

General Development Applications

(7f) Application No: PAP/2022/0371

Land North East Of Brockhurst Farm, Lindridge Road, Sutton New Hall, Birmingham,

Proposed development of 178 dwellings, including access, drainage and associated infrastructure, for

Taylor Wimpey UK Limited C/O Agent

1. Introduction

1.1 This application was referred to the last meeting of the Board. It resolved that it would grant planning permission subject to conditions and to the completion of a Section 106 Agreement based on the details as set out in the officer's report. Because of the outstanding matter to do with the Obligations under the Education contributions, the Board asked for the draft Heads of Terms for that Agreement to be referred back to it for consideration.

1.2 The previous report is attached at Appendix A.

2. The Outstanding Matter

2.1 As can be seen from Section 6 of Appendix A, there were two requests made for both primary and secondary education contributions – one from the Warwickshire County Council and the second from the Birmingham City Council. Whilst the inclusion of education contributions within any Agreement is considered to meet the statutory tests as outlined in para 11.2 of Appendix A, the duplication of the requests needed to be clarified. The initial evidence base for the requests from the two Education Authorities was outlined in paras 11.8 and 11.9 of Appendix A. There had been ongoing discussions between the two Authorities, but no further update was available at the last meeting.

2.2 Further discussions have now taken place, and this has resulted in an agreed resolution between the two Education Authorities – Appendices B and C. In short, the contribution requested by BCC focusses on the existing primary schools in the Birmingham catchment of the site and that from WCC is based on Coleshill School.

2.3 The content of the 106 would thus be:

> £890,737.40 to be paid to NWBC, for BCC to call on for improvements/ extensions to the six primary schools within the administrative area of BCC which are located within a two-mile distance of the site and subject to BCC providing adequate supporting evidence to the Borough Council for any request which is made for any specific school. Any outstanding monies are to be returned to Taylor Wimpey, if not claimed by BCC after five years of the date of receipt of the contribution. This contribution would be paid in full to the Borough Council on or before occupation of 50% of the dwellings on the site.

> £465,670 to be paid to WCC for improvements/extensions to the Coleshill School on or before occupation of 50% of the dwellings on the site.

> £72,762 to be paid to WCC for SEND provision on or before occupation of 50% of the dwellings on the site.

> £100k to be paid to WCC so as to enhance home-school transport to the Coleshill School to be paid in five £20,000 annual payments, the first of which is to be payable on the 1st August 2024.

3. Observations

3.1 It is considered that the arrangement as set out in the two Education Authority's updated letters is proportionate recognising the location of the site, the requests from the respective Education Authorities and that the County Council is the lawful Education Authority in this case.

3.2. Additionally, this arrangement has weight as far as planning policy is concerned. Local Plan Policy LP1 is about sustainable development and supporting local schools within the site's catchment area would align with this policy. Whilst the contribution is not for the Langley SUE, it is for existing local schools to cater for the increased pupil numbers in advance of the Langley schools being available. As such it would certainly align with the objective of Policy H6 to ensure connectivity with neighbouring developments because of the geography of the area. It also recognises that the County Council is the relevant Education Authority in respect of the location of the site.

3. Draft Heads of Terms

3.1 The draft heads of Terms of the Agreement are attached at Appendix D.

4. Conditions

4.1 The previous report set out a number of conditions recommended to be included in the Notice. Members were updated at the last meeting in respect of the comments from the County Council as Lead Local Flood Authority. A full set of recommended conditions is attached at Appendix E. These have been agreed with the applicant as is required.

Recommendation

That planning permission be granted subject to:

- i) The conditions attached at Appendix E
- ii) The completion of a Section 106 Agreement based on the draft Heads of Terms as at Appendix D.

Appendix A

General Development Applications

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Proposed development of 178 dwellings, including access, drainage and associated infrastructure., for

Taylor Wimpey UK Limited

1. Introduction

- 1.1 This application has been submitted to this Council for determination. It is located on land that directly abuts the common boundary with the Birmingham City Council. As a consequence, that Council has been consulted on the proposal and its comments are recorded below in this report.
- 1.2 Additionally, it became very clear from receipt of the application that the proposed access arrangements would need to involve off-site highway works that would be located within the City Council's area, as well as mitigation measures that would require Traffic Regulation Orders that are within the gift of that Council.
- 1.3 As a consequence, the applicant also submitted the same application to the City Council, but with the addition of the land within Birmingham City Council which would accommodate the highway measures.
- 1.4 The City Council has considered its application and granted planning permission for the highway works within its area at the end of April. The approved off-site highway works are thus a material planning consideration of substantial weight in the determination of the North Warwickshire application.

2. The Site

- 2.1 This site is located on the northern side of Lindridge Road, approximately 250 metres east of the built-up area of Sutton Coldfield. It is currently in agricultural use and is triangular in shape, narrowing to a point at its northern extent. It measures 4.35 hectares in size and is bounded by the A38/M6 Toll road to the east, Lindridge Road to the south and Langley Brook to the west. There is a Sewerage Treatment works to the north-west of the site. The boundaries are largely defined by hedgerow and vegetation, providing a reasonably wide buffer to the A38/M6 Toll, which varies between 9 and 19m in width. Junction 9 of the M42 is located approximately 4 kilometres to the south-east of the site.

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- 2.2 Within the site, the southeast corner is broadly level though levels do then fall away significantly to the north and east towards Langley Brook. Beyond the site boundary, Lindridge Road is relatively steep, with an incline rising from west to east. The A38 is significantly lower than the site itself beyond the east and southeast corners, although when this becomes the M6 Toll towards the northeast corner, the levels are broadly equivalent.
- 2.3 There is no public access to or across the site, with an existing field access at the southern end of the site. There is also currently no footpath along Lindridge Road into Sutton Coldfield.
- 2.4 A general location plan for the application site is at Appendix A and an aerial photograph is at Appendix B.

3. Background

- 3.1 The application site is one allocated for around 140 houses within the North Warwickshire Local Plan 2021 – Policies LP37 and particularly H6 refer.
- 3.2 The land to the south of the Lindridge Road extending south to Minworth, east to the line of the A38 and west to Walmley is land allocated for up to 5500 houses together with associated facilities by the Birmingham City Council in its Development Plan. This allocation is known as the Langley Sustainable Urban Extension (the Langley SUE).
- 3.3 The Langley SUE is shown on a plan at Appendix C and this also illustrates the site of the H6 allocation.
- 3.4 An outline planning permission for the SUE was considered by the City Council in December 2022. It is minded to support the proposal subject to the completion of a Section 106 Agreement. The plans to be included in the grant of any permission here, include a series of Parameter Plans as well as a phasing plan.
- 3.5 One of the Parameter Plans illustrates the principles of the layout. This and the phasing Plan are attached at Appendices D and E.

4. The Proposals

- 4.1 This proposal seeks the construction of 178 dwellings, including a new access, landscaping, drainage and associated infrastructure. The main access would be located at a new position along Lindridge Road, with the intention of retaining and improving the existing field access as a 4-metre wide emergency link. There would also be one further access point onto Lindridge Road, serving six dwellings from a private drive. A balancing pond is proposed to the northern end of the development, which is the lowest point of the site. Two play areas are proposed – one each on the eastern and northern boundaries. 71 affordable dwellings are proposed, totalling 40% of the total dwelling provision. These would comprise 14 one-bedroom properties, 36 two-bedroom ones and 21 three-bedroom dwellings. The tenures would be made up of 51% Affordable Rent and

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49% Shared Ownership. The market houses would be a mix of two, three and four-bedroom houses.

- 4.2 The proposed layout is illustrated at Appendix F and images of the house types are at Appendix G.

5. Consultations

Warwickshire County Council as Highway Authority – There were some initial concerns, but the receipt of amended plans and clarification of the Birmingham City Council position has led to there being no objection in principle subject to standard conditions.

Warwickshire County Council as Lead Local Flood Authority – There was an initial objection but further clarification from the applicant has been submitted and the final response from the Authority is awaited. The Board will be notified of the up-to-date position at the meeting.

Warwickshire Planning Archaeologist – There was an initial objection, as it was considered that pre-determination trial trenching should be undertaken to evaluate the archaeological potential of the site. The applicant undertook this work with a Scheme agreed by the County Council. This has led to the Archaeologist removing the objection in principle but requiring pre-commencement conditions for further work.

Warwickshire Fire and Rescue Service – No objection subject to standard conditions

Warwickshire Police (Crime Reduction and Community Safety) - No objection

National Highways – No Objection

Birmingham City Council – An objection has been lodged as it considers that although the land is allocated for residential development, the proposal does not accord with Local Plan Policy H6. This is because the proposal has come forward without any regard to the Langley SUE development. To approve the proposal in isolation would be premature and prejudice the integration of infrastructure delivery as part of the overall wider SUE development. The layout is neither in keeping with the principles sought in the Langley SUE Supplementary Planning Document and thus there would neither be any design integration.

Birmingham City Council Ecologist – No objection subject to conditions for a lighting design strategy to reflect biodiversity interests, details of the landscaped boundary treatments and a Landscape and Ecology Management Plan.

Environmental Health Officer – He has concerns about the adverse noise impact from the use of the adjoining A38 but has recommended conditions which set out the maximum noise thresholds to be achieved.

Housing Officer – No objection to the 40% on-site affordable provision and is satisfied with the 50/50 tenure mix, but that a clause be included in any Section 106 Agreement such that the mix be reviewed if there is limited "take-up" of the rented properties.

6. Section 106 Contributions

Coventry and Warwickshire Integrated Care Board - £153,110 is requested for improvements to off-site primary medical care and healthcare facilities

Warwickshire Public Rights of Way - £4,259 to support the ongoing maintenance and improvements to public rights of way within 1.5 kilometres of the site

Warwickshire Highway Authority – £8900 towards road safety initiatives such as road safety education in schools and for vulnerable groups; £1780 towards promoting sustainable travel through information given to new occupiers and £3000 towards the administration of securing 20 mph speed limits within the site.

Warwickshire County Council as Education Authority – A total of £988,432 is requested made up of a contribution towards Secondary Education and towards home to school transport. (Appendices H and I)

Birmingham City Council as Education Authority - The City Council requests a sum of £1,390,449.88 in order to fund expansion at existing primary and secondary schools. (Appendix J)

NWBC (Leisure and Recreation) – £555,005 towards off-site enhancements, but subject to maintenance considerations.

7. Representations

Sutton Coldfield Town Council – It has lodged an objection. It says that the proposal is contrary to Policy H6 of the adopted North Warwickshire Local Plan which states that delivery, access and development of the site is to be directly linked to the development and delivery of the Langley Sustainable Urban Extension immediately to the south. No reference is made to the Langley SUE allocation within the submitted transport documentation and there is limited reference to how the two sites would be linked in terms access or delivery. Vehicular access is proposed to be provided from Lindridge Road, but limited information is provided on how this junction will interact with Langley SUE accesses also onto Lindridge Road. It is an isolated location of the development. No off-site improvements or dedicated infrastructure for cyclists has been proposed. The Design and layout of the proposed development lacks imagination and local distinctiveness resulting in an overall appearance of a bland suburban development.

The Sutton Coldfield Civic Society also objects as there would be further loss of Green Belt and increased pressure on existing infrastructure.

Cllr Richard Parkin (Ward Member for Sutton Reddicap) – There is an objection based on the design of the development; its isolated rural location and its impact on local infrastructure and services within Sutton Reddicap.

Three letters of objection have been received from nearby residents referring to the loss of Green Belt land; existing services being already stretched and that there are traffic safety issues on Lindridge Road.

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8. Development Plan

The North Warwickshire Local Plan 2021 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP7 (Housing Development), LP9 (Affordable Housing Provision), LP14 (Historic Environment), LP15 (Landscape), LP16 (Natural Environment), LP17 (Green Infrastructure), LP21 (Services and Facilities), LP22 (Open Spaces and Recreation Provision), LP27 (Walking and Cycling), LP29 (Development Considerations), LP30 (Built Form), LP33 (Water and Flood Management), LP34 (Car Parking), LP37 (Housing Allocations) and H6 (Land at Lindridge Road)

9. Other Material Planning Considerations

The National Planning Policy Framework

Birmingham Development Plan 2017

The Langley Sustainable Urban Expansion - Supplementary Planning Document (SPD) 2019

The Council's Air Quality and Planning SPD 2019

The Council's Planning Obligations for Sport, Recreation and Open Space SPD 2023

10. Observations

a) Matters of Principle

- 10.1 The application site is allocated for residential development through the Local Plan and as a consequence, the land is excluded from the Green Belt. The proposal is therefore supported in principle, notwithstanding the comments received from some of the representations.
- 10.2 The Local Plan also contains policies which are linked to the development of its allocated sites. In this case, that is Policy H6. It says that the allocation here is subject to a number of matters:
 - i) Delivery, access and development of the site being directly linked to the development and delivery of the Langley SUE immediately to the south within Birmingham City Council's area and allocated in its Development Plan.
 - ii) That the location of residential development and open space is to take account of the proximity of the Langley Mill Sewage Treatment Works of Lindridge Road to the north-west of the site and the M6 (Toll) to the east and north.
 - iii) A site-specific Flood Risk Assessment is undertaken to demonstrate that the extent of the land available for development is outside of Flood Zones 2 and 3.

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- 10.3 As reported above, the Birmingham City Council has objected to the application as it considers that the first of the matters mentioned above has not been satisfied. The City Council considers the proposal to be premature and that it would prejudice the integration of the site into the wider Langley SUE development.
- 10.4 The focus of this report will thus be to respond to this objection and this will be dealt with in the assessment of the final planning balance at the end of report. Prior to that however, it will be necessary to cover the other planning issues involved, to see if they carry any weight in that final assessment.

b) Planning Issues

i) Highway Matters

- 10.5 In the introduction to this report it was noted at an early stage in the consideration of this proposal, that off-site highway works would be needed. Both the Warwickshire County Council and Birmingham City Council as Highway Authorities were agreed on this and have engaged with the applicant to ensure their inclusion in the proposals. In short, the works include measures along the existing carriageway to the west of the site, to include a reduction in the speed limit, traffic calming measures and a new footway and crossing. These are required to provide pedestrian and cycle connectivity from the site into the built-up area on the edge of Sutton and to improve highway safety through the extension of reduced speed limits eastwards beyond the site access. These engineering works now have the benefit of planning permission following the determination of the planning application submitted to the City Council as reported in the Introduction to this report. The City Council will have to consider the making of a Traffic Regulation Order in respect of the extended length of road to have reduced speed limits. The grant of the planning permission will be material to its consideration.
- 10.6 It is of substantial weight that neither the Warwickshire County Council nor the City Council object to the access arrangements proposed for access into the site itself – that is a main access approximately centrally located along its southern boundary, a private drive serving six dwellings to its west and an emergency link to the east. It is also of substantial weight that the Warwickshire County Council has not objected to the site layout arrangements subject to standard conditions.
- 10.7 Members will be aware that Local Plan policy LP29(6) requires provision of safe and suitable access for all users to a proposed development site. Additionally, the NPPF requires any significant highways impacts on the local highway network or on highway safety to be mitigated to an acceptable degree with a refusal of planning permission being considered only when the residual impacts are severe. That is not the case here and thus the proposal would accord with the policy LP29(6).
- 10.8 The City Council's objection to the overall proposal is based on it being "premature" and that it would "prejudice" the integration of infrastructure delivery within the wider Langley SUE. It is considered that its support for the proposed access arrangements and mitigation measures reduces the weight that can be given to this objection, particularly as the decision to grant that planning permission was taken in the full knowledge of the Langley SUE development.

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ii) Ecological Matters

- 10.9 The site comprises an arable field with semi-natural woodland, hedges and scattered trees around its peripheries. The wooded Langley Brook corridor is adjacent to its western boundary. The Lindridge Road hedgerows and the Brook corridor all contribute to a wider ecological network which contains sites of nature conservation interest. This corridor is the most significant feature on the site and its retention and enhancement is considered to be essential. The drainage proposals include a new balancing pond in this area which will be a benefit in this respect, but details of its outfall to the Brook needs to be conditioned. The proposals do include removal of hedgerow lengths along Lindridge Road but these are to be compensated for by significant new planting along the southern, western and eastern boundaries.
- 10.10 The overall response from the Birmingham City Council's ecologist in this instance is one of no objection subject to standard conditions. In this respect it is considered that the proposal would accord with Local Plan Policy LP16 which seeks protection and enhancement of the natural environment, relative to the nature of the development proposed.

iii) Heritage Matters

- 10.11 There are no designated or locally designated heritage assets on the site or within a kilometre diameter of the site's boundary. Initial assessments found that the site is located within a landscape that was settled during the Bronze and Iron Ages with two Bronze Age burnt mounds and an Iron Age farmstead located between 50 to 100 metres north-east of the site. As a consequence, further investigation was undertaken at the request of the Warwickshire Archaeologist. This resulted in a further mound being found on the site and thus a mitigation strategy is to be agreed with further excavation needed. However, the Archaeologist is satisfied that there is no objection to the principle of development subject to agreement on the strategy. This can be conditioned through pre-commencement conditions.
- 10.12 In these circumstances, the proposal would accord with Local Plan policy LP15 which requires the historic environment to be conserved or enhanced. In this case, the mitigation strategy will include the recording and archiving of the "find" on the site.

iv) Drainage Matters

- 10.13 Policy H6 explicitly draws attention to the Langley Brook and its associated Flood Zones 2 and 3, requiring a site-specific Flood Risk Assessment. This has been undertaken by the applicant and that Assessment included the length of the Brook south of the site well into the extent of the Langley SUE development, as required by the Policy. It proposes an attenuation basin in the north-west corner of the site with controlled discharge into the Brook. Foul water drainage would connect to the existing public foul sewer in Lindridge Road.

- 10.14 It is of significant weight that the City Council did not object to the drainage arrangements for the Langley SUE development and that it has not raised this matter in respect of its response to the current application. In other words, it considers that the proposed arrangements as set out above would not prejudice the arrangements on the larger Langley SUE development.
- 10.15 In respect of the site within North Warwickshire, then as recorded above the final response is still awaited from the Warwickshire County Council as the Lead Local Flood Authority. It is anticipated that this is likely to be one of no objection subject to standard conditions. If so, that would carry substantial weight leading to the proposal being able to accord with Local Policy LP33 and with the relevant part of Policy H6 as identified in paragraph 10.2.

v) Air Quality and Noise

- 10.16 The applicant's documentation in respect of these two considerations has been considered by the Environmental Health Officer and no objections have arisen in principle. In respect of air quality, then during the construction period, mitigation measures are proposed to reduce the potential for dust and particulate emissions so as to comply with Best Practice guidance. A Construction Management Plan will need to be conditioned in the event of an approval so as to require implementation of the measures. Once complete, then air quality impacts are predicted to be below the recommended guidance. These impacts are anticipated to be even lower, if LEV charging points are included in the development; if there is ready pedestrian and cycle access to facilities and that public transport is accessible. As recorded above in para 10.5, planning permission has already been granted for the connections westwards into Sutton Coldfield and conditions will be attached in respect of charging points. The Langley SUE will contain a range of services and will cater for public transport routes.
- 10.17 The potential for noise pollution here is higher than some other sites because of the A38 corridor that bounds the eastern boundary. The applicant's assessments have been considered by the Environmental Health Officer and conditions are recommended in respect of providing an updated Noise Impact Assessment and fixing maximum noise thresholds which will then determine the specifications for glazing and ventilation in the new houses closest to the A38.
- 10.18 It is noteworthy that the Birmingham Environmental Health Officers did not object to the Langley SUE planning application.

vi) Affordable Housing

- 10.19 The proposal is policy compliant in that it includes 40% on-site provision – that is 71 units. The Council's Housing Officer welcomes this additional accommodation and the house types being developed. There is no objection to the proposed tenure mix and the applicant has acknowledged the request for a review of this, during the development of the site. This would be accommodated in any Section 106 Agreement.

vii) Layout and Design

- 10.20 The site is the subject of a number of constraints on how it could be developed – there is a marked fall in level from east to west; the A38 runs along the eastern boundary, the Langley Brook forms a significant feature along the western boundary, the highway requirements in respect of access onto the Lindridge Road, together with having acceptable road gradients within the site all had to be considered in drawing up the layout. That has of necessity been one that has had to follow the contours of the land. Additionally, the proposal has had to accommodate as far as it can, the fact that the land to the south too will be developed residentially and that this is the subject of a Supplementary Planning Document adopted by the Birmingham City Council. The main objective of that SPD in respect of this proposal is to ensure connectivity to that far larger development area. This will be considered in more detail below, but at this stage it is considered that weight has been given to that SPD in the drawing up of the layout – the landscaped buffers along the eastern and western boundaries and the footpath extensions. It is considered that the response to all of these constraints is both reasonable and proportionate.
- 10.21 It is acknowledged that the number of dwellings proposed is greater than that envisaged in the Local Plan allocation - 178 as opposed to 140. The increase is a consequence of the development constraints of the site, the objective of accommodating a policy compliant provision of on-site affordable housing and responding to the infrastructure requests from the various Agencies, whilst maintaining viability. It is considered that this is a proportionate response in this situation. Moreover, the increased number need not necessarily be harmful. It is considered that the layout does not introduce any adverse impacts in respect of residential amenity, over-shadowing or lack of privacy, parking provision, circulation space or in the provision of amenity and recreational space. The design and appearance of the houses is acceptable.
- 10.22 It is acknowledged that the City Council's comments about the integration of the site into the wider setting in design and appearance terms will need to be addressed and this will be dealt with below.

11. Section 106 Issues

- 11.1 The various requests for contributions are set out in section 6 above.
- 11.2 Members are aware that there are three Statutory "tests" under the Community Infrastructure Levy Regulations for any such contributions to be acceptable and these are re-affirmed in the NPPF. The tests are that the contributions are:
- necessary to make the development acceptable in planning terms,
 - directly related to the development and
 - fairly and reasonably related in scale and kind to the development.

11.3 The three most significant requests will be looked at in turn.

a) Leisure and Recreation

11.4 Two on-site play areas are to be provided on site – one small one in the south-east corner and a larger, fully equipped one to the north. Officers are satisfied with their size, location and with the specification of the equipment to be provided as this provision would accord with the Council's newly adopted SPD. It is acknowledged that the maintenance of this provision would be dealt with by a Management Company rather than by the Council. Additionally, the general on-site open and amenity space within the proposal is welcomed, and officers are satisfied that it is compliant with the SPD. As a consequence, the value of the contribution sought is restricted to enhancements of off-site facilities.

11.5 The development will increase the Borough's resident population and that will add pressure on existing open space and overall recreation provision. As such, Local Plan Policy LP22 states that open spaces and recreational areas will be retained, protected and enhanced. New development will be expected to provide a range of new on-site provision which will also require proper maintenance. Off-site contributions may be required where developments lead to a need for new or enhanced provision. This accords with Policy LP1 which refers to new infrastructure and the use of Section 106 contributions to ensure delivery. Section 8 of the NPPF and in particular paragraph 98, also refers to open space and recreation provision. In this case the Council does have an up-to-date SPD upon which to assess potential impacts arising from new developments and this has been used to arrive at the value of the contribution set out in section 6 above. It is considered that this request meets the three "tests" set out above - convenient and appropriate on-site play and amenity space is provided for the health and wellbeing of the new residents and contributions sought to enhance provision off-site. This has been calculated using an up-to-date adopted SPD. The applicant accepts that this is the case. It is also noteworthy that there has been no request from the Birmingham City Council.

b) Health Care

11.6 The Coventry and Warwickshire Integrated Care Board has set out its request based on the impact of this development on its services. This would accord with Local Plan Policy LP21 where developments have to consider the impact on the provision of services and facilities which must be addressed. Financial contributions are referred to here and this would match the content of Local Plan Policy LP1. Again, this is supported through the content of the NPPF. This request is considered to meet the "tests" and the applicant agrees.

Again, it is noteworthy that there has been no equivalent request for similar services within Birmingham.

c) Education

- 11.7 The Warwickshire County Council has set out its request for education contributions towards schools in Warwickshire. This too would align with the approach set out in Policies LP1 and LP21. In the case of the NPPF, then the request would fall fully under the objectives of paragraph 95.
- 11.8 The County Council explains that the site is in the Coleshill School Place Planning area for both primary and secondary provision. It considers that as there is a significant level of surplus places available at Coleshill Primary School, it would not be appropriate to seek a contribution for additional primary school places. In respect of Secondary provision, there is a shortage of places at Coleshill School and so a contribution is sought. This, together with funds for SEND provision would amount to the £538,432 referred to in Section 6 above. Although the County Council is able to show sufficient supply of primary school places, ease of access is of concern. Curdworth Primary is the closest but there is not safe or easy access. The same applies for Coleshill Primary School and the Coleshill School. Although there are bus services which call at the Secondary School, these are likely to need diversion to meet the needs of the application site. An ongoing contribution for home-school transport of £450,000 is thus requested over a period of years – see Appendices I and J.
- 11.9 In this case, the City Council too has lodged a request for education contributions. The request is for £1,390,449 and is evidenced in Appendix K. This says that there are sufficient childcare places available to absorb any increased demand from the proposed development. In respect of primary education, the City is saying that there is minimal surplus capacity within the six primary schools within two miles of the site and thus a full contribution is sought. Similarly, there are four secondary schools within a three-mile distance which will exceed capacity for the 2024 entry. Whilst some expansion is ongoing the peak of forecasts is not expected until 2028/29.
- 11.10 As a consequence of the County and City Council requests, officers are currently engaged in trying to establish if there is common ground between the two Education Authorities as there is some duplication in the requests. Members will be aware that as the residential proposal lies within Warwickshire, the "home" Local Authority in respect of Education is the Warwickshire County Council. However, the site is directly adjacent to the eastern edge of Birmingham, where there are existing schools and where new Schools will be provided at some stage as approved within the Langley SUE development. The ongoing discussions revolve around the third "test" set out in paragraph 11.2 above - the final contribution agreed, should be "fair and reasonably related to the development". The outcome too should reflect Local Plan Policy LP1 which seeks "sustainable" development and Local Plan Policy H6 where one of the conditions refers to the site's development being linked to the development and delivery of the Langley SUE. The Board will be informed of the current position at the meeting.

12. Compliance with Policy H6

- 12.1 Unusually for an officer's report, the main policy consideration is being dealt with at its end rather than at the beginning. This is because conclusions from a number of the planning matters raised above need to be fed into the final assessment. In short as reported in section 10(a) above, this is, does the proposal accord with Local Plan Policy H6?
- 12.2 Paragraph 10.2 identified the three main conditions set out in that Policy. It is proposed to take conditions (ii) and (iii) first, as these are the more "technical" of the conditions and they have been addressed in the commentary above.
- 12.3 The third condition asked for a site-specific Flood Risk Assessment to be submitted. This has been done with the full engagement of the County Council as the Local Lead Flood Authority. The outcome of this is awaited and subject to there being no objection, the site can be developed without there being an adverse water management impact. The developable area of the site is all outside of Flood Zones 2 and 3.
- 12.4 The second condition is that the development takes account of the nearby Treatment Works and the A38 which bounds the eastern boundary. By way of an update, the Treatment Works now only operates as a pumping station. The policy consideration has been satisfied as there are significant corridors of open space proposed along the western boundary coinciding with the Langley Brook water course and the separation corridor of landscaping along the eastern boundary with the A38. The potential air quality and noise impacts arising from the A38 have been addressed too – just as they have been on the larger Langley SUE site.
- 12.5 It is thus considered that these two conditions have been satisfactorily addressed.
- 12.6 The first condition is the one of principle – whether the grant of an early permission here would prejudice the successful implementation of the wider SUE, because of the lack of integration and by adopting a different development design.
- 12.7 It is proposed to look first at the matter of integration. There are a number of matters to be identified here.
- 12.8 Firstly, the City Council did not object to the allocation of this land during the North Warwickshire Local Plan process in the full knowledge of its own Langley SUE allocation.
- 12.9 Secondly, the site is small in respect of the Langley SUE both in terms of area and the number of houses proposed - 178 houses as opposed to 5500 (just over 3%) and 4.3 hectares compared to 302 hectares (just over 1%). It is also a distinct geographical unit adjoining the wider site. Its development would not prejudice the wider Langley SUE development.

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- 12.10 Thirdly, it is acknowledged that the site is adjacent to the SUE and therefore that there has to be connectivity with the larger development in order that occupiers can access services, facilities and amenities within it. There are such connections – the green corridors along the Langley Brook and A38 align with the green spaces shown on the SUE's Parameter Plan and there is the recently permitted footpath connection alongside Lindridge Road connecting to the present built up area to the west and which will also provide access into the SUE via a new crossing. Additionally, the layout enables footway access to the Lindridge Road at two points. It is also of significant weight that the City Council has not objected to the vehicular access arrangements onto the application site in the full knowledge of the SUE development being along the whole of the southern boundary of the application site. This can be seen on the Parameter Plan which indicates two potential access points from the Road into the SUE. Additionally, the proposal does not restrict the provision of bus stops along the Lindridge Road.
- 12.11 Fourthly, the phasing plan of the Langley SUE as reported to the City Council in December 2022 shows that there would be two blocks of development on the south side of Lindridge Road – one in the first five years and the second in the next five. The development of the application site would be likely to take three to four years to complete and thus it should quite quickly become visually and spatially part of the wider setting. If a planning permission is granted, then it is agreed that it would stand alone for a short period of time, but this will also happen in respect of any of the other blocks in the SUE in the early phases of that wider development.
- 12.12 Fifthly, the layout for the SUE as expressed in the Parameter Plan shows a community hub at its northern end.
- 12.13 Compliance with Policy H6 requires the Board to make a planning judgement. It is considered reasonable, when all of these factors are taken into account, that there is sufficient confidence to conclude that there is compliance.
- 12.14 Turning to the "design" matter it is noteworthy that one of the SUE Parameter Plans deals with "Building Heights". The block directly opposite the application site on the other side of the Lindridge Road is shown as being "typically 2 to 2.5 storey development with the occasional three storey building." This would reflect the proposal on the application site. The officers' report to the City Council, when it considered the SUE application referred to that proposal having a range of densities between 25 and 60 houses per hectare. Moreover, it says that the "site would include substantial areas of family housing at an average density of 35 to 40 dph." The application site has a density of 40dph. There is no guidance in the SUE Parameters Plan on the final appearance or design of the housing in each of the phased blocks of development and thus each block will take on its own particular style. The main reasons for the design of the layout on the application site have been explained in para 10.19 above. The land on the other side of the Road and included in the development block here also has the same falling levels from east to west. It can be anticipated that this will have similar implications on the development of that block. In respect of the actual appearance of the houses, then it is considered that these would not be

unreasonably out of place given the eventual development of the whole of the wider setting.

- 12.15 The design and appearance of the application site may well end up being "different" to some development blocks on the SUE development, but these too can be expected to have a wide variety of design. It is considered that when all matters are taken together as a whole, there is insufficient weight to support the City Council's objection leading to a refusal reason.

13. Conclusion

13.1 This is an allocated residential site and thus there is no planning objection in principle here. The Local Plan policy governing its development outlines a number of conditions to be satisfied prior to any planning permission being granted. The main thrust of these, is to recognise that the site does not stand alone as a self-contained development because it has to have regard to the very much larger Langley development in Birmingham. It is considered that the proposal does enable both vehicular and green connectivity with that wider development such that there is integration. It would not prejudice the outcome of that wider development as set out in its approved plan because it is a small self-contained site on the edge of that larger site. It is acknowledged that the design and appearance of the proposal is site-specific, but that alone will not materially affect the design parameters set out in the approval for the wider Langley development.

13.2 This report considers that on balance the proposals do accord with these conditions and the Board is asked to make its own planning judgement against Policy H6

13.3 The Section 106 issues are still to be resolved, particularly in respect of the Education contributions.

Recommendation

A) That the Board is minded to GRANT planning permission subject to:

i) the completion of a Section 106 Agreement based on the content of Section 6 of this report, including the provision of 40% of the dwellings to be approved being affordable and delivered on site and resolution on the education contributions

ii) the conditions as set out below, and

iii) satisfactory conditions being agreed of drainage matters.

B) That should there be no agreement on the education contributions referred to, the matter is referred back to the Board for resolution.

Standard Conditions

1. Standard three-year condition

2. Standard plan numbers condition – plan numbers:

The Location plan Rev A received on 4/1/23

Plan numbers 22115 400B, 401B, 402B, 403A, 450, 4000A, 4001A, 4002A, TR001 and 100S278A all received on 8/2/23

Plan number A1031 received on 16/3/23

Plan numbers A103101J, 03G, 04G, 05E, 06E, 07E and 08E all received on 7/6/23

Plan numbers 2055013J, 02A, 03, 04, 05A, 06A and 07A all received on 13/6/23

The Archaeological Written Scheme of Investigation prepared by Oxford Archaeology dated December 2022

Pre-Commencement Conditions

3. No development shall commence on site, until an Archaeological Mitigation Strategy has first been submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the development and should be informed by the evaluation undertaken in accordance with the Written Scheme of Investigation as approved under Condition 2 above. That evaluation, the post-excavation analysis, publication of the results and archive deposition shall all be undertaken in accordance with that approved Scheme.

REASON

In order to inform and protect the archaeological interest of the site.

4. No development shall commence on site until a Construction Management Plan has first been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:

- a) the phasing of the development
- b) the means of preventing mud, debris, and waste being deposited on the public highway
- c) the means of suppressing dust
- d) an HGV routing plan
- e) details of the location of site compounds, workers car parking areas and any other storage compounds, including their migration through the phases
- f) details of the hours of construction – bearing in mind the presence of local schools
- g) details of the hours of deliveries – bearing in mind the presence of local schools
- h) details of on-site security

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i) Details of all contacts both on and off-site for the purposes of resolving complaints

The development shall proceed in accordance with the approved Plan at all times.

REASON

In order to protect the environmental amenities of the area and in the interests of highway safety.

5. No development shall commence on site until a Landscape and Ecology Management Plan ("LEMP") has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

- a) A description and evaluation of the features to be managed
- b) Ecological trends and constraints on site that might influence management
- c) aims, objectives and targets of the management regime
- d) Descriptions of the management operations for achieving the aims and objectives
- e) prescriptions for management actions
- f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period)
- g) details of the monitoring needed to measure the effectiveness of management
- h) details for each element of the monitoring programme
- i) details of the persons or organisation(s) responsible for implementation and monitoring
- j) Mechanisms of adaptive management to account for necessary changes in the work schedule to achieve required aims, objectives and targets
- k) reporting procedures for year 1, 2, 5, 10, 20 and 30 with Bio-diversity net gain reconciliation calculations at each stage.

The LEMP shall also include details of:

- l) the legal and funding mechanisms by which the long-term implementation of the LEMP will be secured by the developer and the management body(ies) responsible for its delivery
- m) how contingencies and/or remedial action will be identified, agreed and implemented in the event that monitoring under (k) above shows that the conservation aims and objectives set out in (c) above, are not being met so that the development still delivers the fully functioning bio-diversity objectives of the originally approved scheme.

REASON

5i/246

In order to enhance and deliver bio-diversity gain and ecology benefit.

6. No development shall commence on site until an Environmental Noise Assessment and Noise Mitigation Scheme has first been submitted to and approved in writing by the Local Planning Authority.

The Assessment shall include the impact of transportation noise from a combination of sources, including but not limited to the A38, the M6 and Lindridge Road. It shall include noise monitoring during typical worst-case conditions – i.e. typical traffic flows under downwind propagation conditions that are likely to have the greatest adverse effect on future occupiers.

The Mitigation Scheme should include a sound insulation and ventilation scheme which includes the specification and acoustic data sheets for glazed areas of the development and details of an acoustic ventilation scheme, if it is necessary due to the closure of windows to mitigate noise.

The scheme shall be designed to achieve the following internal noise levels:

i) 35dB LAeq 16hr in bedrooms and living rooms between the hours of 0700 and 2300

ii) 30dB LAeq 8 hr in bedrooms between 2300 and 0700 hours and

iii) 45dB LAmaxf shall not normally be exceeded more than ten times per night within bedrooms between 2300 and 0700 hours.

It shall also include a process of good acoustic design and be designed to achieve:

iv) Not more than 55dB LAeq 16hr for garden areas

The mitigation, sound insulation and ventilation scheme shall be carried out in accordance with the approved details.

REASON

In the interests of the residential amenity of occupiers and public health so as to accord with the NPPF; The Noise Policy Statement for England 2010 and Policy 29(9) of the North Warwickshire Local Plan 2021.

7. No development shall commence on site until a preliminary assessment for contaminated land has been undertaken and submitted to the Local Planning Authority. If that assessment identifies potential contamination, a further detailed investigation shall be carried out and details of remediation measures proposed to remove that contamination shall be submitted to the Local Planning Authority. Development may then only proceed on site in full accordance with any such measures as may be approved in writing by the Local Planning Authority.

REASON

5i/247

In the interests of reducing the risk of pollution and in protecting public health

8. In the event that contamination is found at any time when carrying out the development, that was not previously identified under condition 7, it must be reported immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared. Development may then only proceed in accordance with any such remedial measures as may be approved in writing by the Local Planning Authority.

REASON

In the interests of reducing the risk of pollution and in protecting public health

9. Where remediation measures have been carried out in pursuance of conditions 7 and 8, a post remediation verification report shall be submitted in writing to the Local Planning Authority containing evidence to show compliance on site with those measures.

REASON

In the interests of reducing the risk of pollution and in protecting public health

Pre-Occupation Conditions

10. There shall be no occupation of any dwelling hereby approved until the whole of the main estate access onto Lindridge Road as shown on the approved plan 103101J, the footway crossing to Springfield Road as shown on plan number 22115/4000B; and the whole of the highway works in Lindridge Road as shown on plan numbers 22115/ 401B, 402B, 403A, 450, 4000A, 4001A, 4002A, TR001 and 100S278A have all been fully completed to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety

11. There shall be no more than 149 dwellings occupied on the site until the 5 metre wide emergency link onto Lindridge Road as shown on the approved plan 103101J has been fully completed to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety

12. No individual house shall be occupied until the road/private drive and footway access from it to the approved estate access onto Lindridge Road, together with its car parking spaces and manoeuvring areas have all been substantially completed to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety

5i/248

13. No individual house shall be occupied until the visibility splays from the vehicular access to that house passing through the limits of the site, adjacent properties fronting the highway and the highway have been provided in accordance with the approved plans. These splays shall remain unobstructed at all times.

REASON

In the interests of highway safety

14.. There shall be no occupation of any dwelling hereby approved until the Local Planning Authority has verified in writing that the Mitigation Scheme as approved under Condition 6 above (including the sound insulation and ventilation scheme) has been fully implemented and is fully operational.

REASON

In the interests of the residential amenity of occupiers and public health so as to accord with the NPPF, The Noise Policy Statement for England 2010 and Policy 29(9) of the North Warwickshire Local Plan 2021.

15. There shall be no occupation of any dwelling hereby approved until the Verification Report required by Condition 9 above has been approved in writing by the Local Planning Authority.

REASON

In the interests of reducing the risk of pollution and in protecting public health

16. There shall be no occupation of each dwelling hereby approved, until it has been provided with its allotted car parking spaces as shown the approved plan; is able to access infrastructure for an Electric Vehicle charging point, has been provided with sufficient space to accommodate three 250 litre waste bins as well as for secure cycle storage.

REASON

In the interests of promoting sustainable development.

17. None of the dwellings hereby approved shall be occupied until the Local Planning Authority has:

a) approved in writing, a scheme for the provision of adequate water supplies and fire hydrants for fire-fighting purposes at the site which shall first have been submitted to the Authority, and also

b) approved in writing that the approved scheme has been satisfactorily implemented in full on the site.

REASON

5i/249

In the interests of public safety

Other Conditions

18 All junction visibility splays within the site shall be provided with visibility splays passing through the limits of the site fronting the highway measuring 2.4 by 25 metres to the near edge of the carriageway. These shall remain unobstructed at all times.

REASON

In the interests of highway safety

Notes:

a) The Local Planning Authority has met the requirements of the NPPF in this case through working with the applicant with a series of amended plans in order to overcome a number of technical matters arising from consultation responses such that positive outcome can be achieved.

b) The development requires works to be carried out in the public highway. The applicant must enter into an Agreement with the relevant Highway Authority under Section 278 of the Highways Act 1980. It should be noted that any drawings that may be approved under such an Agreement should not be construed as being approved under the Planning Acts. The applicant should ensure that the appropriate planning consent is in place prior to implementing Section 278 Works

c) The development will require an Agreement with the relevant Highway Authority under Section 38 of the Highways Act 1990. The approval of plans within this planning notice does NOT constitute an approval under Section 38. Attention is drawn to the Warwickshire Guide 2022 and the Warwickshire County Road Construction Strategy 2022 in respect of this matter.

d) In respect of Condition 17, attention is drawn to the National Guidance Document on the Provision for Fire Fighting published by the Local Government Association and Water UK.

e) The Environmental Noise Assessment under Condition 6 shall be undertaken by a competent person having regard to BS7445:2003. Where appropriate this may need to consider the impact of vibration. The external and internal noise levels referred to in the condition 6 are derived from BS8233:2014; WHO Guidelines for Community Noise 1999, WHO Night Noise Guidelines for Europe 2009 and PPG: Planning and Noise – New Residential Development 2017.

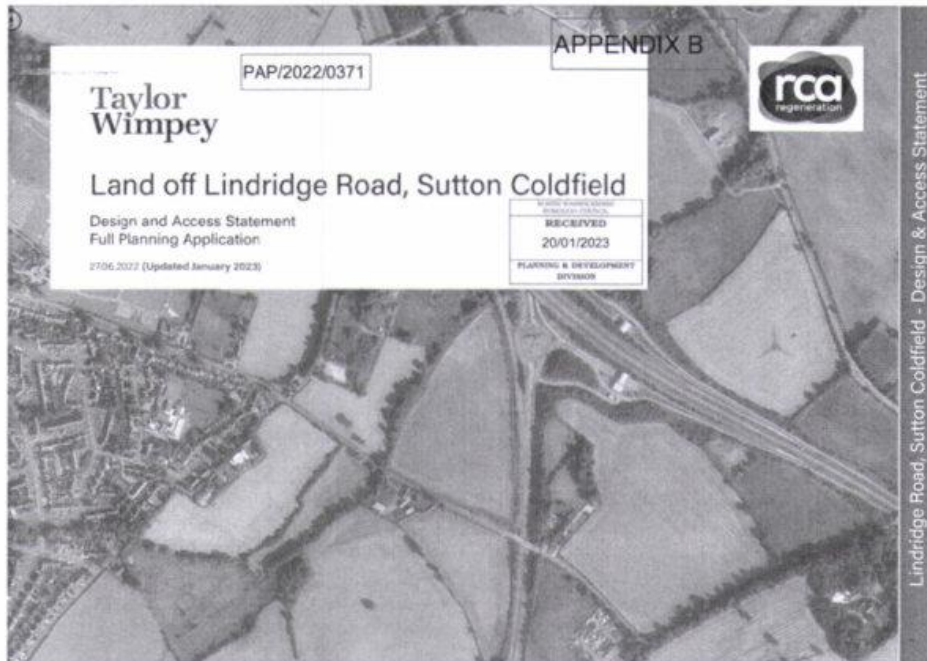
f) Verification that the approved sound insulation and ventilation scheme required under Condition 6 has been implemented shall include:

- The specification and acoustic datasheets for glazed areas of the development,
- The specification of the ventilation scheme including whether passive or mechanically assisted, and confirmation regarding the incorporation of cooling to mitigate overheating that prevents window opening

5i/250

- Photographs of the products with glazing and ventilation units in situ prior to any identifying labels being removed.
- Photographs, drawings and where applicable, product data sheets of any mitigation measures –e.g., garages or car ports or fences used as acoustic screens

g) Attention is drawn to Sections 149, 151, 163 and 278 of the Highways Act 1980, the Traffic Management Act 2004, the New Roads and Street Works Act 1991 and all relevant Codes of Practice.



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1.4 Langley Sustainable Urban Extension

Langley Sustainable Urban Extension (SUE) is allocated in the Birmingham Development Plan (Policy GAS) and will make a significant contribution to meeting the needs of the growing population of the City.

The proposed site sits on the boundary of Birmingham but lies within North Warwickshire's allocation boundary as a small bolt-on parcel. This application has been revised, with the red line now including highway improvement works along Lindridge Road, which is within Birmingham City Council's administrative area. The application has therefore been submitted to Birmingham City Council now too.

Covering 27Ha, Langley SUE is located in the north of the City adjacent to existing established residential areas, with New Hall Valley Country Park in close proximity and farmland to the east out toward the M6 toll road. The area is well connected, with access to the strategic road network on the A38 and M42, and public transport to key destinations and local train stations.

As the proposed site would form a bolt-on to the Langley North Neighbourhood the following concepts will be followed:

Design & Layout

- Design needs to take appropriate account of the undulating topography in this area.

- Strategic green corridors as key character features alongside the A38 (with noise attenuation buffer) and forming the northern section of Fox Hollen Boulevard.

- Medium density housing with higher density towards the Principal Movement Networks (PMN) and the Community Hub recycling towards strategic green spaces.

- As a new settlement edge, street hierarchy needs to connect the area to the City network, including the PMN, with good access to the Langley Centre, Community Hub and public transport stops.

- Gateways into the development from the A38 as part of the PMN.

- Walking, cycling and green infrastructure links to proposed residential development to the north of Lindridge Road (in North Warwickshire) should be explored.

Existing Features

- Ox Leys Road
- Langley Hall (listed building) and nearby heritage assets.
- Hedgerows and trees to be retained.

Connectivity

The connectivity plan below shows the Principal Movement Network and the proposed site edged in red.



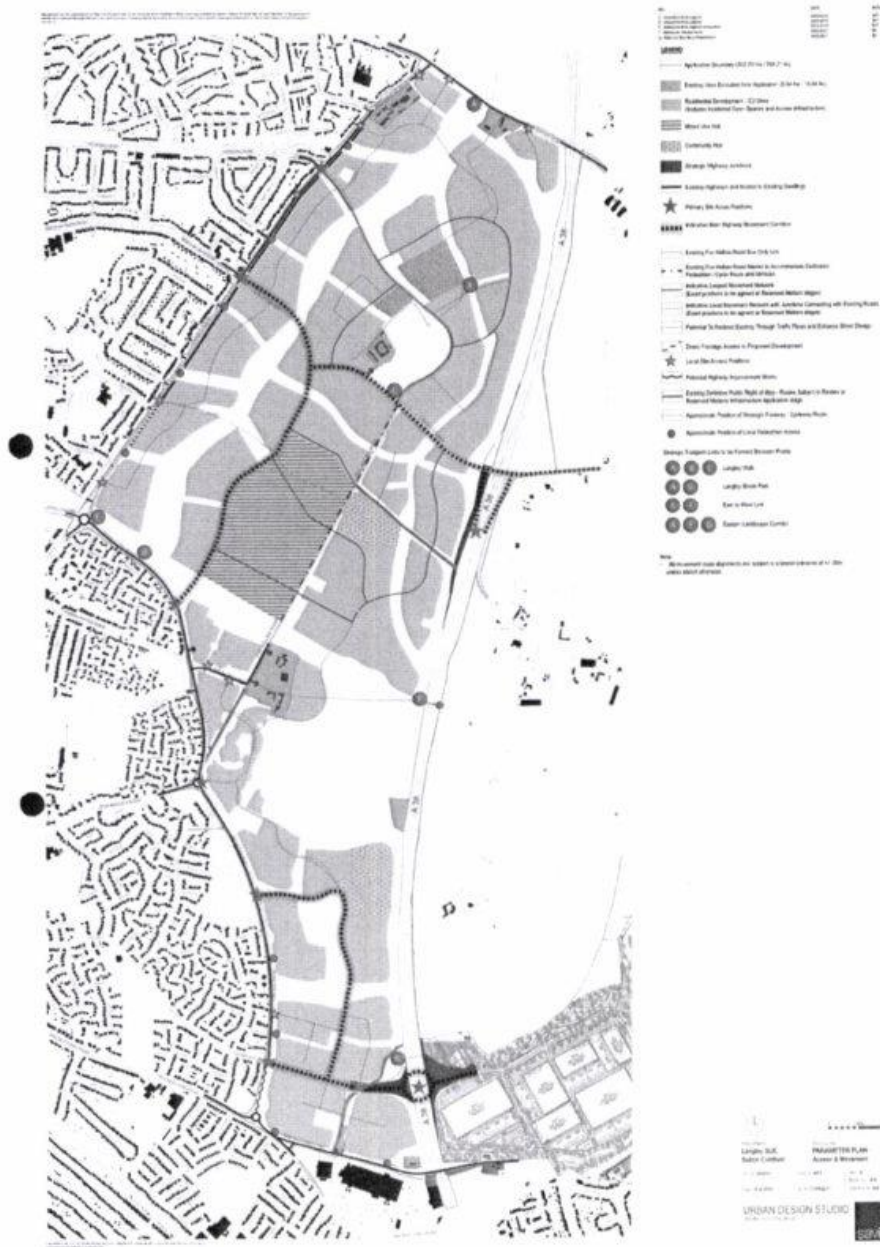
Figure 1: Langley SUE Connectivity Plan

APPENDIX D



- LEGEND**
- Legislative Boundary (2017) No. 1502 of Act
 - Existing and Proposed Street Alignment (See No. 1502 of Act)
 - Designated
 - Existing and Proposed Street Alignment
 - Street Use Not Meeting Public Health Goals
 - Community Use
 - Design Highway, Existing State
 - Design Street Intersection (Including Existing Property Features, Existing and Proposed Landmarks and Existing Features, Main thoroughways, Designated Streets, Avenue Migration Paths, Public Space Features, and Other Key Features, Including Intersections with the Proposed and Existing)
 - Street Space Main Structure Existing Property Features, Existing and Proposed Landmarks and Existing Features, Designated Streets, Avenue Migration Paths, Public Space Features, and Other Key Features, Including Intersections with the Proposed and Existing
 - Landmark Area in Association with Existing Migration Paths
 - Migration Path (Including Existing Migration Paths, Existing and Proposed Landmarks and Existing Features, Designated Streets, Avenue Migration Paths, Public Space Features, and Other Key Features)
 - Migration Path (Including Existing Migration Paths, Existing and Proposed Landmarks and Existing Features, Designated Streets, Avenue Migration Paths, Public Space Features, and Other Key Features)
 - Migration Path (Including Existing Migration Paths, Existing and Proposed Landmarks and Existing Features, Designated Streets, Avenue Migration Paths, Public Space Features, and Other Key Features)
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 - Migration Path (Including Existing Migration Paths, Existing and Proposed Landmarks and Existing Features, Designated Streets, Avenue Migration Paths, Public Space Features, and Other Key Features)
- Notes:**
- All boundaries and alignments are subject to a final review of this plan and any amendments.
 - Some boundaries and street space plans may also accommodate existing, pending or proposed agreements to be considered in National Historic Sites and/or other applications.

Legend:
 Legend 0.12
 Author: [Name]
 Date: [Date]
 Legend 0.12
 Project: [Project Name]
 Date: [Date]
URBAN DESIGN STUDIO

APPENDIX E



Indicative Phasing Strategy Years 0 - 5



Indicative Phasing Strategy Years 5 - 10



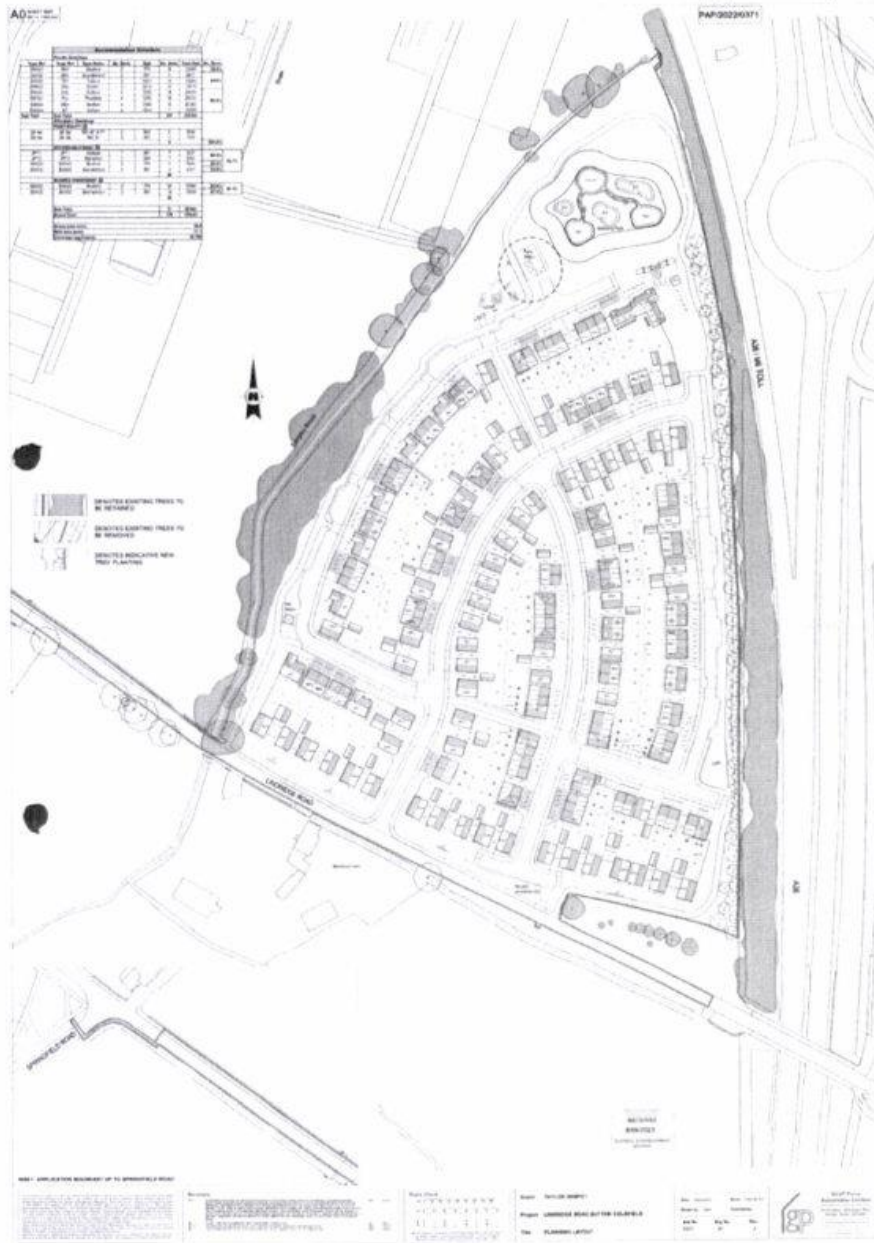
Indicative Phasing Strategy Years 10 - 15



Indicative Phasing Strategy Years 15+

- INFRASTRUCTURE**
- Established Under Construction
 - Near Under Construction
 - Complete
 - Established Construction Road
 - Local Pumping Station
 - Temporary Structure for Education Community
- DEVELOPMENT PARCEL**
- Development Parcel Complete
 - New Development Parcel - Anticipated Dwelling Number Under Construction
 - New Local Access Function Formed

Appendix F



5/1/25

VIEW 1



AERIAL



5i/258

VIEW 2



VIEW 3



5i/259

VIEW 4



VIEW 5



VIEW 6



Taylor Wimpey
gp
Planned by: GPW Property Services
Architectural Planning, Building Regulations & Survey
Department
The Surveyors, 20 Stanger Road
London, W8 6NF, W8 6NF, W8 6NF
20 Stanger Road, London, W8 6NF, W8 6NF, W8 6NF

The contents of this document have not been checked for compliance with the Building Regulations or the Building Act 1984.

Your ref: PAP/2022/0371



Communities
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www.warwickshire.gov.uk

Jeff Brown
Planning Department
North Warwickshire Borough Council
Council House
South Street
Atherstone
Warwickshire
CV9 1DE

FAO Jeff Brown

7th October 2022

Dear Jeff,

PROPOSAL: Proposed development of 178 dwellings, including access, drainage and associated infrastructure
LOCATION: Land North East Of Brockhurst Form Lindridge Road, Sutton New Hall, Birmingham
APPLICANT: RCA Regeneration Ltd
APPLICATION NO: PAP/2022/0371

Having considered the above planning application I would like to make you aware of the following requests for S106 Developer Contributions assuming all proposed dwellings are within Warwickshire:

Education

The County Council has a statutory responsibility under the Education Act 1996 to provide a school place to all of its school-age resident children. This responsibility still remains despite the recent direction of government policy towards giving schools more autonomy. As a result, all schools, including Academies and Free Schools, are considered equally in the County Council's planning of school places.

A contribution towards increased education facilities is sought when the predicted impact of a new housing development creates a shortfall in provision. This is assessed by looking at current capacity and forecast demand using birth data from the health authorities, the school census and data on parental preferences and housing numbers. Where the additional pupil numbers brought to the area may be partly accommodated, the level of contribution requested would be adjusted accordingly. The additional demand, net of any capacity that might be available, informs the request for contributions.

The current estimated contribution request for Education is **£538,432**. The level of contribution is currently estimated on an assumption 178 dwellings are relevant to be considered for education contributions, i.e. they have at least two bedrooms and have no age restrictions on residents. The contribution will be used towards education provision as follows:

- Additional Secondary provision required as a result of the development

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- Additional Primary and Secondary SEND provision required as a result of the development

Please see the attached Education Planning Statement for further detail.

Public Rights of Way

The County Council seeks a financial contribution to support the ongoing maintenance and improvements of public rights of way within a 1.5 mile radius of the site. The rights of way to be considered are M1 M3 M5-M9 M463 T1 T2 T4-T14 T17.

The requested calculation is based on the length of public rights of way within a one and half mile radius of the site and is calculated at **£4,259.21**.

A breakdown of the calculation is attached to this letter for information.

Sustainable Travel Promotion

The County Council is keen to promote sustainable travel and requests that either the developer contributes £10 per dwelling towards the cost of the provision of such information, or that they provide it under a planning condition as part of their new dwelling welcome information. Based on 178 dwellings the request will be **£1,780**.

Road Safety

A contribution of £50 per dwelling is requested to support road safety initiatives within the community associated within the development. Road safety initiatives include road safety education for schools and training/education for other vulnerable road users within the area. Based on 178 dwellings the contribution requested will be **£8,900**.

Monitoring and Administration

The County Council requires a monitoring fee for the monitoring and administration of County Council obligations, due upon signing of the agreement. Based on 178 dwellings the calculation is as follows:

£1,000 + (5 hours x £40 Officer time x Number of triggers)

A separate response will be submitted by the County Council in its capacity as Highways Authority and this will include requests for Highways mitigation as well as requirements to support the provision of off-site cycle infrastructure and public transport requirements.

I hope this request provides sufficient information to enable you to consider the planning application but please let me know if you require anything further.

Yours sincerely

Graham Palmer

Graham Palmer
Infrastructure Strategy and Commissioning Lead

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North Warwickshire Borough		Early Years/ Pre School	Primary	Secondary	Post 16	Primary SEN	Secondary/ Post 16 SEN
North East of Brookhurst Farm Lindridge Road, Sutton New Hall, Birmingham PAP/2022/0371		Education	Education	Education	Education	Education	Education
Number of eligible units	178		178	178	178	178	178
Pupil Yield per 100 dwellings	2.75		2.75	2.75	2.75	2.75	2.75
Pupil Numbers							
Number of Full Time Equivalent Year Groups Eligible 2 year olds	1		7	5	1	1.30%	2.10%
Number Of Pupils	6.85		34.27	24.48	4.80	0.53	0.62
Number Of Pupils Rounded Up or Down	7		34	24	5	1	1
Available places	0		0	0	0	0	0
Net need	7		34	24	5	1	1
Type of additional place:		Expansion	Expansion	Expansion	Expansion	Expansion	Expansion
Pupil Place Costs	£16,098	£16,098	£19,403	£19,403	£19,403	£36,381	£36,381
Cost	£0	£0	£465,670	£0	£0	£36,381	£36,381
Contribution Required For Education Sector	no	no	yes	no	no	yes	yes
							£538,432
							Capital costs: £538,432
							Total requirement: £538,432

Rights of Way Contribution Request

Application reference: PAP/2022/0371

Site name: Land North East of Brockhurst Farm, Sutton

List of Path Numbers of Public Rights of Way within a 1.5 radius of the development site:

M1 M3 M5-M9 M463 T1 T2 T4-T14 T17

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Public Rights of Way Contribution Request Calculation
Land North East of Brockhurst Farm, Sutton PAP/2022/0371

Km of RoW within catchment area:	18
Average stiles per km (based on BVPI)	1
Estimated stiles in catchment area:	18
Average gates per km (based on BVPI):	1.77
Estimated gates in catchment area:	31.86
Average percentage of gates needing improvement (based on BVPI):	7.20%
Estimated number of gates needing improvement:	2 29392
Estimated total gate installations:	20 29392
Average cost per gate:	£290.00
Estimated cost of gate installations:	£5,885.24
Average percentage of substandard surface (based on BVPI):	30%
Estimated km needing resurfacing:	5.4
Average cost per km of resurfacing:	£54,400.00
Estimated cost of resurfacing:	£293,760.00
Estimated total cost of improvements:	£299,645.24
Residents per ward in catchment:	
Curdworth	1932
Sutton	14703
Sutton (north)	13518
	0
	0
Total residents within catchment:	30153
Cost per resident:	£9.94
Contribution based on average occupancy formula:	
Number of housing units per type:	
A - 1 bed flat/house	23
B - 2 bed flat	0
C - 2 bed house	44
D - 3 bed	53
E - 4+ bed	58
Multipliers for each type (average estimate occupants):	
A	1
B	1.2
C	2
D	2.6
E	3.1
Contribution for each housing type:	
A	£228.56
B	£0.00
C	£874.50
D	£1,369.39
E	£1,786.76
Estimated total contribution:	£4,259.21

5i/266

Your ref: PAP/2022/0371 Educ
My ref: JN



Communities

Strategic Growth and Infrastructure
PO Box 43
Shire Hall
Warwick
CV34 4SX

Tel: (01926) 418646
Janetneale@warwickshire.gov.uk
www.warwickshire.gov.uk

Jeff Brown
Planning Department
North Warwickshire Borough Council
Council House
South Street
Atherstone
Warwickshire
CV9 1DE

24th May 2023

Dear Jeff,

PROPOSAL: Proposed development of 178 dwellings, including access, drainage and associated infrastructure

LOCATION: Land North East Of Brockhurst Form Lindridge Road, Sutton New Hall, Birmingham.

Further to recent discussions, and in response to the submission of a S106 Education Contribution request from Birmingham City Council, I thought it would be helpful for me to give further detail around our request for Education Contributions.

An Education Authority has a statutory responsibility under the Education Act 1996 to provide a school place to all of its school-age resident children who require one.

The development site at Lindridge Road is perhaps slightly complicated with the access to the site falling within Birmingham City Councils administrative area and the development itself falling within that of North Warwickshire Borough Council. However, the fact that the housing falls within North Warwickshire means that the home Local Authority in respect of Education is Warwickshire County Council and not Birmingham City Council.

Within Warwickshire we will seek contributions towards increased or enhanced education facilities when the predicted impact of a new housing development creates a need. This is assessed by looking at current capacity and forecast demand using birth data from the health authorities, the school census and data on parental preferences and housing numbers. Where the additional pupil numbers brought to the area may be partly accommodated, the level of contribution requested would be adjusted accordingly. The additional demand, net of any capacity that might be available, informs the request for contributions.

The application site falls within the Coleshill School Place Planning area both at primary and secondary school age.

Pupil forecasts based on the assumption that all new dwellings are relevant for education purposes, i.e. have two or more bedrooms and are not specifically aimed at older residents, and the current North Warwickshire pupil yield is shown below. However we will be happy to reassess this if necessary once final housing mix is known.

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- 7 additional preschool / early years pupils
- 34 additional primary pupils
- 24 additional secondary pupils
- 5 additional post 16 pupils
- 1 additional primary age pupil with SEND
- 1 additional secondary/post 16 age pupil with SEND.

Warwickshire County Council updates the pupil place sufficiency date annually. The most recent information was published in November 2022.

The data show that at Primary School age, the total number of places available across the schools within the planning area was 1489 which represents a Published Admission Number (PAN) of 217. It is the PAN which suggests the maximum number of school places available at the point of admission, usually Reception for Infant and Primary Schools but also Year 3 for Junior Schools.

The table below shows the level of surplus places available against the pupil forecasts across the whole primary age range and specifically at Reception.

Academic Year	22/23	23/24	24/25	25/26	26/27
Surplus Reception Places	23	32	45	30	30
Total Surplus Places	74	103	146	162	176

In view of the significant level of surplus places available within the Coleshill Primary Planning area, the County Council do not feel it would be appropriate to seek a financial contribution to support the provision of additional schools places.

The same type of data is available at Secondary School age and again the data published in November 2022 is summarised in the table below. This is based on a PAN of 225 and a total number of places available as 1295.

Academic Year	22/23	23/24	24/25	25/26	26/27
Surplus Year 7 Places	0	0	0	6	10
Total Surplus Places	15	53	45	53	62

The table above clearly shows that there is a shortage of places at Coleshill School and so the County Council will be seeking a financial contribution to support the provision of additional teaching facilities.

As with all new development where numbers warrant it, the County Council will be seeking funds to support the provision of places for children with SEND. The funds might be used to support adaptation to an existing school or to fund new places. The actual use will be determined according to the identified pupil need.

The education contribution request will remain as shown in the letter submitted by my colleague Graham Palmer in October, 2022, i.e. £465,670 for primary education and £72,762 for SEND

Although I believe Warwickshire is able to show a sufficient supply of primary school places, ease of access is an issue. The nearest school is Curdworth Primary but there is no safe walking route

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to the school and so the County Council will be seeking a contribution towards the provision of home to school transport to enable pupils to access school safely.

The Home to School transport has assumed that we would need to provide a new standalone provision, with an escort in view of the children's age, and have estimated the cost to be in the region of £50,000 per school year. We ask for a contribution towards 7 years which results in a total contribution request for £350,000 for primary home to school transport costs.

There are existing bus services which call at Coleshill School although it looks as though there would need to be a diversion to one of the existing services to meet the needs for the pupils at the application site. We would estimate that this could cost in the region of £20,000 per annum and ask for a financial contribution of in respect of 5 years, i.e. a total of £100,000 secondary home to school transport contribution.

It must be noted that parental preference plays an important part in the provision of home to school places and that give the location, parents might look for places within the Birmingham City administrative area. Local Authorities are under an obligation to comply with the wishes of a parent in expressing a preference for a particular school, unless it would prejudice the provision of education or efficient use of resources. Therefore parents have a right to express a preference for the school they want their child to attend, but do not have a right for their child to attend that particular school.

I hope this information helps clarify the position re education contributions but if you need anything further please let me know.

Yours sincerely

Janet Neale

Janet Neale
Infrastructure Planning Lead

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BIRMINGHAM CITY COUNCIL

**Section 106 Education Contribution Request to North
Warwickshire Borough Council (ref: PAP/2022/0371)**

**Land at Lindridge Road, Sutton Coldfield, Birmingham
9th May 2023**

Education Contribution Summary

In the event that the development of 155 dwellings (dwellings with more than one bedroom), including access, drainage and associated infrastructure at Lindridge Road, Sutton Coldfield, Birmingham is approved, Birmingham City Council (BCC) would expect to secure contributions¹ towards education provision as follows:

Provision Stage	No. of Children Generated	Contribution Required Towards	Contribution Amount
Early Years / Pre-School	7	None	£0
Primary School	49	Expansion of existing schools	£890,737.40
Secondary	28		£499,712.48
Total Contribution			£1,390,449.88

Please refer to Appendix 1

1. Introduction and Context

- 1.1.1. This request sets out the reasons for BCC seeking a financial contribution towards additional education provision within Sutton Coldfield.
- 1.1.2. Appendix 2 outlines BCC'S statutory education duties, the current school place planning context in Birmingham, and the key assumptions taken into account when assessing the requirement for additional school places as a result of the proposed development.
- 1.1.3. This guidance is not intended to be used to determine the specific location of education facilities to be improved but will define the area within which contributions will be invested.
- 1.1.4 The level of surplus places in the area local to any proposed development is assessed by the Pupil Place Planning Team at the time of application, in order to ascertain the level of additional education infrastructure required. A contribution will be requested if the level of surplus places in primary schools within 2 miles and/or in secondary schools within 3 miles of the proposed

¹ National benchmarking rebuild/extension figures, however 2007/08 multipliers used for Early Years provision as no further data available.

development is less than 10% based on current pupil numbers and forecasts. Less than 5% surplus would warrant a 100% contribution.

2. Requirements for Lindridge Road, Sutton Coldfield

2.1 Early Year / Pre-School

- 2.1.1. By calculation, BCC would anticipate that 155 dwellings at Lindridge Road, Sutton Coldfield would create a demand for 7 children aged 0 to 4 who are likely to require Funded Early Years / Pre-School provision. Funded Early Years / Pre-School places include all 3 to 4 years old children and those eligible for funded 2 years old places.
- 2.1.2. There is currently an undersupply of 153 Part Time Equivalent (PTE) places for the Sutton Reddicap Ward, but an oversupply in the surrounding wards as follows: 671 PTE childcare places for the 0 to 4 years old age group for the Sutton Walmley & Minworth Ward, 426 PTE places for the Sutton Trinity Ward and 385 PTE places for the Sutton Roughly Ward.
- 2.1.3. Based on the current childcare sufficiency places available local childcare providers have the capacity to absorb any increased demand from the proposed development.

2.2 Primary

- 2.2.1 By calculation, BCC would anticipate that 155 dwellings at Lindridge Road, Sutton Coldfield would create a demand for 492 primary age children who would require a place at a local primary school.
- 2.2.2 Primary age includes children across the 4 to 11 age range, across Reception to Year 6, it is assumed for the purpose of the calculation that there would be an even split across all 7-year groups.
- 2.2.3 There are currently 6 primary schools within a two-mile distance of this site, as indicated by the map attached. These schools are part of planning area 5 (with the exception of Deanery CE in neighbouring P6), with information as follows:

Academic Year	Total Capacity R-Y6	Total No. of Children Forecast R-Y6	Available Capacity (5% target)
2022/23	2235	2224	0.5%
2023/24	2280	2207	3.2%
2024/25	2265	2209	2.5%
2025/26	2250	2162	3.9%
2026/27	2235	2157	3.5%

Table 1: Current forecast for primary planning area P5 (October 2022 update)

² Pupil yield based on dwellings with two or more bedrooms.

2.2.4 As Table 1 illustrates, primary schools in the area are forecast to have a minimal surplus capacity. We therefore request the full education contribution.

2.3 Secondary

2.3.1 By calculation, BCC would anticipate that 155 dwellings at Lindridge Road, Sutton Coldfield would create a demand for 28³ primary age children who would require a place at a local primary school.

2.3.2 Secondary age includes children across the 11 to 16 age range, across Year 7 to Year 11, it is assumed for the purpose of the calculation that there would be an even split across all five-year groups.

2.3.3 There are currently 4 secondary schools within a three-mile distance of this site, as indicated by the map attached. These schools are part of planning area 1, with information as follows:

Academic Year	Total Capacity Y7-11	Total No. of Children Forecast Y7-11	Available Capacity (5% target)
2022/23	8518	8417	1%
2023/24	8606	8583	0%
2024/25	8543	8685	-2%
2025/26	8490	8875	-5%
2026/27	8442	8987	-6%

Table 2: Current forecast for secondary planning area S1 (July 2022)

2.3.4 As Table 2 illustrates, secondary schools in the area are forecast to exceed capacity for 2024 entry, resulting in pupils potentially being displaced to other planning areas. An ongoing expansion programme is underway to meet demand including new free schools to meet demand from neighbouring Langley SUE development. The peak of forecasts is not expected until 2028/29 in this area.

2.3.5 Given approximately 72% of pupils attending school in Sutton Coldfield transfer to sixth form provision in Sutton Coldfield, we estimate sixth form pupils to be generated from this development. We will consider the availability of places within existing schools.

³ Pupil yield based on dwellings with two or more bedrooms.

APPENDIX 1 – Capital Contribution for New School Places

The per pupil contribution to support the expansion of existing schools to provide additional places in Birmingham for the period 2022-23 is as follows:

Pre-school/Early Years:	£3,335 per place
Primary:	£18,832 per place
Secondary:	£18,625 per place

These are the per pupil amounts that BCC will require as developer contributions towards the cost of providing new places in an existing school.

APPENDIX 2 – Education Sufficiency Duties**1. Education Sufficiency Duty**

- 1.1. As the Local Authority for Birmingham, BCC has a statutory responsibility under the Education Act 1996 to provide a school place to all of its school-age resident children and to also provide places in nursery provision.
- 1.2. In order to use resources in the most efficient and cost-effective way, the balance between the supply and demand of school places must be monitored. Any imbalances should also be addressed to ensure the most cost-effective sufficiency of provision.
- 1.3. BCC takes the view that the extent to at any one time up to 5% surplus places should be available across the city to cater for pupil mobility, for diversity and flexibility in the system and for parental preference.
- 1.4. Education plays an important role in the regeneration of local communities. The enhancement of education facilities in areas of regeneration is expected to be supported by developer contributions in addition to other resources.
- 1.5. Schools are at the heart of local communities and the improvement of education facilities will help ensure that all communities have access to high quality local learning environments.
- 1.6. The annual School Capacity submission to the Department for Education, submitted in July 2022, presented the current and projected pressures on school places as a result of a changes in birth rates and increased cohort growth as a result of movement into the city within the academic year. Real pressure is being experienced across a number of year groups, especially in the secondary sector.
- 1.7. All housing developments that have reached Outline or Detailed Planning Permission or are under Construction are included within annual school place projections. It is clear that new housing developments will impact on the provision of school places, and it is essential that these are factored in when new developments arise.
- 1.8. At a more local level, there are some significant differences to the general patterns of growth across the city. An overall decrease in pupil numbers does not affect all schools equally: some will remain full whilst others will have a disproportionate reduction in numbers.
- 1.9. This responsibility still remains despite the recent direction of government policy towards giving schools more autonomy. As a result, all schools, including Academies and Free Schools, are considered equal in BCC's planning of school places. The consequences of the Local Authority not meeting this duty are serious and would involve considerable financial costs as explained below:
 - o Parents can exercise their right to complain to the Local Authority.
 - o Where it is considered that the City Council is in breach of its legal duty to secure sufficient school places, affected persons (e.g., parents) could pursue Judicial Review proceedings in the High Court. Apart from the cost implications of the Court ordering the Authority to comply with their statutory duty under section 14 of the Education Act 1996 to provide sufficient school places, the Authority would normally have to pay the

- o legal costs of the parents as well as its own legal costs.
 - o Parents can appeal to Independent Admission Appeal Panels if the admissions authority refuses a child admission to a school. If the shortage of places leads to Independent Appeal Panels upholding more appeals, this could lead to already oversubscribed schools having to admit even more pupils. If Panels uphold infant class size appeals, the admission authority will normally be required to take measures for the following term to ensure that the class falls within the infant class size limit, for example, by providing a new teacher or a new classroom. The potential cost implications could be significant.
- 1.10. Even when a place can be found, if it is not close enough to home - i.e. within a 2 mile walk for primary-age pupils and within a 3 mile walk for secondary age pupils - the Local Authority is liable for the cost of transporting the child to and from school each day for the length of time they are at the school.

2. General School Place Planning Context

- 2.1 Birmingham's school age population has been changing significantly over the past few years as a result of demographic change and government policy.
- 2.2 In the primary sector, pupil numbers have been increasing and a citywide expansion programme to provide Additional Primary Places has been underway since 2010. Following a recent decline in birth rates, some areas of the city are seeing surplus places leading to the need for the removal of places to secure school viability.
- 2.3 In the secondary sector, the Additional Secondary Places expansion programme has been underway since 2014 and the total number of pupils is forecast to reach its peak (September 2023) following the transfer of larger cohorts from the primary sector, however some areas are expected to see ongoing high demand for the next 5 years. The current capacity in the vast majority of secondary schools will be absorbed.
- 2.4 The number of pupils accessing post-16 provision will be influenced by the demographic changes outlined above. However, a further consideration is the legislation around Raising the Participation Age, which requires all 17- and 18-year-olds to continue in education or training. With this in mind Post-16 provision includes Sixth forms, Further Education Colleges and Post-16 SEND provision.
- 2.5 All 3- and 4-year-olds are entitled to up to 570 hours of free early education per year. This is often taken as 15 hours per week over 38 weeks of the year. Some 2-year-olds are also entitled to this offer if parents are receiving some form of Government support. From September 2017, the Government increased entitlement for 3 to 4 years from 15 to 30 hours per week for working parents. Under the Childcare Act 2006, the LA has a statutory duty to secure sufficient childcare and free Early Years provision for eligible young children. Therefore, further investment and growth will be needed to absorb the impact of any new housing. Capital investment will be considered in a number of different

types of provider including private and voluntary nurseries (whether located on a school site or not), primary schools with nursery provision, and maintained nursery schools. All providers must have a track record with Ofsted and are required to enter a legal agreement ensuring any funds are utilised as agreed and that funds can be clawed back by the local authority if the provision is removed or discontinued after a certain period of time.

- 2.6 In line with BCC's SEND Strategy (due for publication 2023), there will continue to be a need to increase the level of SEND provision in the city, with additional places at special schools via expansion, new special free schools and the development of resourced bases within mainstream schools. The recent demographic changes have also affected Special School numbers, which have increased significantly over the last decade. There is significant pressure on special schools with increasing numbers of complex pupils.

3. Requirements for Contributions

To inform the preparation of this guidance, BCC's School Organisation Team collated relevant information relating to the policies adopted by a number of Local Authorities within the UK.

- 3.1 All new residential developments will have an impact on existing educational facilities in Birmingham in terms of the pressure on school places. However, this impact varies across the range of residential developments, and this is reflected in the detail below.
- 3.2 In terms of qualifying developments, for practical reasons, it is appropriate to set a minimum threshold for contributions. BCC currently takes the view that the appropriate threshold should be set at 20 dwellings.
- 3.3 In cases where the size of the development is so large that a new school might be required to accommodate the pupils brought to the area by the development, BCC will consider whether it is appropriate to request that the developer provide a new school site and building within the development.
- 3.4 The scale of the contribution requested will be appropriate to the size and type of development. No contribution will be sought for dwellings with only one bedroom.
- 3.5 All residential development proposals will be assessed in terms of the pupil yield anticipated for each of the key Education sectors to cover the provision of statutory education between ages of 2 – 18.
- 3.6 Forecasting of special school place requirements is particularly challenging due to changing patterns of demand across the population of young people with complex needs. It is however estimated that approximately 2.4% of the population will require special needs education and this carries need for a higher investment.
- 3.7 The scale of the contribution will be the same in all parts of the city, although the amount payable will be based on the availability of places.

- 3.8 The scale of the contributions in this document is based on the cost of providing a school place developed by the Department for Education (DfE) with an adjustment for regional factors.
- 3.9 The methodology used for the calculation of contributions reflects the number of children for whom access to education facilities may be required as a result of the development and is adjusted to take account of the size and type of dwellings involved and the associated impact on pupil yield.
- 3.10 Where a proposal includes the demolition of dwellings, no account will be taken of these in the calculation of a contribution unless it can be demonstrated that displaced pupils will free up places in the local area. In general, such properties have been vacant for some time before demolition and school places have been found for any displaced children.
- 3.11 In the case of large-scale regeneration schemes, the impact of associated clearance programmes will be considered.
- 3.12 Construction costs change over time and will be revised as soon as possible following the release of updated cost information by the DfE.
- 3.13 Information about pupil numbers will be updated termly following the School Census data collection and pupil numbers forecasting exercise, in December (October census), March (January census) and July (May census).
- 3.14 The contributions required by this policy are independent of any other contribution towards the provision of other local facilities.

4. How Contributions will be used

- 4.1 All contributions will be used to augment education provision locally, but the specific use of contributions may vary from area to area in order to take account of local needs, investment priorities and other planned improvements.
- 4.2 All contributions will be used in the nursery, primary and secondary sector (mainstream and Special), as assessed.
- 4.3 BCC will spend contributions as soon as reasonably practicable after receipt and remaining budgets will be reported on as part of annual School Capacity returns to the DfE.
- 4.4 Where a contribution is sought, the element relating to nursery, primary and secondary sectors will be specified. Contributions will be invested to improve the facilities at schools in the relevant sector within a specified distance from the development. This will be within two miles up until the age of 7 and three miles thereafter (Education and Inspection Act 1996).
- 4.5 Funding may be 'pooled' in order to secure the maximum possible benefit from investment and cost efficiencies for education projects. 'Pooled' funding will apply to developer contributions and also other funding streams as appropriate. Although this may result in some delay before contributions are invested, it will secure more significant improvements to education facilities than would otherwise have been possible.

- 4.6 Government policy regarding planning obligations requires that contributions be fairly and reasonably related in scale and kind to the proposed development. To ensure that this occurs, records will be kept providing a clear audit trail between developments, contributions and investment.

Key Place Planning Assumptions

Due to the importance of providing sufficient school places, the local authority is required to plan strategically as far in advance as possible. The existence of capacity at a particular point in time does not mean that it will still be available for the duration of the planning period. For example, where there is an increasing birth rate, schools will fill from the youngest year groups up and through the school. Any current capacity in older year groups will clearly be required to accommodate pupils from younger year groups as they progress through the school. It would therefore be unreasonable to assume that any current capacity in older year groups could be used to mitigate the impact of a housing development.

The LA has a statutory duty to meet parental preference wherever possible under Section 86(2) of the School Standards and Framework Act (1998). There is complex pattern of movement to schools across the city's planning areas, as oversubscription criteria is deployed to support families to have priority access to schools through sibling, LAC and proximity to school site.

If places are available at a school at the time of an application to that school, then the admission authority for the school may not refuse to offer a place regardless of where the children live. Once those children have been admitted, they may not be removed from the school.

Families moving to a new development may find that places have been taken by children from further afield. There is no mechanism available (or desirable) to move children attending a school but living outside of the area back to their local school. It is therefore important to consider the sufficiency of provision within a reasonable area rather than a single school unless there are no reasonable alternatives.

5. Monitoring and Review

Birmingham City Council will monitor the implementation of this policy and regularly review the need to revise it.

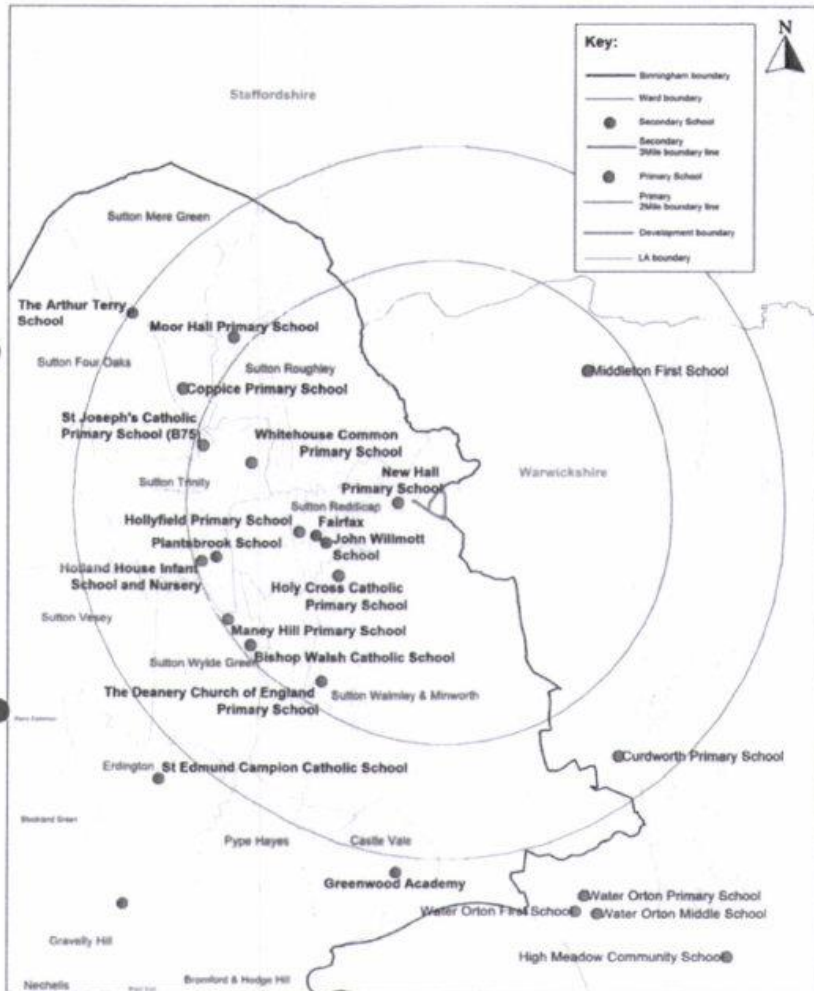
A contribution towards increased education facilities is sought when the predicted impact of a new housing development creates a shortfall in provision.

This is assessed by looking at current capacity and forecast demand using birth data from the health authorities, the school census and data on parental

preference and housing numbers. Where the additional pupil numbers brought to the area may be partly accommodated, the level of contribution required would be adjusted accordingly. The additional demand, net of any capacity that might be available, informs the requirement for contributions.

The target for Birmingham is for the supply of places to exceed demand by within 5% with as even a spread across the city as possible. This allows for flexibility in the system to meet parental preference, enable in-year transfers and help families moving to an area find a place for each of their children at the same school. Maintaining this level of surplus will also be considered when looking at current capacity and the impact of housing development in an area.

Mainstream Secondary within 3 miles
and Primary Schools within 2 miles
of Lindridge Road development



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Appendix B

Your ref: PAP/2022/0371 Educ 2
My ref: JN



Communities

Strategic Growth and Infrastructure
PO Box 43
Shire Hall
Warwick
CV34 4SX

Tel: (01926) 418646

Janetneale@warwickshire.gov.uk
www.warwickshire.gov.uk

Jeff Brown
Planning Department
North Warwickshire Borough Council
Council House
South Street
Atherstone
Warwickshire
CV9 1DE

21st July 2023

Dear Jeff,

PROPOSAL: Proposed development of 178 dwellings, including access, drainage and associated infrastructure

LOCATION: Land North East Of Brockhurst Farm Lindridge Road, Sutton New Hall, Birmingham.

Further to recent discussions with Birmingham City Council, I thought it would be helpful for me to give an updated request in respect of Education Contributions. The detail within this letter is largely the same as my letter from May, but I have made additional comments in respect of primary education provision.

An Education Authority has a statutory responsibility under the Education Act 1996 to provide a school place to all of its school-age resident children who require one.

The development site at Lindridge Road is perhaps slightly complicated with the access to the site falling within Birmingham City Councils administrative area and the development itself falling within that of North Warwickshire Borough Council. However, the fact that the housing falls within North Warwickshire means that the home Local Authority in respect of Education is Warwickshire County Council and not Birmingham City Council.

Within Warwickshire we will seek contributions towards increased or enhanced education facilities when the predicted impact of a new housing development creates a need. This is assessed by looking at current capacity and forecast demand using birth data from the health authorities, the school census and data on parental preferences and housing numbers. Where the additional pupil numbers brought to the area may be partly accommodated, the level of contribution requested would be adjusted accordingly. The additional demand, net of any capacity that might be available, informs the request for contributions.

The application site falls within the Coleshill School Place Planning area both at primary and secondary school age.

Pupil forecasts based on the assumption that all new dwellings are relevant for education purposes, i.e. have two or more bedrooms and are not specifically aimed at older residents, and the current North Warwickshire pupil yield is shown below. However we will be happy to reassess this if necessary once final housing mix is known.

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- 7 additional preschool / early years pupils
- 34 additional primary pupils
- 24 additional secondary pupils
- 5 additional post 16 pupils
- 1 additional primary age pupil with SEND
- 1 additional secondary/post 16 age pupil with SEND.

Warwickshire County Council updates the pupil place sufficiency data annually. The most recent information was published in November 2022.

The data show that at Primary School age, the total number of places available across the schools within the planning area was 1489 which represents a Published Admission Number (PAN) of 217. It is the PAN which suggests the maximum number of school places available at the point of admission, usually Reception for Infant and Primary Schools but also Year 3 for Junior Schools.

The table below shows the level of surplus places available against the pupil forecasts across the whole primary age range and specifically at Reception.

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Surplus Reception Places	23	32	45	30	30
Total Surplus Places	74	103	146	162	176

In view of the significant level of surplus places available within the Coleshill Primary Planning area, the County Council do not feel it would be appropriate to seek a financial contribution to support the provision of additional schools places.

The same type of data is available at Secondary School age and again the data published in November 2022 is summarised in the table below. This is based on a PAN of 225 and a total number of places available as 1295.

Academic Year	22/23	23/24	24/25	25/26	26/27
Surplus Year 7 Places	0	0	0	6	10
Total Surplus Places	15	53	45	53	62

The table above clearly shows that there is a shortage of places at Coleshill School and so the County Council will be seeking a financial contribution to support the provision of additional teaching facilities.

As with all new development where numbers warrant it, the County Council will be seeking funds to support the provision of places for children with SEND. The funds might be used to support adaptation to an existing school or to fund new places. The actual use will be determined according to the identified pupil need.

Primary Education

Although Warwickshire is able to show a sufficient supply of primary school places, ease of access is an issue. The nearest school is Curdworth Primary but there is no safe walking route to the school and so the County Council recognises that in reality, parents are likely to look to secure

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places for their children at one of a number of primary schools within the Birmingham City Council area. As such, we will not challenge any request made by Birmingham in respect of primary school places. However, I would ask that if the Borough Council does agree to a financial contribution request in respect of Birmingham City Council, that the S106 shows that the obligation is to the Borough Council rather than the County Council.

Secondary Education

Warwickshire will require a financial contribution in respect of secondary school places. Based on 178 new homes the amount requested will be **£465,670**.

There are existing bus services which call at Coleshill School although it looks as though there would need to be a diversion to one of the existing services to meet the needs for the pupils at the application site. We would estimate that this could cost in the region of £20,000 per annum and ask for a financial contribution for 5 years, i.e. a total of **£100,000** secondary home to school transport contribution.

Special Education Needs and Disabilities

As with all new developments, we apply a percentage formula to assess the likely number of new pupils presenting with some form of special educational need or who have a disability.

For a development of the size proposed we estimate that there are likely to be 2 pupils across the entire school age range. This will mean that Warwickshire will be looking for a financial contribution of **£72,762** in respect of SEND

It must be noted that parental preference plays an important part in the provision of home to school places and that give the location, parents might look for places within the Birmingham City administrative area. Local Authorities are under an obligation to comply with the wishes of a parent in expressing a preference for a particular school, unless it would prejudice the provision of education or efficient use of resources, Therefore parents have a right to express a preference for the school they want their child to attend, but do not have a right for their child to attend that particular school.

I hope this information helps clarify the position re education contributions but if you need anything further please let me know.

Yours sincerely

Janet Neale

Janet Neale
Infrastructure Planning Lead

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BIRMINGHAM CITY COUNCIL
**Section 106 Education Contribution Request to North
 Warwickshire Borough Council (ref: PAP/2022/0371)**
**Land at Lindridge Road, Sutton Coldfield, Birmingham
 Revised – 24th July 2023**
Education Contribution Summary

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- 1.1.4 The level of surplus places in the area local to any proposed development is assessed by the Pupil Place Planning Team at the time of application, in order to ascertain the level of additional education infrastructure required. A contribution will be requested if the level of surplus places in primary schools

¹ National benchmarking rebuild/extension figures, however 2007/08 multipliers used for Early Years provision as no further data available.

within 2 miles and/or in secondary schools within 3 miles of the proposed development is less than 10% based on current pupil numbers and forecasts. Less than 5% surplus would warrant a 100% contribution.

2. Requirements for Lindridge Road, Sutton Coldfield

2.1 Early Year / Pre-School

- 2.1.1. By calculation, BCC would anticipate that 155 dwellings at Lindridge Road, Sutton Coldfield would create a demand for 7 children aged 0 to 4 who are likely to require Funded Early Years / Pre-School provision. Funded Early Years / Pre-School places include all 3 to 4 years old children and those eligible for funded 2 years old places.
- 2.1.2. There is currently an undersupply of 153 Part Time Equivalent (PTE) places for the Sutton Reddicap Ward, but an oversupply in the surrounding wards as follows: 671 PTE childcare places for the 0 to 4 years old age group for the Sutton Walmley & Minworth Ward, 426 PTE places for the Sutton Trinity Ward and 385 PTE places for the Sutton Roughly Ward.
- 2.1.3. Based on the current childcare sufficiency places available local childcare providers have the capacity to absorb any increased demand from the proposed development, and therefore do not request an Early Years contribution.

2.2 Primary

- 2.2.1 By calculation, BCC would anticipate that 155 dwellings at Lindridge Road, Sutton Coldfield would create a demand for 49 primary age children who would require a place at a local primary school.
- 2.2.2 Primary age includes children across the 4 to 11 age range, across Reception to Year 6, it is assumed for the purpose of the calculation that there would be an even split across all 7-year groups.
- 2.2.3 There are currently 6 primary schools within a two-mile distance of this site, as indicated by the map attached. These schools are part of planning area 5 (with the exception of Deanery CE in neighbouring P6), with information as follows:

Academic Year	Total Capacity R-Y6	Total No. of Children Forecast R-Y6	Available Capacity (5% target)
2022/23	2235	2224	0.5%
2023/24	2280	2207	3.2%
2024/25	2265	2209	2.5%
2025/26	2250	2162	3.9%
2026/27	2235	2157	3.5%

Table 1: Current forecast for primary planning area P5 (October 2022 update)

2.2.4 As Table 1 illustrates, primary schools in the area are forecast to have a minimal surplus capacity. It is unlikely that families will access primary provision within the Warwickshire area due to the proximity. We therefore request the full education contribution.

2.3 Secondary

2.3.1 By calculation, BCC would anticipate that 155 dwellings at Lindridge Road, Sutton Coldfield would create a demand for 28² primary age children who would require a place at a local secondary school.

2.3.2 Secondary age includes children across the 11 to 16 age range, across Year 7 to Year 11, it is assumed for the purpose of the calculation that there would be an even split across all five-year groups.

2.3.3 There are currently 4 secondary schools within a three-mile distance of this site, as indicated by the map attached. These schools are part of planning area 1, with information as follows:

Academic Year	Total Capacity Y7-11	Total No. of Children Forecast Y7-11	Available Capacity (5% target)
2022/23	8518	8417	1%
2023/24	8606	8583	0%
2024/25	8543	8685	-2%
2025/26	8490	8875	-5%
2026/27	8442	8987	-6%

Table 2: Current forecast for secondary planning area S1 (July 2022)

2.3.4 As Table 2 illustrates, secondary schools in the area are forecast to exceed capacity for 2024 entry, resulting in pupils potentially being displaced to other planning areas. An ongoing expansion programme is underway to meet demand including new free schools to meet demand from neighbouring Langley SUE development. The peak of forecasts is not expected until 2028/29 in this area.

2.3.5 Whilst we forecast a need, we are understanding of the intention to provide the additional secondary places within the Warwickshire area through the extension of existing bus routes. On this basis and in support of the project, we therefore do not request a secondary contribution.

2.3.6 Given approximately 72% of pupils attending school in Sutton Coldfield transfer to sixth form provision in Sutton Coldfield, we estimate sixth form pupils to be generated from this development. We will consider the availability of places within existing schools.

² Pupil yield based on dwellings with two or more bedrooms.

APPENDIX 1 – Capital Contribution for New School Places

The per pupil contribution to support the expansion of existing schools to provide additional places in Birmingham for the period 2022-23 is as follows:

Pre-school/Early Years:	£3,335 per place
Primary:	£18,832 per place
Secondary:	£18,625 per place

These are the per pupil amounts that BCC will require as developer contributions towards the cost of providing new places in an existing school.

APPENDIX 2 – Education Sufficiency Duties

1. Education Sufficiency Duty

- 1.1. As the Local Authority for Birmingham, BCC has a statutory responsibility under the Education Act 1996 to provide a school place to all of its school-age resident children and to also provide places in nursery provision.
- 1.2. In order to use resources in the most efficient and cost-effective way, the balance between the supply and demand of school places must be monitored. Any imbalances should also be addressed to ensure the most cost-effective sufficiency of provision.
- 1.3. BCC takes the view that the extent to at any one time up to 5% surplus places should be available across the city to cater for pupil mobility, for diversity and flexibility in the system and for parental preference.
- 1.4. Education plays an important role in the regeneration of local communities. The enhancement of education facilities in areas of regeneration is expected to be supported by developer contributions in addition to other resources.
- 1.5. Schools are at the heart of local communities and the improvement of education facilities will help ensure that all communities have access to high quality local learning environments.
- 1.6. The annual School Capacity submission to the Department for Education, submitted in July 2022, presented the current and projected pressures on school places as a result of a changes in birth rates and increased cohort growth as a result of movement into the city within the academic year. Real pressure is being experienced across a number of year groups, especially in the secondary sector.
- 1.7. All housing developments that have reached Outline or Detailed Planning Permission or are under Construction are included within annual school place projections. It is clear that new housing developments will impact on the provision of school places, and it is essential that these are factored in when new developments arise.
- 1.8. At a more local level, there are some significant differences to the general patterns of growth across the city. An overall decrease in pupil numbers does not affect all schools equally: some will remain full whilst others will have a disproportionate reduction in numbers.
- 1.9. This responsibility still remains despite the recent direction of government policy towards giving schools more autonomy. As a result, all schools, including Academies and Free Schools, are considered equal in BCC's planning of school places. The consequences of the Local Authority not meeting this duty are serious and would involve considerable financial costs as explained below:
 - Parents can exercise their right to complain to the Local Authority.
 - Where it is considered that the City Council is in breach of its legal duty to secure sufficient school places, affected persons (e.g., parents) could pursue Judicial Review proceedings in the High Court. Apart from the cost implications of the Court ordering the Authority to comply with their statutory duty under section 14 of the Education Act 1996 to provide sufficient school places, the Authority would normally have to pay the

- o legal costs of the parents as well as its own legal costs.
 - o Parents can appeal to Independent Admission Appeal Panels if the admissions authority refuses a child admission to a school. If the shortage of places leads to Independent Appeal Panels upholding more appeals, this could lead to already oversubscribed schools having to admit even more pupils. If Panels uphold infant class size appeals, the admission authority will normally be required to take measures for the following term to ensure that the class falls within the infant class size limit, for example, by providing a new teacher or a new classroom. The potential cost implications could be significant.
- 1.10. Even when a place can be found, if it is not close enough to home - i.e. within a 2 mile walk for primary-age pupils and within a 3 mile walk for secondary age pupils - the Local Authority is liable for the cost of transporting the child to and from school each day for the length of time they are at the school.

2. General School Place Planning Context

- 2.1 Birmingham's school age population has been changing significantly over the past few years as a result of demographic change and government policy.
- 2.2 In the primary sector, pupil numbers have been increasing and a citywide expansion programme to provide Additional Primary Places has been underway since 2010. Following a recent decline in birth rates, some areas of the city are seeing surplus places leading to the need for the removal of places to secure school viability.
- 2.3 In the secondary sector, the Additional Secondary Places expansion programme has been underway since 2014 and the total number of pupils is forecast to reach its peak (September 2023) following the transfer of larger cohorts from the primary sector, however some areas are expected to see ongoing high demand for the next 5 years. The current capacity in the vast majority of secondary schools will be absorbed.
- 2.4 The number of pupils accessing post-16 provision will be influenced by the demographic changes outlined above. However, a further consideration is the legislation around Raising the Participation Age, which requires all 17- and 18-year-olds to continue in education or training. With this in mind Post-16 provision includes Sixth forms, Further Education Colleges and Post- 16 SEND provision.
- 2.5 All 3- and 4-year-olds are entitled to up to 570 hours of free early education per year. This is often taken as 15 hours per week over 38 weeks of the year. Some 2-year-olds are also entitled to this offer if parents are receiving some form of Government support. From September 2017, the Government increased entitlement for 3 to 4 years from 15 to 30 hours per week for working parents. Under the Childcare Act 2006, the LA has a statutory duty to secure sufficient childcare and free Early Years provision for eligible young children. Therefore, further investment and growth will be needed to absorb the impact of any new housing. Capital investment will be considered in a number of different

types of provider including private and voluntary nurseries (whether located on a school site or not), primary schools with nursery provision, and maintained nursery schools. All providers must have a track record with Ofsted and are required to enter a legal agreement ensuring any funds are utilised as agreed and that funds can be clawed back by the local authority if the provision is removed or discontinued after a certain period of time.

- 2.6 In line with BCC's SEND Strategy (due for publication 2023), there will continue to be a need to increase the level of SEND provision in the city, with additional places at special schools via expansion, new special free schools and the development of resourced bases within mainstream schools. The recent demographic changes have also affected Special School numbers, which have increased significantly over the last decade. There is significant pressure on special schools with increasing numbers of complex pupils.

3. Requirements for Contributions

To inform the preparation of this guidance, BCC's School Organisation Team collated relevant information relating to the policies adopted by a number of Local Authorities within the UK.

- 3.1 All new residential developments will have an impact on existing educational facilities in Birmingham in terms of the pressure on school places. However, this impact varies across the range of residential developments, and this is reflected in the detail below.
- 3.2 In terms of qualifying developments, for practical reasons, it is appropriate to set a minimum threshold for contributions. BCC currently takes the view that the appropriate threshold should be set at 20 dwellings.
- 3.3 In cases where the size of the development is so large that a new school might be required to accommodate the pupils brought to the area by the development, BCC will consider whether it is appropriate to request that the developer provide a new school site and building within the development.
- 3.4 The scale of the contribution requested will be appropriate to the size and type of development. No contribution will be sought for dwellings with only one bedroom.
- 3.5 All residential development proposals will be assessed in terms of the pupil yield anticipated for each of the key Education sectors to cover the provision of statutory education between ages of 2 – 18₂.
- 3.6 Forecasting of special school place requirements is particularly challenging due to changing patterns of demand across the population of young people with complex needs. It is however estimated that approximately 2.4% of the population will require special needs education and this carries need for a higher investment.
- 3.7 The scale of the contribution will be the same in all parts of the city, although the amount payable will be based on the availability of places.

- 3.8 The scale of the contributions in this document is based on the cost of providing a school place developed by the Department for Education (DfE) with an adjustment for regional factors.
- 3.9 The methodology used for the calculation of contributions reflects the number of children for whom access to education facilities may be required as a result of the development and is adjusted to take account of the size and type of dwellings involved and the associated impact on pupil yield.
- 3.10 Where a proposal includes the demolition of dwellings, no account will be taken of these in the calculation of a contribution unless it can be demonstrated that displaced pupils will free up places in the local area. In general, such properties have been vacant for some time before demolition and school places have been found for any displaced children.
- 3.11 In the case of large-scale regeneration schemes, the impact of associated clearance programmes will be considered.
- 3.12 Construction costs change over time and will be revised as soon as possible following the release of updated cost information by the DfE.
- 3.13 Information about pupil numbers will be updated termly following the School Census data collection and pupil numbers forecasting exercise, in December (October census), March (January census) and July (May census).
- 3.14 The contributions required by this policy are independent of any other contribution towards the provision of other local facilities.

4. How Contributions will be used

- 4.1 All contributions will be used to augment education provision locally, but the specific use of contributions may vary from area to area in order to take account of local needs, investment priorities and other planned improvements.
- 4.2 All contributions will be used in the nursery, primary and secondary sector (mainstream and Special), as assessed.
- 4.3 BCC will spend contributions as soon as reasonably practicable after receipt and remaining budgets will be reported on as part of annual School Capacity returns to the DfE.
- 4.4 Where a contribution is sought, the element relating to nursery, primary and secondary sectors will be specified. Contributions will be invested to improve the facilities at schools in the relevant sector within a specified distance from the development. This will be within two miles up until the age of 7 and three miles thereafter (Education and Inspection Act 1996).
- 4.5 Funding may be 'pooled' in order to secure the maximum possible benefit from investment and cost efficiencies for education projects. 'Pooled' funding will apply to developer contributions and also other funding streams as appropriate. Although this may result in some delay before contributions are invested, it will secure more significant improvements to education facilities than would otherwise have been possible.

- 4.6 Government policy regarding planning obligations requires that contributions be fairly and reasonably related in scale and kind to the proposed development. To ensure that this occurs, records will be kept providing a clear audit trail between developments, contributions and investment.

Key Place Planning Assumptions

Due to the importance of providing sufficient school places, the local authority is required to plan strategically as far in advance as possible. The existence of capacity at a particular point in time does not mean that it will still be available for the duration of the planning period. For example, where there is an increasing birth rate, schools will fill from the youngest year groups up and through the school. Any current capacity in older year groups will clearly be required to accommodate pupils from younger year groups as they progress through the school. It would therefore be unreasonable to assume that any current capacity in older year groups could be used to mitigate the impact of a housing development.

The LA has a statutory duty to meet parental preference wherever possible under Section 86(2) of the School Standards and Framework Act (1998). There is complex pattern of movement to schools across the city's planning areas, as oversubscription criteria is deployed to support families to have priority access to schools through sibling, LAC and proximity to school site.

If places are available at a school at the time of an application to that school, then the admission authority for the school may not refuse to offer a place regardless of where the children live. Once those children have been admitted, they may not be removed from the school.

Families moving to a new development may find that places have been taken by children from further afield. There is no mechanism available (or desirable) to move children attending a school but living outside of the area back to their local school. It is therefore important to consider the sufficiency of provision within a reasonable area rather than a single school unless there are no reasonable alternatives.

5. Monitoring and Review

Birmingham City Council will monitor the implementation of this policy and regularly review the need to revise it.

A contribution towards increased education facilities is sought when the predicted impact of a new housing development creates a shortfall in provision.

This is assessed by looking at current capacity and forecast demand using birth data from the health authorities, the school census and data on parental

preference and housing numbers. Where the additional pupil numbers brought to the area may be partly accommodated, the level of contribution required would be adjusted accordingly. The additional demand, net of any capacity that might be available, informs the requirement for contributions.

The target for Birmingham is for the supply of places to exceed demand by within 5% with as even a spread across the city as possible. This allows for flexibility in the system to meet parental preference, enable in-year transfers and help families moving to an area find a place for each of their children at the same school. Maintaining this level of surplus will also be considered when looking at current capacity and the impact of housing development in an area.

Appendix D

SCHEDULE 2
Part One
AFFORDABLE HOUSING
Affordable Housing Units Provisions

The Owner covenants with the Council as follows:

1. RESTRICTION

- 1.1 The delivery of Affordable Housing as part of the Development shall be strictly in accordance with the following restrictions and covenants and obligations and delivery mechanisms described in accordance with the provisions of this Schedule 2.
- 1.2 No Affordable Housing Unit constructed on the Site as part of the Development shall be occupied other than in accordance with the provisions of this Deed.

2. AFFORDABLE HOUSING ON THE DEVELOPMENT

- 2.1 In carrying out the Development the Owner shall ensure that the Affordable Housing Units required on the Development shall be provided and constructed in accordance with the Planning Permission unless otherwise agreed in writing with the Council.
- 2.2 The following number, mix and tenure of Affordable Housing Units shall be provided on the Site in accordance with the Planning Permission unless otherwise agreed in writing with the Council:

Affordable Rent	
1 Bed Maisonette	14
2 Bed House	7
3 Bed House	3
Shared Ownership	
2 Bed House	20
3 Bed House	18
Low Cost Fixed Equity (80% OMV)	
2 Bed Apartment	9

3. COMPLETION AND TRANSFER OF AFFORDABLE HOUSING UNITS

- 3.1 The Owner shall make bona fides offers on an arms' length basis to enter into a contract to sell the Affordable Housing Units, on commercially acceptable terms to the Owner, to Affordable Housing Providers who may be interested in acquiring Affordable Housing Units and shall give the Council a summary of those Affordable Housing Providers to whom such offers have been made PROVIDED THAT paragraph 3 of this Schedule (including subparagraphs 3.1-3.8 for the avoidance of doubt) shall not apply to any Affordable Housing Units

(including the Low Cost Fixed Equity Units) that do not require transfer to an Affordable Housing Provider by virtue of the tenure of such Affordable Housing Units .

Cascade Level 1: Attempted Sale to Affordable Housing Provider

- 3.2 The Owner shall use reasonable endeavours to complete a sale and purchase agreement with an Affordable Housing Provider for all of the Affordable Housing Units within 3 months of the date of this Deed in accordance with paragraph 3.1 of this Schedule PROVIDED THAT if no such contract shall have been entered into by the end of the said period of 3 months or if such contract is terminated notwithstanding the Owner having used its reasonable endeavours to complete a sale and purchase agreement with one or more Affordable Housing Provider the Owner shall serve an Availability Notice on the Council offering to transfer to the Council the Giftable AH Units.

Commented [A5]: Council to confirm

Cascade level 2: Council choose to purchase or accept Gifted AH Units

- 3.3 The Council shall write to the Owner within 28 days of the Availability Notice being served on the Owner in accordance with paragraph 3.2 confirming its intention to accept the transfer of the Giftable AH Units.
- 3.4 If the Council accepts the transfer of the Giftable AH Units the Owner shall use reasonable endeavours to enter into a sale and purchase agreement for the transfer of the Giftable AH Units with the Council for all of the Giftable AH Units within 12 weeks of the date the Availability Notice was served on the Council PROVIDED THAT if no such sale and purchase agreement shall have been entered into by the end of the said further 12 week period notwithstanding the Owner having used its reasonable endeavours to complete a sale and purchase agreement for the transfer of the Giftable AH Units with the Council then each Affordable Housing Unit not so transferred to the Council shall be a Derestricted Unit with immediate effect and paragraph 3.7 below shall apply.
- 3.5 If the Council fails to respond in writing to the Owner within the said 28 days of the Availability Notice being served on the Council pursuant to paragraph 3.3 of this Schedule the Council are deemed to have refused the transfer of the Giftable AH Units and the relevant Affordable Housing Units shall be Low Cost Fixed Equity Units or Derestricted Units with immediate effect and paragraph 3.7 below shall apply.
- 3.6 If the Owner and the Council complete the sale and purchase agreement for the transfer of the Giftable AH Units any remaining Affordable Housing Units not transferred to the Council will become Market Dwellings and will be free from the Affordable Housing obligations and restrictions in this schedule.

Cascade Level 3: Commuted Sum

- 3.7 The Owner shall be at liberty to dispose of any Derestricted Units on the open market and the Owner and the Council shall forthwith use reasonable endeavours to agree the Open Market Value in respect of each Derestricted Unit and if within 21 days of the end of the period of 28

days stated in paragraph 3.4 above (or sooner if the Council shall decline to accept any Giftable AH Units) such Open Market Value shall not have been agreed in writing between them either of them may refer it for determination pursuant to clause 15.

- 3.8 Within 5 Working Days of the completion of sale of each of the Derestricted Units the Owner shall be required to pay to the Council the Affordable Housing Commuted Sum for each Derestricted Unit.

4. FORM OF TRANSFER

- 4.1 The Owner covenants that any transfer to an Affordable Housing Provider shall contain the following provisions:

4.1.1 the grant by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of the Affordable Housing Units to be constructed on the Site;

4.1.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the benefit of the remainder of the Dwellings on the Site;

4.1.3 the imposition of such covenants as the Owner shall reasonably require.

- 4.2 The Owner and the Council agree that any transfer of a Giftable AH Unit to the Council shall be for a consideration of £1 (one pound) and shall contain the following provisions:

4.2.1 the grant by the Owner of all rights of access and passage of services and other rights reasonably necessary to the beneficial enjoyment of the Affordable Housing Units to be constructed on the Site;

4.2.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the benefit of the remainder of the Dwellings on the Site;

4.2.3 the imposition of such covenants as the Owner shall reasonably require.

5. NOMINATION AGREEMENT, RESTRICTIONS AND OCCUPATION

- 5.1 The Owner covenants with the Council to the intent that following completion of a transfer of Affordable Housing Units to an Affordable Housing Provider the obligations in this paragraph shall (subject to paragraph 5.3) be binding on the Affordable Housing Provider to whom the Affordable Housing Units are transferred and all future successors in title:

5.1.1 the Affordable Rented Units shall not be let other than to those applicants waiting for socially rented housing and who are on either the Council's housing waiting list or at the Council's nomination a person on a neighbouring authority's housing waiting list and where so required have been nominated in accordance with a nomination agreement.

5.1.2 not to use the Affordable Housing Units for the purposes of a hostel or similar accommodation by group of persons and shall only allow the Affordable Housing Units to be occupied by tenants as a "single use family unit".

5.2 The Owner and the Council agree and declare that the provisions of this Schedule shall not be binding upon a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any Administrator (howsoever appointed) including a housing administrator (each a **Receiver**) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the relevant Affordable Housing Units to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the relevant Affordable Housing Units free from the affordable housing provisions in this Deed which provisions shall determine absolutely

PROVIDED FURTHER THAT at all times the rights and obligations in this Schedule shall not require any such mortgagee or chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of any such mortgagee or chargee in respect of monies outstanding under the charge or mortgage.

5.3 The provisions of this Deed shall not bind individual owners and/or occupiers of Affordable Housing Units who have exercised any statutory right to buy any of the Affordable Housing Units (or any similar contractual right to acquire 100% of the equity in the same) or any successor in title or person deriving title from them and for the avoidance of doubt any Dwelling and the land or other building owned/occupied therewith in respect of which such statutory right to buy or equivalent contractual right shall have been exercised shall unconditionally and irrevocably cease to be an Affordable Housing Unit with immediate effect.

6. **DECLARATION: AFFORDABLE HOUSING LEVEL**

6.1 For the purpose of calculating the number of Affordable Housing Units delivered on the Site for the purposes of assessing compliance with Affordable Housing Level in this Deed each

Dwelling which has been an Affordable Housing Unit shall still be counted notwithstanding that it may subsequently have lost that status by operation of this Schedule.

**SCHEDULE 3
ON SITE OPEN SPACE**

1. The Owner shall submit the On Site Open Space Scheme to the Council for its written approval prior to the Commencement of Development
 2. The Owner covenants to implement the On Site Open Space Scheme as approved and ensure that the On Site Open Space is provided and available for use prior to the first Occupation of the 100th Dwelling (unless otherwise agreed in writing with the Council) and the SUDS is provided and available for use prior to the first Occupation of the 1st Dwelling (unless otherwise agreed in writing with the Council)
 3. Following completion of the On Site Open Space:
 - 3.1 the Owner covenants to serve notice on the Council inviting them to inspect the On Site Open Space and issue a Completion Certificate confirming that such works have been completed in accordance with the approved On Site Open Space Scheme;
 - 3.2 the Council will inspect the On Site Open Space within thirty days and may identify remedial works necessary to comply with the approved On Site Open Space Scheme and shall serve notice of any remedial works on the Owner, to complete such notified remedial works in accordance with the approved On Site Open Space Scheme;
 - 3.3 upon completion of any such remedial works, the Owner covenants to serve notice on the Council inviting them to inspect those remedial works and issue a Completion Certificate confirming that such works have been completed in accordance with the approved On Site Open Space Scheme
- PROVIDED THAT if the Council fails to inspect the On Site Open Space within one month of receipt of the notice of invitation from the Owner or fails to issue a Completion Certificate within thirty days of the inspection where no remedial works have been identified by written notice served on the Owner then the Completion Certificate shall be deemed to have been issued at the end of those specified periods PROVIDED FURTHER THAT the inspection procedure identified in paragraphs 3.2 and 3.3 shall be repeated, up to a maximum of three times, until the Council is deemed to have issued a Completion Certificate in relation to the On Site Open Space.
4. Following issue of the Completion Certificate in respect of the On Site Open Space the Owner covenants to maintain the On Site Open Space for the Maintenance Period in accordance with the approved On Site Open Space Scheme.
 5. On expiration of the Maintenance Period:
 - 5.1 the Owner covenants to serve notice on the Council inviting it to inspect the On Site Open Space and issue a Final Certificate confirming that such works have been maintained in accordance with the approved On Site Open Space Scheme;

- 5.2 the Council will inspect the On Site Open Space within thirty days and may identify remedial works necessary to comply with the approved On Site Open Space Scheme and shall serve notice of such remedial works on the Owner, to complete such remedial works in accordance with the On Site Open Space Scheme;
- 5.3 upon completion of any remedial works, the Owner covenants to serve notice on the Council inviting them to inspect the remedial works identified by them pursuant to paragraph 5.2 and issue a Final Certificate confirming that such works have been completed in accordance with the approved On Site Open Space Scheme
- PROVIDED THAT if the Council fails to inspect the On Site Open Space within one month of invitation from the Owner or fails to issue a Final Certificate within one month of the inspection where no remedial works have been identified then the Final Certificate shall be deemed to have been issued at the end of those specified periods PROVIDED FURTHER THAT the inspection procedure identified in paragraphs 5.2 and 5.3 shall be repeated, up to a maximum of three times, until the Council is deemed to have issued a Final Certificate in relation to the On Site Open Space.
6. The Owner covenants to maintain the On Site Open Space in accordance with the relevant approved On Site Open Space Scheme until the Final Certificate is issued and thereafter to maintain the On Site Open Space in accordance with the approved On Site Open Space Scheme
7. No later than Commencement of Development to serve written notice on the Council confirming that the Owner elects to either (i) retain and maintain the On Site Open Space thereafter or (ii) transfer the On Site Open Space to a Management Company
8. In the event that the Owner serves written notice on the Council electing to retain and maintain the On Site Open Space in accordance with paragraph 8 above the Owner shall following the issue of the Final Certificate by the Council maintain the On Site Open Space in accordance with the approved On Site Open Space Scheme in accordance with paragraph 7 of this Schedule
9. In the event that the Owner serves written notice on the Council electing to transfer the On Site Open Space to a Management Company in accordance with paragraph 8 above the Owner shall:
- 9.1 within one month of the Owner serving the said written notice on the Council submit to and obtain the Council's approval to a Management Company Scheme (if not already obtained) in respect of the On Site Open Space;
- 9.2 following the Council's approval of the Management Company Scheme (or such amended scheme as the Council may approve in writing from time to time) the Owner shall implement the approved Management Company Scheme for the purposes of thereafter maintaining the On Site Open Space

- 9.3 within three months of the issue of the Final Certificate in respect of the On Site Open Space transfer the On Site Open Space to the Management Company
10. The Owner shall within three months of the issue of the Final Certificate in respect of the SUDS transfer the SUDS to the Management Company
11. Where any part of the On Site Open Space is to be transferred to a Management Company no Dwellings shall be permitted to be Occupied until the Management Company has been constituted to ensure that the mechanism for recovery from future owners of the Dwellings of the maintenance costs for the On Site Open Space as detailed in the Management Company Scheme can be achieved for all Dwellings
12. The Owner shall be entitled in its discretion to include in each transfer to the purchaser of each Dwelling or part thereof provisions dealing with the following (or such other provisions as may be proposed by the Owner and agreed with the Council):
- 12.1 an obligation on the purchaser to become a member of the Management Company, and
- 12.2 a covenant by the purchaser to pay a contribution to the Management Company as the Management Company shall reasonably require, and
- 12.3 an application to the Chief Land Registrar to place a Restriction on the Land Registry Proprietorship Register for that dwelling (or part thereof) stating that except under an order of the Registrar any future disposal of the Title interest in the dwelling (or part) shall only be registered if accompanied by a Certificate from the Management Company (or its Solicitors) confirming compliance with paragraphs 12.1 and 12.2 above

SCHEDULE 4

EDUCATION BCC CONTRIBUTION

1. The Owner covenants with the Council to pay the Education BCC Contribution on or before Occupation of 50% of the Dwellings.

Commented [A6]: See Part 5 of Schedule 10 for repayment provisions

COLESHILL SCHOOL CONTRIBUTION

2. The Owner covenants with the County Council to pay the Coleshill School Contribution to the County Council on or before Occupation of 50% of the Dwellings.

SEND CONTRIBUTION

3. The Owner covenants with the County Council to pay the SEND Contribution to the County Council on or before Occupation of 50% of the Dwellings.

EDUCATION TRANSPORT CONTRIBUTION

4. The Owner covenants with the County Council to pay the Education Transport Contribution to the County Council as follows:
 - 4.1 the first instalment of £20,000 (twenty thousand pounds) shall be payable on 1st August 2024 (subject to the Development having Commenced and unless otherwise agreed by the County Council); and
 - 4.2 each of the four remaining instalments of £20,000 (twenty thousand pounds) shall be paid for the following 4 (four years) on each consecutive twelve-monthly anniversary of the first payment made pursuant to paragraph 4.1 above.

SCHEDULE 5

SUSTAINABLE TRAVEL PACKS CONTRIBUTIONS

1. The Owner covenants to pay the Sustainable Travel Packs Contribution to the County Council prior to First Occupation of the Development.

**SCHEDULE 6
PUBLIC RIGHTS OF WAY CONTRIBUTION**

1. The Owner covenants to pay the Public Rights of Way Contribution to the County Council prior to the first Occupation of the first Dwelling

**SCHEDULE 7
HEALTHCARE CONTRIBUTION**

1. The Owner covenants with the Council to pay to the Council the Healthcare Contribution as follows:
 - 1.1 the sum of £32,659 (thirty-two thousand six hundred and fifty-nine pounds) to be paid on or before Occupation of the 30th Dwelling; and
 - 1.2 the sum of £120,451 (one hundred and twenty thousand four hundred and fifty-one pounds) to be paid on or before Occupation of the 120th Dwelling.

**SCHEDULE 8
ROAD SAFETY CONTRIBUTION**

1. The Owner covenants to pay the Road Safety Contribution to the County Council prior to the first Occupation of the first Dwelling.

TRAFFIC REGULATION CONTRIBUTION

2. The Owner covenants to pay the Traffic Regulation Contribution to the County Council prior to the first Occupation of the first Dwelling.

**SCHEDULE 9
SWIMMING POOL CONTRIBUTION**

1. The Owner covenants to pay the Swimming Pool Contribution to the Council in the following instalments:
 - 1.1 50% (fifty percent) payable on or before Occupation of the 60th Dwelling on the Site; and
 - 1.2 the remaining 50% (fifty percent) payable on or before Occupation of the 120th Dwelling on the Site;

STUDIO SPACE CONTRIBUTION

2. The Owner covenants to pay the Studio Space Contribution to the Council in the following instalments:
 - 2.1 50% (fifty percent) payable on or before Occupation of the 60th Dwelling on the Site; and
 - 2.2 the remaining 50% (fifty percent) payable on or before Occupation of the 120th Dwelling on the Site;

FITNESS FACILITY CONTRIBUTION

3. The Owner covenants to pay the Fitness Facility Contribution to the Council in the following instalments:
 - 3.1 50% (fifty percent) payable on or before Occupation of the 60th Dwelling on the Site; and
 - 3.2 the remaining 50% (fifty percent) payable on or before Occupation of the 120th Dwelling on the Site;

FOOTBALL PITCH CONTRIBUTION

4. The Owner covenants to pay the Football Pitch Contribution to the Council in the following instalments:
 - 4.1 50% (fifty percent) payable on or before Occupation of the 60th Dwelling on the Site; and
 - 4.2 the remaining 50% (fifty percent) payable on or before Occupation of the 120th Dwelling on the Site;

CRICKET PITCH CONTRIBUTION

5. The Owner covenants to pay the Cricket Pitch Contribution to the Council in the following instalments:
 - 5.1 50% (fifty percent) payable on or before Occupation of the 60th Dwelling on the Site; and
 - 5.2 the remaining 50% (fifty percent) payable on or before Occupation of the 120th Dwelling on the Site;

RUGBY PITCH CONTRIBUTION

6. The Owner covenants to pay the Rugby Pitch Contribution to the Council in the following instalments:
 - 6.1 50% (fifty percent) payable on or before Occupation of the 60th Dwelling on the Site; and
 - 6.2 the remaining 50% (fifty percent) payable on or before Occupation of the 120th Dwelling on the Site;

ARTIFICIAL PITCH CONTRIBUTION

7. The Owner covenants to pay the Artificial Pitch Contribution to the Council in the following instalments:
 - 7.1 50% (fifty percent) payable on or before Occupation of the 60th Dwelling on the Site; and
 - 7.2 the remaining 50% (fifty percent) payable on or before Occupation of the 120th Dwelling on the Site;

YOUTH PROVISION CONTRIBUTION

8. The Owner covenants to pay the Youth Provision Contribution to the Council in the following instalments:
 - 8.1 50% (fifty percent) payable on or before Occupation of the 60th Dwelling on the Site; and
 - 8.2 the remaining 50% (fifty percent) payable on or before Occupation of the 120th Dwelling on the Site;

PARK AND GARDENS CONTRIBUTION

9. The Owner covenants to pay the Park and Gardens Contribution to the Council in the following instalments:

- 9.1 50% (fifty percent) payable on or before Occupation of the 60th Dwelling on the Site; and
- 9.2 the remaining 50% (fifty percent) payable on or before Occupation of the 120th Dwelling on the Site;

ALLOTMENT AND COMMUNITY GARDEN CONTRIBUTION

- 10. The Owner covenants to pay the Allotment and Community Garden Contribution to the Council in the following instalments:
 - 10.1 50% (fifty percent) payable on or before Occupation of the 60th Dwelling on the Site; and
 - 10.2 the remaining 50% (fifty percent) payable on or before Occupation of the 120th Dwelling on the Site;

SCHEDULE 10
THE COUNCIL'S COVENANTS WITH THE OWNER

Part 1 - Healthcare Contribution

1. To hold the Healthcare Contribution in an interest bearing account from the date of receipt until the date of payment to the Health Body in accordance with this Deed
2. To notify the Health Body within 14 Working Days of receipt of the Healthcare Contribution that the Council is in receipt of the Health Contribution
3. To pay the Healthcare Contribution to the Health Body upon receipt of written confirmation from the Health Body that they will:
 - 3.1 apply the Healthcare Contribution for the purposes set out in this Deed;
 - 3.2 provide full details of the expenditure of the Healthcare Contribution on demand to the Council or to the Owner PROVIDED THAT no such demand shall be made before the expiry of three years from the date of receipt of the Healthcare Contribution by the Council and such demands shall not be made more frequently than once a quarter thereafter; and
 - 3.3 return any unspent or uncommitted part of the Healthcare Contribution to the Council after the expiry of five years from the date of receipt of the Healthcare Contribution by the Council regardless of when the same was paid to the Health Body
4. The Council covenants to repay to the person / entity that made the payment any unspent monies received by the Council pursuant to paragraph 3.3 of this Schedule within 28 Working Days of receipt from the Health Body

Part 2 - On Site Open Space

5. Where the Owner has invited the Council to inspect the On Site Open Space the Council shall either:
 - 5.1 being satisfied that in their reasonable opinion the On Site Open Space has been laid out and maintained in accordance with the On Site Open Space Scheme issue the Final Certificate; or
 - 5.2 where the Council is not so satisfied inform the Owner of such defects in writing ("Defect Notice") as the Council reasonably believes to exist and such process may be repeated pursuant to Schedule 3.

Part 3 - Affordable Housing

6. The Council agrees that in considering any changes or revisions to the Affordable Housing Units the Council shall have regard to emerging policy both nationally and locally with regard to new tenures of affordable housing

Part 4 - General

7. The Council hereby covenants with the Owner to use all contributions payable to the Council pursuant to this Deed (save for the Healthcare Contribution and the Education BCC Contribution) for the purposes specified or for such purposes as the parties may agree in writing both parties acting reasonably.
8. In the event that any monies payable pursuant to this Deed (save for the Healthcare Contribution and the Education BCC Contribution) are not applied to the purposes specified in this Deed and have not been expended within seven years of the date of payment the Council shall within 28 days of demand repay to the person / entity that made the payment any unexpended part of the said sum(s)

Part 5 – Education BCC Contribution

9. To hold the Education BCC Contribution in an interest bearing account from the date of receipt until the date of payment to the Birmingham City Council in accordance with this Deed
10. To notify Birmingham City within 14 Working Days of receipt of the Education BCC Contribution that the Council is in receipt of the Education BCC Contribution
11. To pay the Education BCC Contribution to Birmingham City Council upon receipt of written request and confirmation from the Birmingham that they will:
 - 11.1 apply the Education BCC Contribution for the purposes set out in this Deed;
 - 11.2 provide full details of the expenditure of the Education BCC Contribution on demand to the Council or to the Owner PROVIDED THAT no such demand shall be made before the expiry of one year from the date of receipt of the Education BCC Contribution by the Council and such demands shall not be made more frequently than once a quarter thereafter; and
 - 11.3 return any unspent or uncommitted part of the Education BCC Contribution to the Council after the expiry of five years from the date of receipt of the Education BCC Contribution by the Council regardless of when the same was paid to Birmingham City Council.
12. The Council covenants to repay to the person / entity that made the payment any unspent monies received by the Council pursuant to paragraph 11.3 of this Schedule within 28 Working Days of receipt from Birmingham City Council.
13. If Birmingham City Council do not comply with paragraph 11 above or do not request the payment of the Education BCC Contribution (including any part of the Education BCC Contribution) prior to 100% Occupation of the Dwellings then the Council covenants to repay to the person / entity that made the payment any unspent monies (including any accrued interest).

SCHEDULE 11
THE COUNTY COUNCIL'S COVENANTS WITH THE OWNER

Part 1 - General

14. The County Council hereby covenants with the Owner to use all contributions payable to the County Council pursuant to this Deed for the purposes specified or for such purposes as the parties may agree in writing both parties acting reasonably.
15. In the event that any monies payable pursuant to this Deed are not applied to the purposes specified in this Deed and have not been expended within seven years of the date of payment the County Council shall within 28 days of demand repay to the Owner any unexpended part of the said sum(s)

Part 2 - Sustainable Travel Packs

16. The County Council covenants with the Owner that on payment of the Sustainable Travel Packs Contribution pursuant to Schedule 8 the County Council shall produce and distribute the Sustainable Travel Packs to the first occupiers of the Development upon first Occupation of each Dwelling on the Development.

Appendix E

PAP/2022/0371

Conditions

1. Standard three-year condition
2. Standard plan numbers condition – plan numbers:

The Location plan LINCH-LOC-01-Rev A received on 4/1/23

Plan numbers 22115 400B, 401B, 402B, 403A, 450A, 4000A, 4001A, 4002A, TR001 and 100S278A all received on 8/2/23

Plan number A1031(House Type Brochure) received on 16/3/23

Plan numbers A103101J, 03G, 04G, 05F, 06E, 07E and 08E all received on 7/6/23

Plan numbers 205501J, 02A, 03, 04, 05A, 06A and 07A all received on 13/6/23

The Archaeological Written Scheme of Investigation prepared by Oxford Archaeology dated December 2022 (OA Ref: 8264 Issue No:V2)

Pre-Commencement Conditions

4. No development shall commence on site until a Construction Management Plan has first been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:

- a) the phasing of the development,
- b) the means of preventing mud, debris, and waste being deposited on the public highway
- c) the means of suppressing dust
- d) an HGV routing plan
- e) details of the site compounds, workers car parking areas and any other storage compounds, including their migration through the phases
- f) details of the hours of construction – bearing in mind the presence of local schools
- g) details of the hours of deliveries – bearing in mind the presence of local schools
- h) details of on-site security
- i) Details of all contacts both on and off-site for the purposes of resolving complaints.

The development shall proceed in accordance with the approved Plan at all times.

REASON

In order to protect the environmental amenities of the area and in the interests of highway safety.

5. No development shall commence on site until a Landscape and Ecology Management Plan ("LEMP") has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

- a) A description and evaluation of the features to be managed
- b) Ecological trends and constraints on site that might influence management
- c) aims, objectives and targets of the management regime
- d) Descriptions of the management operations for achieving the aims and objectives
- e) prescriptions for management actions
- f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period)
- g) details of the monitoring needed to measure the effectiveness of management
- h) details for each element of the monitoring programme
- i) details of the persons or organisation(s) responsible for implementation and monitoring
- j) Mechanisms of adaptive management to account for necessary changes in the work schedule to achieve required aims, objectives and targets
- k) reporting procedures for year 1, 2, 5, 10, 20 and 30 with Bio-diversity net gain reconciliation calculations at each stage.

The LEMP shall also include details of:

- l) the legal and funding mechanisms by which the long-term implementation of the LEMP will be secured by the developer and the management body(ies) responsible for its delivery
- m) how contingencies and/or remedial action will be identified, agreed and implemented in the event that monitoring under (k) above shows that the conservation aims and objectives set out in (c) above, are not being met so that the development still delivers the fully functioning bio-diversity objectives of the originally approved scheme.

REASON

In order to enhance and deliver bio-diversity gain and ecology benefit.

6. No development shall commence on site until an Environmental Noise Assessment and Noise Mitigation Scheme has first been submitted to and approved in writing by

the Local Planning Authority. The Assessment shall include the impact of transportation noise from a combination of sources, including but not limited to the A38, the M6 and Lindridge Road. It shall include noise monitoring during typical worst-case conditions – ie, typical traffic flows under down-wind propagation conditions that are likely to have the greatest adverse effect on future occupiers.

The Mitigation Scheme should include a sound insulation and ventilation scheme which includes the specification and acoustic data sheets for glazed areas of the development and details of an acoustic ventilation scheme, if it is necessary, due to the closure of windows to mitigate noise.

The scheme shall be designed to achieve the following internal noise levels:

i) 35dB LAeq 16hr in bedrooms and living rooms between the hours of 0700 and 2300

ii) 30dB LAeq 8 hr in bedrooms between 2300 and 0700 hours and

iii) 45dB LAmaxf shall not normally be exceeded more than ten times per night associated with regular individual noise events such as scheduled aircraft or passing trains, within bedrooms between 2300 and 0700 hours.

It shall also include a process of good acoustic design and be designed to achieve:

iv) Not more than 55dB LAeq 16hr for garden areas as far as is reasonably possible.

The mitigation, sound insulation and ventilation scheme shall be carried out in accordance with the approved details.

REASON

In the interests of the residential amenity of occupiers and public health so as to accord with the NPPF; The Noise Policy Statement for England 2010 and Policy 29(9) of the North Warwickshire Local Plan 2021.

7. No development shall commence on site until a preliminary assessment for contaminated land has been undertaken and submitted to the Local Planning Authority. If that assessment identifies potential contamination, a further detailed investigation shall be carried out and details of remediation measures proposed to remove that contamination, shall be submitted to the Local Planning Authority. Development may then only proceed on site in full accordance with any such measures as may be approved in writing by the Local Planning Authority.

REASON

In the interests of reducing the risk of pollution and in protecting public health

8. In the event that contamination is found at any time when carrying out the development, that was not previously identified under condition 7, it must be reported immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared. Development may then only proceed in accordance with any such remedial measures as may be approved in writing by the Local Planning Authority.

REASON

In the interests of reducing the risk of pollution and in protecting public health

9. Where remediation measures have been carried out in pursuance of conditions 7 and 8, a post remediation verification report shall be submitted in writing to the Local Planning Authority containing evidence to show compliance on site with those measures.

REASON

In the interests of reducing the risk of pollution and in protecting public health

Pre-Occupation Conditions

10. No individual house shall be occupied until the drainage, car parking, manoeuvring areas, road/private drive and footway access, from it to the approved estate access onto Lindridge Road, together with its car parking spaces and manoeuvring areas have all been substantially completed in accordance with the approved drawing, No. 1031_01 Rev J and the specification of the Highway Authority. Such areas shall be permanently retained for the parking and manoeuvring of vehicles..

REASON

In the interests of highway safety

11. No more than 50 dwellings shall be occupied until the footway connection from the site to Springfield Road as shown on Drawing No. 22115/4000 B is provided.

REASON

In the interests of highway safety

12. There shall be no more than 149 dwellings occupied on the site until the 5 metre wide emergency link onto Lindridge Road as shown on the approved plan 103101J has been fully completed to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety

13. No individual house shall be occupied until the visibility splays from the vehicular access to that house passing through the limits of the site, adjacent properties fronting

the highway and the highway have been provided in accordance with the approved plans. These splays shall remain unobstructed at all times.

REASON

In the interests of highway safety

14. There shall be no occupation of any dwelling hereby approved until the Local Planning Authority has verified in writing that the Mitigation Scheme as approved under Condition 6 above (including the sound insulation and ventilation scheme) has been fully implemented and is fully operational for that dwelling.

REASON

In the interests of the residential amenity of occupiers and public health so as to accord

with the NPPF, The Noise Policy Statement for England 2010 and Policy 29(9) of the North Warwickshire Local Plan 2021.

15. There shall be no occupation of any dwelling hereby approved until the Verification

Report required by Condition 9 above, if required for that dwelling, has been approved in writing by the Local Planning Authority.

REASON

In the interests of reducing the risk of pollution and in protecting public health

16. There shall be no occupation of each dwelling hereby approved, until it has been provided with its allotted car parking spaces as shown the approved plan; is able to access infrastructure for an Electric Vehicle charging point and has been shown to have been provided with sufficient space to accommodate three 250 litre waste bins as well as for secure cycle storage.

REASON

In the interests of promoting sustainable development.

17.No dwelling hereby approved shall be occupied until the Local Planning Authority has:

a) approved in writing, a scheme for the provision of adequate water supplies and fire hydrants for fire-fighting purposes at the site which shall first have been submitted to the Authority and also,

b) approved in writing that the approved scheme has been satisfactorily implemented in respect of that dwelling.

REASON

In the interests of public safety

Other Conditions

18 All junction visibility splays within the site shall be provided with visibility splays passing through the limits of the site fronting the highway measuring 2.4 by 25 metres to the near edge of the carriageway. These shall remain unobstructed at all times.

REASON

In the interests of highway safety

19 No development except site set-up and clearance shall take place until further details regarding the hydraulic modelling and surface water drainage scheme (based on sustainable drainage principles) have been submitted to and approved in writing by the Local Planning Authority in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

1. Provide independent third-party review of the hydraulic modelling undertaken in order to demonstrate the robustness of the assessment.
2. Limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rain storm to the QBar Greenfield runoff rate of 4.6l/s/ha for the site in line with the approved Preliminary Flood Risk Assessment & Outline Drainage Strategy Report (ref: 13339_R110, revision 1.3, dated 20th December 2022).
3. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a 'SuDS management train' approach to provide additional benefits and resilience within the design. Provide updated drawings / plans of the proposed sustainable surface water drainage scheme as appropriate.
4. Provide detail drawings including cross sections, of proposed features such as the attenuation pond, any source control features, and outfall structures.

These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.

5. Where relevant, provide updated network level calculations demonstrating the performance of the proposed system.

a. The LLFA has recently updated its Flood Risk Guidance for Development including updated drainage design parameters. The design should be sensitivity tested against the latest parameters.

6. External levels plans and overland flow routing such as external levels plans, supporting the exceedance and overland flow routeing provided to date. Such overland flow routing should:

a. Demonstrate how runoff will be directed through the development without exposing properties to flood risk.

b. Consider property finished floor levels and thresholds in relation to exceedance flows. The LLFA recommend FFLs are set to a minimum of 150mm above surrounding ground levels.

c. Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.

REASON

In the interests of reducing the risk of flooding

20. Prior to the occupation of the 150th dwelling, a Verification Report for the installed surface water drainage system for the site based on the approved Preliminary Flood Risk Assessment & Outline Drainage Strategy Report (ref: 13339_R110, revision 1.3, dated 20th December 2022) has been submitted in writing by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority. The details shall include:

1. Demonstration that any departure from the agreed design is in keeping with the approved principles.

2. Any As-Built Drawings and accompanying photos

3. Results of any performance testing undertaken as a part of the application process (if required / necessary)

4. Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.

5. Confirmation that the system is free from defects, damage and foreign objects

REASON

In the interests of reducing the risk of flooding

21 No occupation and subsequent use of the development shall take place until a detailed, site-specific maintenance plan is provided to the LPA in consultation with the LLFA. Such maintenance plan should

1. Provide the name of the party responsible, including contact name, address, email address and phone number
2. Include plans showing the locations of features requiring maintenance and how these should be accessed.
3. Provide details on how surface water each relevant feature shall be maintained and managed for the life-time of the development.
4. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance

REASON

In the interests of reducing the risk of flooding

22. An Archaeological Mitigation Strategy should be submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the development and should be informed by the evaluation undertaken in accordance with the Written Scheme of Investigation as approved under Condition 2. That evaluation, the post-excavation analysis, publication of the results and archive deposition shall all be undertaken in accordance with that Approved Scheme.

REASON

In order to inform and protect the archaeological interest of the site.

General Development Applications

(7/g) Application No: PAP/2023/0306

Owen Square, Owen Street, Atherstone, CV9 1RR

Works to a tree within a Conservation Area – *Pyrus salicifolia* (T1, Pear Tree) - crown lift to 2.5m all round, prune/tip back from property by 2m for

Warwickshire County

Introduction

This application has been reported to the Board due to the fact that the tree in question lies on land owned by the Borough Council.

The Site

This is the residential car park for the Owen Square flats on Owen Street, Atherstone.

The Tree Location Plan is at Appendix A.

Proposed Works

It is proposed to crown lift the pear tree to 2.5m all round and to prune/tip it back from the neighbouring property by 2m.

Development Plan

The North Warwickshire Local Plan 2021 – LP14 (Historic Environment) and LP16 (Natural Environment)

Other Material Considerations

The National Planning Policy Framework 2021 – (The NPPF)

Consultations

Atherstone Town Council - No response received at the time of writing this report. The Board will be updated if any is received.

Warwickshire County Council – No Objection

Observations

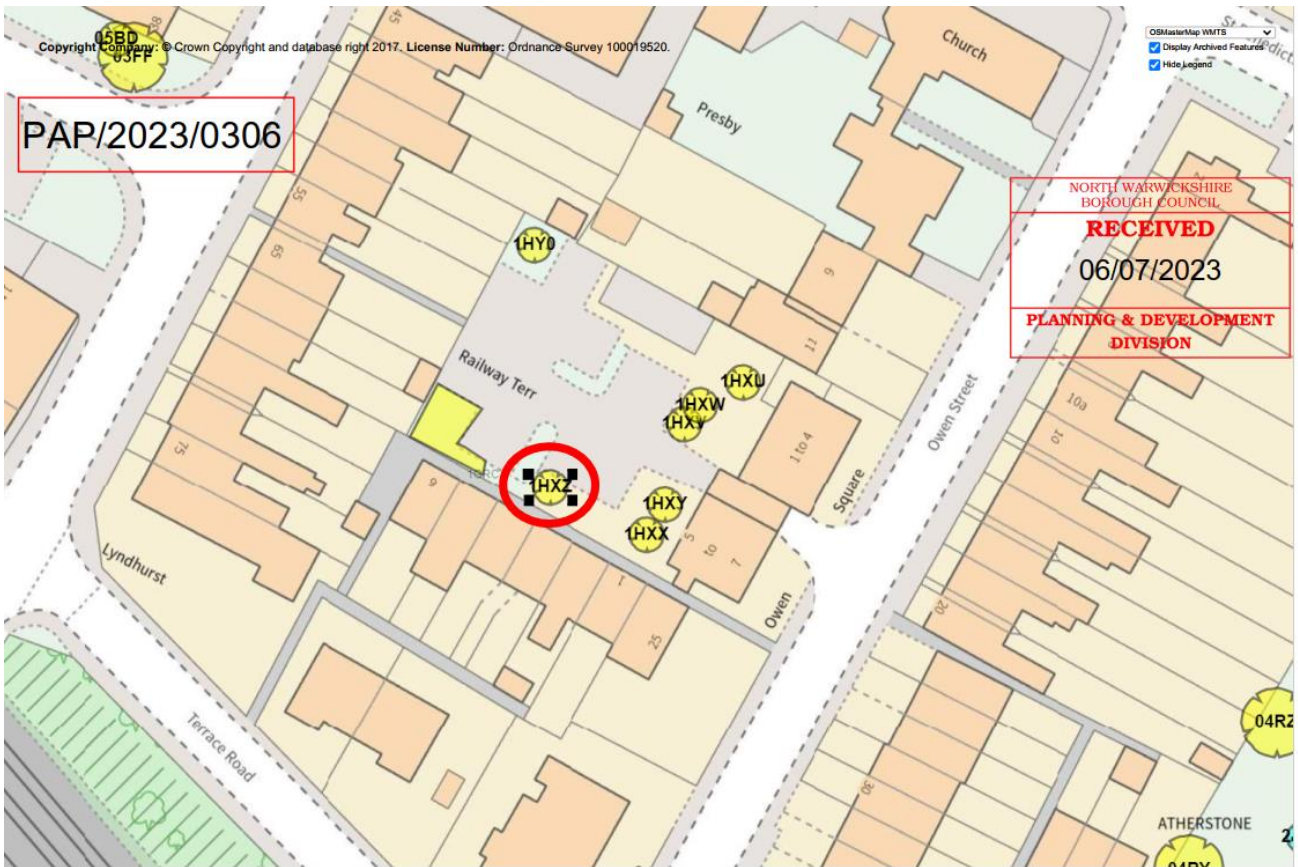
This is not an application to undertake works to a tree protected by an Order. The tree is already protected by virtue of its location in the Conservation Area. The application is giving notice to the Council that works are proposed for the tree and thus giving the opportunity for the Council to make a specific Order for the tree or not.

In this case the works are connected to the regular maintenance of the tree and thus to retain its longevity and its amenity value. The County Forestry Officer agrees with the works and does not consider that an Order is necessary given that the tree is located on land owned by a Local Authority. Its protection by virtue of it being in the Conservation Area is sufficient.

Recommendation

That the works may proceed without the need to make an Order

Appendix A



Agenda Item No 8

Planning and Development Board

7 August 2023

Report of the Head of Development Control

Permitted Development Changes

1 Summary

- 1.1 This report notifies the Board of changes to Permitted Development Rights following a recent Government consultation.

Recommendation to the Board

That the report be noted.

2 Background

- 2.1 A report was tabled at the Board's April meeting describing proposed changes to the General Permitted Development Order.
- 2.2 The Government has now considered all of the responses received from its consultation and has published an update to the Order.

3 The Changes

a) Campsites

- 3.1 The proposal here was to enable the temporary use of land for recreational campsites for tents and moveable structures without the need to submit a planning application. A new temporary right is added to the Order for "temporary recreational campsites" provided that the land is not used as such for a total of 60 days in any calendar year; it comprises of no more than 50 pitches, together with "moveable structures reasonably necessary for the permitted use". There are exclusions and conditions attached.

- 3.2 This new right comes into force in July 2024.

b) Film Making

- 3.3 The proposal here was to extend the time period for the temporary use of land and buildings for film making purposes from 9 to 12 months in any 27-month period. This has been agreed together with the increase in the area of land that might be involved from 1.5 hectares to three and enabling larger temporary structures on that land of up to 20 metres in height.

c) Local Authorities

- 3.4 The change here would enable bodies acting on behalf of a local authority to also undertake works that hitherto could only be undertaken by the Authority directly.

4 Observations

- 4.1 Members will recall that at the April meeting, concerns were expressed about the scope of the campsite proposal because of the potential impacts on the rural character of the Borough. The changes as set out have made no concessions on the proposed scale of this new right.
- 4.2 The Government interestingly has not published its response to the proposed changes on extending rights for solar panels on domestic and non-domestic premises, including the addition of solar canopies on surface car parks.

5 Report Implications

5.1 Financial and Value for Money Implications

- 5.1.1 There are no direct financial implications arising from this report.

5.2 Legal and Human Rights Implications

- 5.2.1 As indicated in the body of the report and previously reported to the Board in April, the Government consulted on several proposed changes to permitted development rights. Following that consultation, the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2023 (the 2023 Order) became law on 26 July 2023. Accordingly, subject to any applicable prior approval requirement, permitted development may now be carried out in accordance with those amended rights.
- 5.2.1 As also stated above, the Government has not responded to all aspects of that consultation and, consequently, the 2023 Order only makes amendments to some of those permitted development rights on which consultation took place. For the time being, the permitted development rights in relation to solar panels etc. remain as prior to the consultation.

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

Agenda Item No 9

Planning and Development Board

7 August 2023

**Report of the
Head of Development Control**

**Tree Preservation Order
Springfield, Wall Hill Road, Corley
Moor**

1 Summary

- 1.1 A Tree Preservation Order has been placed on an English Oak, located at Wall Hill Road, Corley. It came into force on 6 April 2023 and lasts six months (6 October 2023). This report seeks to make the Order permanent.

Recommendation to the Board

That the Board confirms the Tree Preservation Order for the protection of one tree on land at Springfield, Wall Hill Road, Corley Moor.

2 Background

- 2.1 The report presented to members on 3 April 2023 seeking authority for the Order is at Appendix A.

3 Representations

- 3.1 Representations from neighbours and Corley Parish Council have been invited.
- 3.2 A representation from a neighbouring property was received on 3 May 2023. It was not one of objection but enquired about works that might be needed to tackle overhanging branches.

4 Observations

- 4.1 This is not an objection which addresses the amenity value of the tree. As Members are aware an application would be required for works to the tree if the Order is confirmed and the neighbour would be consulted on that application, other than certain works required to a tree which is dangerous. If the Order is confirmed the owner will be notified of this requirement.

5 **Report Implications**

5.1 **Financial and Value for Money Implications**

- 5.1.1 There are no implications in making this Order, but if confirmed, then there may be implications, in that compensation may be payable, if Consent is refused for works to a protected tree.

5.2 **Legal and Human Rights Implications**

- 5.2.1 As stated in the report dated 3 April, the Town and Country Planning Act 1990 only allows a tree preservation order to be made if it is expedient to do so in the interests of amenity. If members are satisfied that this remains the case having considered all the facts, the Order may be confirmed. Once made, the owners of the land would 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 in most circumstances.

5.3 **Environment and Sustainability Implications**

- 5.3.1 The tree to be protected exhibits value for both the present and the future public amenities of the area, given its appearance and prominence in the street scene.

The Contact Officer for this report is Ian Griffin (719446).

NOT FOR PUBLICATION
by virtue of paragraphs 2 and 6
of Part 1 of Schedule 12A to the
Local Government Act 1972

Agenda Item No 13

Planning and Development Board

3 April 2023

**Tree Preservation Order
Springfield, Wall Hill Road, Corley
Moor**

**Report of the
Head of Development Control**

1 Summary

- 1.1 This report seeks authority for the emergency protection of an oak tree at this address.

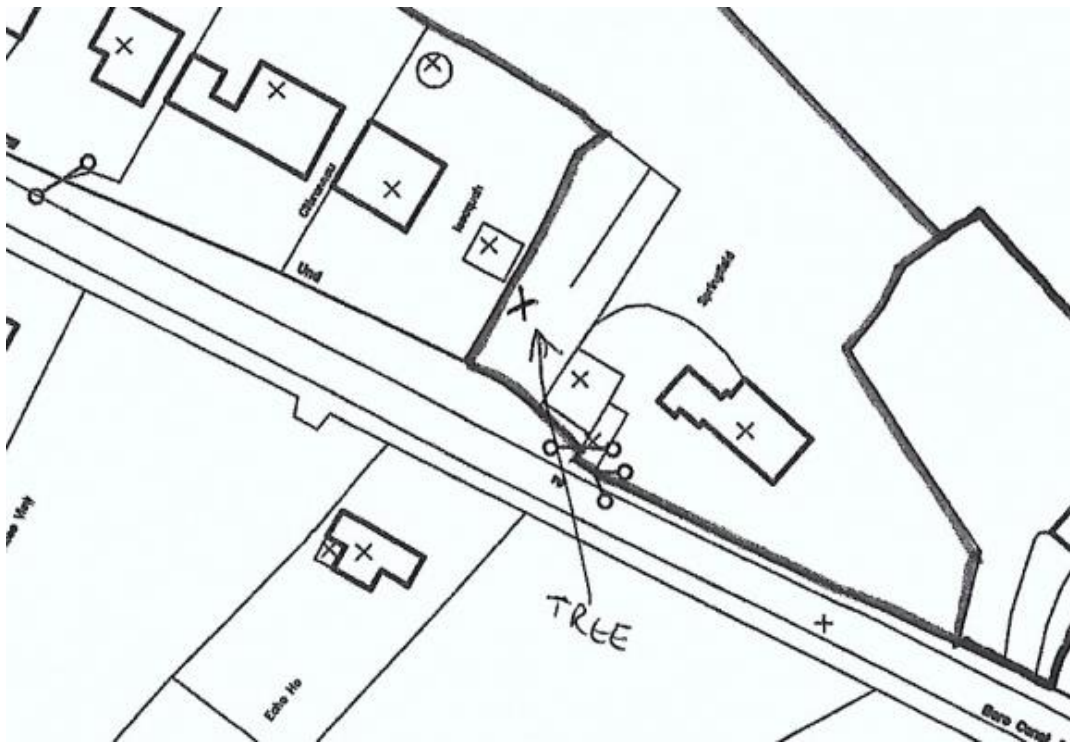
Recommendation to the Board

That the Board makes a Tree Preservation Order for the protection of an Oak Tree located at Springfield, Wall Hill Road, Corley Moor.

2 Background and Statement of Reasons

- 2.1 The tree is within the garden of Springfield, Wall Hill Road and the owner has requested that it is protected. An adjacent site known as Issaquah, Wall Hill Road, has a current planning application in with the Council for works under reference PAP/2023/0032. It is for the proposed remodelling of the property to allow for rooms in the roof-space. The application is not yet determined. The owner of Springfield is concerned that the tree might be affected.
- 2.2 The County Forestry Officer has undertaken a TEMPO assessment of the value of the tree. It scored 18, suggesting that the tree merits an Order. The assessment is attached at Appendix A.
- 2.3 The photographs below show the Oak tree located in the garden of Springfield, Wall Hill Road, Corley, together with a location map.





2.5 Members will be aware that an Order is made in the interests of amenity. Here the tree is very prominent in the street-scene and this is emphasised because there are no others close by. The TEMPO assessment confirms this and that the tree is in good health. It is also agreed that the tree is under a degree of threat.

2.6 In the event that an Order is made, there will be a period given for representations to be submitted. A further report will be referred to the Planning and Development Board following the conclusion of the consultation period for Members to consider whether the Order should be confirmed and made permanent.

3 Report Implications

3.1 Financial and Value for Money Implications

3.1.1 There are no implications in making this Order, but if confirmed, then there may be implications, in that compensation may be payable, if Consent is refused a future application for permission to undertake works to a protected tree.

3.2 Legal and Human Rights Implications

3.2.1 The Town and Country Planning Act 1990 states that a Tree Preservation Order may only be made when it is expedient to do so in the interests of amenity. If Members decide to make an Order, the owners of the land and those with an interest in it, will have the opportunity to make representations to the Council before the Order is confirmed.

3.3 Environment and Sustainability Implications

3.3.1 The tree to be protected exhibits amenity value for both the present and the future amenities of the area, given its appearance and prominence in the street scene.

The Contact Officer for this report is Ian Griffin (719446).

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
1	County Forestry Officer	TEMPO Evaluations and Tree Location Plan	03/03/2023

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 03/03/2023 Surveyor: Matthew Alford

Tree details

TPO Ref (if applicable):

Tree/Group No: 2JMB Species: English Oak

Owner (if known):

Location: Springfield, Wall Hill Road, Corley, Coventry, CV7 8AH

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment**a) Condition & suitability for TPO**

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable |

Score & Notes

5

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes

4

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality**c) Relative public visibility & suitability for TPO**

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes

4

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of formal arboricultural features, or veteran trees |
| 4) Tree groups, or principal members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) |
| -1) Trees with poor form or which are generally unsuitable for their location |

Score & Notes

3

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- | |
|---|
| 5) Immediate threat to tree inc. s.211 Notice |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only |

Score & Notes

2

Part 3: Decision guide

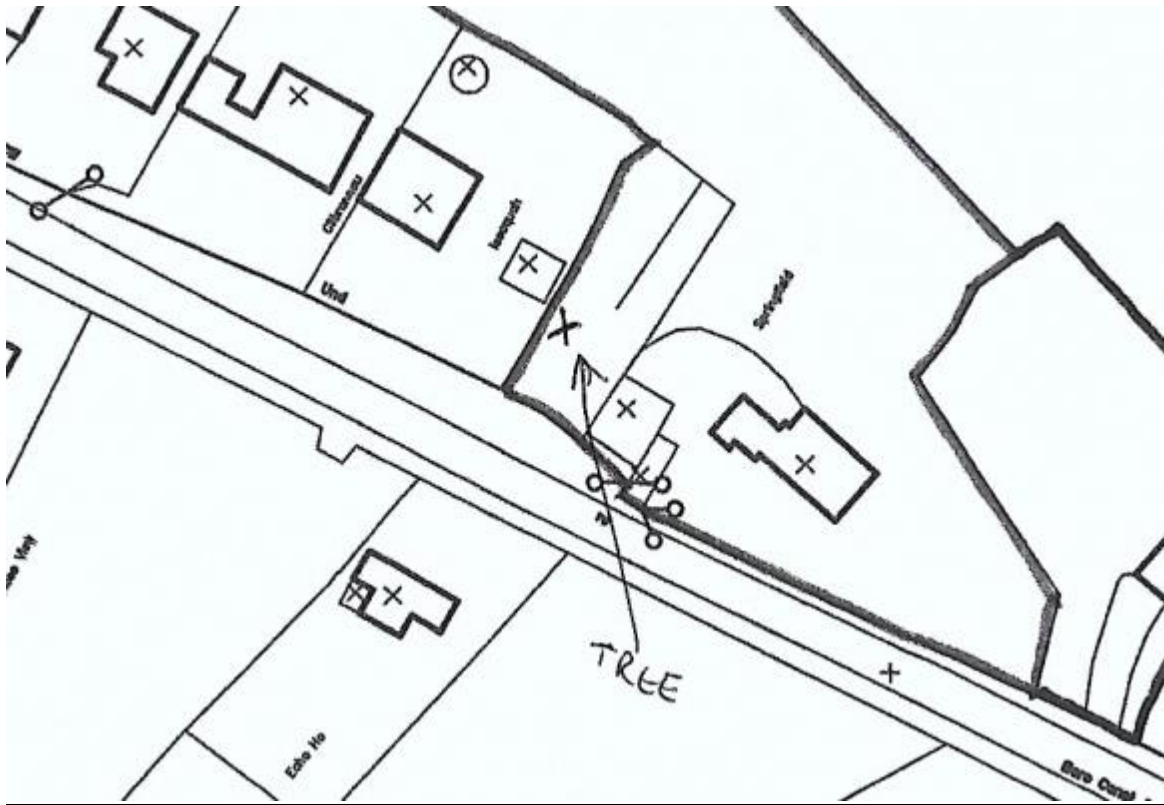
- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total:

18

Decision:

Yes TPO



Unique ID: 2JMB
Private
Quercus robur
W3W: slide.blunt.stress

Overview Photos



Inventory	
Surveyor	Matthew Alford
Inspection Date	03-Mar-2023
Trunk Type	Single
Age	Mature
Condition	Reasonable
Proximity	As per map
Building Number	Springfield
Street	WALL HILL ROAD
Area	North Warwickshire Borough
Sub Area	Corley Moor
Stem Diameter	85 - 100cm
Spread	18 - 20m
Height	14 - 16m
Committee	Private
Site	Hedgerow/Ditch

Species	
Count	1
Vegetation Type	Broadleaf
Species	Quercus robur

Agenda Item No 10

Planning and Development Board

7 August 2023

**Report of the
Head of Development Control**

Appeal Update

1 Summary

1.1 The report brings the Board up to date with recent Appeal decisions.

Recommendation to the Board

That the report be noted.

2 Appeal Decisions

a) Curlew Close, Warton

2.1 This was an application for 28 affordable dwellings off Curlew Close in Warton. The dismissal is particularly welcome as this case was a “test” for the Local Plan policy LP2, on the Borough’s Settlement Hierarchy – see para 10 of the letter. Additionally, there was a forthright analysis of the impact of the proposal on the character and appearance of the immediate setting and the wider village – paras 15 to 17.

... 2.2 The appeal letter is attached at Appendix A.

b) Church Lane, Austrey

2.3 This was an appeal against refusal of a single house close to the rear of the Church in Austrey. The impact on the significance of the church and its setting was formative in this appeal being dismissed – paras 14 to 18 of the letter. Additionally, highway safety issues were also raised – para 26.

... 2.4 The appeal letter is attached at Appendix B.

c) The Reddings, Nether Whitacre

2.5 The appellant in this case sought the removal of a condition attached to his permission for extensions which removed permitted development rights for other buildings in the curtilage. The Inspector makes it clear that the decision is site-specific because it is not normal practice to remove such rights. Here the extent of previous works, the setting of the site and the openness of the Green Belt all supported the retention of the condition.

... 2.6 The appeal letter is attached at Appendix C.

d) Hill Top Farm, Corley

2.7 This appeal dealt with a proposal for three single storey dwellings within the Green Belt to replace a previous approval from 2019. As can be seen, the Inspector agreed with the Council that the proposal was not a replacement and that as such it was for inappropriate development in the Green Belt with no considerations to amount to very special circumstances.

... 2.8 The appeal letter is attached at Appendix D.

3 Report Implications

3.1 Environment and Sustainability Implications

3.1.1 The Warton decision fully accords with the strategic spatial policies in the Development Plan, which do not support unsustainable development that harms the environmental character of a settlement.

3.1.2 The Austrey decision is fully in accord with both Development Plan and NPPF policies in regard to the importance of the settings of heritage assets.

3.1.3 The Whitacre decision is fully in accord with National and Development Plan policy in retaining the openness of the Green Belt.

3.1.4 The Corley decision upholds Green Belt policy.

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

Appeal Decision

Site visit made on 31 May 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Appeal Ref: APP/R3705/W/22/3312660

Land off Curlew Close, Warton, Tamworth, Warwickshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Piper (Barley Developments) against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2020/0246, dated 6 May 2020, was refused by notice dated 8 June 2022.
 - The development proposed is described as erection of 34 dwellings including associated landscaping, car parking and other ancillary works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development in the banner heading above is taken from the planning application form. However, during the application stage the number of proposed dwellings changed from 34 to 28 affordable dwellings. The above description therefore differs from that on the decision notice which is 'erection of 28 affordable dwellings including associated landscaping, car parking and other ancillary works.' My decision is based on this description from the decision notice, since it more accurately described the proposal. It is also shown on the appeal form, so the appellant would not be prejudiced by my use of it.
3. The Council's decision notice refers to Policy LP29(6), which relates to highways. However, the Council has confirmed that this was a typographical error, which should have referenced Policy LP29(9). The appellant is aware of this issue and referred to it in paragraph 74 of their statement of case. As such, I have proceeded on this basis, and no parties would be prejudiced by my use of Policy LP29(9).

Main Issues

4. The main issues are:
 - whether the site is a suitable location for the proposed dwellings having regard to the development plan policy;
 - the proposal's effect on the character and appearance of the area; and
 - the proposal's effect on living conditions of neighbouring occupiers.

Reasons

Suitability of location

5. Policy LP2 of the North Warwickshire Local Plan (2021) (Local Plan) defines the borough's settlement hierarchy and steers most development to the main towns, with a cascade approach in other settlements and with very little development directed towards the countryside. This is to ensure that development is provided in accessible locations in accordance with its range of services and facilities, and to protect the countryside. Warton is identified by Policy LP2 as a Category 4 settlement where development adjacent to its settlement boundary may be acceptable. Policy LP2 goes on to state, 'All development will be considered on its merits; having regard to other policies in the plan and will cater for windfall housing developments usually on sites of no more than 10 units at any one time depending on viability, services and infrastructure deliverability.'
6. The appeal site comprises agricultural land, located off Curlew Close. The proposed development would result in an extension of the village beyond the development boundary into open countryside.
7. The reason for the limitation of 10 dwellings in Category 4 settlements is to ensure that small communities are not swamped by new developments but could grow organically and naturally to be sustainable. I accept that the policy states that windfall housing would be catered for *usually* on sites no more than 10 units at any one time and therefore allows for exceptions. Indeed, some of the allocations are in excess of this amount.
8. However, in this instance, the proposal of 28 dwellings would exceed the 10 units of housing by more than double. The proposed development would therefore result in a significant expansion on the outskirts of a small village. Furthermore, while the village does offer a few services and facilities, they are insufficient to cater for the daily living requirements of residents. Although I acknowledge that the presence of additional residents could potentially support and enhance the existing services and facilities, I find that easy access to shops, services and job opportunities would heavily rely on the use of private motor vehicles.
9. Although there is a bus service nearby, I have not been provided with a timetable and so cannot be certain that the routes of timings would be viable for the typical daily needs of future occupiers. In the absence of alternative sustainable modes of transport such as regular bus or train services, future occupants are more likely to rely on private vehicles to access services and facilities as well as employment undermining the development strategy.
10. Consequently, the proposal would be in conflict with Policies LP1 and LP2 of the North Warwickshire Local Plan (2021) (Local Plan). Amongst other things, these policies restrict development outside development boundaries and focus new development within a defined settlement hierarchy, and seek to secure sustainable development with access to a range of services and facilities. In addition, the proposal would fail to accord with the National Planning Policy Framework (Framework) in respect of achieving sustainable development.

Character and Appearance

11. The appeal site is located within the 'No Man's Heath to Warton – Lowlands' Landscape Character Area, as defined in the Council's Landscape Character Assessment (LCA). This describes the area as being a mixed open agricultural landscape, with a scattering of small red brick nucleated hill-top villages of which Warton is an example. The LCA identifies the need to conserve and strengthen the rural character and dispersed settlement pattern recommending that new developments should reinforce the existing settlement pattern of the existing villages. The undeveloped and rural character of the appeal site contributes positively to that landscape character.
12. The prevailing pattern of development near to the appeal site is characterised by residential properties with long private rear gardens positioned along and to either side of Austrey Road. There are also some small cul-de-sac developments leading off Austrey Road, with the existing dwellings fronting the road.
13. The proposal would be accessed off a small cul-de-sac known as Curlew Close, and therefore not directly from Austrey Road. This detached relationship would be a marked change from the existing built form fronting Austrey Road, and the existing cul-de-sac being accessed directly off Austrey Road. The proposal would therefore appear as an add-on to the village, rather than an integral component of it.
14. Although the proposal would be adjacent to existing development along Austrey Road and Curlew Close, most of the proposed development would abut long rear gardens of adjacent dwellings. It would extend deeper into the plot beyond the existing built form and into open countryside, altering the established linear built form and rear garden environment. As such, the proposal would not be contained by existing built form and would not infill a gap in an existing built-up part of the village. Furthermore, the site's undeveloped open nature emphasises a transition from the built form to the rural context beyond.
15. The proposal would provide a range of dwelling sizes and layout. Nevertheless, the siting and mass of the proposed development would be out of keeping with the prevailing pattern of the existing residential development in the area. The proposal would create an incongruous form of development adjacent to a well-established rear garden environment and would not respond positively to the overriding spacious character of the area.
16. During my site visit I observed open views across the site and from the surrounding area, despite the presence of some boundary vegetation. These included views from Curlew Close. Whilst landscape planting could be designed to provide some degree of screening, the proposal would nevertheless be visible from the site entrance, and in views from neighbouring properties. Therefore, the proposal would be a visually intrusive form of development that would unacceptably detract from the character and appearance of the surrounding area.
17. For the reasons given, the proposal would cause unacceptable harm to the character and appearance of the area. Accordingly, it would fail to accord with Policies LP1 and LP14 of the Local Plan. These policies, amongst other things, require development to conserve, enhance and where appropriate, restore

landscape character, and positively improve the individual settlement's character and appearance. Given these identified Local Plan conflicts, the proposal would not be supported by Policy LP2. In addition, the proposal would fail to accord with the design objectives of the Framework.

Living Conditions

18. Due to the sufficient separation distances between the proposed dwellings and the existing neighbouring dwellings, the proposal would not cause an unacceptable loss of privacy through overlooking to neighbouring residents. Similarly, adequate outlook for existing residents would be maintained, due to the scheme's layout and positioning of rear gardens adjacent to existing built form.
19. As such, for this main issue, the proposal would accord with Policy LP29(9) of the Local Plan. Amongst other things, this policy seeks to ensure new development avoids and addresses unacceptable impacts upon neighbouring amenities.

Planning Balance and Conclusion

20. Although the Council is able to demonstrate a five year supply of housing the proposal would contribute towards the Government's objective of significantly boosting that supply. In that context I give the provision of 28 units moderate weight.
21. It is proposed that the housing would be provided as 100% affordable. This would contribute to the social aspect of sustainability and the need for affordable housing within the area which has been confirmed by the Council. The appellant's Financial Viability Assessment states that it is imperative that only the policy compliant level of affordable housing be secured by a S106 agreement to allow the housing association to raise stronger capital on the homes over and above the 40%. However, I do not have any signed Section 106 legal agreement before me to secure any provision.
22. I have had regard to the advice in the Planning Practice Guidance on whether it would be appropriate to secure provision via a condition¹. It confirms that ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency. It goes on to state that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk.
23. I am not convinced that the development is complex or strategically important or that its delivery would otherwise be at serious risk. Furthermore, neither party has suggested such a condition. While the delivery of affordable housing would be a benefit of the scheme, given the overall shortfall, I cannot be sure that it would be delivered at 100%. I therefore attach only moderate weight to this benefit.

¹ Paragraph: 010 Reference ID: 21a-010-20190723

24. The proposal would deliver bungalows that would make a small contribution to a need for this type of accommodation and would enable housing choice in this respect. However, these benefits are modest relating to only a small number of proposed bungalows.
25. The proposal would make an economic contribution during the construction period and subsequently from future occupiers in terms of spending in the local area, which would help to support local businesses, facilities, and services.
26. The proposed scheme would not have an adverse impact with regard to residential amenity, highway safety, flooding and drainage. I also note the suggested biodiversity enhancements. However, these are neutral factors and do not weigh in favour of the proposal.
27. The proposal would be at odds with the spatial strategy in the development plan. It would also result in harm to the character and appearance of the area for the reasons given. It would therefore be contrary to the development plan as a whole. These matters I have outlined above, while of some benefit would not outweigh that conflict.
28. The appeal is therefore dismissed.

H Smith

INSPECTOR



Appeal Decision

Site visit made on 31 May 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Appeal Ref: APP/R3705/W/22/3310379

Land 50m North of St Nicholas Church, Church Lane, Austrey CV9 3EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr J Smyczek against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2021/0077, dated 10 February 2021, was refused by notice dated 20 July 2022.
- The development proposed is erection of a dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal upon the character and appearance of the area, having particular regard to the effect upon the settings and thereby the significance of the Grade II* listed St Nicholas Church (the Church); and
 - the effect of the proposal on highway safety.

Reasons

Effect on character and appearance and heritage asset

3. The appeal site is comprised of a parcel of land that is heavily vegetated and bound by established planting to much of its perimeter. It sits adjacent a small allotment garden with the Church and its well vegetated churchyard located just behind the allotment garden. The site is also positioned next to open countryside. Despite residential development opposite the site, the area has a verdant and semi-rural character and appearance.
4. The significance and special interest of the Church is derived, in part, from its age, its relevance to the historic evolution and rural history of the village, its historic building fabric and its attractive aesthetic appearance. This significance and special interest is further underpinned by the spaciousness and openness of its semi-rural setting, which is contributed to in no small part by the verdant nature of the appeal site.
5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to

- have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
6. The site is clearly separated from the existing residential buildings by an access track, which detaches the appeal site from these buildings. As such, the site is not physically joined to the existing urban development. The site's naturalised appearance, along with its tree and shrub cover, visibly distinguish it as an obvious feature of the countryside rather than an intrinsic part of the village.
 7. Whilst the site is physically separated from the church by the allotment garden, the garden itself is a small, open area that contributes to the setting of the church.
 8. The proposed two-storey dwelling would introduce a significant bulk and mass onto the site by virtue of its scale and height. The new dwelling would erode the extent of the green gap that exists between the churchyard and the neighbouring dwellings. In addition, land to the side of the dwelling would incorporate a driveway and parking spaces. This, combined with the building itself, would reduce the verdant appearance of the site. The proposal would result in an urbanising change to the setting of the heritage asset by diminishing the semi-rural qualities of the site, which would detract from the openness of the surrounding area.
 9. The appellant has produced a comparative sketch of the proposed dwelling using topographical data and 3D software. Nevertheless, due to the proposed dwelling's location, it would diminish the experience of approaching the church from the trackway and divert attention away from its presence. I accept that the approach to the front of the church is from Church Lane, but the trackway off the Green is also used as a popular route to the church by residents living nearby.
 10. Furthermore, when observed from Bishop's Field, the proposed dwelling would be visible in the same view as the Church. Its close proximity would encroach upon the church's setting, resulting in a reduced sense of openness.
 11. Whilst I accept that the proposed dwelling would be on slightly lower ground level in relation to the church and the existing boundary trees and vegetation would provide some partial screening, the overall development would result in encroachment onto land which presently has an open, undeveloped character. Moreover, planting cannot be relied upon to provide a permanent buffer to views. This is because there is no guarantee that such planting would survive or be adequately maintained in the longer term.
 12. My attention has been drawn to a hedgerow that the appellant indicates is a strong boundary to the edge of the built-up area. However, green undeveloped spaces exist between the hedgerow and the trackway, and therefore the trackway marks a clearer boundary for the reasons given above.
 13. The proposed dwelling would include sympathetic detailing and materials that could be reasonably secured through the imposition of planning conditions. However, these acceptable aspects would not outweigh the harm identified above.
 14. Consequently, the proposal would cause harm to the significance and special interest of the Church by bringing forward development within its setting. I would qualify that the degree of harm would be less than substantial. In

accordance with paragraph 202 of the National Planning Policy Framework (Framework), that harm should be weighed against any public benefits of the proposal.

15. The proposal would provide a dwelling with adequate access to local services. However, given the small scale of the proposal, the provision of one additional dwelling would attract only limited weight as a scheme benefit.
16. Accordingly, giving great weight to the conservation of the designated heritage asset, I consider that the less than substantial harm I have identified would not be outweighed by the scheme's public benefits when considered cumulatively.
17. For the above reasons, the proposal would cause unacceptable harm to the character and appearance of the area and to the significance and special interest of the Church.
18. As such, the proposal fails to accord with Policy LP15 of the North Warwickshire Local Plan (2021). This policy, amongst other things, seeks to ensure development conserves and enhances the significance of heritage assets, including their settings. In addition, the proposal would not accord with the policies of the Framework (Section 16) which seek to conserve and enhance the historic environment.

Highway safety

19. The site is accessed from a narrow trackway which connects to a cul-de-sac known as 'The Green' at its northern end and Church Lane at its southern end. The trackway is used for vehicular access to a small number of existing dwellings and as a pedestrian route. There is also a public right of way that runs along the northern boundary of the site. This leads to pedestrian and vehicle movements in and round the locality.
20. Although there is an existing access serving the appeal site, I observed during my site visit that the existing access into the site was from a pedestrian gate only. The proposal would introduce a driveway and parking areas for 2 vehicles. This increase in vehicular access onto the trackway would represent a significant change from the current access arrangement.
21. The proposal would result in vehicles entering and exiting the appeal site near a sharp bend on the trackway and close to the public right of way. As such, motorists would be more focused on their next manoeuvre when approaching the sharp bend than vehicles entering and exiting the appeal site's access.
22. There is insufficient space on the appeal site to enable turning of a vehicle to enter and exit the site in a forward gear. Reversing out of the site onto the narrow trackway would be hazardous to both pedestrians, cyclists, and other road users. The sharp bend on the trackway would restrict visibility from the driveway to approaching pedestrians, cyclists and vehicles. Consequently, there would not be adequate time to react to oncoming users of the trackway when reversing from the driveway. This would lead to an increased risk of collision.
23. As there is no turning space within the site itself or on the narrow trackway, the proposal could also lead to vehicles reversing along the trackway and out onto the highway. Again, this would increase risk of collision with other road users.

24. I note that residents have implemented an informal one-way system along the trackway. However, this is not legally enforced and therefore non-residents such as visitors and delivery drivers may not use the one-way system.
25. I agree that the appeal site is located off a trackway and near a cul-de-sac (The Green) that does not appear to exhibit high traffic volumes. However, the manoeuvring in and out of the proposed access would be dangerous to pedestrians and other road users for the reasons explained.
26. Consequently, the proposal would result in an unacceptable impact on highway and pedestrian safety. As such, the proposal would fail to accord with Policy LP29 of the Local Plan. Amongst other things, this policy seeks to ensure development provides safe and suitable access to the site for all users. In addition, the proposal would also fail to accord with paragraph 111 of the Framework, which states that development should be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

27. The appellant refers to a brick building on site that was previously used as a greenhouse. I observed during my site visit the remains of a small brick structure that was in a dilapidated condition. It appears as a separate structure in the rural landscape that is physically segregated by the trackway from the prevailing pattern of development in the village. Furthermore, no evidence has been submitted to indicate that the former building was of the same footprint and height as the proposal before me.
28. My attention has been drawn to a previous appeal decision (APP/R3705/W/16/3149979) for 4 large detached dwellings, which were allowed. However, this site is in a different location to the appeal site, being situated further away from the Church with its own site-specific issues. Therefore, this other appeal is not directly comparable with the proposal before me, which I have determined on its own merit. I also note the Inspector stated, "*Given its raised position, the church is appreciated within a setting of trees and mature landscaping which are therefore of significance in defining the setting to the listed building.*" In my judgement, based on the evidence submitted and my site observations, the appeal site's close proximity to the Church and the site's mature planting and verdant nature contribute significantly to the setting of the Church.

Conclusion

29. The proposal conflicts with the development plan when read as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

H Smith

INSPECTOR



Appeal Decision

Site visit made on 23 May 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th July 2023

Appeal Ref: APP/R3705/D/22/3308518

The Reddings, Ridley Lane, Nether Whitacre, Warwickshire B46 2DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Miss Emily Woodford against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2022/0122, dated 16 February 2022, was refused by notice dated 28 July 2022.
- The application sought planning permission for resubmission of planning application PAP/2018/0495 for two-storey rear extension, demolition of existing garage/ store and 1st floor side extension with balcony and works, without complying with a condition attached to planning permission Ref PAP/2019/0479, dated 8 November 2019.
- The condition in dispute is No 4 which states that: *"No development whatsoever within Classes A, B, C, D 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 first having been submitted to and approved by the Local Planning Authority, in writing"*.
- The reason given for the condition is: *"In recognition of the very special circumstances warranting the approval of planning permission and to control future development in the interest of the openness of the Green Belt"*.

Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission for a two-storey rear extension, demolition of an existing garage/ store and erection of a first-floor side extension included a condition removing permitted development rights, as detailed in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order), for extensions, alterations and outbuildings. The appellant asserts that the removal of Class E permitted development rights within the condition is not reasonable or necessary. The appellant therefore seeks to remove the condition and replace it with a condition only removing Classes A to D.
3. Taking the above into account the main issue is, therefore, whether the condition is reasonable and necessary to protect the openness of the Green Belt.

Reasons

4. The appeal property is a semi-detached dwelling situated within the Green Belt in an area of dispersed development.
5. The Council considered the original application for extensions and alterations against Policy LP3 of the North Warwickshire Borough Council Local Plan, 2021 (LP) and assessed the size of the extension in quantitative and qualitative terms, against the original building, as defined in LP3. It is clear from the evidence that the Council considered the extensions to be at the maximum scale acceptable to ensure the openness of the Green Belt. The Council, therefore, also considered the removal of permitted development rights as referred to in sub-section d) of LP3.
6. The Council's evidence, submitted for this appeal, indicates that the first planning permission was only supported on the basis that the existing garage/store was being demolished. The demolition of the existing outbuilding provided sufficient justification to allow the proposed extensions to the dwelling, which were considered to result in disproportionate additions over and above the size of the original building, when assessed against Policy LP3 of the LP and paragraph 149 of the National Planning Policy Framework (the Framework).
7. Permitted development rights were removed to ensure that the Council could retain control over any further residential development at the property, to ensure that any other alterations or extensions do not have a greater impact on the openness of the Green Belt. The effect on design and the character and appearance of the area is only part of the consideration of openness. The removal of permitted development rights does not seek to prevent development. It gives the Council control over the development of the site, as is evidenced by the recent consent at the appeal site for a new detached garage.
8. Planning Practice Guidance (PPG) states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Order, so that it is clear exactly which rights have been limited or withdrawn. Moreover, area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.¹
9. The Order does not restrict permitted development rights relating to development within the curtilage of a dwellinghouse for Classes A to E in the Green Belt. Therefore, the small-scale development that falls in these categories, including outbuildings, would not generally conflict with the purposes of the Green Belt or its essential characteristics of openness and permanence.
10. As such the appeal site's location within the Green Belt would not, in itself, represent justification to warrant removal of permitted development rights. However, in this case the permitted development rights were removed to

¹ 017 Reference ID: 21a-017-20190723

ensure that any further development at the property would not conflict with the purposes of the Green Belt, given the scale of the extensions and alterations already permitted.

11. The appellant accepts that removal of Class A permitted development rights is arguably understandable in terms of ensuring that any further development would not result in a disproportionate addition. However, they seek to argue that the condition is unreasonable, with regard to Class E rights, given the advice in the PPG.
12. However, without the control provided through removing permitted development rights I cannot be certain that any development under Class E would not result in disproportionate additions over and above the size of the original building and would not, therefore, harm the openness of the Green Belt.
13. I accept that small-scale development under Class E would be unlikely to significantly harm the visual aspect of openness due to existing boundary hedges, fences and the garage, currently under construction, screening views from outside the property. However, the spatial aspect of openness would be harmed by reason of additional new buildings in the Green Belt, over and above what has already been developed at the site. The spatial harm could be significant dependant on the number and scale of outbuildings erected, which the Council would have no control over, subject to the criteria in the Order.
14. The decision in this case turns on the specific facts relating to the approved extension to the original building, the potential disproportionate expansion of built development on the site and the desire to maintain the openness of the Green Belt, particularly in regard to spatial openness. The disputed condition has not been imposed without appropriate justification. The condition is necessary in this case to ensure that any further development at the property would not cause further harm to the openness of the Green Belt, beyond the extensions and garage already permitted. The disputed condition is precisely defined and is clearly reasonable and necessary to ensure that the proposal complies with the development plan and the Framework.
15. For the above reasons, I conclude that the disputed condition is both reasonable and necessary in order to preserve the openness of the Green Belt. The condition, as imposed, complies with Policy LP3 of the LP which seeks to ensure that extensions to existing buildings are not disproportionate to the original building.
16. The condition also accords with paragraph 149 of the Framework which requires extensions to buildings to not result in a disproportionate addition and not have a greater impact on openness than the original building. Condition 4 satisfies all the other requirements in Paragraph 57 of the Framework and the Planning Practice Guidance, there is, therefore, no need to remove or vary it.

Conclusion

17. For the reasons given above the appeal is dismissed.

K Townend

INSPECTOR



Appeal Decision

Site visit made on 23 May 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2023

Appeal Ref: APP/R3705/W/22/3313322

Hill Top Farm, Church Lane, Corley, Warwickshire CV7 8AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Phillip Deakin against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2022/0226, dated 16 April 2022, was refused by notice dated 21 June 2022.
- The development proposed is for three single storey dwellings with three bedrooms and double garage, to replace previous approval (PAP/2019/0344).

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area; and
 - 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

Inappropriate development

3. Paragraph 149 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain criteria. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling in villages or they represent partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.
4. Policy LP3 of the North Warwickshire Local Plan, 2021 (LP) reflects Paragraph 149 of the Framework in resisting development in the Green Belt except in certain circumstances. The most relevant to the appeal is limited infilling where a site is clearly part of the built form of a settlement, and Policy LP3 defines

- this as where there is substantial built development around three or more sides of a site.
5. The appeal site comprises a parcel of land behind Hill Top Farm with access from Church Lane. Hill Top Farm and the adjacent houses, Cartref and Derwent House, front Church Lane. The Corley Gardens development, also known as The Laurels, sits to the side of Hill Top Farm and the appeal site.
 6. The Corley Gardens development extends back from Church Lane encompassing the land which was formerly a nursery. To the opposite side of Cartref and the appeal site is a bowling green, club house and village hall. Beyond the appeal site are open fields. The village school lies on the opposite side of Church Lane. Beyond this Corley is a dispersed village set within open countryside and washed over by the Green Belt.
 7. The development at Corley Gardens extends to the same depth from the road as the rear of the appeal site. Hill Top Farm and its neighbour, Cartref, sit between the appeal site and the road. However, the appeal site is separated from Hill Top Farm and Cartref by a large open area. Furthermore, the appeal site lies beyond the development at the village hall, bowling green and club house.
 8. There would, therefore, be green spaces to three sides of the appeal proposal. Moreover, neither the village hall and club house nor Hill Top Farm and Cartref comprise substantial built development, even if I were to accept that Corley Gardens was considered such. The proposal, therefore, does not represent limited infilling in the village when assessed against Policy LP3 of the LP and Paragraph 149 of the Framework.
 9. Although the application form describes the existing use of the land as waste land, unused and previously used for the storage of vehicles and building materials, from my site visit it appeared as unmaintained agricultural land. The area closest to Hill Top Farm, which has evidence of demolished buildings and includes areas of rubble, does not form part of the appeal site. Unlike the previous consent at Hill Top Farm for three dwellings¹ the current appeal site is not previously developed land.
 10. The site is overgrown but is still green and open land and currently contributes positively to the openness of the Green Belt. The previous consent was considered, by the Council, to be not inappropriate development. It was approved as complying with paragraph 149(g) of the Framework. The current appeal is not comparable as it is not partial or complete redevelopment of previously developed land.
 11. For the reasons given above the proposal would not represent limited infilling in a village, or partial or complete redevelopment of previously developed land. The proposed development would, therefore, comprise inappropriate development in the Green Belt contrary to Policies LP2 and LP3 of the LP which, taken together, seek to ensure that development is distributed in accordance with the Borough's settlement hierarchy and seeks to resist inappropriate development in the Green Belt, except in very special circumstances.
 12. The proposal would also be contrary to Paragraph 149 of the Framework. Paragraph 147 and 148 of the Framework state that inappropriate development

¹ Council reference PAP/2019/0344

is, by definition, harmful to the Green Belt and that substantial weight should be given to any harm to the Green Belt.

Openness of the Green Belt

13. The appeal site has the appearance of an overgrown paddock, or small field, which adjoins other fields on two sides. Although the appeal site would sit alongside the houses on Corley Gardens, I consider that it currently forms part of the open countryside. As such the site currently contributes positively to the openness of the Green Belt. The proposal would result in three dwellings, albeit single storey, with associated garages, gardens and other domestic paraphernalia that would lead to encroachment into the countryside, contrary to the aim of the Green Belt of assisting to safeguard the countryside from encroachment.
14. Although the appeal proposal would not be readily seen from public vantage points, it would be seen from the neighbouring properties, including Hill Top Farm. The visual impact of the development would be limited but would still result in a harmful visual impact to the openness of the Green Belt.
15. Openness also has a spatial aspect which is an absence of development, rather than an absence of a view. The appeal proposal would introduce development in a site where there is currently none and would therefore have a significant spatial impact on the openness of the Green Belt. The limited views of the appeal proposal do not alter the spatial impact of the proposal.
16. The appellant asserts that Corley Gardens has a greater impact on the openness of the Green Belt than the appeal before me. However, the evidence before me confirms that the Council determined, in approving Corley Gardens, that there were very special circumstances that justified the harm to the Green Belt. Moreover, that an existing development has impacted the openness of the Green Belt does not justify further harmful impact. Each scheme must, in any case, be considered on its own merits.
17. The appeal site is currently open, has an absence of development and is visible from surrounding properties. As such the proposal would have both a spatial and a visual impact which would result in a significant loss of the openness of the Green Belt contrary to Paragraph 137 of the Framework which identifies the essential characteristics of Green Belts as their openness and their permanence. I give substantial weight to the harm to openness, as set out in the Framework.

Character and appearance

18. The appeal proposal would introduce three dwellings on a large parcel of land, separated from the existing road fronting houses by a large open area. Even though the dwellings would front the proposed new road within the site, and, in this regard, the development would respect the built form of the village in being road fronting houses, the appeal site has a poor relationship with Church Lane due to the separation distance and the intervening green space. Furthermore, the new access, albeit previously approved, would not result in a development functionally or physically connected to any other development.
19. I also acknowledge that the appeal site is no further back from Church Lane than the Corley Gardens development. However, the layout proposed, the separation from Church Lane, and the inclusion of the space between Hill Top Farm, Cartref and the appeal site, introduces a form of development which is

not prevalent in the immediate area. The three dwellings, albeit single storey and adjacent to the Corley Gardens development, would form an island of development surrounded on three sides by open land.

20. I have been made aware of the previous appeal decision at Hill Top Farm², for five dwellings, referred to by both parties and enclosed in the Council's evidence. The Inspector in the previous appeal was clearly aware of the Corley Gardens scheme and acknowledged that it would alter the nature of the nursery site. However, the Inspector commented that the development of Corley Gardens would not change the appeal site at Hill Top Farm, or its relationship with Church Lane or the surrounding fields. The Inspector concluded that the appeal development would unbalance the relationship between the built form and open countryside.
21. The previous appeal relates to a larger scheme of five two-storey houses. As such it is not comparable in scale, however there are some similarities in developing the current appeal site which forms part of the countryside. The appeal before me would introduce development into the countryside in a form which does not respect the character and built form of the surrounding area and would, therefore, represent encroachment into the countryside which would be harmful to the character and appearance of the area.
22. For the reasons given above I conclude that the proposed development would be harmful to the character and appearance of the area contrary to Policy LP1 of the LP which seeks to ensure that development integrates with and positively improves a settlement's character and appearance.
23. Moreover, the development would also be contrary to Section 12 of the Framework and the aims of achieving well-designed places which are sympathetic to local character.

Other considerations

24. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that the proposal would comprise inappropriate development in the Green Belt. In addition, there are adverse impacts on the visual and spatial aspect of openness. Substantial weight is given to the harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt, and any other harms, including the harm to the character and appearance of the area, are clearly outweighed by other considerations.
25. The proposal would provide three additional houses with renewable heating, EV charging points and rainwater harvesting in an area with some services and facilities. The development would also have associated social and economic benefits both during and post construction. However, given the small scale of the development these benefits would be limited. Nevertheless, these benefits contribute positively and carry limited weight in favour of the proposal.
26. The scheme would also have a neutral effect on biodiversity and trees, no impact on heritage assets, and the access would be the same as approved for the previous permission. However, these matters weigh neither for nor against the proposal.

² APP/R3705/A/14/2222934

27. There is no mechanism before me to secure the revocation of the previous permission³. Except for the access, the built development on the two sites would not overlap and both could be developed if this appeal were to be allowed. As such I am not able to give weight to the proposal being, as described in the banner heading above, a replacement of a previous approval. However, even if there were an appropriate mechanism this would not alter my view on the proposal being inappropriate development in the Green Belt. Neither would it alter my view on the impact of the proposal on the openness of the Green Belt.
28. The proposal has not been put forward as affordable housing, under Paragraph 149(f) of the Framework and as such no housing need survey was submitted by the appellant. I am, therefore, not able to give any additional weight to the scheme meeting any specific identified housing need.
29. I have, also, not been provided with any plans showing the suggested reduction of the garages to single garages as offered by the appellant. Even if such plans were before me, having regard to the 'Wheatcroft Principles'⁴, the Council and interested parties have not had an opportunity to comment on any revised plans. In the interests of natural justice, I have therefore based my decision on the plans which were submitted to and considered by the Council.
30. For the above reasons I find that the other considerations in this case do not clearly outweigh the harm that I have identified to the Green Belt and other matters. Consequently, the very special circumstances necessary to justify the development do not exist.

Other matters

31. I do not have the full details of the Corley Gardens development. However, from the evidence provided, I am aware that it was considered to be inappropriate development, when assessed against the Framework. Significant weight was given to the affordable housing contribution, that it was previously developed land as a former nursery and there was a housing land supply shortfall at the time. The Council concluded that there were very special circumstances which justified the harm to the Green Belt. The Corley Gardens development is therefore not comparable to the appeal proposal as I have not found that very special circumstances exist in this case.
32. I acknowledge the concerns of third parties. However, the layout, design and scale would not cause unacceptable harm to the living conditions of occupiers of neighbouring dwellings or the future occupiers of the proposed dwellings. However, this is a neutral issue and does not weigh in favour of the proposal.

Conclusion

33. The development conflicts with the development plan taken as a whole and the Framework. There are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

K Townsend

INSPECTOR

³ Council reference PAP/2019/0244

⁴ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

Agenda Item No 11

Planning and Development Board

7 August 2023

**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 item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

Agenda Item No 12

Exempt Extract of the Minutes of the meeting of the Planning and Development Board held on 10 July 2023.

Paragraph 7 – by reason of 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).