safe and suitable access can be achieved for all users. While the proposal would not result in severe residual cumulative impacts on the road network, I have found that it would have an unacceptable impact on highway safety and consequently would fail to comply with the advice at paragraph 115 of the Framework.

Drainage

17. Policy LP33 of the NWLP sets out that water runoff from new development must be no more than natural greenfield runoff rates and developments should hold this water back on the development site through high quality Sustainable Urban Drainage (SuDS), reducing pollution and flood risk to nearby watercourses. In addition, the Framework requires that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
18. The Lead Local Flood Authority's (LLFA) main concern relates to surface water disposal from the development. The proposed means of surface water drainage, as set out in the appellant's drainage strategy¹ is via discharge into the existing combined sewer network located nearby on Birmingham Road, although confirmation has not yet been provided from Severn Trent Water as to whether this would be acceptable.
19. Moreover, notwithstanding the high-level assessment of infiltration potential undertaken by the appellant, the LLFA contend that further testing in accordance with BRE Digest 365 methodology should be carried out to further explore the possibility of an infiltration type drainage strategy in accordance with the SuDS hierarchy. While such an approach would require the appellant's drainage strategy to be revisited, there is no suggestion that surface water from the proposal could not be properly disposed of, having regard to the drainage hierarchy.
20. I note the appellant's suggestion that suitably worded conditions could be imposed to deal with this matter. I see no reason to disagree and if I was minded to allow the appeal, the imposition of planning conditions would ensure that the proposal would incorporate appropriate means of surface water drainage so as to ensure that it would not exacerbate flood risk. In that regard, for the reasons set out above, the proposal would therefore not conflict with Policy LP33 of the NWLP and the aims of the Framework in relation to planning and flood risk.

¹ Flood Risk Assessment and SuDS Strategy by jms Civil and Structural Engineers dated 28th February 2022

Living conditions

21. The separation distance between the front elevations of the proposed dwellings adjacent to the highway and the residential properties on the opposite side of Birmingham Road, which the Council indicate is 17m at the closest point, would fall below the distance of 20m considered to be acceptable by the Council. Nonetheless, given the relationship between the existing dwellings fronting Birmingham Road and the public realm, with a carriageway and footpath between them and the appeal site, there is already a significant degree of overlooking of the front of the properties. Consequently, in this case, given the existing arrangement, together with the separation distance proposed, the development would not give rise to a loss of privacy for the occupiers of the existing dwellings facing the site.
22. The proposed dwelling to Plot 13 would be sited a short distance from the side boundary of the site and the adjoining residential property. The flank elevation of the proposed dwelling would not include first-floor windows. Moreover, any views from the first-floor habitable room windows in the rear elevation of the new dwelling to plot 13 towards the adjoining property would be at an oblique angle. Therefore, the extent of any overlooking would be limited. Despite its height and positioning, the proposed dwelling on Plot 13 would be significantly smaller in footprint and overall scale and size than the agricultural building it would replace. As such, the proposal would not appear as an imposing feature when viewed from the adjoining property or its garden and consequently would not compromise the living conditions of occupiers of the property in that regard.
23. For the foregoing reasons I find that the living conditions of the occupiers of the neighbouring properties facing Birmingham Road would not be harmed in terms of privacy or outlook. In that regard the proposal would not conflict with part 9 of Policy LP29 of the NWLP, which sets out that development should avoid unacceptable impacts upon neighbouring amenities through, among other things, overlooking, and the aims of the Framework in relation to the creation of places with a high standard of amenity for existing and future users.

Affordable housing

24. Policy LP9 of the NWLP requires at least 30% of the housing provided on site to be affordable. The provision of 3 affordable housing units as part of the scheme falls below this requirement, which equates to 3.9 units in this instance. The appellant suggests that given the current economic climate, a more pragmatic approach should be taken in the case of the appeal site, having regard to the provision of housing for local families.
25. However, there is no clear evidence before me to demonstrate that the provision of a policy compliant level of affordable housing would make the proposed development financially unviable, or that the number of affordable units proposed has been robustly demonstrated to be appropriate in this case. Therefore, I conclude that the proposal would fail to make adequate provision for affordable housing. In that regard the proposal would conflict with Policy LP9 of the NWLP.

Character and appearance

26. The appeal site is located on the edge of the settlement with open countryside to the side and rear. While the village is broadly linear, it includes residential cul-de-sacs of varying sizes, to the rear of existing dwellings fronting Birmingham Road. The surrounding residential development is a mix of one and 2 story properties in the form of semi-detached, detached, or short terraces of dwellings of a range of ages and architectural styles.
27. The proposed residential development comprises 2 storey dwellings. While the dwellings to plots 1, 2, 3 and 13 would have a roadside frontage, the remaining units would be arranged around the internal access road in a cul-de-sac layout. Notwithstanding the existing use of the site, a considerable proportion of the land is currently free from built form, with the remainder comprising former agricultural buildings. The proposed development would therefore lead to a considerable quantum of new development beyond the edge of the current built up area of the village, in a prominent position at the entrance to the settlement. However, the effect of the development in that regard should be considered in the context of the housing allocation (Site H12) under Policy LP37 of the NWLP which covers the most part of the site.
28. While the number of units proposed and the suburban form of the cul-de-sac arrangement would give rise to a significant urbanisation of the edge of the settlement, the Officer's report acknowledges that the site lends itself to a single in road with houses off it. In light of this and having regard to the layout of the village overall, the proposal would not be an unduly discordant form of development or at odds with the established pattern of development. The dwellings to the rear of the site would extend beyond the extent of the land allocated for housing. Nonetheless, given the modest degree of encroachment into the open countryside, there is no clear evidence to demonstrate that this would give rise to any significant landscape harm in terms of the relationship between the proposed built form and the adjoining open countryside over and above that of the allocated site.
29. For the foregoing reasons I find that the proposal would not harm the character and appearance of the area. It would therefore accord with Policies LP1 and LP14 of the NWLP in so far as they seek development that integrates appropriately with the natural and historic environment, and conserves landscape character, the general principles in relation to built form set out in Policy LP30 of the NWLP, which require that development in terms of its layout, form and density should respect and reflect the existing pattern, character and appearance of its setting, and the aims of the Framework which seek to ensure that new developments, among other things, are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Biodiversity

30. The appeal submissions indicate that, using the Warwickshire, Coventry and Solihull Habitat Impact Assessment Calculator, the proposal would result in a habitat biodiversity impact gain of 0.36 units. Even if there was scope to increase this further, through additional landscaping and SuDS features for example, my attention has not been drawn to any specific policy requirement in that regard.

31. Accordingly, I find that the proposal would not conflict with the combined aims of Policies LP1 and LP14 of the NWLP which set out that development should look to conserve, enhance, and where appropriate, restore landscape character and provide, conserve and enhance biodiversity, and Policy LP16 of the NWLP in so far as it seeks to provide net gains for biodiversity. It would also accord with paragraph 180 of the Framework which requires planning decisions to contribute to and enhance the local environment in several ways, including provision of net gain for biodiversity.

Renewable energy

32. Policy LP35 of the NWLP sets out that new development will be expected to be energy efficient in terms of its fabric and use including, where viable, the production of 10% of operational energy from on-site renewables, in support of the Government's Clean Growth Strategy. While specific details of means of renewable energy generation to be incorporated into the development do not form part of the proposal, it is not clear from the evidence as to why such details could not be agreed through the imposition of a suitable planning condition.

33. I therefore find that, should I be minded to allow the appeal, subject to planning conditions, the proposal would include appropriate measures for renewable energy generation and in that regard would accord with Policy LP35 of the NWLP.

Other Considerations

34. The proposal would offer benefits in terms of housing supply, including affordable housing, on a site which is partly within the development boundary and allocated for housing development. This would support the Government's objective of significantly boosting the supply of homes and accord with the aims of the Framework which recognise the contribution small and medium sites, which are often built out relatively quickly, can make to meeting the housing requirement for an area.

35. While I note the appellant's contention that the development would lead to the early delivery of the Council's stepped trajectory for the delivery of new housing within the plan period, I have not been presented with any substantive evidence that the Council is not currently meeting its requirements in that regard or that there is not a realistic prospect of it doing so in the longer term. Moreover, there is no robust evidence before me to demonstrate that the Council is not delivering the number of affordable homes to address its needs within the area. Consequently, I attach moderate weight to the contribution the proposal would make to the delivery of housing, including affordable housing.

36. The proposal would give rise to economic benefits during construction, and upon occupation through local expenditure, and would offer benefits in terms of the vitality of the community. In addition, the site is in a location where future occupiers of the dwellings would benefit from accessibility to services and facilities using means other than the private car. These factors weigh in favour of the scheme, to which I attribute moderate weight.

37. The appellant refers to the part of the Framework which sets out that substantial weight should be given to the value of using suitable brownfield

land within settlements. However, the appeal site extends beyond the confines of the settlement boundary and the allocated site.

38. My attention is drawn by the appellant to residential developments within the village for which planning permission has been granted by the Council. However, the full details of those cases are not before me so as to draw me to a different conclusion.

Other Matters

39. Interested parties have identified a number of other concerns which have not already been addressed above but given my conclusion in relation to the appeal overall, the adverse impacts would not arise.

Green Belt Balance and Conclusion

40. I have found that the proposal would, by virtue of having a greater impact on the openness of the Green Belt than the existing development, constitute inappropriate development in the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. The proposed development would also be harmful to highway safety.
41. In light of the substantial weight to be given Green Belt harm, combined with the other identified harm, the weight to be attached to the benefits of the proposal do not clearly outweigh the harm to the Green Belt by reason of inappropriateness and harm to the openness of the Green Belt. Therefore, the very special circumstances necessary to justify the proposal do not exist.
42. For the reasons given above, having regard to the development plan as a whole and all other matters raised, I conclude that the appeal should be dismissed.

E Worley

INSPECTOR



Appeal Decision

Site Visit made on 24 September 2024

by Alan Novitzky BArch (Hons) MA(RCA) PhD RIBA

an Inspector appointed by the Secretaries of State

Decision date: 15 October 2024

Appeal Ref: APP/HS2/25

Land south of Water Orton in the vicinity of Attleboro Lane,

Warwickshire. Location of the works: Easting 417313 Northing 290499

- The appeal is made under paragraph 22(1) of Schedule 17 of the High Speed Rail (London – West Midlands) Act 2017 (the Act) against a failure to determine within the specified timescale a request for approval of plans and specifications submitted under Schedule 17 paragraphs 2 and 3 of the Act for works comprising:
 - Bromford Tunnel East Portal Mechanical Electrical and Public Health (MEP) Building
 - Bromford Tunnel East Portal Shaft Building
 - Pumping Station
 - Porous Portal
 - Pump Drainage Pipework
 - Fences and Walls
 - Security Bollards
 - Security Railings
 - Safety Glazed Smoke Screen
 - Ancillary Development
 - Signage Columns
 - The appeal dated 24 July 2024 was made by High Speed Two (HS2) Limited against North Warwickshire Borough Council.
 - The request for approval Ref NWC.PS.10031, was dated 16 April 2024.
-

Decision

1. The appeal is allowed, and approval is granted for the application subject to the condition set out in the attached Schedule.

Preliminary Matters

2. I have been appointed under Schedule 17, paragraph 23(1) of the Act to determine the appeal on behalf of the Secretaries of State. I visited the site

on 24 September 2024, was given access to the working area and viewed the site and surrounding areas from publicly accessible locations.

3. The Council is identified as a qualifying authority in the High Speed Rail (London – West Midlands) (Qualifying Authorities) Order 2017. The Council may therefore only refuse to approve plans or specifications on the grounds set out in Schedule 17.
4. Artificial lighting equipment falls for consideration under Schedule 17 at item 6 of the table to which paragraph 3(6) refers. However, in its Response to the LPA's Statement of Case, the Appellant requested¹ that artificial lighting should not be considered as part of the present appeal.
5. In addition, the Appellant stated in its Response² that, whilst signage columns and security bollards form part of the development and were listed for consideration on the appeal form, they do not require approval under Schedule 17 or any other part of the Act. The Council noted, in its Response to New Matters,³ that HS2 had recently sought approval for security bollards from Birmingham City Council on the assumption that they fall within item 5 of the table accompanying paragraph 6(3) (Fences and Walls). However, I find no reference to bollards or signage columns in Schedule 17 and will therefore not consider them within the present appeal.
6. The Council has entered a High Court Challenge to the Secretaries of State's decision to approve plans and specifications made under Schedule 17 comprising the Water Orton cutting including the Bromford Tunnel East Portal (BTEP) and Attleboro Lane Overbridge and ancillary works.⁴ The Council maintains its view that the proposals to which the present appeal relate are functionally interdependent on the BTEP works subject to challenge and, therefore, should not be determined pending the outcome of the challenge.
7. However, the Secretaries of State's decision stands unless it is quashed by the High Court. I will, therefore, proceed to determine the present appeal.

Main Issues

8. The main issues are:

- In accordance with Schedule 17, paragraph 2(5)(a) of the Act, whether the design or external appearance of the building works ought to be modified to preserve the local environment or local amenity and is reasonably capable of modification, with respect to:
 - Bromford Tunnel East Portal MEP Building
 - Bromford Tunnel East Portal Shaft Building
 - Pumping Station
 - Porous Portal
 - Pump Drainage Pipework

¹ Paras 3.2 and 10.6

² Para 10.7

³ Paras 4 and 5

⁴ APP/HS2/18

- In accordance with Schedule 17, paragraph 3(2)(e) and paragraph 3(6) of the Act, whether the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits, with respect to:
 - Fences and Walls comprising safety glazed smoke screening and security railings
9. Ancillary Development is amongst the items listed for approval. HS2's written application statement describes Ancillary Development as signage columns and further Schedule 17 submissions which have been or will be made in the vicinity.⁵ No Ancillary Development is, therefore, before me in this appeal.

Reasons

THE DESIGN AND EXTERNAL APPEARANCE OF THE BUILDING WORKS

10. The HS2 Birmingham to London railway line emerges from the twin bore Bromford Tunnel within the site. It continues in an open cutting (the Water Orton cutting) flanked by concrete diaphragm retaining walls with regularly spaced horizontal concrete props, separated by substantial voids, spanning between the diaphragm walls at ground level. This is the Porous Portal, whose main function is to dissipate air pressure waves as trains emerge from the tunnel.
11. The East Portal Shaft Building sits above the railway line, at ground level, over the junction of the tunnel and the Porous Portal. It provides tunnel access, and a means of servicing the track level drainage sump and Pumping Station. It is connected, at the upper level of the buildings, to the East Portal MEP Building to the north by a pair of gantries.
12. The MEP and Shaft Buildings comprise, at their base level, a precast concrete wall system with access and maintenance doors, and louvre panels, to a height of 2.5m from ground level. Above this, to an overall height of some 9m from ground level, is a screen of coloured ceramic tiles suspended on steel cables attached to a metal framework. Tiles are omitted in a hit and miss pattern within dispersed groupings, allowing airflow to reach mechanical ventilation louvres behind the screen. This gives a semi-permeable appearance to the facades, illustrated in the scheme drawings, especially towards the top of the elevations where the screen acts as a parapet wall to a green planted flat roof. The gantries are clad in expanded metal mesh panels, which would also be visually semi-permeable.
13. The Pump Drainage Pipework rises from the track level drainage sump and passes between the gantries a little above ground level, rising to gantry height to join a curved vent pipe before descending to connect to an underground drainage system between the Shaft and MEP Buildings. This produces an interesting sculptural presence which some may regard as unsightly. However, it is unlikely to be seen outside the site and in my view its design and appearance is perfectly acceptable.
14. The M6 motorway (linked to the M42 to the east), and alongside it the A452 dual carriageway, run immediately south of the site, separated from it by an

⁵ Para 3.2.24-3.2.27

intervening narrow band of woodland. The B4118 Birmingham Road crosses the M6 from the south-west and runs north of the site north-eastwards to Water Orton. Agricultural land lies to the north of the site, adjacent to which, within the site and north of an access road and vehicle turning area serving the MEP building, exists a very narrow band of land for mediation screening.

15. Attleboro Lane runs south from Water Orton. It will be permanently diverted, passing over the HS2 line via an overbridge, overlooking the Porous Portal. The closest dwellings are located on Attleboro Lane some 0.4km south-east of the Portal Buildings.
16. The Portal Buildings would be seen from locations in Water Orton including Birmingham Road; in intermittent public viewpoints between tree cover from Plank Lane, which skirts the settlement to the west; to a lesser extent from Vicarage Lane; and from Attleboro Lane and its overbridge. Views from Castle Bromwich to the south would be largely masked by the existing motorway system and woodland screening.
17. The Water Orton Conservation Area and the Church of St Peter and St Paul are separated by substantial surrounding development from the site and their character and special interest would not be harmed by the building works.
18. Technical and functional requirements drive the overall nature of the Portal Buildings, their relationship to each other, to the Porous Portal, and to their location on site. The buildings' envelope, of a muted terracotta, assists visual absorption into the landscape, as does its general visual semi-permeability. This is particularly so towards the parapet where, with the appropriate choice of roof planting for the MEP building, the shape of the buildings would tend to dissolve in many light conditions.
19. The Porous Portal would exert very little presence above ground level, the only significant views being from the Attleboro Overbridge, as shown in HS2's illustration.⁶ It would be seen from the Overbridge as a simple, clean, functional structure of perfectly acceptable design and external appearance.
20. The Overbridge would also offer significant views of the Portal Buildings. With suitable choice of colours and finishes for external materials, and subject to appropriate screening mediation, in my view the design and external appearance of the buildings would be acceptable.
21. The nature of the screening mediation on the narrow strip of land to the north of the MEP Building, facing viewpoints in Water Orton, will be critical to its effectiveness. The Special Management Zone Group (SMZ) note in their representation that the illustration of the view from the Overbridge shows boundary planting taller than the 9m high building, planted on ground lower than the floor level of the building, suggesting the trees would be some 12m high. They would, therefore, be near maturity, representing 15-or-20 years growth and given the narrowness of the strip, transparent during winter months.
22. This may present a challenge at 'bringing into use' proposals stage. Additional measures, such as screening by means of a living wall or controlled planting beyond the site limits, may be required.

⁶ Drawing No. 1MC08-BBV_MSD-PL-DSC-NS02_NL07-164501 Rev. C01

23. I do not find that the building works ought to be modified, and the Council has not suggested ways in which it reasonably could be modified.

24. However, the precise choices of colour and finish to the ceramic tile screen and gantry cladding are very important to the overall impression and should be subject to the Council's approval of sample panels. The Council and Appellant have expressed views on this matter⁷ and I am satisfied that only the sample panels noted are necessary. I will, therefore, attach a condition to this decision based on advice in Planning Forum Note 5.

THE SAFETY GLAZED SMOKE SCREEN AND SECURITY RAILINGS

25. HS2's written application statement notes⁸ that safety glazed smoke screening and PPC galvanised mild steel balustrades surround the voids shown on the General Arrangement Plan,⁹ to prevent access and ensure safety.

26. They are located at ground level alongside the open cutting, between the Portal Buildings, and would not be seen from outside the site. They fulfil simple but essential functional and safety roles and could not be located elsewhere, nor has the Council suggested that they should. They are acceptable as shown.

Condition

27. The condition is necessary for the reasons set out in this decision and accords with advice in the National Planning Policy Framework (NPPF) and associated Planning Policy Guidance (PPG).

Conclusion

28. I conclude that the works proposed are acceptable subject to the condition noted.

Alan Novitzky

INSPECTOR

⁷ NWBC Response to New Matters (Regulation 10) paras 2 and 3, and Appellant's Response to LPA's Final Comments paras 2.1 and 2.3

⁸ Para 3.2.20

⁹ 1MC08-BBV_MSD-PL-DGA-NS02_NL07-164010

CONDITION SCHEDULE

- 1) Pursuant to Schedule 17 paragraph 2(7) High Speed Rail (London - West Midlands) Act 2017 the nominated undertaker shall submit sample panels of the ceramic tile screen and gantry cladding for approval by the Local Planning Authority prior to their installation on the Portal Buildings.

Agenda Item No 8

Planning and Development Board

4 November 2024

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

To consider, in accordance with Section 100A(4) of the Local Government Act 1972, whether it is in the public interest that 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.

Agenda Item No 9

Tree Preservation Order – Report of the Head of Development Control

Paragraph 6 – by reason of the need to consider the making of an order.

Agenda Item No 10

Exempt Extract of the Minutes of the meeting of the Planning and Development Board held on 7 October 2024.

Paragraph 6 – by reason of the need to consider the making of an order.

Paragraph 7 - Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

In relation to the item listed above members should only exclude the public if the public interest in doing so outweighs the public interest in disclosing the information, giving their reasons as to why that is the case.

The Contact Officer for this report is Julie Holland (719237).