

General Development Applications

(7/d) Application No: CON/2022/0005

Land South of Elmesthorpe between the Leicester to Hinckley Railway and the M69 Motorway

Proposals for the construction, operation, use and maintenance of a Strategic Rail Freight Interchange together with alterations to Junction 2 of the M69 Motorway to provide south facing slip roads and a new highway linking Junction 2 with the B4468 Leicester Road for

Tritax Symmetry (Hinckley) Ltd

Introduction

This proposal has been submitted to the Secretary of State as a National Infrastructure Project seeking a Development Consent Order from him following a Public Inquiry carried out on his behalf by the Planning Inspectorate.

The Borough Council is being formally consulted as a statutory consultee under Section 42 of the 2008 Planning Act and responses have to be returned before 9 March. A firm timetable is set for such proposals under the appropriate legislation for proposals of this nature.

This is an initial report in order that Members can review the significant amount of information submitted and consider its implications on the Borough. To this end the report outlines three main matters which Members may wish to consider. It is suggested that the case is then brought back to the March meeting so that Members can review these three matters and outline any further issues that they might wish to raise.

The Site

This is a substantial area of agricultural land to the north-east of Hinckley, south of Elmesthorpe and Barwell with its western boundary marked by the Hinckley to Leicester rail line and its eastern boundary being the M69 Motorway. The main site has an area of 268 hectares and in geographic terms, it is generally illustrated at Appendix A.

The Proposals

The main features of the proposal comprise:

- a) New Rail Infrastructure providing access to the existing railway line with a series of parallel sidings.
- b) A "Railport" capable of accommodating up to 16 trains a day of up to 775 metres in length.
- c) Up to 850,000 square metres (gross) of warehousing and ancillary buildings
- d) A lorry park with an HGV fuel filling station.
- e) An electricity sub-station connected to the local distribution network and a gas-fired heat and power plant (10MW generation capacity) fed from solar PV including standby capacity (20MW) and battery storage (20MW)

- f) Works to Junction 2 of the M69 Motorway comprising reconfiguration of the existing roundabout and approach lanes with additional southern slip roads
- g) A new link road from Junction 2 to the B4668/A47 Leicester Road to include a new access road into the site; a new rail bridge within the site spanning the proposed sidings and existing railway and a new junction where it joins the Leicester Road.

An illustrative Master Plan illustrates these features at Appendix B.

A series of off-site highway works at a number of junctions are also proposed as a consequence of new traffic generated by the proposal. None of these are within North Warwickshire. They are outlined at page 16 of Appendix C.

The application is accompanied by an Environmental Statement and other supporting documents. For the benefit of Members, there is a useful summary in an Explanation Document. This is attached in full at Appendix C.

A full hard copy of all of the submitted documents is available for Members to view by request. The appended document also usefully sets out the timetable for public exhibitions and for contacts to webinars and also to social media coverage in its Section 6. Members wish to undertake their own research using this material.

Development Plan

North Warwickshire Local Plan 2021 – LP1(Sustainable Development); LP6 (Strategic Employment Land) and LP29 (Development Considerations)

Other Material Planning Considerations

The National Planning Policy Framework

Observations

There are three issues arising from this proposal and its potential impact on North Warwickshire – strategic employment requirements, traffic generation and the nature of the proposal itself.

In respect of the first, Members will be familiar with Policy LP6 of the Local Plan. This states that:

“Significant weight will be given in decision taking to supporting economic growth and productivity, particularly where evidence demonstrates an immediate need for employment land, or a certain type of employment land, within Area A on Figure 4.10 of the West Midlands Strategic Employment Sites Study of September 2015 (or successor study) which cannot be met via forecast supply or allocations. The relevant scheme will be required to demonstrate that:

- a) access to the strategic highway network is achievable and appropriate,
- b) the site is reasonably accessible by a choice of modes of transport, and
- c) it is otherwise acceptable taking account of the living conditions of those nearby”.

The Plan indicates that the policy does not override other policies in Plan but recognises that there are particular locational requirements specific to certain employment uses. The Policy however is only one amongst all of the others in the Plan and thus will need to be considered in respect of the Plan as a whole. Area A is effectively the M42/M6 Corridor and includes land in the Green Belt and the Strategic Gap.

Members will be aware of the receipt of application PAP/2021/06663 for a proposed employment development (B2, B8 and Eg (iii) uses) in the north-east quadrant at Junction 10 of the M42 and that there are other areas of interest at Junctions 9 and 10 for similar developments.

The first issue that officers would raise is how far this proposed Rail Freight Terminal could be seen as meeting some of the demand set out in the West Midlands Strategic Employment Sites Study referred to in Policy LP6 and thus remove pressure on the Green Belt and the Strategic Gap in Area A. The site is clearly not in Area A, but it is not too distant and importantly it will have a dedicated rail connection and it is proposing B8 development opportunities. Developers who may advance the conclusions of the Strategic Site Study as a reason for supporting their own applications, may equally find this site to be a viable alternative particularly if they are not led by site-specific requirements.

The second main issue revolves around traffic generation. The proposals do not include off-site highway works along the A5, with the applicant concluding that there would be limited impacts referring in part to the planned A5 improvements between the M69 and the M42 Motorways. The relevant Highway Authorities will have been consulted on the application and they will report directly to the Secretary of State. The issue that officers would raise is whether this proposal, if permitted, would take up capacity on the A5 that has already been “built-in” as a consequence of the strategic highway and employment allocations in the Local Plan. If so, that might prejudice the “delivery” of these sites.

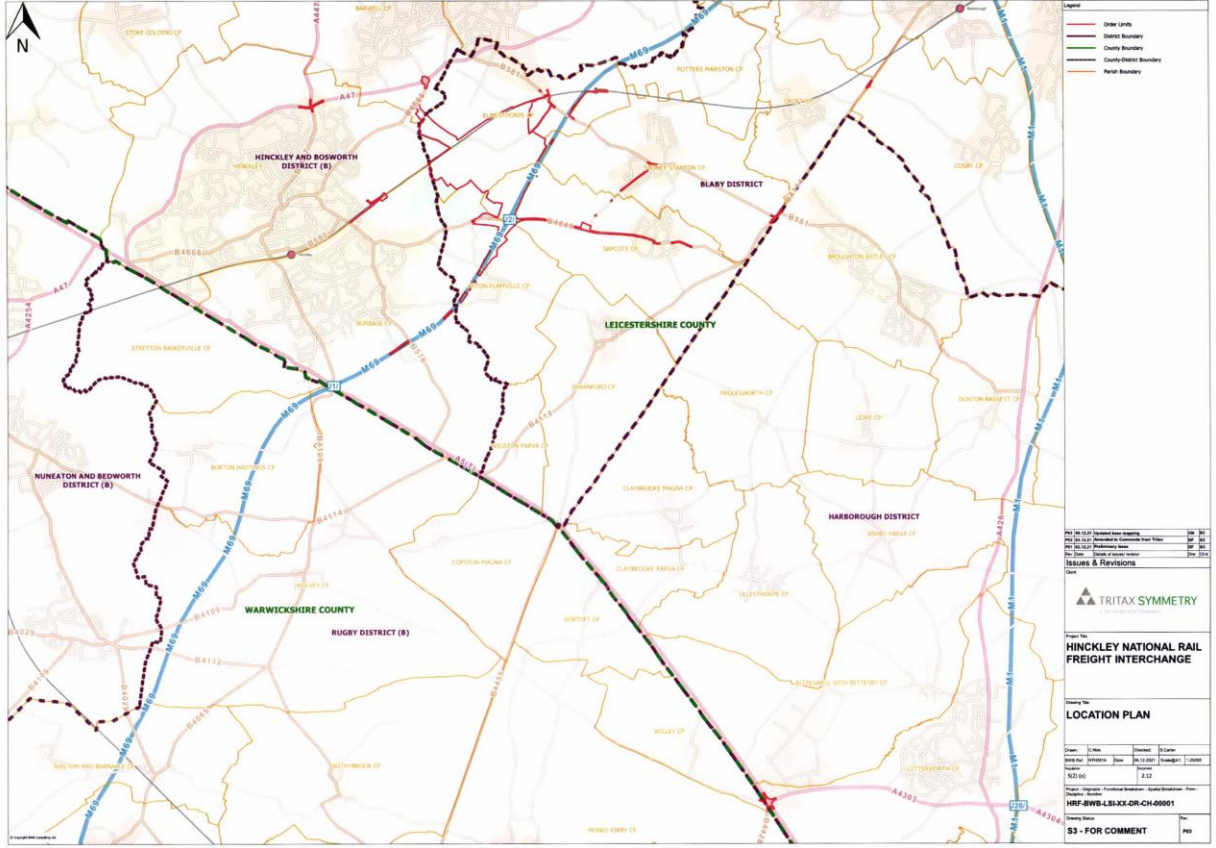
A third issue revolves around the nature of the application itself. The whole proposal is predicated on it being a rail freight interchange – it being rail-led. Members will be aware that both at Hams Hall and at Birch Coppice, many of the occupiers are not rail-based and that attempts to condition occupiers to using rail as their primary method of business was not supported by the Planning Inspectorate. The weight to be afforded to the sustainability credentials of the proposal may thus be diluted if the rail-led activity cannot be delivered in practice. The site then becomes another B8 Logistics Park with an associated rail terminal.

It is therefore considered that the Council might not wish to raise an objection to this proposal provided that the Secretary of State can be confident that:

- a) The applicant can demonstrate that there is a robust system in place to ensure that occupiers – both initial and subsequent - of the associated buildings do indeed conduct the majority of their business through the rail freight terminal.
- b) The applicant can demonstrate that this facility can assist in delivering some of the outcomes of the West Midlands Strategic Employment Sites Study
- c) The applicant can demonstrate that the traffic impact on the A5 between the M69 and the M42 will not take up capacity on the A5 that has already been accounted for in the allocation of the strategic housing and employment allocations set out in the North Warwickshire Local Plan 2021.

Recommendation

That a further report is brought to the next Meeting.



Hinckley National Rail Freight Interchange

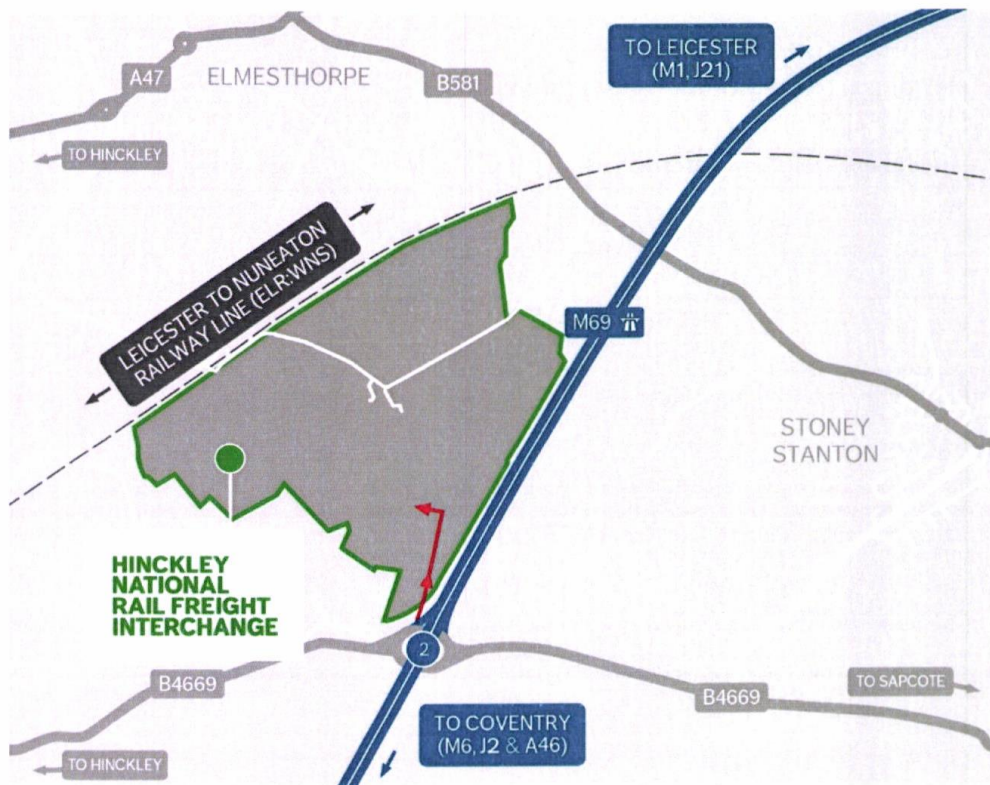
Community Explanation Document

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1. Introduction to the Hinckley National Rail Freight Interchange

1.1 This document, referred to as the 'Community Explanation Document' (CED), is intended to provide a straightforward summary of our proposals for a Strategic Rail Freight Interchange known as the Hinckley National Rail Freight Interchange (HNRFI) or the 'Proposed Development'. HNRFI is located west of the M69 and east of the Felixstowe to Nuneaton railway, south of Elmesthorpe. The plan below shows the location of Hinckley National.



2. Tritax Symmetry (Hinckley) Ltd – The Applicant

2.1 The project is being promoted by Tritax Symmetry (Hinckley) Ltd (TSH) (The Applicant), which has been established by Tritax Symmetry Ltd especially for this development proposal. Tritax Symmetry Ltd was formed in February 2019 following the acquisition of db symmetry by Tritax

Big Box REIT plc, a FTSE 250 company. Tritax Symmetry Ltd has a land portfolio comprising some 4150 acres of land that is capable of accommodating 40 million sqft of logistics space.

- 2.2 Through Tritax Symmetry Ltd, TSH has become a Gold Leaf Member of the UK Green Building Council (UKGBC) committing to the low carbon agenda. The buildings will achieve net zero carbon in construction through initiatives such as funding high quality accredited and verified offset schemes. Any offset scheme selected will be in line with the current principles set out in UKGBC's net zero framework.

3. What is a Strategic Rail Freight Interchange?

- 3.1 A Strategic Rail Freight Interchange (SRFI) is a large multi-purpose freight interchange and distribution centre linked into both the rail and trunk road systems, with good rail connectivity to the main ports, reducing the need for road traffic between ports and major towns and cities.
- 3.2 The aim of an SRFI is to optimise the use of rail in the freight journey by maximising rail trunk haul and minimising some elements of the secondary distribution leg by road.
- 3.3 Government policy is that SRFIs are important because they can provide a range of transport, environmental, and economic benefits. These include moving freight by rail instead of lorries to get freight off the roads and on to trains, and as a result the national policy is that there should be a network of SRFIs in the UK. The transfer of freight from road to rail has an important part to play in a low carbon economy and in helping to address climate change.
- 3.4 Rail projects including SRFIs are covered by the National Policy Statement (NPS) for National Networks. This states that '*SRFIs are a key element in reducing the cost to users of moving freight by rail and are important in facilitating the transfer of freight from road to rail*'. Amongst other things, the National Networks NPS also provides guidance on the environmental impact assessment of SRFI proposals. TSH is following this policy advice.

4. The Emerging Proposals

4.1 The main features of HNRFI comprise:

- a) New rail infrastructure providing access to the series of parallel sidings
- b) Intermodal freight terminal ('railport') capable of accommodating up to 16 trains per day of up to 775m in length
- c) Hard surface areas for container storage
- d) Up to 850,000m² GIA of warehousing and ancillary buildings with a total footprint of 650,000m² and up to 200,000m² of mezzanine floorspace
- e) Lorry park with HGV fuel filling station
- f) Energy services area incorporating an electricity sub-station connected to the local distribution network and a gas-fired heat and power plant (10MW generation capacity fed from solar PV including standby capacity (20MW) and battery (20MW))
- g) Terrain remodelling, hard and soft landscape works, amenity water features and planting
- h) Noise attenuation measures – acoustic barriers up to 6m in height
- i) Pedestrian, equestrian and cycle access routes and infrastructure
- j) A new link road from M69 junction 2 to the B4668 / A47 Leicester Road including:
 - New access road connecting to an internal road network serving the SRFI
 - New rail bridge within the SRFI site
 - New junction at B4668 / A74 Leicester Road
- k) Works to the M69 motorway at Junction 2 comprising:
 - Reconfiguration of existing roundabout and approach lanes
 - Additional southern slip roads

An illustrative masterplan has been prepared which is displayed below:



4.2 Other development associated with HNRFI comprises:

- a) Railway infrastructure including signals, signage and electricity connections.
- b) Utility compounds, plant and service infrastructure including an energy centre.
- c) Data centres to support the requirement of the HNRFI and its occupiers and operators.
- d) Drainage works, including groundwater retention ponds, swales and underground attenuation tanks.
- e) Habitat creation and enhancement and public access, including the provision of amenity open space at the south-western extremity of the SRFI near Burbage Wood. Provision is made for new Public Rights of Way.
- f) Works affecting existing pedestrian level crossings on the railway.
- g) Security and safety provisions inside the SRFI including fencing and lighting.
- h) A new road bridge spanning the proposed railway sidings and the existing railway in the vicinity of the existing Burbage Common Road bridge, with a new road turning north-westwards to the B4668 Leicester Road and linking on to the A47 (referred to as the 'A47 link'). This new road would complete a through-route that would originate at M69 junction 2 and run north-westwards across the southern end of the HNRFI, over the railway and onwards to Leicester Road.
- i) Off-site highway works

4.3 The DCO will be determined against a Parameters Plan which will set out the limitations to the proposed development for example in terms of the scale of buildings and the amount of floorspace.

The Parameters Plan for the purposes of the Statutory Consultation is shown below:



5. Statutory Consultation on the HNRFI

5.1 The CED has been prepared as part of the Statutory Consultation. The purpose of this document is to provide a short overview of the proposals; explain the context for them and set out the main components of the proposals and consultation process.

5.2 HNRFI meets the definition of a Nationally Significant Infrastructure Project (NSIP) (a Strategic Rail Freight Interchange (SRFI)). This means that, rather than preparing a planning application for the Local Planning Authority, an application for a Development Consent Order (DCO) is submitted to the Planning Inspectorate. The Planning Inspectorate will consider whether the submission can be accepted, and will then examine the proposals. The decision-taker will be the Secretary of State for Transport. The examination process will normally comprise the exchange of written representations, and hearing sessions.

5.3 Following the Statutory Consultation, TSH is required to consider all responses received on the proposals. A Consultation Report has to be prepared which sets out the Applicant's response to these comments. TSH may consider it is expedient to amend the proposals in response to the comments received, or alternatively will provide a response as to the reasoning why the scheme should be submitted to the Planning Inspectorate without amendment in response to individual comments.

5.4 For more information on the project please visit www.hinckleynrfi.co.uk. Here you will be able to provide your feedback via an online feedback form. You will also be able to access our Preliminary Environmental Information Report (PEIR), which has been prepared in the same format as an Environmental Impact Assessment. The PEIR provides greater detail on the Proposed Development when assessed against a range of technical and environmental considerations. The PEIR and other documents forming the Statutory Consultation can be accessed via the website without charge. Hard copies can be obtained at a reasonable charge.

5.5 The Statutory Consultation will be undertaken pursuant to the provisions of the Statement of Community Consultation (SoCC). TSH has prepared a Statement of Community Consultation (SoCC) with input from the local authorities including Blaby District Council, Hinckley and Bosworth Borough Council and Leicestershire County Council. The SoCC provides detail on how the applicant will consult with local people and is available to view on the project website. A hard copy can be purchased at a reasonable charge.

5.6 The charges for providing hard copies of documents are as follows:

- Statement of Community Consultation £20.00 + VAT
- Preliminary Environmental Information Report £35.00 +VAT
- Community Explanation Document £5.00 + VAT
- Full set of all consultation material comprising all documents being made available for public consultation including appendices and plan £125.00 + VAT

6. The Statutory Consultation

6.1 The Statutory Consultation period commences on 12th January 2022 and runs until 9th March 2022.

6.2 **Public exhibitions** are proposed at the following locations:

<i>Date</i>	<i>Time</i>	<i>Location</i>
Wednesday 19th January 2022	2.00 – 8.00pm	Elmesthorpe Village Hall
Friday 21st January 2022	12.30 - 6.30pm	Stoney Stanton Village Hall
Saturday 22nd January 2022	10.00 am -1.00pm	Elmesthorpe Village Hall
Monday 24th January 2022	3.00 – 8.00pm	Burbage Millennium Hall
Wednesday 26th January 2022	2.00 – 8.00pm	Sapcote Methodist Church
Friday 28th January 2022	2.00 – 8.00pm	The George Ward Centre, Barwell
Saturday 29th January 2022	10.00am – 1.00pm	St Francis Community Centre Hinckley
Monday 31st January 2022	2.00 – 8.00pm	Ashby Road Sports Club, Hinckley
Tuesday 1st February 2022	1.00 – 9.00pm	Narborough Parish Centre

TSH is aware of the potential for changes in guidance relating to public spaces due to the Covid-19 pandemic and we take public health and safety arrangements very seriously. At the time of writing this letter, those potential changes cannot be known. We are therefore currently planning to proceed with the events as outlined above. We will, however, keep this under review

and in the event that any changes are needed in relation to those arrangements, such as restrictions on numbers, booking slots to attend the events or possibly even the need to hold more virtual events in place of those face-to-face exhibitions, we will publicise updates to explain any necessary changes, through our project website, the social media platforms listed above and through local press where possible.

6.3 Webinars are being held on:

Tuesday 25th January 2022 2.00 – 4.00pm

Wednesday 2nd February 2022 6.00 – 8.00pm

6.4 The public wishing to attend the webinars are invited to register their interest via the project website <https://www.hinckleynrfi.co.uk/> or the Community Information Line 0844 556 3002.

6.5 Views on the project can be submitted via a questionnaire which is available online or a request can be made via the Community Information Line for receipt of a hard copy.

6.6 All documents submitted for the Statutory Consultation are available on line without charge. Electronic copies have been made available to local councils, including parish councils, and libraries. The following authorities have been asked whether a hard copy of the consultation material may be made available for inspection by members of the public:

- Blaby District Council
- Coventry City Council
- Hinckley & Bosworth Borough Council
- Leicestershire County Council
- Nuneaton & Bedworth Borough Council
- North Warwickshire Borough Council
- Rugby Borough Council
- Warwickshire County Council

Members of the public should enquire with the local authority whether a hard copy is available for inspection. Alternatively, an enquiry may be made via the Community Information Line (0844 556 3002).

6.7 Details of local exhibitions and webinars will be published on:

- The project website <https://www.hinckleynrfi.co.uk/>
- Facebook ‘Hinckley National Rail Freight Interchange – HNRFI’, Twitter ‘@HinckleyRail’ and Instagram ‘hinckleynationalrailfreight’
- Press Notices
- Site Notices
- A postal communication to all premises within 3km of the main HNRFI site; all premises within the parishes of Barwell and Narborough, and all premises within at least 100m of each of the off-site highway works, including IDI Gazeley and all the occupiers of Magna Park.

6.8 All District, Borough and Parish Councils within 10km of the main HNRFI site will be provided with details of the public exhibitions and webinars.

6.9 Full details of the range of steps taken to ensure adequate consultation are contained in the SoCC.

7. Informal Consultation

7.1 The Statutory Consultation on Hinckley National follows two rounds of informal consultation on the emerging proposals which took place during 2018 and 2019. The 2019 round of informal consultation focussed specifically upon potential off-site highway proposals.

8. Policy Context

National Policy Statement for National Networks 2014

8.1 The Government has issued a series of National Policy Statements (NPS) for major infrastructure projects. The National Policy Statement for National Networks (NPS) sets out the Government's policies to deliver development of nationally significant infrastructure projects on the national road and rail network in England and Wales. In determining the HNRFI proposals the Secretary of State will use this NPS as the 'primary basis for making decisions' on Hinckley National. The NPS sets out:

- The need for development of the national networks and Government's policy;
- The need for development of strategic rail freight interchanges (SRFIs);
- Government policy for addressing need for SRFIs;
- Wider Government policy on the national networks;
- Assessment Principles;
- Specific policy provisions for SRFIs;
- Generic impacts of national networks infrastructure.

8.2 A Planning Statement forms part of the consultation documents and addresses the merits of Hinckley National in the context of the NPS and other relevant policy provisions, including:

- Leicester & Leicestershire Strategic Growth Plan 2050: Our Vision for Growth December 2018
- Blaby District Growth Plan (undated)
- Leicester and Leicestershire Strategic Distribution Sector Study - Warehousing and Logistics in Leicestershire: Managing growth and change April 2021
- Midlands Connect Transport Strategy 2017

8.3 The Leicester and Leicestershire Strategic Distribution Sector Study published in final form in 2020 has identified a shortfall of 768,000 sq m (307 hectares of logistics space) at rail served

logistics sites. The recommendation of the Study is that this shortfall should be addressed.

9. Meeting the need for SRFIs

9.1 Due to the need for SRFIs to be located close to both the rail and road network, the number of locations for SRFIs that are suitable and feasible is limited. The location of HNRFI offers access to the Felixstowe to Nuneaton railway line which enables direct rail connections to and from the main ports of Felixstowe, London Gateway, Southampton and Liverpool.

9.2 HNRFI offers direct access onto the motorway network at Junction 2 of the M69. The East Midlands is home to a fifth of the UK's manufacturing capability. In addition, 45% of rail freight goes through the Midlands. The Midlands sits at the heart of the UK economy and the plans for the HNRFI will deliver much needed facilities to enable this sector to grow as a major economic driver, and facilitate delivery of the Midlands Connect Strategy.

9.3 The Department for Transport Rail Freight Strategy states '*each tonne of freight transported by rail reduces carbon emissions by 76% compared to road and each freight train removes 43 to 76 lorries from the road*'. The HNRFI will embrace a strategic position and role in the UK logistics market and will help reduce carbon emissions.

10. Why this location?

10.1 HNRFI would meet the needs of the logistics industry, including port operators, in serving manufacturers, distributors and retailers. The site is located in what the UK logistics industry regards as the 'Golden Triangle' and the proposals would embrace Leicestershire's strategic position and role in logistics throughout the UK.

10.2 The particular locational features of Hinckley National are:

- Direct rail access to the Felixstowe to Nuneaton railway as part of the main rail freight network;

- Connectivity to the main ports of Felixstowe, London Gateway, Southampton and Liverpool;
- Direct road access to the strategic highway network from M69 Junction 2, aided by the addition of slips to the motorway south of Junction 2;
- The land is not subject to significant environmental designations;
- Within the Leicestershire Local Enterprise Partnership's designated South-West Leicestershire Growth Area.

11. Highway Works

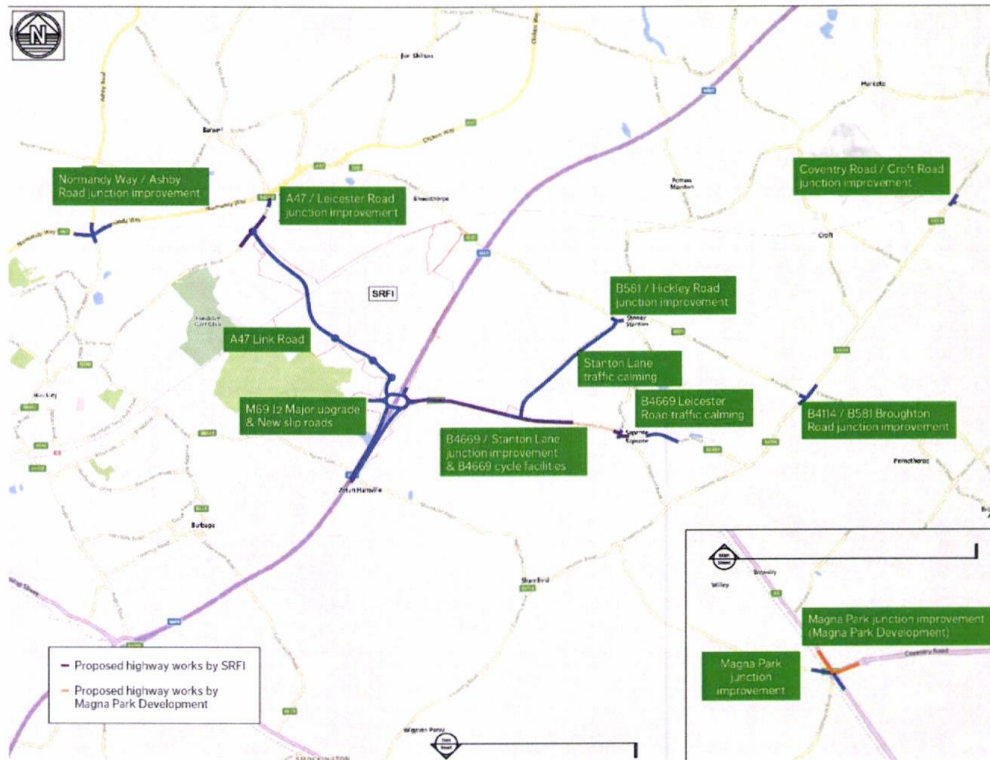
11.1 As referred to above, the second informal consultation exercise sought community views on two potential highway schemes, namely:

- A road link between M69 J2 accessing Hinckley National and with the construction of a new railway bridge passing over the Felixstowe to Nuneaton railway so as to connect with the B4468. This link has been named the 'A47 Link'.
- A by-pass for the villages of Sapcote and Stoney Stanton. Alternative alignments were displayed at the exhibition. This was known as the Eastern Villages By-Pass (EVB) or the Eastern Villages Link (EVL).

11.2 Since the holding of these exhibitions, extensive traffic modelling has been undertaken in accordance with the requirements provided by Leicestershire County Highways Authority. Transportation Consultants advising TSH have concluded that the provision of the EVB / EVL is not a necessary highway requirement arising from the traffic associated with Hinckley National and the re-routing of traffic on the highway network following the provision of the south facing slips onto M69 J2. The EVB / EVL does therefore not form any part of the Statutory Consultation.

11.3 TSH propose off-site highway works at a number of junctions which are listed below and shown on the accompanying plan. These highway improvements are under consideration with the relevant highway authorities and have not as yet been agreed.

Transport ID	No.	Location
Blaby District Council		
J17	B1	Junction of B581 Station Road / New Road and Hinckley Road, Stoney Stanton
J19	B2	Junction of B4669 Hinckley Road and Stanton Lane, west of Sapcote
Reduction of speed limit to 40mph from national speed limit, traffic calming features and formalisation of on carriageway parking	B3	Stanton Lane / Hinckley Road, south-west of Stoney Stanton
Traffic calming features, creation of cycle infrastructure and wider footways. Public realm, junction improvements and bus stop relocation at junction of Church Street and B4669. New pedestrian crossing included.	B4	B4669 Hinckley Road/ Leicester Road, Sapcote
J21a and J21b	B5	Junction of B4114 Coventry Road and B581 Broughton Road at Soar Mill, south-east of Stoney Stanton
J50	B6	Junction of B4114 Coventry Road and Croft Road, south-west of Narborough
J52		M69 Junction 2 (Access Infrastructure)
New road		New A47 Link Road (Access Infrastructure)
Hinckley and Bosworth Borough Council		
J13	HB1	Junction of A47 Normandy Way and A447 Ashby Road, Hinckley
J29	HB2	Junction of A47 Normandy Way / Leicester Road, the B4668 Leicester Road and The Common, south-east of Barwell
New junction		Junction of B4668 and New A47 Link Road, north east of the site access (Access Infrastructure)
Harborough District Council		
J48	H1	Cross in Hand roundabout at the junction of the A5 Watling Street, A4303 Coventry Road, B4428 Lutterworth Road and Coal Pit Lane, west of Lutterworth



11.4 The outputs of the transport modelling is that with the provision of the A47 Link Road there are a number of areas that benefit from the proposed changes to the road network. These include Sharnford, Hinckley, Burbage and Elmesthorpe with reductions in traffic on the east – west routes crossing the M69 and north – south on the B4114.

11.5 The proposed south facing slip roads at M69 J2 offer direct or more convenient access to the Strategic Road Network for the residents of Sapcote, Stoney Stanton and other villages east of M69 including Huncote and Broughton Astley. Limited vehicle numbers are shown to go through either Stoney Stanton or Sapcote toward Broughton Astley and with the recent changes to speed limits on the B4114, a more attractive route north to Huncote and Narborough is via the Huncote Road north of Stoney Stanton.

12. Economic Benefits

- 12.1 Rail Freight is a significant and growing part of the national economy and the most efficient way to service the deep-sea ports. The total value of goods carried today in the UK by rail is estimated to be in the region of £30 billion annually. Through access to the ports, it allows local businesses the opportunity to reach world markets. New jobs will be created on site once construction commences, and following occupation of each unit.
- 12.2 Businesses in the local and regional economy would benefit from the trade linkages that would be established to construct the development, meaning that further indirect jobs would be supported locally in suppliers of construction materials and equipment.
- 12.3 Local businesses would also benefit from temporary increases in expenditure as a result of the direct and indirect employment effects of the construction phase, e.g., Construction workers spending their wages in local shops, accommodation and other facilities. The jobs created on site will cover a variety of different roles and skill sets.

The benefits from HNRFI are identified below:

THE BENEFITS



All units will be built to net zero carbon in construction



Creating 8,400 local jobs – plus even more in the supply chain



Will create training and apprenticeship opportunities



HNRFI will generate Business Rates of £24.65 million annually



£316 million Gross Value Added annually



Committed to delivery of Biodiversity Net Gain



£0.55 billion in private investment



Freight rail produces 76% less CO₂ emissions than HGV



Strong rail connectivity to Freeports and major deepsea ports (Felixstowe, London Gateway, and Liverpool)



Key supply chain location to the Midlands automotive industry



Each freight train can remove up to 76 HGVs from our roads, removing 1.6 Billion HGV kilometres annually



'Golden Triangle' location – where 80% of freight rail passes through

Hinckley National Project Website
<https://www.hinckleynrfi.co.uk/>

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Community Information Line
 0844 556 3002

- 12.4 It is acknowledged that a development of this scale will necessarily have some impacts which will be minimised through good design. The examination of the application will consider whether the benefits of NHRFI outweigh these impacts.

13. Proposed Rail Freight Terminal

- 13.1 HNRFI is exceptionally well positioned on the rail network, in the heart of the Midlands. It is on the main Felixstowe to Nuneaton freight line that links the East Coast Main Line and the West Coast Main Line, as if in the centre of the letter 'H' and is approximately 2.7km east of Hinckley Station.
- 13.2 The aim of a Strategic Rail Freight Interchange is to take lorry movements off the roads and transfer them onto the rail network to reduce road traffic congestion and reduce carbon emissions. HNRFI is in an ideal location on the rail network to achieve this by providing direct rail connections to the main ports of Felixstowe, London Gateway, Southampton and Liverpool to the centre of the UK, and minimising the final leg of delivery to the businesses on site and by road to the main cities and towns in the Midlands. The required capacity for rail freight to and from this terminal has already been planned for and does not conflict with plans for new passenger services.
- 13.3 The rail freight facilities have been designed so that capacity can be provided incrementally to meet demand as it increases. Initially the rail terminal will be capable of handling up to four trains per day. The rail terminal will be expanded in stages. When the full terminal is completed, it will be able to handle up to 16 trains per day each way although it is expected that it may take some years for rail traffic to build up to this volume.

14. The Felixstowe to Nuneaton Freight Railway Line today

- 14.1 The Felixstowe to Nuneaton railway line is part of an important strategic freight route which links the Port of Felixstowe to the Midlands. Felixstowe is the major container port for the UK, despatching over 33 trains of containers per day and receiving the same number. As Felixstowe

grows, so will the number of freight trains serving the port, with capacity now being provided to allow the number to increase to 45 trains each way per day.

- 14.2 As well as trains to and from Felixstowe, the line is currently used by two passenger services each hour in each direction: the Birmingham to Leicester service and the Birmingham to Stansted Airport service. The number of train paths required for the growth of freight in the UK, including to HNRFI has already been allowed for and the plans for more passenger services do not conflict with this.

15. The Felixstowe to Nuneaton Freight Railway Line in the future

- 15.1 Network Rail produced rail freight forecasts in 2013 and 2018. Both suggest an increase in demand for rail freight, with the 2013 study suggesting that demand for freight paths between Nuneaton and Leicester could increase by a further 50% between 2023 and 2033. Network Rail's freight and route strategies have been developed to allow for this growth in freight traffic as well as potential growth in passenger traffic. Tritax Symmetry is working closely with Network Rail on the design of HNRFI.

16. Transport and Access Arrangements

Access

- 16.1 HNRFI is situated in a highly accessible location and is extremely well served by the road as well as rail, with direct access onto the M69 motorway via Junction 2 and thereafter the wider Strategic Road Network (SRN). The proposed access is from junction 2 of the M69 motorway. Works to junction 2 of the M69 will comprise of the reconfiguration of the existing roundabout and its approach and exit lanes; the addition of a southbound slip road for traffic joining the M69 and the addition of a northbound slip road for traffic leaving the motorway at junction 2.

Sustainable modes of travel

- 16.2 TSH is committed to encouraging travel to HNRFI to be undertaken by all modes, and will be actively promoting travel by modes other than the private motor car. A key component of this is the preparation of a Travel Plan, which will identify targets and measures to achieve this.

Route management strategies – construction and operational traffic

- 16.3 To minimise impact on local roads, route management strategies will be implemented to ensure that traffic uses suitable routes and is concentrated on the strategic road network.

17. The likely impacts of the Hinckley National Rail Freight Interchange

- 17.1 HNRFI will have a range of potential effects on the surrounding area therefore an Environmental Impact Assessment (EIA) is being carried out. The results of this assessment will form an Environmental Statement (ES) which will be submitted alongside the DCO application. The ES will explain how the proposal has been designed to minimise or mitigate any potential negative impacts and to maximise potential benefits. Assessment will be ongoing throughout the consultation period and will look at the likely effects on:

- Socio-economic aspects
- Transport and Traffic
- Air Quality
- Noise
- Landscape and Visual effects
- Ecology and Biodiversity
- Cultural Heritage
- Surface Water and Flood Risk
- Hydrogeology
- Geology, Soils, Land Contamination and Groundwater
- Materials and Waste
- Energy and Climate Change

- Major Accidents and Disasters

18. The DCO Application Process

DCO Application submission and Acceptance stage

18.1 Submission of the application is anticipated late summer/early autumn 2022.

18.2 The Acceptance stage will begin when TSH apply for development consent to the Planning Inspectorate. There follows a period of up to 28 days (excluding the date of receipt of the application) for the Planning Inspectorate, on behalf of the Secretary of State, to decide whether the application meets the standards required to be accepted for Examination.

Pre-Examination

18.3 At this stage, the public will be able to register with the Planning Inspectorate to become an Interested Party by making a Relevant Representation. A Relevant Representation is a summary of a person's views on an application, made in writing. An Examining Authority is also appointed at the Pre-examination stage, and all Interested Parties will be invited to attend a Preliminary Meeting run and chaired by the Examining Authority. Although there is no statutory timescale for this stage of the process, it usually takes approximately three months from the Applicant's formal notification and publicity of an accepted application.

Examination

18.4 The Planning Inspectorate has up to six months to carry out the examination. During this stage members of the public who have registered by making a Relevant Representation are invited to provide more details of their views in writing. Careful consideration is given by the Examining Authority to all the important and relevant matters including the representations of all members of the public, any supporting evidence submitted, and answers provided to the Examining Authority's questions set out in writing or posed at public hearings.

Recommendation

- 18.5 The Planning Inspectorate must prepare a report on the application to the Secretary of State for Transport, including a recommendation, within three months of the close of the six-month Examination stage. The relevant Secretary of State then has a further three months to make the decision on whether to grant or refuse development consent.

Indicative Development Timescales

- 18.6 Subject to the grant of the Development Consent Order, it is currently envisaged that preparatory site works would commence in 2025. The A47 Link and the works to the M69 J2 would be completed prior to the first occupation of any logistics building.

19. Further Information

If you have any questions, you can also contact us in the following ways:

- Email us at hinckleynrfi@lexcomm.co.uk
- Visit the Project Website <https://www.hinckleynrfi.co.uk/>
- Call our Community Information Line on 0844 556 3002 (Mon-Fri, 9am-5.30pm).
- Write to C/O Lexington Communications, Third Floor, Queens House, Queen Street, Manchester, M2 5HT.

General Development Applications

(7/e) Application No: PAP/2020/0259

South View, Weddington Lane, Caldecote, CV10 0TS

Demolition of existing garaging, replacement garaging, gym, snug and playroom, for

Mr Spencer

Introduction

This application is reported to the Board as local Members are concerned about the impact of the proposals on neighbouring residential amenity.

Members undertook site visits on 10 July 2021 and 21 January 2022. A note of these is at Appendix A.

As a consequence of these visits, Members will be aware that the new building has almost been completed and thus this application is a retrospective one to retain it.

The Site

The site is located on the west side of Weddington Lane within a range of other similar large detached residential properties south of the junction with the A5. The houses are set well back from the road and have large front gardens. There are numerous trees within the curtilages of all of these properties.

The property to the north – Timberlea – is a bungalow and is sited on slightly lower ground than the application property. It has an existing detached garage along the common ownership boundary.

A location plan is shown at Appendix B.

The Proposal

Planning permission is sought for the demolition of an existing garage and its replacement with a new larger building in the same location to provide a replacement garage, a gym, snug and playroom. As can be seen from the location plan, the original and proposed buildings run along the northern boundary of the site and extend forwards from the main dwelling to which they are attached.

The original garage is shown as shaded on the plan at Appendix C. It was connected to the existing swimming pool. Its appearance and height in comparison to the main structures on the site can be seen here. It essentially had a flat roof surrounded by a mansard roof arrangement of different scales. The rear elevation however was effectively a single wall. The dimensions of this garage were 9.4 metres by 7.5 metres. The eaves level at the front was 2.5 metres with the mansard ridge at 4.5 metres, whereas at the rear, the eaves level was approximately 2.9 metres with the mansard ridge also at 4.5 metres.

The proposal would create a new garage for three vehicles with a playroom within its roof space. The area between the existing swimming pool and the new garage would accommodate a gym and a snug room. It would have a normal pitched roof. Whilst the main openings would face south – there would be three roof lights added into the snug room and an additional roof light above the stairwell accessing the play-room. The plans and elevations are shown at Appendix D and again its appearance and height can be seen in comparison with the existing structures on the site. The footprint would be 12 metres by 6.8 metres, or 14.2 metres if you include the lobby and it would be 5.8 to its ridge and 2.8 metres to the eaves.

The former garage has in fact now been demolished and the new building is substantially completed. The application is thus to be treated as one seeking retrospective permission. Officers have visited the site and can confirm that the building has been constructed in accordance with the dimensions shown on the proposed plans.

A comparison between the footprint of the original garage and that now constructed is at Appendix E. A similar comparison of the rear elevations of the original garage and that now built is at Appendix F. The rear elevation is shown as this is the elevation facing the neighbouring property, Timberlea.

The application has been supported with the following documents.

A Tree report was submitted by the applicant in February 2021 which looks at the likely impact of the new building on a mature English oak tree located within the curtilage of Timberlea, close to the common ownership boundary and to the garage at Timberlea. The location of the tree is shown on Appendix D. A survey was undertaken after the original garage was demolished and the new building erected. The report concedes that the new building is within the Root Protection Zone of the tree, as is the neighbouring garage. The report notes that the closest point of the new building to the tree is 4 metres with the intervening ground being impermeable gravel. At the time of the survey it was noted that the tree appeared to be healthy, with no obvious adverse impacts. It is also likely that any impact on the root extensions of the tree would be minimal because of the 4 metre distance and there originally being hard standing here as well as the foundations of the former building. Additionally on the assumption that foundation depths of 600mm were used – which would be likely for this building – the impacts would be likely to be low. This the report says, is supported as there was no evidence of impacts on the tree's health or stability. However it was recommended that the tree should be fully re-assessed in twelve months time - ie. February 2022.

A Daylight and Sunlight report has also been submitted by the applicant to assess the impact of the development on the light received at the neighbouring property – Timberlea. It looked at the windows in the side house elevation facing Timberlea as well as the windows and roof light in its extended front elevation, together with the window in the nearby garage. It concludes that all of the neighbouring windows pass the relevant Building Research Establishment ("BRE") tests for diffuse and direct sunlight and that the development also passes the relevant BRE overshadowing test for garden and open spaces. The report's overall conclusion is that whilst the development would affect the lighting in the side elevation of the house and the outbuilding together with closest opening in the front elevation, that impact would be low in respect of the overall light receivable at the neighbouring property.

Photos provided with the application can be viewed at Appendix H. Council officer photos of the site taken from Southview and Timberlea can be viewed at Appendix L.

Background

The application property has been extended several times during the 1960's, 1970's and 1980's as well as more recently in 2011. These included the original garage now the subject of this replacement application.

A front extension to the neighbouring property to the north at Timberlea was granted in 2016. This is now completed and Members saw this on their visits.

The tree referred to above is protected by an Order which includes almost all of the trees on this side of Weddington Lane south of the A5 and within the curtilages of these properties. Its extent is shown by the shaded area at Appendix G.

Member site visits took place on Saturday 10th July at 1100 and 21 January 2021, both included visiting the applicant's property as well as that of Timberlea.

Representations

In summary, the following concerns have been raised in objection to the proposals.

- The proposal is having an impact on mental fitness and well-being, as it is so oppressive, intimidating, intrusive and overbearing.
- The light assessment has not been made for the objector's side.
- The building leads to loss light and shadowing.
- Design is not acceptable.
- The tree survey is not independent and objective
- Some branches / limbs have already fallen recently, contrary to the report.
- Does the building comply with Building Regulations with regards to foundations and tree roots. The report makes reference to 600mm foundations and that given the buildings proximity to an Oak tree, it is understood that the recommended building regulations depths are considerably greater and may require specialist engineering.
- The tree could become a hazard if the building has made it unsafe, leading to works having to take place which may not be able to be undertaken on the applicant's site.
- Does not comply with parts of the Local plan including the North Warwickshire Local Plan and NPPF
- There is a need to consider The Human Rights Act 1998 and the Corporate Manslaughter and Homicide Act 2007.

Photographs taken by the objector have already been circulated to all Board Members as well as forwarded to the applicant. They are reproduced at Appendix J.

Consultations

NWBC Tree Officer - It is highly unlikely that tree roots were not present in the construction area and therefore some must have been removed to facilitate the new building. These roots may have been quite substantial this close to the trunk of the tree. Further exploratory work however may well cause further damage to the root system of the tree. He agrees that frequent re-assessments are needed.

Warwickshire County Council Forestry Officer – The conclusions of the applicant’s tree consultant, as reported above and the comments of the Council’s own tree officer both suggested that there be further monitoring of the tree. Following the departure of the Council’s tree officer, the County Council was requested to take a further inspection of the tree. This took place in October 2021. That Officer’s report is at Appendix I. It concludes that, “Tree root damage can cause crown dieback and/or render a tree liable to windthrow. One would normally expect to see crown dieback within a few growing seasons following excessive tree root damage and this would tend to lead to a prolonged period of crown decline until the tree balances out its root to shoot ratio. From assessing the annual growth over the last four years the tree has been growing at a similar rate as another oak tree within the garden. I would therefore conclude that the tree has not suffered any short or long-term damage that it has not coped with”.

NWBC Environmental Health – no comments

Development Plan

The North Warwickshire Local Plan 2021 – LP1 (Quality of Development); LP29 (Development Considerations) and LP30 (Built Form)

Other Material Planning Considerations

The National Planning Policy Framework

The NWBC Residential Householder SPG - 2003

Observations

Members will be aware that replacement outbuildings within an established residential curtilage are acceptable in principle. In this case too, the development is set well back from the road, largely not visible to the public and in an area characterised by large houses in extensive grounds. It is the potential impact of any proposal on neighbouring residential amenity that needs to be assessed in this case. There is the added matter of the impact on a protected tree. Each will be looked at in turn.

a) Design

Policy LP1 of the Local Plan requires all development proposals to demonstrate a high quality of sustainable design that positively improves the environmental quality of an area. Policy LP29 requires all new development to respect and reflect the existing pattern character and appearance of its setting. Section 12 of the NPPF also reflects these aims.

In terms of looking at the design of the proposal in isolation, then it is considered that it is in-keeping with the character and appearance of the host dwelling. It is larger than the original building here, but there are already quite substantial structures within close proximity and the new building matches their scale, design and materials used. It is also well set back from the road and is thus not in the public domain.

b) Neighbouring Residential Amenity

Notwithstanding the conclusion reached above, the proposed development will have an impact on the residential amenity of the neighbouring occupiers at Timberlea. The report will also look at the impact on the property to the south of South View – known as Keepers Gate – as well as refer to the property beyond Timberlea to the north – Highlands. Policy LP29 of the Local Plan requires new development to avoid and to address unacceptable impacts. Amongst others, these include harms caused by loss of privacy, overlooking and new development over-shadowing other property. Policy LP30 says that replacements should reflect the scale and proportions of the setting of the host dwelling amongst other things. Additionally, they should safeguard the amenity of the host premises and neighbouring occupiers.

In looking at Timberlea, the starting point on which to make an assessment here is to acknowledge that there was an existing building in this location, close to the ownership boundary and visible from Timberlea. The issue is to establish what degree of change there has been and to assess whether that amount of change has led to an unacceptable impact. In making this assessment it is necessary to look at loss of day and sunlight as well as the visual impact.

The original garage here was smaller – in footprint, in length, in width and in height. Appendices E and F illustrate the extent of changes.

These diagrams show that there will be a material change in outlook from Timberlea. The proposed building will be taller to the new ridge by some 1.6 metres with the mansard roof, but 3.6 metres if taken from the flat roof and that additional height would be over an extended length, some 4.8 metres when including the lobby. Whilst the eaves height of the new building is broadly similar to that of the original building's roof, it is the increased height and mass of the whole building that produces that material change. That is best illustrated by the plan at Appendix F. The line of the original building is marked on this for comparison purposes. Members will also have seen this view on their site visits. It is considered that there is a loss of openness here and that the massing of the proposal does have a strong presence, even given the overall character and appearance of the houses that front Weddington Lane, which is one of houses set in a spacious setting. This change is of such a scale that it is considered that it would not accord with Policy LP30 because of the massing of the development, which is overbearing and dominant.

The property at Timberlea is to the north of the new building – its side elevation being some 4.0 metres approximately metres from the new building. It is also at a slightly lower level, but from the site visits this was not generally noticeable. It faces east and its main window openings face east and west. The side elevation facing the new building includes a door and small window to a utility room, as well as a small window to an en-suite. The closest windows in the front elevation are to a bedroom and lounge and these are large floor to eaves openings. There is also a small front window in the garage facing east close to the new development. The Lighting report submitted with the application concludes

that there is a limited impact on the degree of sun and day light received by Timberlea consequent to the development. The worst affected rooms are those along the side elevation, but these are not habitable rooms – neither is the garage. The two most affected windows are those two in the new front elevation closest to the development as a consequence of the new front extension. The photographs at Appendix J show a sequence on a February morning taken from Timberlea Appendix K shows images of the previous garage and the new garage under construction. The sun will travel from east to west and thus the timings of these photos are relevant as they illustrate the likely worst impact – a winter morning. It can be seen that there is an impact on these two windows. Taken together these photographs do show the shading effect of the building as constructed. Whilst this is the case, it is not considered to be substantial, given the size of the windows and that as these are facing east, they will experience shade for a period of the day in any event even if the building was not there.

The main garden to Timberlea is at the front and it does not really have an “open” setting given the number of existing trees in the locality. It is considered that the light entering that garden is not materially affected by the new development. The courtyard in front of the house will mainly be affected as illustrated in the photographs. However, this impact is limited to a part of that courtyard and not continually through the day.

In respect of the potential loss of day and sunlight therefore, it is considered that there is an adverse impact, but that it is not considered that this would be sufficient to defend a refusal reason on its own. However, it does add weight to the conclusion reached above about the impact of the scale of the proposal.

There are rooflights added to the slope of the new roof facing Timberlea. These are shown on the plans and Members saw them on their visit. These are not considered to impact upon privacy or the potential for overlooking because of their height above floor level in the respective rooms and because they face the side elevation of Timberlea which has no habitable rooms here. There would be a larger window in the building’s eastern most gable which serves the first-floor play-room – see Appendix D. Because of the length of the building, it would not overlook the front elevation of Timberlea or its front courtyard. The window faces the front garden of Timberlea which as indicated above has many trees and on balance, it is not considered that there would be a material adverse impact.

To the other side of the application site is Keepers Gate - a distance of 45 metres away. It is not considered that the building’s south facing first floor dormers would have an adverse impact on loss of privacy because of this separation and other intervening buildings and trees.

Beyond Timberlea to the north is a further residential property - Highlands. Because of the separation distance – some 45 metres - there is not considered to be a material impact on residential amenity.

There are other matters that are relevant to an assessment of the balance to be made in respect of the impact of the building on the residential amenity of occupiers of Timberlea. Firstly, there is no fall-back position here as any new building in this location would not be permitted development because it would be forward of the principal elevation of the host dwelling. The former building here – now demolished – came about through the grant of planning permission not through permitted development rights. Secondly impacts can be mitigated through the use of planning conditions – in this case the most appropriate

would be to restrict any new openings beyond that now proposed and also to restrict the use of the building to use incidental to the residential use of the main dwelling. However, such conditions would not mitigate the physical impacts of the replacement building as described above.

Overall, it is considered that there is an adverse impact on the occupiers of Timberlea because of the scale and massing of the new building such that it would not accord with Policy LP29 of the Local Plan. This is given added weight because of the sun and day lighting impacts.

c) The Protected Tree

The application site is partly covered by a much wider Tree Preservation Order as illustrated at Appendix G with the location of the relevant tree to this case at Appendix D. Members saw this tree on the visits.

A summary of the applicant's submitted tree report is included above which in effect concludes that there is only likely to be limited damage to the tree's health and stability, but that further monitoring is needed.

The Council's Tree Officer did not fully endorse this report. Of particular concern was the lack of evidence about the foundations and the severing/removal of roots. He agrees that further monitoring is required.

The owner of Timberlea considers that proposal should not be determined until after a further report is undertaken as recommended by the report author and indeed the Council's tree officer.

In light to these comments and following the departure of the Council's own tree officer, the County Council's Arboricultural Manager was asked to look at the tree and to provide that later assessment. His conclusion is that the tree has not suffered any short, or long-term damage in that it has coped with the change of circumstance within its root protection area. It is considered that this up to date conclusion carries significant weight.

d) Human Rights and Corporate Manslaughter and Homicide Act

These are referred to in the representations received.

In the case of the Human Rights Act the representation refers to Article 2 (the Right to Life) and Article 8 (the Right for respect to a private life). Members are aware that the determination of this application is to be made under planning legislation – essentially this is about conformity with the Development Plan and whether there are other material considerations that indicate otherwise. The Human Rights Act is sometimes mentioned in Board reports and advice given to Members revolves around two matters. The first is that the rights mentioned are not Absolute Rights. The second is that there is appropriate and relevant other legislation here, in order to properly address the matters referred to the two Articles mentioned - the Planning Acts. That enables the matters raised to be assessed and balanced by reference to the Development Plan. As a consequence, the respect for a private and family life are fully represented by the Development Plan policies referred to in this report – Policies LP29 and LP30 of the Local Plan.

Case law states that Article 8 rights are capable of being a material consideration in determining a planning application. The case law further states that there is a difference between the engagement of Article 8 rights and the question whether there has been interference with whatever form the Article 8 right takes in any individual case. Only if there is such interference does a balancing exercise need to be carried out to establish whether such interference is proportionate in that individual case.

The issue around the other Act relates to two matters. Firstly, the possibility of the oak tree failing as a consequence of this development, leading to damage to buildings. Secondly to the prospect of tree branches or snow/ice falling from the building's roof onto a third party's property. As indicated previously, this application is to be determined under planning legislation. That enables consideration being given to the impact of the development on the tree's health and stability. In respect of the second matter then there are many roof slopes that affect neighbouring property throughout the Borough. As such it is considered that this is a matter that is more appropriately dealt with by civil action.

e) Conclusion

The assessment above concludes that there has been an adverse impact on the residential amenity of the occupiers of Timberlea because of the scale and massing of the building, together with some consequential sun and daylight impacts. However, there has been little adverse impact on the protected tree.

This conclusion has now to be assessed against the appropriate Development Plan policies. Policy LP29(9) says that development should "avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution". It is considered that the building works here have not avoided a consequential unacceptable impact of overshadowing and thus the proposal would not accord with this Policy LP29(9). Policy LP30 says that amongst other things, replacements should "safeguard the amenity of the host premises and neighbouring properties". It is considered that the new building has not safeguarded the amenity of the neighbouring premises because of the scale being over-bearing and thus not reflecting the setting.

f) The Expediency of Enforcement Action

If the conclusion above is agreed by Members, and because the application is now retrospective, the Board will have to consider the expediency of enforcement action.

In this event the unauthorised development is the replacement building as shown on the plans and seen on site. Any Notice would thus require its removal. A compliance period of six months would appear to be reasonable and proportionate given the scale of the works involved as the demolition would not appear to be unusual. However, the Notice will have to address the matter of the foundations as their removal may affect the longevity and safety of the protected tree. It may be that after having taken further advice, that the Notice limits the requirements to just demolition down to slab level.

There will be an impact on the owner as there will be a cost involved in this demolition work. However, he undertook the work in advance of the receipt of planning permission and continued notwithstanding foreknowledge of this. It is not considered that this impact carries sufficient weight to override the need for the Notice.

Members will also be aware that the owner can appeal a refusal of planning permission and the service of an Enforcement Notice.

In this case if the Board does refuse planning permission, it may be that given the existence of a previous building on the site, that the owner can agree a smaller replacement building with officers, or that an amendment to the current proposals might be considered. In either case, the owner should be aware that there will be public consultation on any alternative proposal.

Recommendation

That the application be **REFUSED** for the following reasons:

A) That planning permission be refused for the following reason:

"It is considered that the size, scale and massing of the replacement building along the boundary, will lead to adverse impacts on the residential amenity that neighbouring occupiers could reasonably expect to enjoy. In this case the scale of the proposal leads to an over-bearing development which does not accord with Policy LP30 of the North Warwickshire Local Plan 2021. This in turn leads to overshadowing and the loss of sunlight and daylight such that there is also non-compliance with Policy LP29 (9) of the North Warwickshire Local Plan 2021".

B) That, subject to the receipt of advice from the County Council's Forestry Officer, that the Head of Legal Services be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 requiring the removal of the replacement garage, gym, snug and playroom to slab level with the removal of all subsequent material from the site, for the reasons as set out in the reason for refusal in (A) above and with a compliance period of six months.

C) That should it be considered necessary, authorisation also be given to initiate prosecution proceedings under Section 179 of the Town and Country Planning Act 1990 should there be evidence to show non-compliance with the Notice authorised under recommendation B above

D) That on a "without prejudice" basis, officers engage with the applicant in order to review alternative proposals

Notes

1. Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to address the concerns and objections and allowing time to overcome the issues, through discussions and meetings so providing the opportunity to overcome reasons for refusal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed/the suggested amendments have not been supplied. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2020/0259

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	Officers	Members site visit note	10/7/21
3	Officers	Members site visit note	21/1/22
4	applicant	Tree report	18/2/2021
5	WCC	Tree report – update	11/2021
6	Right of light consulting – for applicant	Day light and sunlight report	18/2/2021
7	Agent	Revised drawings	13/8/20 – 19/5/21
8	NWBC tree officer	Consultation responses	18/2/21 and 19/7/21
9	Neighbour	Photos provided to council	21/7/2021
10	Neighbour	Representation	21/10/20 and 22/10/20
11	Neighbour	Representation	12/3/21
12	Neighbour	Representation	10/5/21
13	Neighbour	Representation	1/7/21
14	Neighbour and case officer	Exchange of emails	12/3/22 – 02/09/2020
15	Officer and Building control	Exchange of email	07 and 08/2021
16	Officer and agent	Exchange of emails	3/9/20 – 22/12/20
17	Officer and agent	Exchange of emails	18/2/21 – 17/9/21
18	Officer and applicant	Exchange of emails	19/11/21 – 21/1/22
19	WCC tree officer and case officer	Exchange of emails	01/2022
20	NWBC EH and case officer	Exchange of emails	21/10/20

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

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

Appendix A – Member site visits

PAP/2020/0259

Southview, Weddington Lane, Caldecote

Site Visit - Sat 10th July at 1105

Present:

Cllrs Dirveiks, Hancocks, D Humphries, Lees, Phillips and Parsons plus the applicant's father and J.Brown

1. The plans of the buildings that originally stood on the site were explained and the proposals as now seen on the ground were illustrated through reference to the plans.
2. Members were able to see the join with the swimming pool as well as the new gym and the garage block with the playroom above.
3. Members viewed the end gable from the drive and saw the opening that was to be glazed and fitted with a juliette-balcony.
4. The location of the protected tree was pointed out and its distance to the end gable noted
5. Members looked around the base of the tree's trunk.
6. Members then walked around to Timberlea – the next door property

Present at Timberlea:

The same Councillors as above plus Mr and Mrs Welford (the owners of Timberlea), Mrs Brown (the owner of Highlands) and J Brown

7. Members were shown the same plans – the former building and that now standing.
8. The recent front extension to Timberlea was also pointed out.
9. The height of the new ridge was visible and comparisons with the length and height of the original building were illustrated by reference to the present building.
10. Members walked down the side of Timberlea to see the windows there.
11. The new roof lights were identified.
12. Members also looked at the tree and around its base. The extent of its canopy was pointed out.
13. The location of the proposed juliette-balcony was also pointed out.
14. Members were shown a series of photographs by Mr Welford
15. It was agreed that these would be sent to the Council and that officers would then forward them to the whole of the membership of the Planning Board as well as to the applicant. This was pointed out to the applicant's father on return to South View.
16. The whole visit concluded at 1135.

PAP/2020/0259

Southview, Weddington Lane, Caldecote

Site visit – Friday 21 January 2022 at 12.30.

Present:

Cllrs Dirveiks, Simpson, Jordan, D Clews, T Clews, Jarvis, plus the applicant's father.

J Brown and I Griffin

1. The plans of the proposal were shown and the existing plans, were explained.
2. Members were able to see the extension as built with roof.
3. Members viewed the tree nearest application building
4. Members walked down the drive and around to Timberlea.

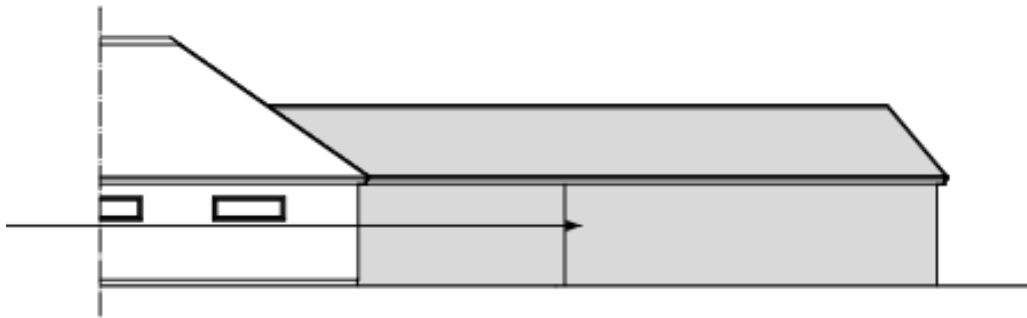
Present at Timberlea

5. The same Councillors, J. Brown and I Griffin. Mr Welford (owner of Timberlea) and Mrs Brown (owner of Highlands).
6. Members were shown the same plans of the former building and as built extension.
7. Member were shown the three roof lights to the extension as a point of reference to the proposed plan.
8. It was pointed out to member where the line of the previous garage roof was.
9. Mr Welford has put up a series of photos and a plan of the TPO, to show members what was there previously and the current scheme. Also, it was pointed out which way the sun came around on the site.
10. Members walked down the side of Timberlea to view openings and stood in the rear garden.
11. Members went to view the tree and the base and viewed the canopy.
12. The location of the end gable Juliet balcony was pointed out to members
13. The whole visit concluded at 13.00.

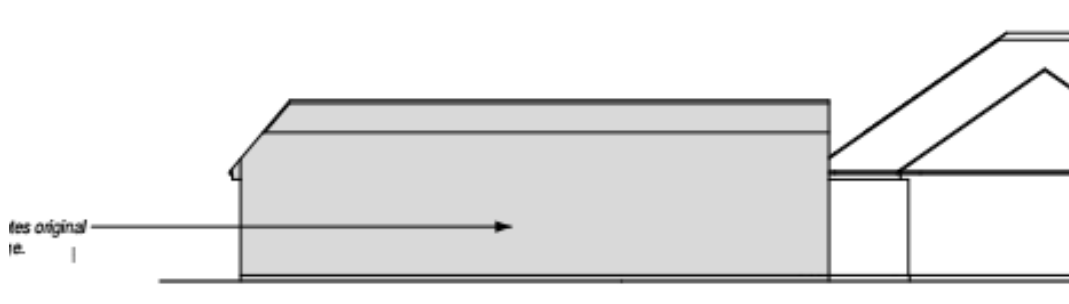
Appendix B – site location plan



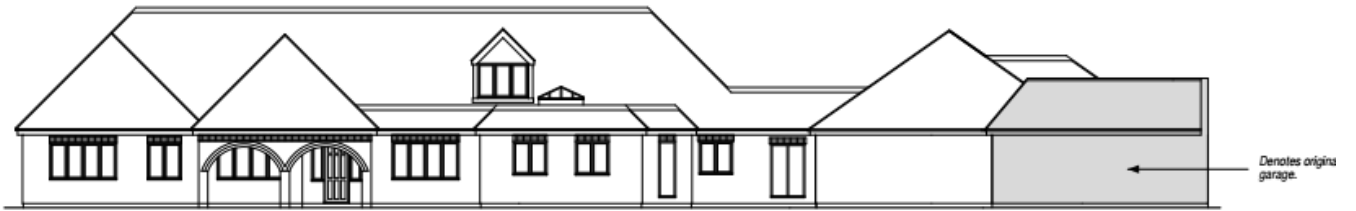
Appendix C – Original Garage plans



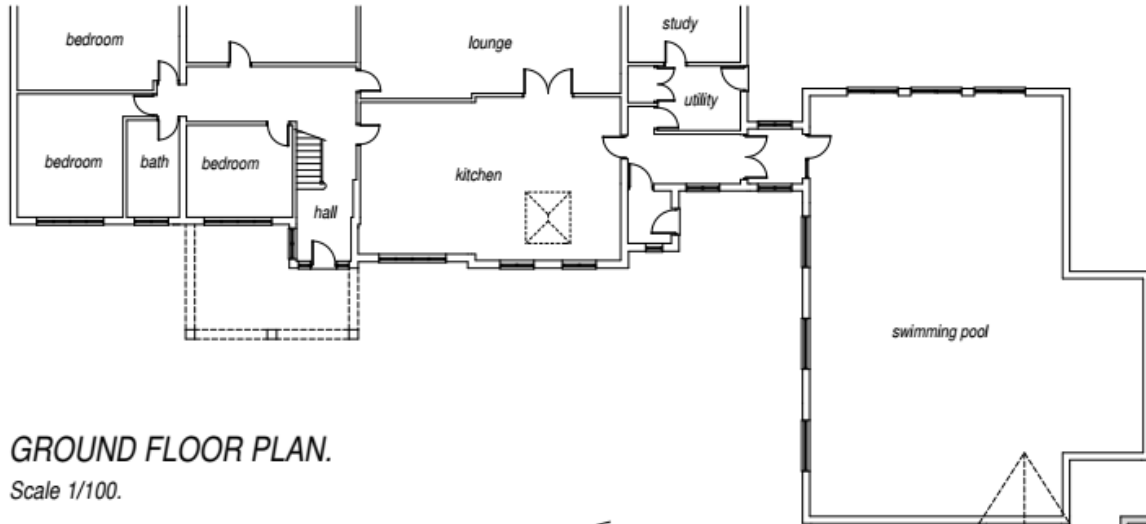
ELEVATION - facing Keepers Gate.



ELEVATION - facing Timberlea.

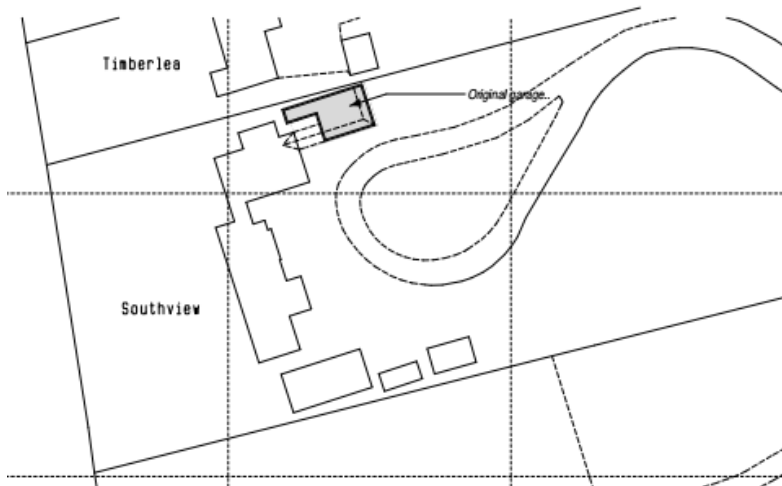


ELEVATION - facing Weddington Road.



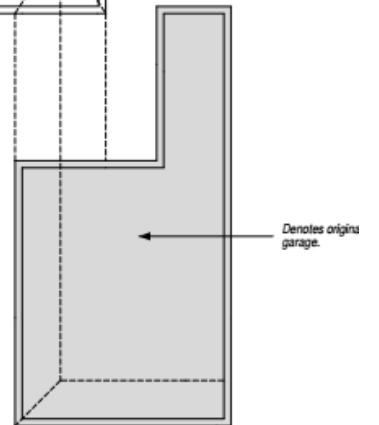
GROUND FLOOR PLAN.

Scale 1/100.

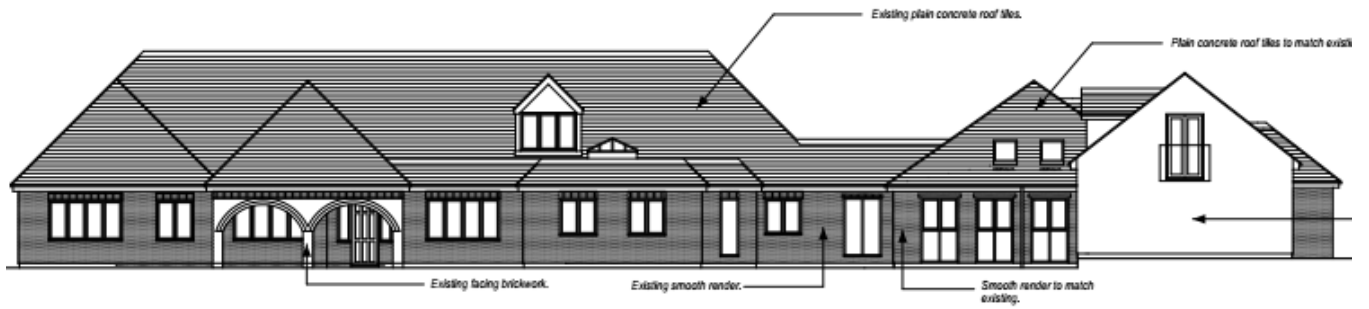


SITE LAYOUT.

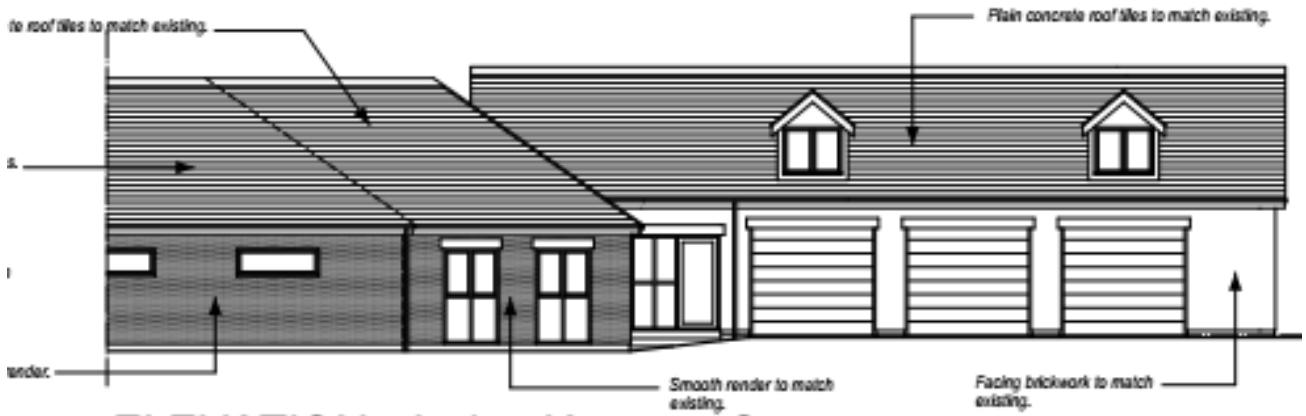
Scale 1/500.



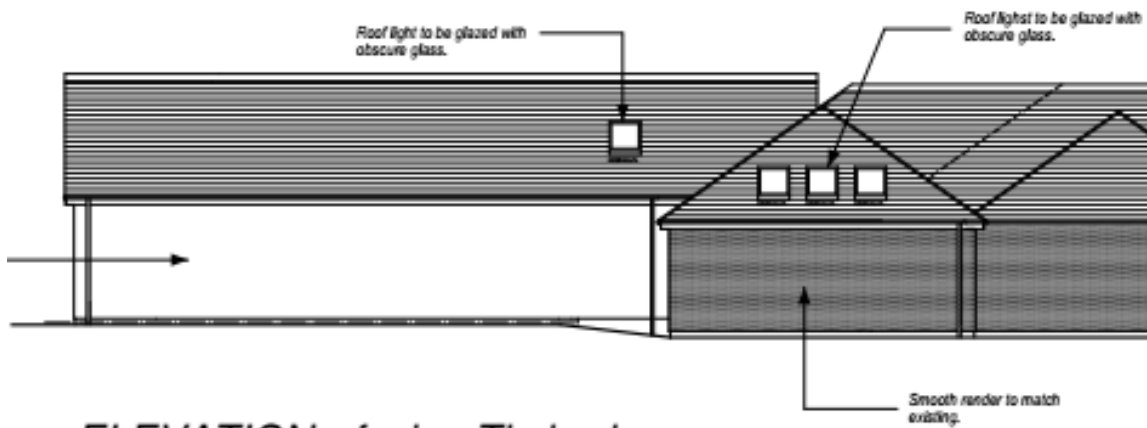
Appendix D – Proposed plans including position of tree



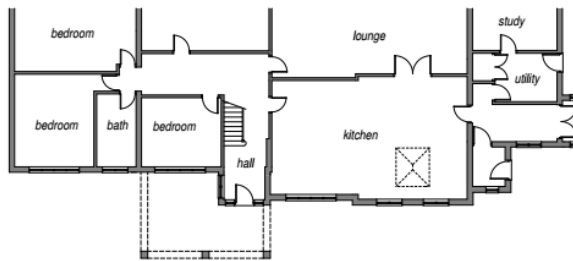
ELEVATION - facing Weddington Road.



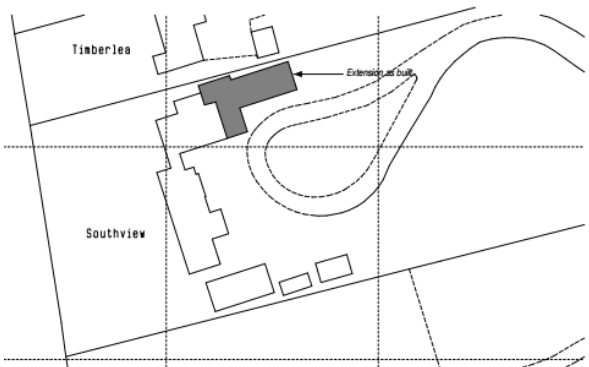
ELEVATION - facing Keepers Gate



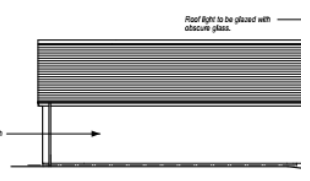
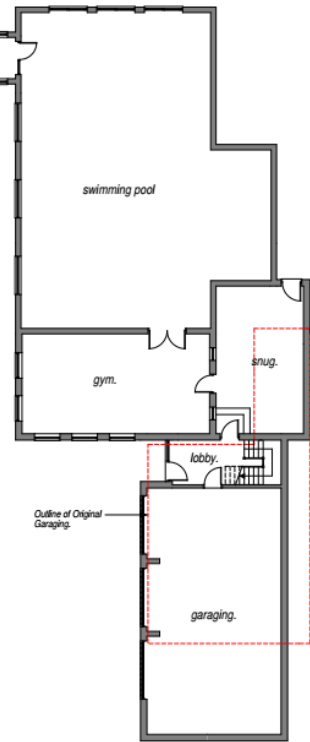
ELEVATION - facing Timberlea.



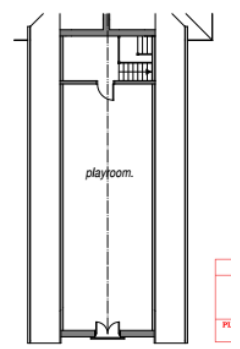
GROUND FLOOR PLAN.
Scale 1/100.



SITE LAYOUT.
Scale 1/500.



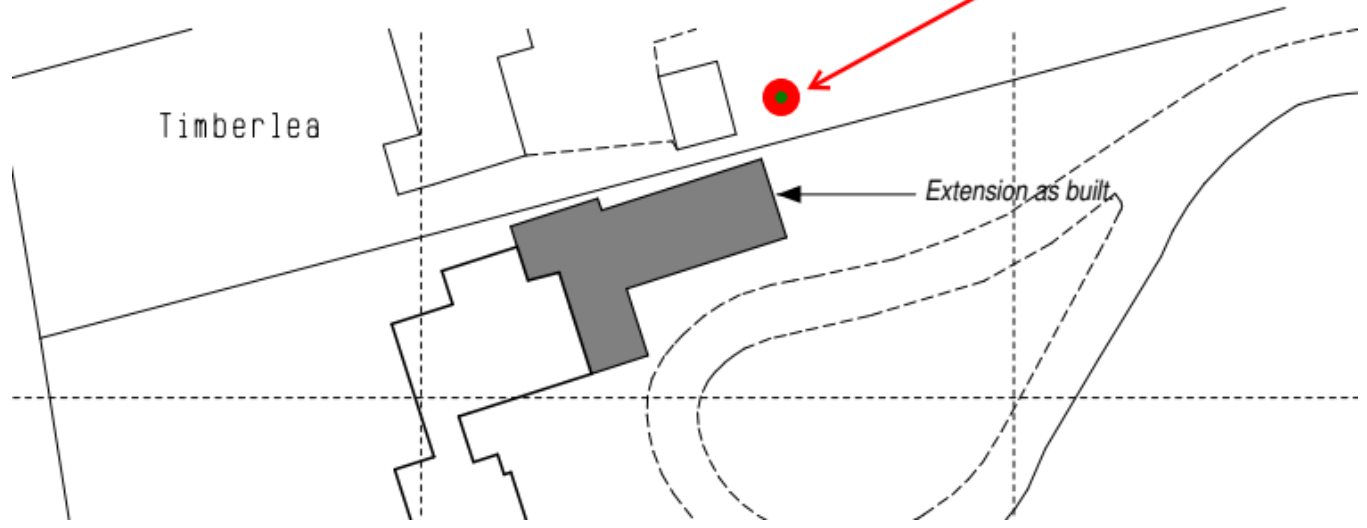
ELEVATION - facing Timbe



FIRST FLOOR PLAN.
Scale 1/100.

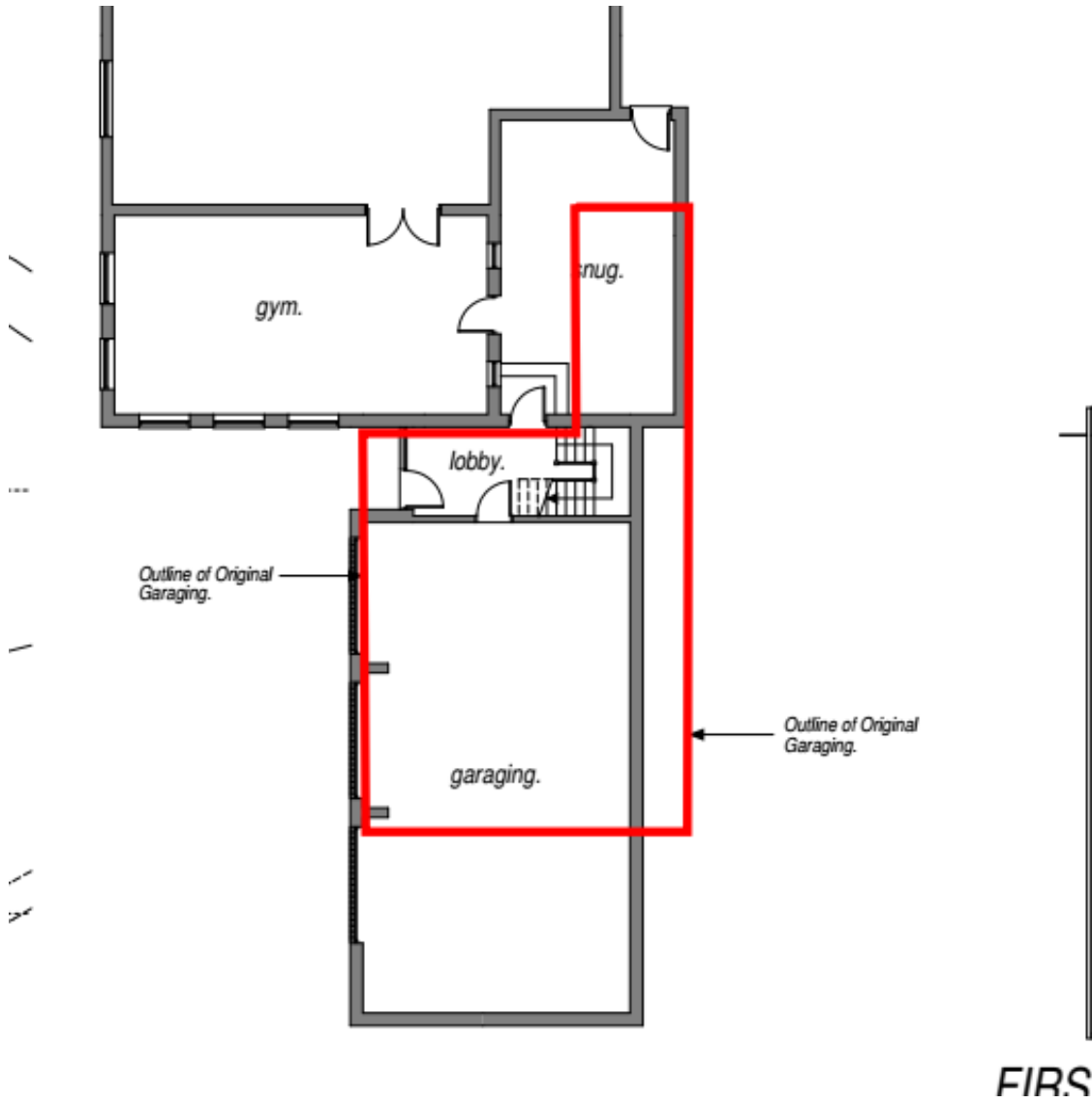
GROUND FLOOR PLAN.

Scale 1/100.



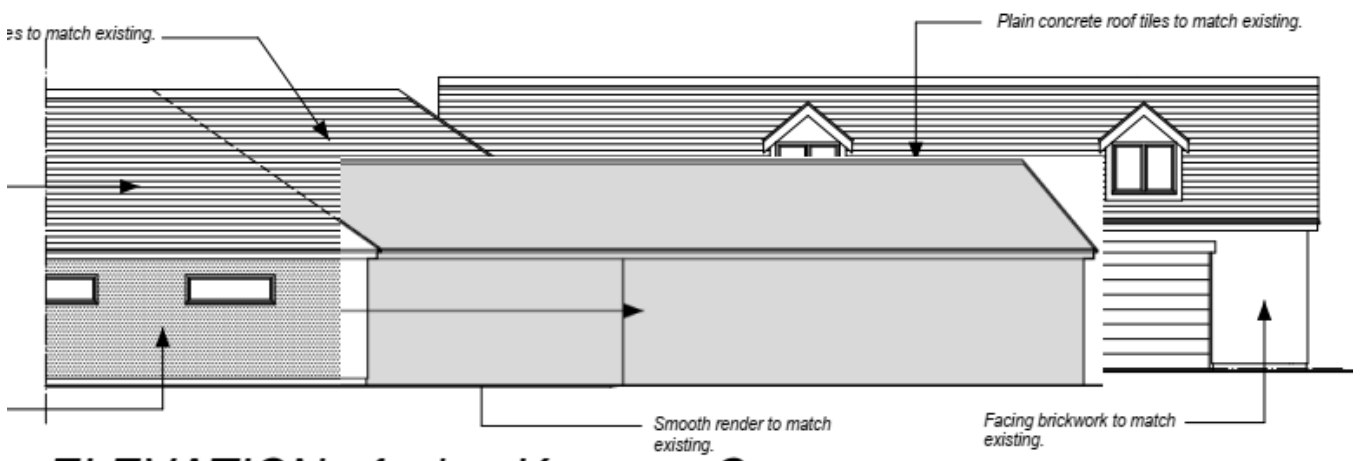
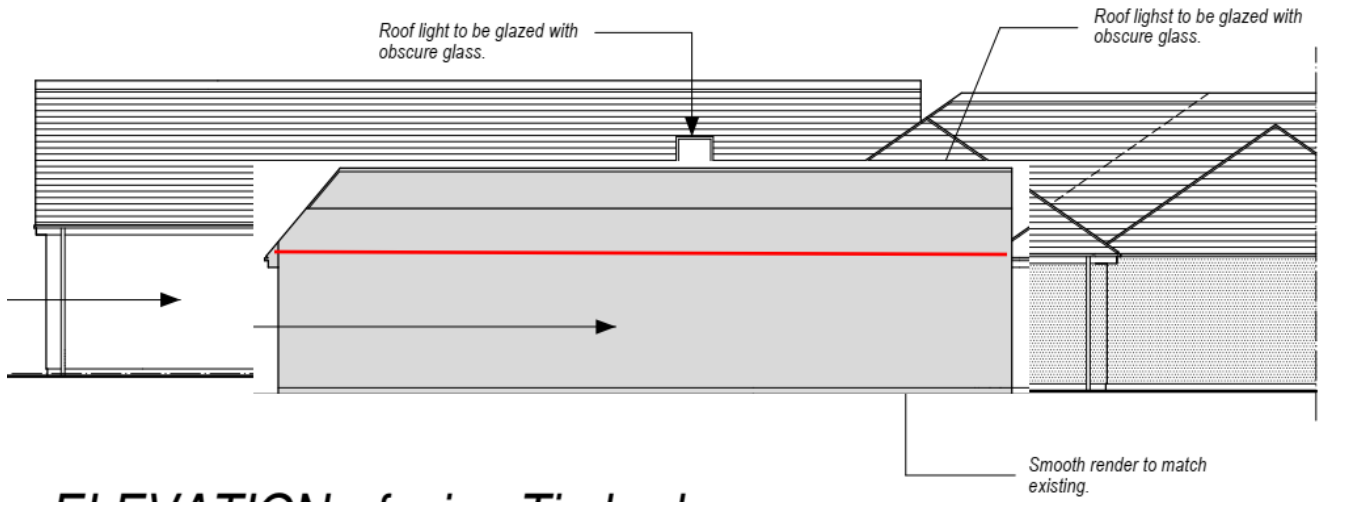


Appendix E – Comparable footprint of the original garage (red) and built form



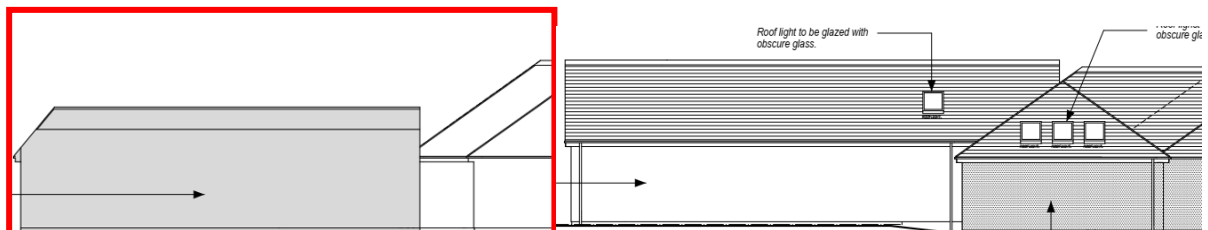
Appendix F – Comparable elevations

Combined previous and built garage. The red line is the approximate flat roof of the previous garage. Front and rear elevations.

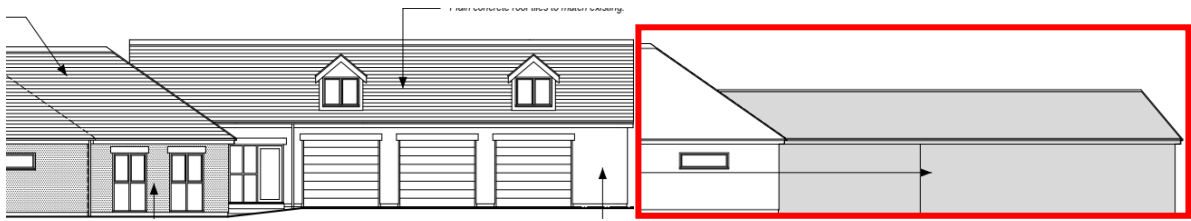


ELEVATION - facing Keepers Gate.

Rear – previous with red box



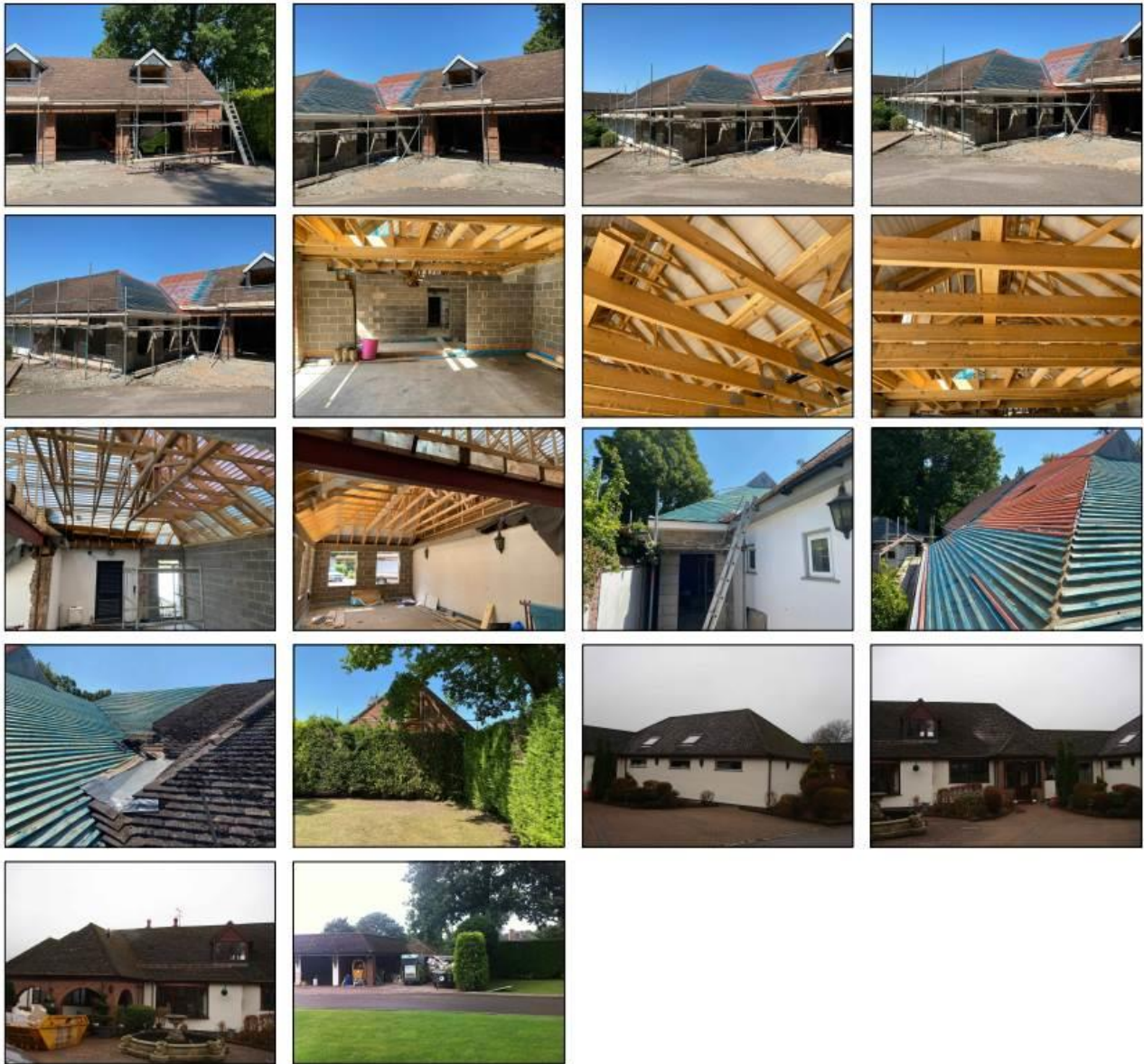
Front - previous with red box



Appendix G _ Extract from Tree Preservation Order, with shaded area the order. The application site is defined by the balloon.



Appendix H – photos as provided with the application



Appendix I – Tree report – November 2021



**Arboricultural Tree Physiological
Report**

Site: South View, Caldecote

Forestry Ref No: 7736

Prepared for: Mark Spencer

Prepared by: Clint Parker

Date of Inspection: October 2021

Date of Report: 9 November 2021

Clint Parker Arboricultural Manager
Warwickshire County Council
Communities
Forestry
Highways Depot, Buckley Green
Henley-in-Arden B95 5QE
Tel: (01926) 413469

1 Contents

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2 Introduction

2.1 Instruction and Brief

Clint Parker has been instructed by Mark Spencer to arrange for the inspection of a tree growing on the adjacent property to South View called Highlands.

The instruction was also to provide a tree report following ground works carried out in October 2017 and report on the trees physiological condition, potential damage and subsequent reduced life expectancy of an Oak tree growing in an adjacent property the Highlands.

2.2 Site Description

The tree is located approximately 2 metres to the North away from the corner of a building and close to a conifer hedge running to the south. Figure 4 shows the location of the tree.

2.3 Report Limitations

Trees are living dynamic organisms whose health and condition can change rapidly; the health and safety of trees should be checked on a regular basis, and after any extreme weather.

It is not possible to guarantee the absolute safety of a tree. Even trees with no defects can fail. It is a natural occurrence for trees to shed small branches and twigs during their life span and it is therefore not practicable to predict when this may occur.

The conclusions and recommendations in this report relate to conditions found at the time of inspection and are valid for a period of 12 months only. The period of validity may be reduced in the case of any changes in the condition of the tree, or in the proximity of the tree.

This report is for the sole use of the client and must be kept together in its entirety. Any alteration or deletion from this report will invalidate it as a whole.

This report is for the trees physiological condition at the time of inspection.

This report was carried out from the property of South View only and no branches were cut or removed to take measurements.

3 Survey information

3.1 Survey Methodology

The field work, inspections, and data collection were carried out by Clint Parker, who holds the LANTRA Professional Tree Inspection certificate.

Tree data was captured and recorded on our database.

The Visual Tree Assessment method (VTA) (Mattheck and Breloer 1995) was used to assess the condition of the trees.

3.2 Survey Inventory Results and Key

Tree No: Tree number relating to the numbering on Tree Location Plan at Figure 4.

Species: Oak *Quercus robur*

Age Class: Mature: tree within final third of the estimated life expectancy

Stem Diameter: 900cm Approximate due to no access to adjacent garden

Given in centimetres at 1.5m above adjacent ground level (taken on the up-slope side of the tree base where on sloping ground).

Spread: 11m Overall diameter of crown measured in metres (m) at widest point.

Height: 20m Overall height estimated to 2 metre bandings, recorded in meters (m).

4 Observations

4.1 Measuring Annual tree growth

Oak trees annually produce what is known as determinate growth this growth involves elongation of new shoots and leaves from resting buds (see figure 1) (Hirons 2021)

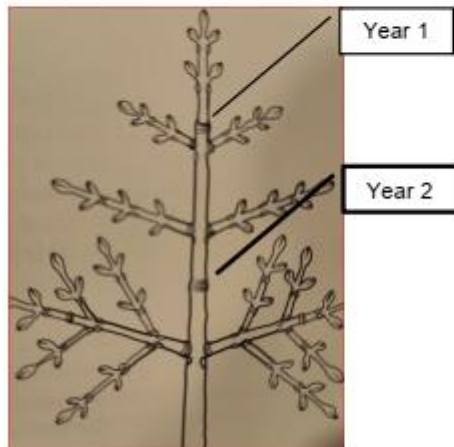


Figure: 1 Woody shoot showing 3 years growth.

The measurement of this annual growth can be used to determine a tree's vitality and if measured against a tree of the same species in a similar setting can be used to determine the tree's vitality following root damage.

Other measurements include observational assessments of deadwood and crown dieback in the canopy of the tree.

4.2 Findings

- 4.2.1 Twig samples were measured from the T1 Oak (*Quercus petraea*) tree near to the property and from T2 Oak (*Quercus petraea*) located in the garden of South View as a control to determine the growth differences.
- 4.2.2 The following figures show the extension growth over 4 years as previously discussed.

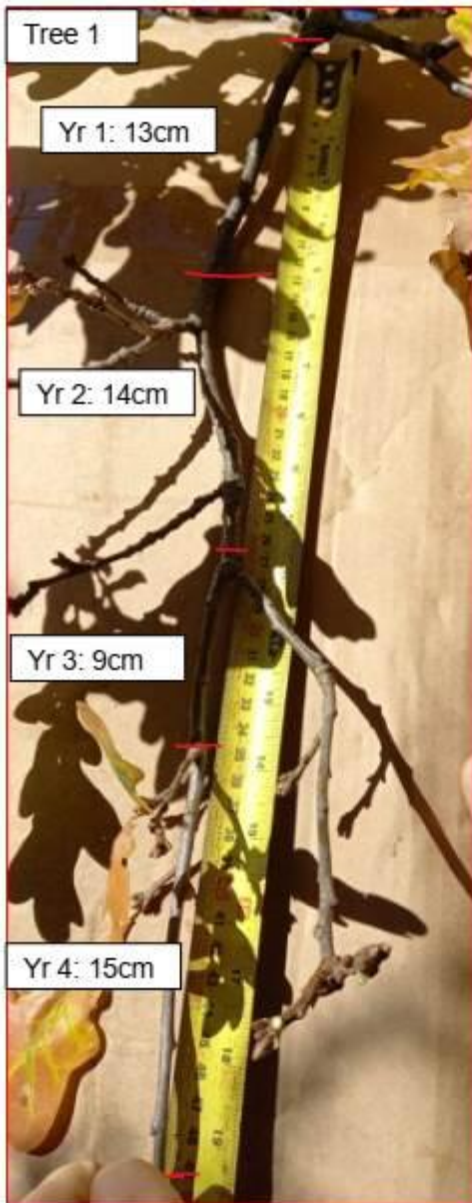


Figure 2: Showing T1



Figure 3: Showing T2

4.2.3 Within the canopy there is a sparse amount of inner deadwood as one would expect from a mature tree growing and shading out the inner branches as the outer canopy forms. There is no crown dieback in the outer canopy and figure 4 taken from google earth 16 June 2021 shows the tree to be growing like the other trees in the area.



Figure 4: Showing tree canopy cover in June 2021

5 Conclusion

5.1 Tree root damage can cause crown dieback and or render a tree liable to windthrow. One would normally expect to see crown dieback within a few growing seasons following excessive tree root damage and this would tend to lead to a prolonged period of crown decline until the tree balances out its root to shoot ratio. From assessing the annual growth over the last 4 years the tree has been growing at a similar rate as another Oak tree within the garden. I would therefore conclude that the tree has not suffered any short or long-term damage that it has not coped with.

6 Qualifications and Experience of Author

Career History

1995 – 1998	Arborist/climber/self-employed	Treewise, Leicestershire
1998 - 2003	Arborist gang leader	George Walker Tree Care Leicestershire
2003 - 2005	Tree Inspector	Warwickshire County Council
2005 – 2014	Arboricultural Officer	Warwickshire County Council
2014 – 2020	Tree Manager	Warwickshire County Council
2020 onwards	Arboricultural Team Captain	Warwickshire County Council

Education and qualifications

Quantified Tree Risk Assessment (QTRA) 2018.
Foundation Degree Arboriculture (FdSc. Arb). University of Central Lancashire 2013.
Lantra Certificate, Professional Tree Inspection 2008.
Treelife Westonbirt Arboretum – Arboricultural Association Technicians Certificate 2005.
Brooksby Agricultural College – National Certificate Horticulture/Arboriculture 1997.

Memberships

Arboricultural Association (professional member).
Municipal Tree Officers Association (MTOA).

7 References

Hirons, A.D and Thomas P.A. (2018) *Applied Tree Biology: How Shoots Grow*. Wiley Blackwell.

Mattheck, C, & Breloer, H, (1995). *The Body Language of Trees: A Handbook for Failure Analysis* (Research for Amenity Trees 4). London: HMSO

Appendix J – Photos of sunlight impact of extension upon neighbours property

Picture at 0940



Picture at 0942



Picture at 0948



Picture at 1007



Picture at 1101



Picture at 1139



Appendix K – Photos of previous garage and construction of new extension

Rear aerial view of garage and outbuilding 2016



2017 photo from Timberlea looking towards the application site and the previous garage / store



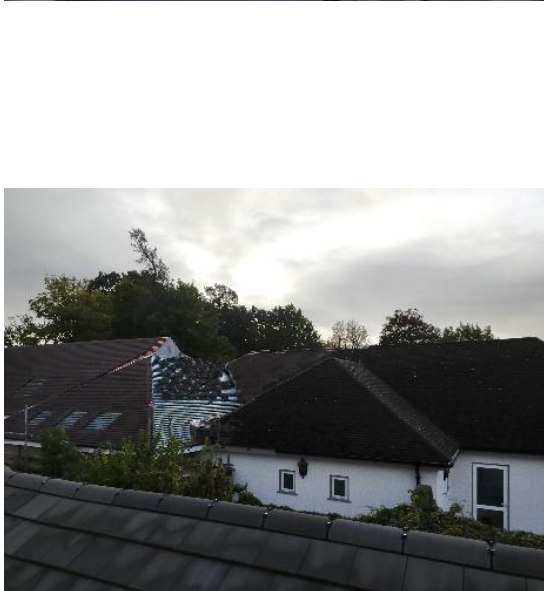
Previous garage and outbuilding footprint 2015



Appendix L – Council officers photos









General Development Applications

(7/f) Application No: PAP/2021/0678

The Arcade, 71-73 Long Street, Atherstone, Warwickshire, CV9 1AZ

Community Mural, for

Mr Gary Chamberlain

Introduction

This application is referred to the Board at the discretion of the Head of Development Control given the wider public amenity issues raised.

The Site

The site is the Arcade located to the rear of Long Street and accessed from Station Road, adjacent to the bus station. This is shown on the plan at Appendix A.

The Proposal

The rear elevation of the arcade comprises a blank rendered elevation as shown at Appendix B.

The proposal is for a community mural to cover the entire rear (rendered) elevation of the Arcade, where it would be wholly visible from the bus station and from Station Street. The artists interpretation for advertising Atherstone with the slogan 'Welcome to Atherstone' is depicted at Appendix C

Whilst this image may not be the final design it does illustrate the likely themes and colour schemes which would be applied. It would depict Atherstone's importance as an historic market town and the final design is likely to be subject to further consideration, though the general appearance would apply to the whole elevation.

The proposal is the subject of a grant for funding. The deadline for this expires before the date of the March Board and thus the case is referred to Members at this meeting.

Background

The Arcade is a commercial unit accessed by the bus station and by Long Street, having two entrances/exits. It is well used by customers using Atherstone shops and facilities and is a focal point from the bus station, taxi rank and the public carparks. The Arcade has been long established and is a modern building which has no restrictions in terms of listed building constraints. The red brick building has a painted brickwork elevation to the rear and sits within the Atherstone Conservation Area.

Representations

Atherstone Town Council – No objection

Atherstone Heritage Team - Our community Group is pleased to support the idea of a Mural on the outside wall of the Arcade, Atherstone. The design we appreciate was just an example, but something along those lines would enhance an otherwise ordinary space to the benefit of the town.

Warwickshire Local Police - The project consists of a "street art" mural that is to be located on the exterior of the Arcade. The project is to be designed by a well-known Art teacher who has national recognition for such projects and it will be crafted by world renowned artists.

One letter of support has been received.

Development Plan

LP1 - (Sustainable Development), LP29 (Development Considerations), LP15 (Historic Environment) and LP30 (Built Form)

Other Relevant Material Considerations

National Planning Policy Framework 2021 - (the "NPPF").

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Observations

This proposal requires Advertisement Consent. An 'advertisement' is defined in section 336(1) of the Town and Country Planning Act 1990 (as amended) as "any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction". In this case the mural is a representation for the purposes of announcement.

Under the Advertisement Regulations, the remit of the Board here is limited to two considerations - amenity and highway safety. Amenity is generally considered to be visual appearance and the pleasure of the environment generally, including the general characteristics of the locality and any feature of historic, architectural, cultural or similar interest there.

In this case as the advertisement is in the Atherstone Conservation Area, the local planning authority must also pay special attention to the desirability of preserving or enhancing the character of appearance of that Area, as expressed under s.72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

There are no listed buildings immediately in the vicinity of the Arcade, though the wider historic environment hereabouts does have many listed buildings in the town centre.

Taking into consideration the above matters then the following assessment is made on matters relating to amenity.

Notwithstanding the requirements of the Advertisement Regulations, murals are not explicitly discussed in the Council's Shop Front Design Guide of September 2003. Yet for the purposes of the Advertisement Regulations, the wording contained within the mural requires consent. Murals might be seen as public art and in this case the mural appears to provide such a display depicting Atherstone's historic and cultural aspects as well as advertising Atherstone as a place to visit.

A mural within a shopfront opening would normally be unacceptable in design terms, for example where it is sited on a historic street frontage such as Long Street. In the particular circumstances of this case however, the rear of the building faces the public parking area, taxi rank and bus station and warrants an exception, namely because the blank elevation is already painted, and a mural does serve to add interest to an otherwise bleak and featureless façade.

In terms of its harm to the appearance of the building then the existing building is modern and is not listed. It has no aesthetic character in the Atherstone Conservation Area and so the Arcade is probably the more appropriate façade to place a mural. There is no harm caused to the building, beyond the harm already applied by the blank façade.

In terms of the amenity and the appearance and setting of the Conservation Area; then this part of Atherstone is rather utilitarian and is mainly hard landscaped. It does not have a coherent visual quality being the rear view of buildings which have their prominent and aesthetic elevations facing Long Street.

As such, the views in and out of the Conservation Area in this part of Atherstone are neutral and the mural could well add interest and thus improve the general aesthetic of the town's location, of the building and the Conservation Area. The applicant has indicated their intention to display further murals in the future, and their willingness to accept a condition controlling the content. The use of this part of Atherstone on the façade for the display of community artwork is not unacceptable. Overall, the wider historic environment is not harmed by a mural in this location.

Turning to highway matters then the location of the mural does not appear to cause any highway safety implications, given that it is well set back from the public highway (Station Road) and has the intervening bus station and carpark with taxi rank, whereby vehicles are moving at slower speeds in this general area. The area is also pedestrianised and so vehicles are virtually stationary in this area. In any case too there are no proposals to illuminate the mural.

Members will be aware and take note of the following:

- Murals as artwork are subjective and not everyone will like its introduction here.
- Murals may also encourage an increase in random graffiti around the town or encourage others to apply murals to their blank buildings' facades.

- It also has to be subject to maintenance in the longer term or a limited time frame if long term maintenance is not possible. Long term monitoring would likely be required.
- The mural would have to contain historically and culturally correct images.

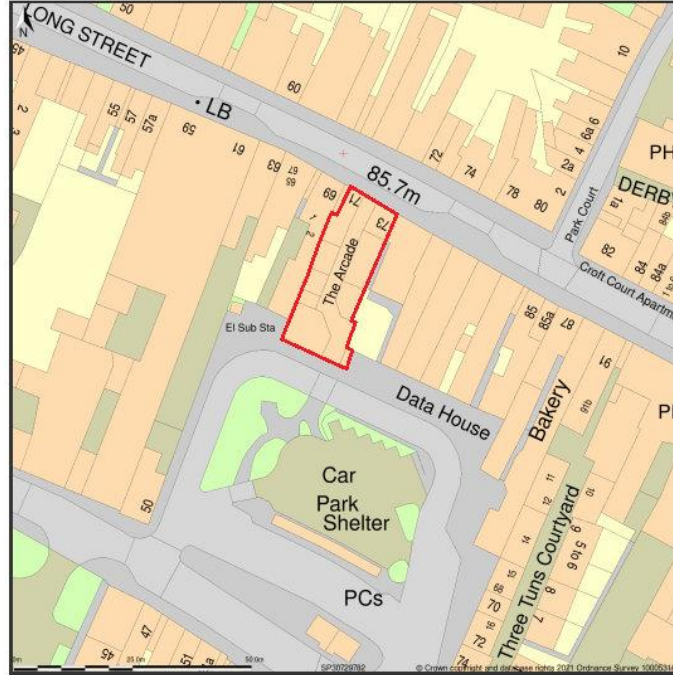
On the other hand, it offers opportunities to regenerate this part of the town and improve the aesthetics of the building. It can attract footfall to view the artwork and to visit the town centre helping to increase economic benefit. It is something unique to Atherstone that will encourage custom and footfall to the town.

Recommendation

That Advertisement Consent be **GRANTED** subject to the conditions covering the following two matters along with the standard Advertisement conditions

- Details of the final design of the mural shall be submitted to the local planning authority for final approval.
- A temporary consent is granted - up to 2 years - after which time the façade shall be restored to its former condition.

71-73, Long Street, Atherstone, Warwickshire, CV9 1AZ



Site Plan shows area bounded by: 430656.23, 297756.29 430797.65, 297897.71 (at a scale of 1:1250), OSGridRef: SP30729782. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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