

General Development Applications

(7/g) Application No: PAP/2021/0627

Hartshill School, Church Road, Hartshill, Nuneaton, Warwickshire, CV10 0NA

Full planning application for the demolition of existing school buildings (with the exception of the sports hall) and the development of a three-storey building for educational purposes (Use Class F1), alongside associated access, sports pitches, landscaping and parking, for

- Wates - On Behalf Of The DfE

Introduction

This application is being reported to the Development and Planning Board at the discretion of the Head of Development Control.

The Site

The School is located on the east side of Church Road with the majority of the buildings set back from the road and the playing fields set behind them. In total the site amounts to just over 7.5 hectares in area, most of which is playing fields extending well to the east.

The site is bound by residential properties fronting Church Close to the north, agricultural land to the north-east and east, Nathaniel Newton Infant School to the south and Church Road to the west.

The surrounding context to the site is represented by predominantly residential use, alongside small-scale retail and local services, particularly to the north-west, west and south. Rural land extends to the east, with Hartshill Quarry located a short distance to the north-east.

The existing range of school buildings is concentrated at the south and western end of the site where it is situated next to Nathaniel Newtown Infant School. These comprise a mix of single, two and three storey heights with a wide range of building dates and thus appearances. The overall site is illustrated at Appendix A.

The Proposal

This is a full planning application for the demolition of the existing school buildings (with the exception of the sports hall) and the development of a three-storey building for educational purposes (Use Class F1), alongside associated access, sports pitches, landscaping and parking

It proposes a new three-storey teaching block including main hall, library, studios and classrooms alongside significantly improved outdoor amenity space. The existing sports hall is proposed to be retained. External areas will be resurfaced and landscaped it is said in order to deliver a development which is energy efficient, which enhances its

setting and which will be accessible to all. The scheme has been designed it is said, to provide a positive contribution to the local area, with a strong and cohesive design which responds to and is influenced by the local context and landscape. All existing buildings on the site, apart from the Sports Hall, will be demolished once the new school building has been constructed and is ready for occupation, with continuity in use throughout. New playing fields will be re-provided to replace those impacted.

A temporary construction access is required for the duration of the construction phase of the development. This will be created from Church Road and will lead eastwards across the site, to the north of the existing main vehicular access.

The new block would be 8651 square metres (but with a footprint of around 2900 square metres).

There would be no increase in pupil or staff numbers from the existing 1050 pupils and 110 members of staff.

The location of the buildings to be demolished is at Appendix B.

The location of the new building is at Appendix C.

Its appearance and visualisation are shown at Appendix D.

The application is accompanied by a number of supporting documents including a Planning and a Design and Access Statement which concludes that the proposal will provide significant investment to the educational provision of the area and will significantly improve the teaching and learning environment for staff, students and visitors alike over the existing situation.

The submitted reports are as follows:

A Ground Conditions report recommends that conventional foundations would be appropriate but that they should incorporate measures to reduce gas emissions into the building.

Noise Report concludes the impact of the proposal on adjacent residential properties.

The Arboricultural report indicates the removal of a small number of trees as a consequence of the demolitions, but with new planting in the vicinity of the new building. It also indicates the removal of one ash fronting Church Road, however this will be replacement post construction along with additional replacements.

An Ecological Impact Assessment and Biodiversity Net Gain assessment concludes that it is possible to provide and deliver a net gain in biodiversity on site under the proposed landscape plans via the like-for-like and like-for-better compensatory actions. The proposed landscaping can also bring further benefits for biodiversity. There is no impact on protected species.

The Flood Risk Assessment concludes that the surface water is not considered to be a significant flood risk here and that foul water discharge is unlikely to be any greater than at present. Sustainable drainage systems can be employed to drain the site.

A Heritage Statement concludes that there are benefits to the rationalisation and simplification of the school complex, but that there would be a low level of harm to the significance of the setting of the Church of Holy Trinity as a result of some loss of its local prominence. This level of harm is low and 'less than substantial' in NPPF terms.

A Transport Note concludes that as there will be no increase in pupil or staff numbers. It is expected that there will no increase in traffic as a result of the proposed development.

An Archaeological Desk based assessment has concluded that archaeological mitigation, should it be necessary, might be achieved by localised excavation and/or by means of a programme of monitoring under archaeological supervision and control during the construction programme. A geophysical survey has been carried out and a written scheme of investigation has been submitted outlining the level and detail of trial trenching which will be undertaken in the next couple of months.

An Energy Strategy indicates that there is a 100% reduction in carbon through the use of air source heat pumps for water and heating. The use of the photovoltaic array will reduce energy consumption. 11 fast charging car points will be provided as part of the proposal too.

A detailed construction management plan indicates the construction phasing and demolition works, housing of working, fencing and security, construction access, storage, noise and dust management, lighting, drainage and tree mitigation.

Development Plan

North Warwickshire Local Plan - LP1 (Sustainable Development), LP2 (Settlement Hierarchy), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP21 (New Services and Facilities), LP22 (Open Spaces and Recreational Provision), LP27 (Walking and Cycling) LP29 (Development Considerations), LP30 (Built Form), LP33 (Water and Flood is Management), LP34 (Parking), LP35 (Renewable Energy and Energy Efficiency)

Hartshill Neighbourhood Plan 2017 - H3 (Car parking at Schools and Nurseries); H5 (Ensuring new development provides appropriate infrastructure), H7 (Traffic and parking in the village), H13 (Health and Well-being) and H18 (Land at Hartshill Quarry)

Other Relevant Material Considerations

The National Planning Policy Framework 2021 – (the “NPPF”)

Playing Fields Policy and Guidance – Sport England 2018

NWBC Playing Pitch Strategy 2017

Supplementary Planning Guidance: Air Quality Supplementary Planning Document 2019

Consultations

Environmental Health Officer – No objections subject to noise conditions

Warwickshire Police Architectural Liaison Officer – No objection subject to design layout mitigation.

Warwickshire County Council as Lead Local Flood Authority – No objection subject to conditions

Warwickshire County Archaeology – No objections subject to conditions

Warwickshire Forestry Officer - No objection subject to replacement of trees on site

Warwickshire Fire and Rescue Services – No objection subject to conditions

Nuneaton and Bedworth Borough Council - No objection

Severn Trent Water Ltd – No objection to the proposal

Sports England – No objection subject to conditions

Warwickshire County Council as Highway Authority – It had initial concerns about the potential for increased traffic generation but following confirmation that the development would not increase staff or pupil numbers, there is no objection in principle to the proposal. However, as there is a new access for construction traffic, a road safety audit is required for to assess the impact. Additionally swept path details and the impact on highway trees will have to be assessed.

Representations

14 letters have been received raising. These include 13 objections raising the following issues:

- Proposed construction access is limited in width and impacts on the adjacent TPO'd trees.
- The footpath should be maintained for wheelchair and mobility scooter access at all times.
- Construction delivery times are not mentioned.
- The construction worker hours should provide some time over the weekend for peace and quiet for residents.
- The construction will last for nearly 2 years.
- An alternative construction access should be considered.
- Construction parking should be positioned further away from residential properties and within the school during in school holiday to alleviate noise.
- A fence adjacent to the construction access should be positioned to reduced impact on neighbours no higher than 1.8m.
- The position of the access road will have a detrimental impact on neighbouring residential properties.
- Lighting during construction could be detrimental.
- Car parking at the doctor's surgery site could be considered rather than adjacent to the existing residential properties.
- The proposal does not blend in with street as a whole.
- There is an existing flood problem in the area.

- Existing sewer system has limited capacity.
- Distance of the school to properties in Church Close will lead to privacy implications and will restrict light to neighbouring properties.
- Noise from the school use will impact on residential properties.
- Dust and air quality will be affected during construction.
- Windows should be frosted to ensure that privacy is not detrimental.
- There has been consultation prior to the application but little as changed.
- School pupils should not increase as highways implications are significant.

One letter of support has been received indicating that the application should be supported as it is an investment in children's future.

Observations

a) Introduction

There is no objection in principle to the general approach taken here in order to replace inappropriate and inadequate education accommodation with a better equipped and more sustainable building. There are however a number of issues which will impact on the final outcome of this report.

b) Principle of Development

In terms of the proposed school, the presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively. The aim of the NPPF is to achieve sustainable development and some of the objectives relevant to this proposal are making suitable land available for development in line with economic, social and environmental objectives to improve people's quality of life, ensuring high quality development through good and inclusive design and the efficient use of resources. Additionally, development should support existing communities and contribute to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community. Local Policy LP1 outlines that where planning applications accord with policies, the proposal will be approved without delay, unless material considerations indicate otherwise. Policies supporting improvements to school are clearly indicated in the Local Plan and the Hartshill Neighbourhood Plan.

Paragraph 20 of the NPPF outlines the need to support the delivery of services which the community needs, whilst section 8 emphasises that weight that should be given to the need to create, expand or alter schools through the preparation of plans and decision on applications.

Hartshill School is receiving investment through the School Rebuilding Programme. The programme is carrying out major rebuilding and refurbishment projects at school and sixth form college buildings across England, with buildings prioritised according to their condition. The aim of the programme is to replace poor condition buildings across the country securing best value for money in doing so. It is clear from the site there is a need to consolidate the existing school buildings.

The NPPF also indicates that local planning authorities should ensure the faster delivery of other public services infrastructure and resolve key planning issues. The principle of the educational redevelopment is supported by neighbourhood, local and national planning framework, however this is subject to other considerations outlined below.

c) Impact on Visual Amenity

The adopted Local Plan and Hartshill Neighbourhood Plan sets out that development needs to be a high standard of design. Chapter 12 of the NPPF is also relevant and sets out the importance of good design in relation to new development.

The proposals include the demolition of all existing school buildings with the exception of the sports hall. The replacement development comprises a new three-storey teaching building. This is formed of a broadly rectangular block. It will be positioned on land to the front of the existing buildings, on land which is currently open, set behind the trees which front Church Road. This block will provide modern educational facilities including classrooms, workshops and laboratories, main hall, dining hall, drama and activity studios and associated staff and pupil administration and welfare facilities.

To some extent the location of the new building within the wider site has been dictated by existing site constraints. This includes the position of a Severn Trent water main, the position of existing trees, the need to retain the existing pedestrian and vehicle access and consideration of the relationship with neighbouring properties. The existing buildings will need to remain until the new building is complete which also dictates the position.

The height of the proposed main building is comparable to the existing buildings at three storeys high, but the new building is a composite as a replacement of a number of scattered buildings. The location of the building at the front of the site will make it more prominent, especially from Church Road. The design of the building has taken some consideration of the predominantly residential area of Victorian terraced and semi-detached dwellings. The design has echoed some of the character of the Victorian dwellings, the elevational treatment is primarily red-brick masonry faced, with a standing seam metal faced grey cladding used at key accent locations. This is focussed on the main entrance and access. The burgundy coloured panels highlight the main entrances to the building. The ground floor utilises a grey plinth to the building. A secondary masonry brick in light grey has been incorporated between the glazing to soften the façade. The proposed fenestration provides both a horizontal and vertical emphasis to the building reducing its scale.

In terms of design this development is high quality of design and finish. The proposal reflects elements of the scale and style of the existing buildings on the site as well those in context. It is considered that the proposed development will deliver a new high-quality teaching and learning building for Hartshill School. The proposals have been designed to make a well-designed positive contribution to the local area and context.

d) Impact in terms of Highways

The DfE funding is only for works within the school site, and the new building is only to accommodate the existing 1050 students and 110 FTE staff. The scheme is replacing the existing school buildings with no additional staff or students.

A fundamental issue with a number of school applications relates to highways, however in this instance the proposal is providing replacement facilities and is not to increase the number of pupils which remains at 1050 pupils. Originally the Highway Authority objected to the application in that there was no road safety audit for the proposed construction access along Church Road. There is no principal objection to the scheme. However, a revised transport statement, interim travel plan and road safety audit have all been submitted indicating tracking of construction vehicles into the site.

It is considered that the proposal will have limited material impact in terms of highway operation and in the context of NPPF the impact will not be 'severe' (paragraph 111). The proposal is in a highly sustainable location and there would consequently be no impact on the number of movements on the local highway network. Schools are generators of travel and should therefore be located so as to maximise their accessibility by public transport, walking and cycling. Where related accommodation is to be provided it should have ready access to the site by non-car modes. In this instance it is considered and reflects existing demand to the point that the proposal is in a good location. The proposal is providing a travel plan, upgraded car parking, cycle parking and electric charging spaces which will all help to improve sustainable travel solutions to the school.

The applicants have provided additional information in respect of the proposed usage and have provided 110 car parking spaces in total for the proposed use, including 11 charging points and 5 disabled spaces. The impact on parking provision, highway safety and traffic flows is therefore considered to be acceptable subject to the recommended highways conditions which are likely to be in respect of car parking, cycle storage, and Green Travel Plan conditions.

e) Loss of sports pitches

There will be a reduction in playing fields during the works. Sports England have been consulted and have responded with no objections. It is proposed that the playing field land will be re-provisioned on the site of the demolished school buildings. The replacement provision (circa 0.45ha) is greater in size than the playing field proposed to be lost and given its rectangular nature it will also provide more usable areas. The replacement provision would be capable of accommodating an u11/12s football pitch. It is also acknowledged that the area to the north of the proposed block will be retained as playing field land and is capable of accommodating rounders pitches and potentially an u7/8s football pitch. There is no objection to the scheme in respect of sports provision.

f) Loss of trees

An Ash tree to the north corner of the site fronting Church Road is to be removed to allow for the construction haul road to be provided. The County Council Tree Officer has commented that the ash tree has seen some decay for sometime and can be removed subject to appropriate replacement in a similar position following the completion of the

development. It is likely that the replacement will include three or more trees within the site as well as a replacement along Church Road.

The access road will include geo-textile membranes over the roots of the trees to ensure that none of the other trees are impacted by the construction haul road. The position of the surface water drainage system has also been amended to ensure the retention of an important oak tree within the site close to the existing sports hall.

g) Impact on Residential Amenity (Light, Aspect and Privacy)

The Local Plan requires development to comply with Supplementary Planning Guidance and in turn allows for consideration of the Residential Design Guide and national guidance. This guide provides clear guidance on the way buildings relate to each other and the impact of this on levels of acceptable amenity for both existing and future occupiers. Paragraph 127 of the NPPF is also relevant and sets out the need for planning to deliver a good standard of amenity for all existing and future occupants of buildings.

The proposed building would be three storey in nature but would be 12.5 metres in height to the parapet. The most affected property in Church Close is 44 metres away to the garden and 50 metres to the original property. Comments have been raised about overlooking into adjacent properties. A school is not the same as a residential dwelling it is unlikely that privacy and overlooking would be the same. Classrooms would be supervised for the majority of the time and children would be focused on learning. The second floor of the scheme has been laid out to ensure that there is limited opportunity through the provision of a staircase, ICT room, staff room.

Residents have indicated that they require any windows overlooking their properties to have obscure glazed windows. However, due to the use as a school, the position it is not considered that this is necessary. Overall, it is not considered that there would be a material loss of light, aspect and privacy.

h) Impact on Residential Amenity (Noise and Disturbance)

Paragraph 185 of the NPPF sets out the need to consider the potential for noise that could be generated from new development. The impact of the proposed building in respect of noise from the uses and the comings and goings. However, the site already has an established use and the existing use generate noise. Environmental Health have no objections to the proposal. But it is fair to say that any building will be designed to prevent noise getting in and in that respect noise from within the building is unlikely to disturb those nearby residents.

However, the proposal is likely to include provisions for air conditioning units to be located around the outside of the building and these clearly have the potential to cause noise disturbance to residential properties when in use. Environmental Health have assessed the proposed development and raised no objection subject to a condition requiring details of the air conditioning units or plant.

i) Other issues

A large number of the local concerns revolve around working hours during construction and noise mitigation. A construction management plan has been submitted indicating mitigation and a separate access to control access. To reduce the impact of construction trips, no construction vehicle trips will be permitted during of the school's drop off and pick up hours so as to avoid conflict with pupils arriving and departing to/from School. The hours of use for the temporary access are expected to be controlled via a suitably worded planning condition should permission be granted. Parking on Church Road opposite the temporary entrance will also need to be suspended for the duration of its use, which will be covered under a Temporary Traffic Regulation Order (TTRO) in agreement with WCC highways. Subject to the planning permission the redevelopment is scheduled to start in April 2022, and take around 17 months to complete with full handover to the school expected by September 2023 and September 2024 for Project Completion

Surface water drainage would be through sustainable systems and the County Council Flooding team have no objections to the proposal. In principle the details of this system can be provided on site and a suitably worded condition will ensure that this can be "reserved" for future approval and thus it is considered that the impact on drainage would be acceptable.

In terms of protecting and enhancing biodiversity, the site is not designated of national or local importance, however, in its previously developed state, it forms a site that holds biodiversity value. Surveys have demonstrated that impacts on protected or important species are unlikely. The application indicates that the proposal will lead to a net increase in terms of biodiversity.

Economic Implications

The developments would give rise to a number of economic benefits. For example, it would generate significant employment opportunities including for local companies, in the construction industry during construction. Overall, it is considered that the development proposals would have limited economic and significant social benefits to the local area.

Planning Balance

The NPPF establishes the need for the planning system to achieve sustainable development which is composed of mutually dependent economic, social and environmental dimensions (paragraph 7, 8). There is consequently a presumption in favour of applications for sustainable development (paragraphs 11 and 12). In broad terms, this means that the application should be approved providing that it is in accordance with the development plan and other policies within the NPPF, unless material considerations or adverse impacts indicate otherwise. Taking into account the above assessment on the school, it is consequently considered that the proposed development is in accordance with the development plan and the NPPF.

The Board has to assess the balance between all of the issues above. It can be seen above that there is little in the way of adverse demonstrable harm arising from the proposals as a consequence of highway, drainage, arboricultural, environmental or

residential amenity impacts. The use of planning conditions can assist here reflected below.

Overall, there are significant community benefits in favour of granting planning permission for this school from a social, economic and environmental perspective and these would outweigh the limited harms identified including the less than substantial harm on the nearby heritage asset. It is therefore considered that the proposed development would achieve sustainable development and should therefore be approved.

Recommendation

That subject to there being no objection from the Warwickshire County Highways that cannot be overcome by conditions, the Council is minded to support the application subject to the conditions set out below

1. The development shall be started within three years of the date of this permission.

REASON

To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall only be carried out in accordance with the application form, the supporting letter and drawing numbers:

Ground floor plan 108-LSI-A1-00-DR-A-1300-S2-P03
First floor plan 108-LSI-A1-01-DR-A-1301-S2-P03
Second floor plan 108-LSI-A1-02-DR-A-1302-S2-P03
Roof plan 108-LSI-A1-R1-DR-A-1305-S2-P02
Location plan 108-LSI-A1-XX-DR-A-1170-S2-P03
Elevations 108-LSI-A1-ZZ-DR-A-1350-S2-P02
Sections through 108-LSI-A1-ZZ-DR-A-1370-S2-P02
Drainage Layout Sheet 1 108-AKS-XX-ZZ-DR-C-9201_P06
Drainage Layout Sheet 2 108-AKS-XX-ZZ-DR-C-9202_P06
Fire Tender and Refuse Truck Tracking 108-AKS-ZZ-ZZ-DR-C-9053_P06
Construction Traffic Tracking 108-AKS-ZZ-ZZ-DR-C-9054_P05
Temporary Site Entrance Works 108-AKS-ZZ-ZZ-DR-C-9060_P04
Landscape Illustrative Masterplan 108-ALA-ZZ-ZZ-DR-L-0038 – P05
Landscape General Arrangement 108-ALA-ZZ-ZZ-DR-L-0039 – P08
Fencing arrangement 108-ALA-ZZ-ZZ-DR-L-0040 – P05
Demolition Plan Planning 108-ALA-ZZ-ZZ-DR-L-0041
Existing Site Layout – Planning 108-ALA-ZZ-ZZ-DR-L-0043
Landscape Visualisations – Planning - 108-ALA-ZZ-ZZ-DR-L-0044
Site Sections 1 to 4 Planning - 108-ALA-ZZ-ZZ-DR-L-0049-52
Cycle Storage Details 108-ALA-ZZ-ZZ-DR-L-0053
Bin Storage _ Collection Strategy 108-ALA-ZZ-ZZ-DR-L-0054
EV Parking Provision 108-ALA-ZZ-ZZ-DR-L-0055
Playing Pitch Continuity Plan_P05 108-ALA-ZZ-ZZ-DR-L-0056
Bin Storage Details 108-ALA-ZZ-ZZ-DR-L-0057

Existing Site Levels Planning 108-ALA-ZZ-ZZ-DR-L-0058
GRP HV Substation Details 108-ALA-ZZ-ZZ-DR-L-0058
External Lighting Strategy Layout 108-CSD-00-XX-DR-E-63312-13
External Security CCTV Layout 108-CSD-00-XX-DR-E-68011
Surveys 108-LSI-A1-00-DR-A-1200-S2-P02

Phase one ground investigation and addendum
Planning Statement
Design and Access Statement
Arboricultural Impact Assessment Hartshill 210639-PD-11A
Heritage Statement
Biodiversity Net Gain Assessment update
Ecological Impact Appraisal
Bat Emergence Survey
Transport Technical Note RUK2021N00600-RAM-RP-00005
Travel Plan
Archeological Desk Based Assessment
Archaeological WSI
Archaeological Geophysical survey
Flood Risk Assessment
Flood Risk Addendum
Agent information dated 08th December 2021 relating surface water
Drainage Strategy
Noise Assessment
Energy Statement
Agronomy Survey
Playing Pitch Continuity Plan
Playing Pitch Management/Maintenance Plan

REASON

To define the approval.

CONDITIONS to be complied with PRIOR to the commencement of development hereby approved

3. No development shall take place other than in accordance with the Written Scheme of Investigation (WSI) and until

a) the programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved WSI has been undertaken. A report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the planning authority.

b) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation. The development, and any archaeological fieldwork, post-excavation analysis,

publication of results and archive deposition detailed in the approved documents, shall be undertaken in accordance with those documents

REASON

To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of LP15 of the adopted North Warwickshire Local Plan, coupled with the requirements of paragraphs 194 - 198 of the National Planning Policy Framework 2021.

4. Notwithstanding the submitted no development shall commence until a Construction Method Statement has been updated then submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period.

REASON

In the interests of highway safety and residential amenity. To ensure that the construction period of the development is managed in an efficient way and to reduce the likelihood of vehicles queuing on the adopted highway as recommended by the Highway Authority.

CONDITIONS to be complied with PRIOR to development above slab level

5. No development above slab level shall commence until full details and samples of materials proposed to be used in the external parts of the building have been submitted to and approved in writing by the Council. The development shall not be carried out other than in accordance with the approved details.

REASON

In the visual interests of the area.

6. The development shall be carried out in accordance with the approved contamination land report and remediation within those reports. If any unacceptable contamination or adverse ground conditions are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The report shall include a verification plan of how the remedial measures will be measured and proved.

REASON

To ensure that risks from land contamination to the proposed end users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

7. Within three months of the completion of the development a verification report shall be provided to the Local Planning Authority in order to identify how the remediation objectives were achieved compared with the verification plan.

REASON

To ensure that risks from land contamination to the proposed end users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8. Prior to the completion of the slab level a landscaping scheme shall be submitted to the Local Planning Authority for approval. This scheme shall reflect the approved landscaping scheme but will also indicated the replacement trees for the ash tree at the front of the site For the avoidance of doubt landscaping includes, boundary treatment, surfacing materials, trees and hedges. The approved details and areas identified shall be carried out within the first planting season following the first use of the premises commencing.

REASON

In the interests of the amenities of the area.

CONDITIONS to be complied with Prior to USE commencing

9. The development hereby permitted shall not be brought into use until a scheme for the provision of adequate water supplies and fire hydrants necessary for firefighting purposes at the site, has been submitted to and approved in writing by the local Planning Authority. The approved scheme shall be implemented in full prior to use of the new school building being brought into use to the satisfaction of the Local Planning Authority.

REASON

In the interests of Public Safety from fire and the protection of Emergency Fire Fighters.

10. The development hereby approved shall be carried out in accordance with the Playing Pitch Continuity Plan drw 108-ALA-ZZ-ZZ-DR-L-0056_05, this shall be implemented and complied with in full throughout the carrying out of the development.

REASON

To protect playing fields from damage, loss or availability of use during the construction of the development and to accord with Development Plan Policy

11. The new school building hereby approved shall not be brought into use and subsequent use of the development shall take place until a detailed maintenance plan, written in accordance with CIRIA C753, is implemented and provided to the Local Planning Authority giving details on how surface water systems shall be maintained and managed for the lifetime of the development. The name of the party responsible, including contact name and details, shall be provided to the Local Planning Authority and Local Lead Flood Authority within the maintenance plan.

REASON

To ensure the future maintenance of the sustainable drainage structures

12. Before the development/use hereby permitted is brought into use, a scheme for the insulation of the building and plant in order to minimise the level of noise emanating from the said building and plant shall be submitted to and approved in writing by the Borough Council and the scheme as approved shall be fully implemented before the use hereby permitted is brought into use.

REASON

In the interests on the neighbouring residential properties.

13. Prior to the use of the new school block being brought into use a written pitch construction specification (and programme of implementation) and playing field maintenance schedule for a five year period from commencement of use, based on the findings of the submitted 'A feasibility study for the construction of a natural turf winter sport pitch at Hartshill School (dated 15th September 2021)', shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The approved scheme and maintenance schedule shall be carried out in full and in accordance with the approved programme of implementation. The land shall thereafter be maintained in accordance with the scheme and made available for playing field use in accordance with the scheme.

REASON

To ensure that the playing field is prepared to an adequate standard and is fit for purpose and to accord with the Local Plan.

14. Use of the development shall not commence until a scheme for removal of the site compounds and the reinstatement of the playing field land has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The scheme must be in accordance with Sport England guidance "Natural Turf for Sport" (2011). The playing field shall be restored in accordance with the approved scheme.

REASON

To ensure the site is restored to a condition fit for purpose and to accord with Local Plan

15. No occupation and subsequent use of the development shall take place until a detailed maintenance plan, written in accordance with CIRIA C753, is implemented and provided to the Local Planning Authority giving details on how surface water systems shall be maintained and managed for the lifetime of the development. The name of the party responsible, including contact name and details, shall be provided to the LPA and LLFA within the maintenance plan.

REASON

To ensure the future maintenance of the sustainable drainage structures.

All other CONDITIONS to be complied with:

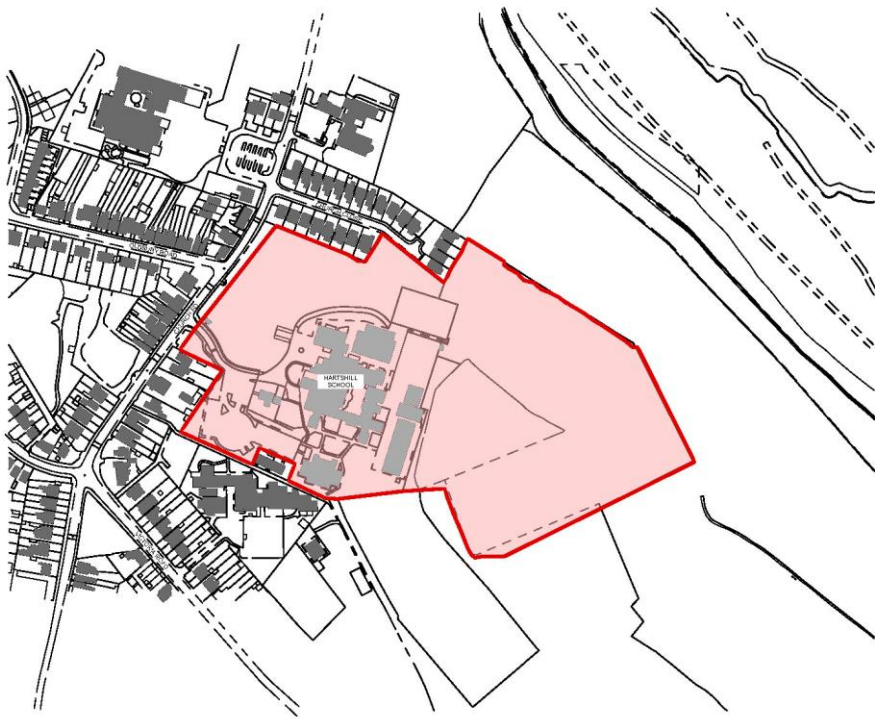
16. Any planting which within a period of 5 years of implementation dies, is removed, or becomes seriously damaged or diseased shall be replaced during the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to a variation. Should replacement planting be necessary, the Local Planning Authority shall be notified in writing not less than 7 days prior to the replacement planting taking place. Notification shall include details of the problem with the implemented scheme and the specification and timing of the replacement planting.

REASON

In the interests of the setting and visual appearance of the development.

APPENDIX A

PAP/2021/0627



North Warwickshire Borough Council
 RECEIVED
 11/11/2021
 PLANNING & DEVELOPMENT
 DIVISION

North Warwickshire
 Borough Council
 RECEIVED
 11/11/2021
 PLANNING & DEVELOPMENT
 DIVISION

0 10 20 30 40 50 60 70 80 90 100
 Metres

lsi
 ARCHITECTS

Client	North Warwickshire Borough Council
Project Name	Hartshill School
Project Address	Church Road, Hartshill, North Warwickshire, CV10 9NA
Project No.	01/2021
Scale	1:500
Date	08/11/2021
Drawn by	JM
Checked by	JM

Ordnance Survey © Crown Copyright 2021. All rights reserved. Licence numbers 100006893 / 100022432

APPENDIX B

PAP/2021/0627

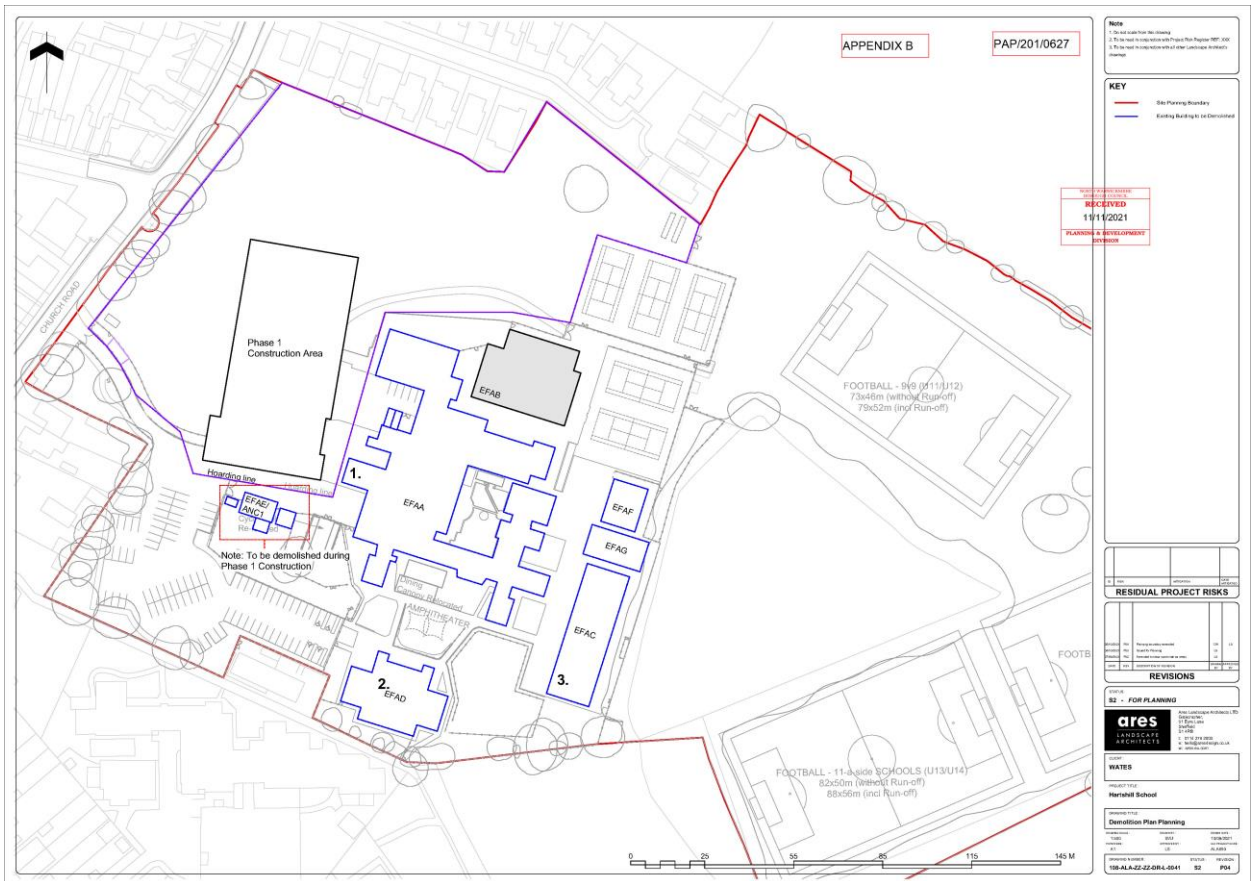


North Warwickshire Borough Council
 RECEIVED
 11/11/2021
 PLANNING & DEVELOPMENT
 DIVISION

North Warwickshire
 Borough Council
 RECEIVED
 11/11/2021
 PLANNING & DEVELOPMENT
 DIVISION

lsi
 ARCHITECTS

Client	North Warwickshire Borough Council
Project Name	Hartshill School
Project Address	Church Road, Hartshill, North Warwickshire, CV10 9NA
Project No.	01/2021
Scale	1:500
Date	08/11/2021
Drawn by	JM
Checked by	JM





APPENDIX D

PAP/2021/0627

NOTES

1. See Section 10.1.1 of the Planning & Development Ordinance for more information on the requirements for this type of development.
2. The applicant shall provide a site plan showing the proposed building footprint, setbacks, and landscaping.
3. The applicant shall provide a site plan showing the proposed building footprint, setbacks, and landscaping.


KEY

- Brick
- Grey
- Dark Grey
- Light Grey

RECEIVED
11/11/2021
PLANNING & DEVELOPMENT
DIVISION

lsi
ARCHITECTS

1111 102nd Street
Berkeley, CA 94704
Tel: 415.863.1111
Fax: 415.863.1112



APPENDIX D

PAP/2021/0627

PEDESTRIAN ENTRANCE VIEW

AERIAL VIEW FROM CHURCH ROAD

AERIAL VIEW FROM EXISTING PLAYING FIELDS

AERIAL VIEW FROM EXISTING PEDESTRIAN ENTRANCE

NOTES

1. See Section 10.1.1 of the Planning & Development Ordinance for more information on the requirements for this type of development.
2. The applicant shall provide a site plan showing the proposed building footprint, setbacks, and landscaping.
3. The applicant shall provide a site plan showing the proposed building footprint, setbacks, and landscaping.

KEY

RECEIVED
11/11/2021
PLANNING & DEVELOPMENT
DIVISION

RESIDUAL PROJECT RISKS	
Risk	Impact

REVISIONS	
No.	Description

ares
LANDSCAPE ARCHITECTS

WATES
Herhill School

Project Title: Landscape Visualizations - Planning

Project No: 108-AL-22-004-004-004

Scale: 1/8" = 1'-0"

Author: [Name]

Check: [Name]

Date: 11/11/2021

Sheet No: 92 of 92

General Development Applications

(7/h) Application No: PAP/2021/0028, PAP/2021/0029 and PAP/2021/0030

Old Rail Farm, Hurley Common, Hurley, CV9 2LS

- i) Change of use of land to stationing a shepherd's hut for holiday accommodation and associated walkway and parking area, and formation of visitor car park for existing permitted holiday lets, for existing permitted holiday lets
- ii) Change of use of redundant agricultural building to workshop for the maintenance of HGVs and agricultural vehicles, together with associated development including formation of hardstanding
- iii) Change of use of redundant agricultural building to stables, feed storage, office, mess room, commercial horse-rug washing, and dog-grooming; and associated works

all for

Mr and Mrs Stibbs

Introduction

These applications are being reported back to Board following their consideration on the 10 January 2022, when the application was deferred for a site visit. A copy of the previous Board report is attached (Appendix A) notes of the site visit will be circulated at the Board meeting.

Since that meeting, the applicants have submitted an updated plan with reference to access improvements (Appendix B). As part of the planning process both the Highway Authority and interested parties have been consulted in respect of the proposed changes.

Warwickshire County Council maintains its objections to the proposal. Its comments are as follows:

“The photographs on the top left of the drawing show HGV visibility splays. The first two pictures show the vehicle within the access to the site in line with the near edge of the public highway carriageway.

Looking at the photographs from left to right, in the first picture, please look at where the telegraph pole is, in relation to the cab of the HGV. The telegraph pole is approximately in line with the A-pillar of the HGV. Please look at the fourth and fifth photographs. The telegraph pole is now closer to the B-pillar of the HGV, as such, it appears that the vehicle has been driven forward of the near edge of the public highway carriageway to take the fourth and fifth photographs.

Again, looking at the first photograph, please look at where the mirrors are positioned on the door of the HGV in relation to the near edge of the public highway carriageway. The mirrors are behind the edge of carriageway. The please look at the third

photograph. The mirrors are now in front of the near edge of the public highway carriageway. As such, it appears that the vehicle has been driven forward of the near edge of the public highway carriageway to take the third photograph. But this application should not result in more HGV movements. The visibility splays of the increased numbers of visitors to the holiday lets are being considered. As measured from a setback of 2.4 metres, to achieve the visibility splays in accordance with the posted speed limit, the splays need to go over third party land, as shown on the submitted drawing, which were obstructed when the site was last visited. Widening of the vehicular access to the site is also shown on the drawing. From the correspondence received, who owns what land or is in control of what land appears to be very contentious. The latest version of any location plan showing the vehicular access to the site, submitted for consideration by the applicant or agents of, is Drawing No. 9651-04A, submitted as part of planning application PAP/2021/0030.

Looking at Drawing No. 9651-04A, it is quite clear that the shape of the blue lined edges is different to the access shown on Drawing No. 9651-50a. The works to the access needed to create the design shown are outside of the blue line and highway extent. Even if the access can be constructed as shown, the access will still not be wide enough to allow to vehicles to pass adjacent to the public highway. The public highway will be needed to allow vehicles to pass.

And pedestrian provision does not appear to have been improved.”

Any comments received from third parties will be reported verbally at the meeting.

Observations

The Highway Authority maintains its objection to the proposal. Additionally, there has been no substantive evidence submitted by the applicant to indicate that the proposals and the alleged unauthorised development do not lead to an intensification of a substandard access point.

The limited visibility splays and width of the access are such that it could not be improved to County Council standards without additional land which is outside the control of the applicant. Any works carried out on land within the control of the Highway Authority and/or third-party land will need consent from the respective land-owners.

Works carried out on private land outside of the control of the applicant is a civil matter. Works carried out within the 'highway', require consent from the County Council. The respective parties involved should follow this through if they consider it necessary.

Members will also be aware of alleged other unauthorised uses at the farm. It is considered that apart from the planning matters already covered in previous reports, that additionally the Warwickshire County Council as Waste Authority and the Environment Agency as a permitting Authority are also requested to investigate these breaches.

Officers consider that the recommendations previously concluded to members remain with the additional recommendation (D).

Recommendations

A) That planning permissions be **REFUSED** in all three cases for the following reasons:

i) PAP/2021/0028 – The Shepherd’s Hut

ii)

1. The application site is located within the Green Belt and the shepherds hut and its associated development and infrastructure are considered to represent an inappropriate form of development. It would not preserve openness and would conflict with the purposes of including land within the Green Belt. There are no material considerations to clearly outweigh the Green Belt harm caused so as to amount to very special circumstances. The proposal does not accord with Policy LP3 of the North Warwickshire Local Plan 2021 nor Section 13 of the National Planning Policy Framework 2021.

2. The development fails to secure safe vehicular access by reason of the limited width of the access road without separate pedestrian footway and a substandard access onto Hurley Common. Accordingly, the proposal is contrary to policy LP13 of the North Warwickshire Local Plan 2021 and paragraph 111 of the National Planning Policy Framework 2021.

ii) PAP/2021/0029 – HGV Maintenance

1. The application site is located within the Green Belt and the change of use to a workshop and associated development would not preserve the openness of the Green Belt by introducing development onto a previously open part of the site, reducing openness from both a spatial and visual perspective. Furthermore, the proposal would encroach into the open countryside, conflicting with one of the five purposes of including land within the Green Belt. There are no material considerations identified which clearly outweigh the harm caused and thus amount to very special circumstances. The proposal does not accord with Policy LP3 of the North Warwickshire Local Plan 2021 nor Section 13 of the National Planning Policy Framework 2021.

2. The development fails to secure safe vehicular access by reason of the limited width of the access road without separate pedestrian footway and a substandard access onto Hurley Common. Accordingly, the proposal is contrary to policy LP13 of the North Warwickshire Local Plan 2021 and paragraph 111 of the National Planning Policy Framework 2021.

iii) PAP/2021/0030 – Other Uses

1. The development fails to secure safe vehicular access by reason of the limited width of the access road without separate pedestrian footway and a substandard access onto Hurley Common. Accordingly, the proposal is contrary to policy LP13 of the North Warwickshire Local Plan 2021 and paragraph 111 of the National Planning Policy Framework 2021.

B) That it is considered expedient to serve Enforcement Notices under Section 178 of the Town and Country Planning Act 1990 for the reasons given in this report in respect of all the following unauthorised developments. Additionally, and as appropriate, if there is non-compliance with the requirements of an extant Notice, it is recommended that prosecution proceedings be commenced under Section 179 of the same Act.

i) In respect of PAP/2021/0028, the removal of the shepherd's hut and its associated utilities, fixtures and fittings including hard-standings, a walkway and parking area from the site together with the re-instatement of the land to its former condition and levels with a compliance period of three months

ii) In respect of PAP/2021/0029, the cessation of the use of the building shown on the Notice Plan for the maintenance and parking of HGV's together with all incidental plant and equipment and their removal from the site together with the removal of the hardstanding shown on the Notice Plan and its re-instatement to its previous condition with a compliance period of six months.

iii) In respect of PAP/2021/0030, the cessation of the use of the building shown on the Notice Plan for horse-rug washing, dog-grooming together with their incidental office use and the removal of all associated utilities, fixtures and fittings with a compliance period of three months.

C) That it is considered expedient to serve Enforcement Notices under Section 178 of the Town and Country Planning Act 1990 for the reasons given in this report in respect of all the following unauthorised developments. Additionally, and as appropriate, if there is non-compliance with the requirements of an extant Notice, it is recommended that prosecution proceedings be commenced under Section 179 of the same Act.

i) The removal of the second shepherd's hut as identified in this report and its associated utilities, fixtures and fittings together with the re-instatement of the land to its previous condition and levels with a compliance period of three months.

i) The cessation of the use of the land as shown on the Notice Plan as an HGV operating centre, together with the parking of HGV's, their storage and their maintenance and repair and the subsequent removal of all HGV's and associated plant and equipment from the land and the reinstatement of the land to its former condition and levels with a compliance period of twelve months.

D) That both the Environment Agency and Warwickshire County Council requested to visit the site and investigate whether there have been or are any breaches of Environmental Permits and/or waste uses on the site, as well as works to the Highway out of the control of the applicant without consent.

General Development Applications

(5/g) Application No's: PAP/2021/0028, PAP/2021/0029 and PAP/2021/0030

Old Rail Farm, Hurley Common, Hurley, CV9 2LS

- i) Change of use of land to stationing a shepherd's hut for holiday accommodation and associated walkway and parking area, and formation of visitor car park for existing permitted holiday lets,**
- ii) Change of use of redundant agricultural building to workshop for the maintenance of HGVs and agricultural vehicles, together with associated development including formation of hardstanding**
- iii) Change of use of redundant agricultural building to stables, feed storage, office, mess room, commercial horse-rug washing, and dog-grooming and associated works**

all for

Mr and Mrs Stibbs

Introduction

These applications are being reported back to Board following their consideration on the 2nd August 2021. The previous report is attached for convenience at Appendix A. Since that time, there have been a number of changes to the planning considerations relevant to their determination. These are:

- 1. The adoption of the new Local Plan.
- 2. Certificates have been served on the owners of the access road – Severn Trent Water Ltd and the Ministry of Defence.
- 3. The applicants have provided a highway statement in respect of the applications (see highways section of report).
- 4. The applicants have provided an ecological survey (see biodiversity section of the report).
- 5. One application (iii above) has been amended to remove proposed residential accommodation for a groom and now includes an office/mess room instead.
- 6. Warwickshire County Council have investigated an alleged waste use on site.
- 7. Discussions have taken place with the agent in respect of the uses occurring on site.

Additionally as before, the recommendations include the need to consider the expediency of enforcement action should planning permissions be refused and in respect of other unauthorised development on the site, together with prosecution if such action is not complied with.

The Site

The site relates to areas of land on a farm which comprises a substantial two-storey farm house to the south of the site; an L-shaped range of brick one-storey barns, a cow

5G/137

shed, a large portal framed building, a small brick built building and another large utilitarian building.

A part of the L-plan range has been used as a self-catering cottage/ holiday let since 2015 when it was converted. This was considered to be permitted development under Part 3 Class M of General Permitted Development Order at the time. Also, planning permission was granted for two additional self-catering cottages in 2019. This has yet to be completed in its entirety.

Access is afforded along an un-adopted road from Hurley Common. It is a shared access in that it is also used by Severn Trent Water vehicles visiting the Water Treatment Works to the west.

A Public Right of Way runs south to north to the east of the farm - reference T55a - and another runs east to west south of the farmhouse - reference T55 - as indicated on the plan contained in Appendix B.

The site is located outside of a defined development boundary and within the Green Belt.

The Proposals

These are as outlined in the descriptions give in the "header" above.

A planning statement and a sustainability statement have been submitted with the applications. A transport statement and ecology report have been submitted during the consideration of the application.

The applicant indicates that the workshop for the maintenance of HGVs would only be for his own vehicles and this would number three in total.

Applications (i) and (iii) are retrospective as the proposed developments have now been carried out. Application (ii) has been carried out in part, but the agricultural maintenance use is currently taking place in the large agricultural building in application (iii). Plans illustrating the proposals are at Appendices C and D for the shepherd's hut; E and F for the HGV use and G and H for the mixed uses.

Development Plan

The North Warwickshire Local Plan 2021 - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP3 (Green Belt), LP11 (Economic Regeneration), LP13 (Rural Employment), LP14 (Landscape), LP16 (Natural Environment), LP29 (Development Considerations) and LP30 (Built Form)

Other considerations

National Planning Policy Framework 2021 – (the "NPPF")

Consultations

Warwickshire County Council as Highway Authority - It objects to all three applications because of the intensification of the access which is considered to be substandard.

Environmental Health Officer – No objection to all three applications subject to conditions.

Representations

Three objections have been received on each application referring to the following matters:

- Nuisance from the proposed uses, adversely affecting the amenity of adjacent properties
- Noise and disturbance from HGV and vehicles passing property.
- There should be no material increase in traffic.
- Impact on the Green Belt
- Overlooking and loss of privacy
- The entrance drive is restricted and there have been "many near misses"
- Ownership of road
- Other unauthorised development taking place.

One representation of support has been received on each application, supporting the application for the following reason:

- Good to see redundant buildings being used in a sympathetic way.

Observations

a) The Green Belt

The site lies within the Green Belt. Inappropriate development here is defined as being harmful to the Green Belt and thus carries a presumption of refusal. What is or is not inappropriate is defined in the NPPF. In the cases here there is some overlap between the various categories of "development" proposed and thus each possible category will need to be identified. Members will be aware that the construction of new buildings, with exceptions, is inappropriate development. One of these is where the building is an appropriate facility for outdoor sport or outdoor recreation as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The re-use of buildings is not necessarily inappropriate provided that the building is permanent, of substantial construction and meets the two conditions set out above. Material changes in the use of land, may not necessarily be inappropriate, provided that they too preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

5G/139

With the cases in hand, each has been described as a change of use and that will be the starting point for assessment as to whether the proposals are inappropriate or not. However, because of the changes do involve the re-use of existing buildings there is the overlap as referred to above.

There is no definition of openness in the NPPF, but national guidance advises that it is made up of four elements – spatial, visual, the degree of activity associated with a development and whether the development is permanent or not. There are five purposes for including land within the Green Belt and in this case the most significant one is to safeguard the countryside from encroachment. Each of the proposals will need to be considered against this background.

Firstly, in respect of the shepherd's hut, it is not considered that it falls within the exception of being an "appropriate facility", as it relates to tourism, rather than to outdoor sport or outdoor recreation. The application however is for the change of use of the land and this includes the siting of the "hut", the creation of hardstanding, fencing, provision of a hot tub and other engineering works including two parking spaces to the south of the access. The proposal also includes an additional ten parking spaces for the existing bed and breakfast unit to the west of the farmhouse. The hut is on land that is currently vacant of buildings. As a consequence, and by reason of its height, volume and overall extent, the development would lead to a loss of openness. The structures, associated paraphernalia, the extent of the car parking and all of the vehicular and human activity is also considered to have an adverse visual impact. Although set back from the road, it would be seen from the adjoining access as well as the public footpaths which run close to the site. Moreover, the application is not for a temporary use. Overall, there would be an increased urbanising impact because of the intensification of development leading to encroachment of the countryside. The proposal is not considered to meet the conditions set out in the NPPF, thus meaning that it is inappropriate development in the Green Belt.

The second proposal is for the change of use of a former agricultural building for the maintenance of HGVs and agricultural vehicles, including the formation of hardstanding. It is a permanent building of substantial construction. As a consequence, the re-use of just the building would be appropriate development under the definitions set out above. However, the definition is also contingent on the proposal preserving openness. The inclusion within the proposal of the change of use of land and the creation of a sizeable hardstanding to the rear of the building on which to park HGV's, other vehicles and for the storage of equipment and material takes this proposal beyond re-use. This outdoor area has an adverse spatial and visual impact as it is visible from the adjacent footpath to the east - the T55a. Additionally there is all of the activity associated with the use of this area that causes these adverse impacts. It does not therefore preserve openness. The proposal also conflicts with the safeguarding purpose of the Green Belt given the intensification and urbanising influence. In conclusion this proposal is considered to be inappropriate development in the Green Belt.

The final proposal is to change the use of a redundant agricultural building to stables, with a tack room, office, mess room, feed storage, commercial horse-rug washing, and dog-grooming. In this case the building is existing, permanent and of substantial construction and its reuse would thus be appropriate development under the definitions above. The application itself is defined by a red line which just includes the building itself and a small outside area for dogs. The proposal would thus appear to be

5G/140

appropriate development. However, unauthorised areas have been engineered outside for use in association for the proposals. The applicants have indicated that although it is not clearly shown, parking for the uses would be within the existing internal courtyard of the farm buildings rather than on this outside area. Further consideration will thus have to be given to this later in the report.

It is therefore concluded that two of these applications represent inappropriate development in the Green Belt and that the third is also likely to. As such substantial weight is given to this conclusion and thus planning permissions should not be granted except in very special circumstances.

b) Other harms

i) Highways

Local Plan policies support development in situations where there is sufficient capacity within the highway network to accommodate the traffic generated. Local plan policies LP13 and LP29 both require safe and suitable access to be provided for all users. They indicate that development should not cause an unacceptable adverse impact on the safe and free movement of pedestrian, vehicular or other traffic on the trunk or rural road network as a result of heavy vehicle usage.

Paragraph 111 of the NPPF makes it clear that development should only be refused on highways grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts of the scheme are severe.

The shepherds hut, livery use, HGV maintenance yard, office/mess room, rug washing and dog grooming uses could lead to a significant cumulative increase in the number of comings and goings to the premises. The applicant points out that there would not be a significant increase because the HGV repair and maintenance is a personal use; the horse rug activity would only be one vehicle a week as the business would operate on a collect and return basis, and the dog grooming use would be in operation for two days a week and would be only for three or four dogs on those days.

In addition to this, it is material that there are existing established uses on site - bed and breakfast and self-catering – and there is the fall-back of continuation or reversion to agricultural uses and activity – particularly in respect of the type and frequency of traffic generation. As recorded earlier the access here is shared in that Severn Trent Water use it to access the Water Treatment Works to the southwest of the farm. Members should also be aware that The Traffic Commissioner has also given the applicant an Operator's Licence for six vehicles. This is conditioned on an interim basis such that, *"Vehicles must not enter or leave the operating centre before 0730 or after 1800 on Mondays to Fridays; before 0730 and after 1300 on Saturdays. Vehicles shall not enter or leave the operating centre at all on Sundays and Bank Holidays."*

Since the last report, the applicant has submitted a highway statement in support of the matters he refers to above. It concludes with the following points:

"1) No new buildings would be constructed. Parking and manoeuvring are all available on site, and electric vehicle charging would be provided.

5G/141

7h/166

2) The application site access is from Hurley Common. Hurley Common is not a busy road. There is sufficient capacity within the highway network to accommodate traffic generated from proposals which are based on established uses. There would be very little increase in traffic generation anyway; far less than if the farm was brought into a fully operative farming use. Hurley Common is lit with street lighting. There are "SLOW" road markings provided on the carriageway. There have been no road traffic accidents in the vicinity of the application site access over the last five years for which data are available, and Hurley Common and the application site access are considered safe. The application site access has been in use over decades, and is successfully negotiated by farm staff, visitors to the farm, and Severn Trent related HGV drivers. If officers feel that it is necessary, the applicant would be happy to provide funding to provide additional white lining and signage in the vicinity.

3) The vehicular access road is constructed to a good standard, being surfaced tarmac, and there are passing places available.

4) The highway network is safe, and there is plenty of spare capacity. The application site access is safe. Passing places are available. A public right of way network provides alternative routes for pedestrians. Internal roads, parking and manoeuvring are adequate.

5) At paragraph 111 in NPPF, it states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. The proposed development would not have a severe effect on the road network. Therefore, there appears to be every reason why in highways terms the proposed developments should be approved."

The County Council as Highway Authority has responded on a number of grounds indicating that it disagrees with some of these assertions. No vehicle movement data has been provided and nothing in respect of the unauthorised haulage business has been provided either. There have also been recent accidents in 2021 and 2004. It is contended that the access is in poor condition and in need of improvement with pot holes and cracks in the surfacing. As the access is owned by the MOD, permission would be required from them to carry out any works.

Of contention also is the adequacy of the access for HGV movements. The access is restricted in width and evidence from objectors has been provided showing that this does cause issues with HGV access and egress. No evidence has been provided clearly indicating that longer vehicles or articulated vehicles can use the access without driving over the footway on the opposite side of the road. The access is not wide enough to allow for two-way movements of cars. There are posts either side of the access used to protect the adjacent land. In terms of visibility this is restricted to 40 metres looking right (rather than the required 120m). Also, traffic speeds along this road are higher than the speed limits. Pedestrian safety is also an issue and although there is a public right of way in the vicinity of the access, this restricts mobility restricted users, where as using a shared access is a more favourable option.

5G/142

7h/167

In conclusion even taking into account the applicant's considerations, the access is presently considered to be substandard – limited visibility, limited passing spaces and no separate footway for pedestrians. This has been the overriding consideration of the Highway Authority – the access not being suitable for commercial vehicles or for two-way vehicle movements. It is contended that cumulative impacts of the proposed uses and other unauthorised uses would lead to an intensification of the existing access. Based on this advice, officers consider that it has not been demonstrated that the proposals either individually or cumulatively would not have a detrimental impact on highway safety for all road users. The proposal would thus not accord with Policies LP13 and LP29 of the adopted Local Plan and particularly the relevant paragraphs of the NPPF.

ii) Ecology

In respect of ecology, Local Plan policy LP16 seeks to protect and enhance the natural environment and provide net gains for biodiversity where possible, reflecting the wording of the NPPF at paragraph 174(d). The passing of the Environment Act 2021 brings a mandatory requirement for most proposed development to achieve a **10%** biodiversity net gain.

A survey has now been carried out by the applicant which indicates that there is negligible presence of bats. There are signs of bird nesting. Mitigation can be carried out in respect of this through the provision of 4 bat and bird boxes. Also, a small scale biodiversity gain through wildflower meadows and tree planting across the applicant's ownership can ensure that the proposal complies with the Local Plan policy and recent legislation. It is not considered therefore that there are ecological harms caused.

iii) Residential Amenity

Another consideration with these applications is that of the developments' impact on the amenity of nearby residential properties reflected in Local Plan policy LP29. Furthermore, paragraph 185 of the NPPF states that planning decisions should consider the impacts of pollution on living conditions and "avoid noise giving rise to significant adverse impacts on health and the quality of life" (185a).

Bearing in mind the distance from neighbour's properties it is concluded that the increased movements from HGV's and other vehicles is the only aspect of the proposed developments where the amenities of residential properties could be considered detrimental. It is not considered that there is sufficient evidence to demonstrate a significant harmful impact in this instance given the "fall back" position outlined in section (i) above and that in order to attract a refusal, the policy requires the impact to be "unacceptable".

iv) Other Harms

It is acknowledged that there is no identifiable heritage harm, significant visual harm nor adverse impacts arising from surface water drainage.

5G/143

7h/168

c) The Harm Side of the Planning Balance

The harm side of the planning balance therefore amounts to the Green Belt harm identified earlier and the highway harm outlined above. If the applications are to be supported, then the applicant has to show that any material considerations he advances in support should "clearly outweigh" the total level of harm caused such that they amount to the "very special circumstances" that would enable that support.

d) The Balance

In respect of the proposal for the shepherd's hut, the applicant advances arguments revolving around farm diversification and meeting a tourism need. These are acknowledged, but the application site is no longer in sole use as an agricultural holding and it has not been shown from an operational or business case point of view that the addition of one extra unit of tourism accommodation would support any ongoing agricultural activity. Moreover, there is the extant consent on the site that has not been fully taken up. These considerations carry little weight and are not sufficient to clearly outweigh the total harm caused.

In respect of the HGV use, then the applicant has been unable to provide any considerations which might be weighed in the final planning balance. The site is not appropriate for such a use and even if there was the agricultural "fall-back" the size of the holding has significantly decreased in the past few years. As such there are no matters that would clearly outweigh the harms caused.

Whilst the final application would be appropriate development in respect of Green Belt as submitted, the highway harms are still prevalent. As such this matter is considered of significance such that the proposal is not acceptable as access would be via a substandard access.

e) Enforcement Action

The three proposals are recommended for refusal as set out below. As there are retrospective matters here as identified above, the matter of whether it is expedient to commence enforcement action needs to be considered.

Government guidance is that such action is a last resort and that it should be proportionate. In this case there are other considerations that need to be weighed in the assessment of whether formal action would be "expedient", as that is the test set out in legislation. Firstly, there is the fall-back of continuation or reversion to agricultural uses and activity – particularly in respect of the type and frequency of traffic generation. There is then the take-up of the 2019 planning permission which would generate traffic and there is also the fact that STW vehicles regularly use this access.

Additionally, Members should be aware that there would be a cost to the applicant if enforcement action is agreed and is successful. There would be a loss of income in respect of the holiday accommodation and the cost of removing and finding new accommodation for the HGV maintenance activity. These matters are considered to be of weight in the balance. However, the loss of income for the accommodation is not considered to be significant here given the extant consents for equivalent

5G/144

accommodation on the site. As such the harms identified above are considered to carry greater weight and would supply the reasons for the service of the Notice. In respect of the HGV activity then the applicant took a "risk" in acquiring and commencing the activity in breach of planning control and a move here involved a search for premises which would have to be undertaken again. It is considered that the harms here are sufficient for enforcement action.

The requirements of any Notice in respect of the shepherd's hut would be for its removal and all of its associated infrastructure and the ancillary hardstanding with the re-instatement of the land and a compliance period of three months.

The requirements of the Notice to do with the HGV use would be for the cessation of the use; the removal of the vehicles and associated plant and equipment together with the hardstanding and the re-instatement of the land within a compliance period of six months.

The requirements of the Notice to do with the other uses would be for the cessation of the rug-washing, dog-grooming and office uses. The use of the building for stabling and food storage is appropriate as is its use as a mess room for employees on the holding. A compliance period of three months is appropriate.

f) Further Unauthorised Development

Following site visits from officers, it is considered that there are other unauthorised developments at Old Rail Farm. Since the report in August 2021, no applications for the retention of further developments have been received. Warwickshire County Council as the Waste Authority has investigated an alleged aggregate (haulage) business said to be operating from on the site. They have concluded that there is no "waste transfer" use here and that it is not within its remit as Waste Authority to assess whether there is an unauthorised haulage use on site.

There are considered to be two additional unauthorised developments at the holding indicated on the map below.

- a) A haulage business together with the creation of areas of hardstanding for the business which includes the storage of materials and waste on the site
- b) An additional shepherd's hut – shown as "2" to the east of the fishing lake

5G/145

7h/170



The applicant runs a haulage business from this site as is clear from his website and there has been a noticeable increase in development on the site during the course of dealing with the applications. This has led to large areas of materials, hardcore and products within the site as a whole, most noticeably in an area to the north of STW works. The business carries out a number of services including ground works, clearance, aggregate supply and machinery supply. Both materials and off-site materials are delivered to site. Over the last few months hoppers and used material have appeared on the site. The use requires the deliveries of some materials to the site, so it can be stored in hoppers and then taken off site.

The haulage use is an inappropriate use within Green Belt and leads to harm to the openness of Green Belt. This is particularly in respect of all of the elements identified earlier – adverse spatial and visual impacts as well as to significant activity and encroachment of the countryside.

As well as storage areas, materials, machines and other items stored outside, this gravelled and part hard-surfaced area the area resembles a depot or builder's yard. These items volumetrically affect the openness of this part of the Green Belt and the openness cannot be said to be preserved by what is now happening on the land. These are significantly harmful to the openness of this part of the Green Belt. The overall visual impact is significantly intrusive and harmful to this part of the land area. The areas and its immediate surroundings can be seen from the public footpaths both near and distant viewpoints within the site and it is considered that the overall development is obtrusive and jarring within open countryside setting. The applicant has attempted to screen these areas with bunding, but this in itself has had an impact on the landscape.

Notwithstanding this, the development does have a visual intrusion. Officers consider that the development is contrary to Local Plan policies LP13 (e) and LP29 which seek to protect and enhance the quality of the area. It is also contrary to the policies set out in

5G/146

section 11 of the NPPF (conserving and enhancing the natural environment). The development also impacts on the biodiversity of the surrounding area without assessment of any loss or gain.

The cumulative highway implications of the use are also compounded by the haulage use.

In terms of the final planning balance and the expediency "test", then farm diversification and support for rural business and employment has to be taken into account. These are considerations which should be added into the assessment of the final planning balance and should be weighed against the identified harms. However in this case, they are not considered to attract significant weight. This is because the use is not one where it is considered that it is essential to have a rural location and also there is little in the way of submitted evidence to show that the use is contributing to farm diversification.

The balance here is considered to lie with enforcement action being expedient.

The use of the additional shepherd's hut has not commenced as yet. However, the hut has been sited on a hard-surface and some services have been provided. Generally, a similar assessment as above has been carried out. However, in terms of the impact on the openness the hut is well assimilated within a dense area of landscaping at present. It must be remembered that the hut is an inappropriate form of development and inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. These would only exist where the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. As the development is not yet complete it could include some additional paraphernalia which may harm the green belt. The use also exacerbates the existing substandard access arrangements. Overall, officers conclude that the benefits of the scheme would be limited in terms of providing farm diversification and tourist accommodation. In line with the Framework, officers attach substantial weight to the harm that would be caused to the Green Belt by reason of inappropriateness and the loss of openness. Therefore, the benefits and all other considerations would not clearly outweigh the totality of harm to the Green Belt. As such, the very special circumstances necessary to justify the scheme do not exist. In this regard the proposal would conflict with the Framework and as it already exists consideration should be given whether it is expedient to take enforcement action. The harm is such that it is necessary to take enforcement action for its removal and remediation.

Recommendations

A) That planning permissions be REFUSED in all three cases for the following reasons:

i) PAP/2021/0028 – The Shepherd's Hut

1. The application site is located within the Green Belt and the shepherds hut and its associated development and infrastructure are considered to represent an inappropriate form of development. It would not preserve openness and would conflict with the purposes of including land within the Green Belt. There are no material considerations to clearly outweigh the Green Belt harm caused so as to

5G/147

amount to very special circumstances. The proposal does not accord with Policy LP3 of the North Warwickshire Local Plan 2021 nor Section 13 of the National Planning Policy Framework 2021.

2. The development fails to secure safe vehicular access by reason of the limited width of the access road without separate pedestrian footway and a substandard access onto Hurley Common. Accordingly, the proposal is contrary to policy LP13 of the North Warwickshire Local Plan 2021 and paragraph 111 of the National Planning Policy Framework 2021.

ii) PAP/2021/0029 – HGV Maintenance

1. The application site is located within the Green Belt and the change of use to a workshop and associated development would not preserve the openness of the Green Belt by introducing development onto a previously open part of the site, reducing openness from both a spatial and visual perspective. Furthermore, the proposal would encroach into the open countryside, conflicting with one of the five purposes of including land within the Green Belt. There are no material considerations identified which clearly outweigh the harm caused and thus amount to very special circumstances. The proposal does not accord with Policy LP3 of the North Warwickshire Local Plan 2021 nor Section 13 of the National Planning Policy Framework 2021.
2. The development fails to secure safe vehicular access by reason of the limited width of the access road without separate pedestrian footway and a substandard access onto Hurley Common. Accordingly, the proposal is contrary to policy LP13 of the North Warwickshire Local Plan 2021 and paragraph 111 of the National Planning Policy Framework 2021.

iii) PAP/2021/0030 – Other Uses

1. The development fails to secure safe vehicular access by reason of the limited width of the access road without separate pedestrian footway and a substandard access onto Hurley Common. Accordingly, the proposal is contrary to policy LP13 of the North Warwickshire Local Plan 2021 and paragraph 111 of the National Planning Policy Framework 2021.

B) That it is considered expedient to serve Enforcement Notices under Section 178 of the Town and Country Planning Act 1990 for the reasons given in this report in respect of all the following unauthorised developments. Additionally and as appropriate, if there is non-compliance with the requirements of an extant Notice, it is recommended that prosecution proceedings be commenced under Section 179 of the same Act.

- i) In respect of PAP/2021/0028, the removal of the shepherd's hut and its associated utilities, fixtures and fittings including hard-standings, a walkway and parking area from the site together with the re-instatement of the land to its former condition and levels with a compliance period of three months

5G/148

- ii) In respect of PAP/2021/0029, the cessation of the use of the building shown on the Notice Plan for the maintenance and parking of HGV's together with all incidental plant and equipment and their removal from the site together with the removal of the hardstanding shown on the Notice Plan and its re-instatement to its previous condition with a compliance period of six months.
- iii) In respect of PAP/2021/0030, the cessation of the use of the building shown on the Notice Plan for horse-rug washing, dog-grooming together with their incidental office use and the removal of all associated utilities, fixtures and fittings with a compliance period of three months.

C) That it is considered expedient to serve Enforcement Notices under Section 178 of the Town and Country Planning Act 1990 for the reasons given in this report in respect of all the following unauthorised developments. Additionally and as appropriate, if there is non-compliance with the requirements of an extant Notice, it is recommended that prosecution proceedings be commenced under Section 179 of the same Act.

- i) The removal of the second shepherd's hut as identified in this report and its associated utilities, fixtures and fittings together with the re-instatement of the land to its previous condition and levels with a compliance period of three months.
- ii) The cessation of the use of the land as shown on the Notice Plan as an HGV operating centre, together with the parking of HGV's, their storage and their maintenance and repair and the subsequent removal of all HGV's and associated plant and equipment from the land and the reinstatement of the land to its former condition and levels with a compliance period of twelve months.

5G/149

7h/174

APPENDIX A

General Development Applications

(6/e) Application Numbers: PAP/2021/0028, PAP/2021/0029 and PAP/2021/0030

Old Rail Farm, Hurley Common, Hurley, CV9 2LS

- i) Change of use of land to stationing a shepherd's hut for holiday accommodation and associated walkway and parking area, and formation of visitor car park for existing permitted holiday lets, for existing permitted holiday lets
- ii) Change of use of redundant agricultural building to workshop for the maintenance of HGVs and agricultural vehicles, together with associated development including formation of hardstanding
- iii) Change of use of redundant agricultural building to stables, tack room, overnight accommodation for groom, feed storage, commercial horse-rug washing, and dog-grooming

all for

Mr and Mrs Stibbs

Introduction

These applications are being reported to the Board as the recommendations include the need to consider the expediency of enforcement action should they be refused and in respect of other unauthorised development on the site.

The Site

The site relates to a farm which comprises of a substantial two-storey farm house to the south of the site; an L-shaped range of brick one-storey barns, a cow shed, a large portal framed building, a small brick built building and another large utilitarian building.

A part of the L-plan range has been used as a self-catering cottage/ holiday let since 2015 when it was converted. This was considered to be permitted development under Part 3 Class M of General Permitted Development Order at the time. Also, planning permission was granted for two additional self-catering cottages in 2019. This has yet to be completed in its entirety.

Access is afforded along an un-adopted road from Hurley Common. It is a shared access in that it is also used by Severn Trent Water vehicles visiting the Water Treatment Works to the west.

A Public Right of Way runs south to north to the east of the farm - reference T55a - and another runs east to west south of the farmhouse - reference T55 - as indicated on the plan attached (Appendix A).

The site is located outside of a defined development boundary and within the Green Belt.

6E/35

5G/150

7h/175

The Proposals

These are as outlined in the descriptions give in the "header" above.

A planning statement and a sustainability statement have been submitted with the applications together with an agricultural appraisal for the groom's accommodation.

The applicant indicates that the workshop for the maintenance of HGVs would only be for his own vehicles and this would number three in total.

Applications (i) and (iii) are retrospective as the proposed developments have now been carried out. Application (ii) has been carried in part, but the agricultural maintenance use is currently taking place in the large agricultural building in application (iii).

Plans illustrating the proposals are at Appendices B and C for the shepherd's hut; D and E for the HGV use and F for the mixed uses.

Development Plan

North Warwickshire Core Strategy (October 2014) - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW9 (Employment), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment), NW15 (Nature Conservation) and NW17 (Economic Regeneration)

North Warwickshire Local Plan 2006 (Saved Policies) - HSG3 (Housing Outside of Development Boundaries); ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ECON9 - Re-use of rural buildings, TPT1 (Transport Considerations in new development), TPT3 (Access and sustainable travel and transport), TPT6 (Vehicle Parking) and Appendix 3 (Parking Standards Guidance)

Other Relevant Material Considerations

The North Warwickshire Local Plan Submission Version, March 2018 - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP3 (Green Belt), LP11 (Economic Regeneration), LP13 (Rural Employment), LP14 (Landscape), LP16 (Natural Environment), LP31 (Development Considerations) and LP32 (Built Form)

Proposed Main Modifications to the Regulation 19 Local Plan 2021 – MM21 (in respect of Policy LP1); MM24 (in respect of LP2), MM28 (in respect of LP3 Green Belt), MM55 (in respect of LP11), MM57 (in respect of LP13), MM74 (in respect of LP31) and MM74 (in respect of LP32)

National Planning Policy Framework 2019 – (the "NPPF")

Consultations

Warwickshire County Council as Highway Authority - It objects to all three applications because of the intensification of the access which is considered to be substandard.

6E/36

5G/151

7h/176

Environmental Health Officer – No objection to all three applications subject to conditions.

Representations

Three objections have been received on each application referring to the following matters:

- Nuisance from proposed use, adversely affecting the amenity of adjacent properties
- Noise and disturbance from HGV and vehicles passing property.
- Should be no material increase in traffic.
- Impact on the Green Belt
- Overlooking and loss of privacy
- Entrance drive is restricted, so many near misses
- Ownership of road
- Other unauthorised development taking place.

One representation of support has been received on each application, supporting the application for the following reason:

- Good to see redundant building being used in a sympathetic way.

Observations

a) The Green Belt

The site lies within the Green Belt. Inappropriate development here is defined as being harmful to the Green Belt and thus carries a presumption of refusal. What is or is not inappropriate is defined in the NPPF. In the cases here there is some overlap between the various categories of "development" proposed and thus each possible category will need to be identified. Members will be aware that the construction of new buildings, with exceptions, is inappropriate development. One of these is where the building is an appropriate facility for outdoor sport or outdoor recreation as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The re-use of buildings is not necessarily inappropriate provided that the building is permanent, of substantial construction and meets the two conditions set out above. Material changes in the use of land, may not necessarily be inappropriate, provided that they too preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

With the cases in hand, each has been described as a change of use and that will be the starting point for assessment as to whether the proposals are inappropriate or not. However, because of the changes do involve the re-use of existing buildings there is the overlap as referred to above.

There is no definition of openness in the NPPF, but national guidance advises that it is made up of four elements – spatial, visual, the degree of activity associated with a development and whether the development is permanent or not. There are five purposes for including land within the Green Belt and in this case the most significant

6E/37

5G/152

7h/177

one is to safeguard the countryside from encroachment. Each of the proposals will need to be considered against this background.

Firstly, in respect of the shepherd's hut, it is not considered that it falls within the exception of being an "appropriate facility", as it is in fact a residential use. It also relates to tourism, rather than to outdoor sport or outdoor recreation. The application however is for the change of use of the land and this includes the siting of the "hut", the creation of hardstanding, fencing, provision of a hot tub and other engineering works including two parking spaces to the south of the access. The proposal also includes an additional ten parking spaces for the existing bed and breakfast unit to the west of the farmhouse. The hut is on land that is currently vacant of buildings. As a consequence, and by reason of its height, volume and overall extent, the development would lead to a loss of openness. The structures, associated paraphernalia, the extent of the car parking and all of the vehicular and human activity is also considered to have an adverse visual impact. Although set back from the road, it would be seen from the adjoining access as well as the public footpaths which run close to the site. Moreover, the application is not for a temporary use. Overall, there would be an increased urbanising impact because of the intensification of development leading to encroachment of the countryside. The proposal is not considered to meet the conditions set out in the NPPF, thus meaning that it is inappropriate development in the Green Belt.

The second proposal is for the change of use of a former agricultural building for the maintenance of HGVs and agricultural vehicles, including the formation of hardstanding. It is a permanent building of substantial construction. As a consequence, the re-use of just the building would be appropriate development under the definitions set out above. However, the definition is also contingent of the proposal preserving openness. It is the inclusion within the proposal of the change of use of land and the creation of a sizeable hardstanding to the rear of the building on which to park HGV's, other vehicles and for the storage of equipment and materials, that takes this proposal beyond re-use. This outdoor area has an adverse spatial and visual impact as it is visible from the adjacent footpath to the east - the T55a. Additionally there is the activity associated with the use of this area that causes these adverse impacts. It does not therefore preserve openness. The proposal also conflicts with the safeguarding purpose of the Green Belt given the intensification and urbanising influence. In conclusion this proposal is considered to be inappropriate development in the Green Belt.

The final proposal is to change the use of a redundant agricultural building to stables, with a tack room, overnight accommodation for a groom, feed storage, commercial horse-rug washing, and dog-grooming. In this case the building is existing, permanent and of substantial construction and its reuse would thus be appropriate development under the definitions above. The application itself is defined by a red line which just includes the building itself. The proposal would thus appear to be appropriate development. However, unauthorised areas have been engineered outside for use in association for the proposals. The applicants have indicated that although it is not clearly shown, parking for the uses would be within the existing internal courtyard of the farm buildings rather than on this outside area. Further consideration will thus have to be given to this later in the report.

6E/38

5G/153

7h/178

It is therefore concluded that two of these applications represent inappropriate development in the Green Belt and that the third is also likely to. As such substantial weight is given to this conclusion and thus planning permissions should not be granted except in very special circumstances.

b) Other harms

i) Highways

Saved Policy TPT1 supports development in situations whereby there is sufficient capacity within the highway network to accommodate the traffic generated and saved policy TPT3 stipulates that development will not be permitted "unless its siting, layout and design makes provision for safe and convenient pedestrian and vehicular access and circulation". Emerging local plan policy LP31(6) reflects Core Strategy policy NW10(6) - both of which require safe and suitable access to be provided for all users.

Paragraph 109 of the NPPF makes is clear that development should only be refused on highways grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts of the scheme are severe.

The shepherds hut, livery use, HGV maintenance yard, groomsman's accommodation, rug washing and dog grooming uses could lead to a significant cumulative increase in the number of comings and goings to the premises. The applicant points out that there would not be a significant increase because the HGV repair and maintenance is a personal use; the horse rug activity would only be one vehicle a week as the business would operate on a collect and return basis, and the dog grooming use would be in operation for two days a week and would be only for three or four dogs on those days.

In addition to this, it is material that there are existing established uses on site - bed and breakfast and self-catering – and there is the fall-back of continuation or reversion to agricultural uses and activity – particularly in respect of the type and frequency of traffic generation. As recorded earlier the access here is shared in that Severn Trent Water use it to access the Water Treatment Works to the southwest of the farm. Members should also be aware that The Traffic Commissioner has also given the applicant an Operator's Licence for six vehicles. This is conditioned on an interim basis such that, *"Vehicles must not enter or leave the operating centre before 0730 or after 1800 on Mondays to Fridays; before 0730 and after 1300 on Saturdays. Vehicles shall not enter or leave the operating centre at all on Sundays and Bank Holidays."*

Notwithstanding all of these other considerations, the access is still substandard – limited visibility, limited passing spaces and no separate footway for pedestrians. This has been the overriding consideration of the Highway Authority – the access not being suitable for commercial vehicles or for two-way vehicle movements. Based on this advice, officers consider that it has not been demonstrated that the proposals either individually or cumulatively would not have a detrimental impact on highway safety for all road users. The proposal would thus not accord with Policy NW10 of the Core Strategy and particularly the relevant paragraphs of the NPPF.

6E/39

5G/154

7h/179

ii) Ecology

In respect of ecology, Core Strategy policy NW15 requires development to "ensure that there is a net gain of biodiversity" and emerging policy LP16 seeks to protect and enhance the natural environment and provide net gains for biodiversity where possible, both reflecting the wording of the NPPF at paragraph 170(d).

No surveys have been submitted in respect of the presence of a bat or bird roosts within the buildings. Also, the proposals will lead to the loss of a number of areas within the site, some of which have ecological potential.

Given the significance of bio-diversity as a material consideration of significant weight, it is not considered that the proposals have shown that there would be a net gain in bio-diversity. The proposals do not therefore accord with Policy NW15 or the associated paragraphs in the NPPF.

iii) Impact on residential amenity

Another consideration with these applications is that of the developments' impact on the amenity of nearby residential properties. 2014 Core Strategy Policy NW10 (9) requires all development proposals to avoid and address unacceptable impacts upon neighbouring residents, such as but not limited to noise, light, and other pollution.

The wording of this policy is amended and carried forward into policy LP31 (Development Considerations) of the emerging local plan. Furthermore, paragraph 180 of the NPPF states that planning decisions should consider the impacts of pollution on living conditions and "avoid noise giving rise to significant adverse impacts on health and the quality of life" (180c).

Bearing in mind the distance from neighbour's properties it is likely that the increased HGV movement and vehicles movement is the only aspect of the development where the amenities of residential properties could be considered detrimental. It is not considered that there is sufficient evidence to demonstrate a reason for refusal in this instance given the "fall back" position outlined in section (i) above and that in order to accord with the policy the impact has to be "unacceptable".

iv) Sustainability

The application site is located outside a defined settlement boundary for the purposes of Policy NW2 of the Core Strategy or for emerging Policy LP2 within the Submitted Local Plan, 2018. Both policies as well as the NPPF indicate that new residential development outside of development boundaries and thus in the countryside is not be encouraged. However, that which is related to an essential agricultural or rural business need could be supported. The applicant has advised that the groom's accommodation is required to provide care and supervision of seven livery stables. The 24-hour requirement relates to issues of illness out of hours. In this instance however it is considered that the applicant's own house and the presence of the holiday accommodation could provide initial cover. It is not considered that it has been shown that there is an essential need for permanent accommodation. No operational or business case has been provided. This proposal cannot be supported as it would not accord with Policy NW2 or the NPPF.

6E/40

5G/155

7h/180

c) The Harm Side of the Planning Balance

The harm side of the planning balance therefore amounts to the Green Belt harm identified earlier and the other harms outlined above. If the applications are to be supported then the applicant has to show that any material considerations he advances in support should "clearly outweigh" the total level of harm caused such that amount to the "very special circumstances" that would enable that support.

d) The Balance

In respect of the proposal for the shepherd's hut, the applicant advances arguments revolving around farm diversification and meeting a tourism need. These are acknowledged, but the application site is no longer in sole use as an agricultural holding and it has not been shown from an operational or business case point of view that the addition of one extra unit of tourism accommodation would support any ongoing agricultural activity. Moreover, there is the extant consent on the site that has not been fully taken up. These considerations carry little weight and are not sufficient to clearly outweigh the total harm caused.

In respect of the HGV use then the applicant has been unable to provide any considerations which might be weighed in the final planning balance. The site is not appropriate for such a use and even if there was the agricultural "fall-back" the size of the holding has significantly decreased in the past few years. As such there are no matters that would clearly outweigh the harms caused.

Whilst the final application would be appropriate development as submitted, there is no support for the accommodation and highway harms are still likely.

e) Enforcement Action

The three proposals are recommended for refusal as set out below. As there are retrospective matters here as identified above, the matter of whether it is expedient to commence enforcement action needs to be considered.

Government guidance is that such action is a last resort and that it should be proportionate. In this case there are other considerations that needed to be weighed in the assessment of whether formal action would be "expedient" here, as that is the test set out in legislation. Firstly, there is the fall-back of continuation or reversion to agricultural uses and activity – particularly in respect of the type and frequency of traffic generation. There is then the take-up of the 2019 planning permission which would generate traffic and there is also the fact that STW vehicles regularly use this access.

Additionally, Members should be aware that there would be cost to the applicant if enforcement action is agreed and is successful. There would be a loss of income in respect of the holiday accommodation and the cost of removing and finding new accommodation for the HGV maintenance activity. The latter is considered to be of weight in the balance. The loss of income for the accommodation is not considered to be significant here given the extant consents for equivalent accommodation on the site. As such the harms identified above are considered to carry greater weight and would supply the reasons for the service of the Notice. In respect of the HGV activity then the applicant took a "risk" in acquiring and commencing the activity in breach of planning

6E/41

5G/156

7h/181

control and a move here involved a search for premises which would have to be undertaken again. It is considered that the harms here are sufficient for enforcement action.

The requirements of any Notice in respect of the shepherd's hut would be for its removal and all of its associated infrastructure and the ancillary hardstanding with the re-instatement of the land and a compliance period of three months.

The requirements of the Notice to do with the HGV use would be for the cessation of the use; the removal of the vehicles and associated plant and equipment together with the hardstanding and the re-instatement of the land within a compliance period of six months.

f) Further Unauthorised development

Following site visits from officers, it has become apparent that there are other unauthorised developments at Old Rail Farm. These are indicated on the map below:

- a) A haulage business together with the creation of areas of hardstanding for the business which includes the storage of materials and waste on the site
- b) An additional shepherd's hut 2 site to the south of the fishing lake



The applicant runs a haulage business and there has been a noticeable increase in development on the site during the course of dealing with the applications. This has led to large areas of materials, hardcore and products within the site as a whole, most noticeably in an area to the north of STW works. Hoppers and used material have appeared on the site. The use requires the deliveries of some materials to the site, so it can be stored in hoppers and then taken off site.

6E/42

5G/157

7h/182

The haulage use is unacceptable in that the proposed development is leading to harm to the openness of Green Belt. This is particularly in respect of all of the elements identified earlier – adverse spatial and visual impacts as well as to significant activity and encroachment of the countryside.

As well as storage areas, materials, machines and other items stored outside, this gravelled and part hard-surfaced area the area resembles a depot or builder's yard. These items volumetrically affect the openness of this part of the Green Belt and the openness cannot be said to be preserved by what is now happening on the land. These are significantly harmful to the openness of this part of the Green Belt. The overall visual impact is significantly intrusive and harmful to this part of the land area. The areas and its immediate surroundings can be seen from the public footpaths both near and distant viewpoints within the site and it is considered that the overall development is obtrusive and jarring within open countryside setting. The applicant has tried to disguise these areas with bunding, but this itself has had an impact on the landscape.

Notwithstanding this the development does have a visual intrusion officers consider that the development enforced against is contrary to policies NW12 and NW13 of the Core Strategy which seek to protect the and enhance the quality of the area. It is also contrary in my view to the policies set out in section 11 of the NPPF (conserving and enhancing the natural environment). The development also impacts the biodiversity of the surrounding area.

The highway implications of the use are also compounded by the proposal.

In terms of the planning balance although there may be diversification, there are more fundamental concerns in respect of proposal. As well as harming the Green Belt in principle through inappropriateness, it is also harmful due to its negative visual impact on the general character and appearance of its rural location. The use is not outweighed by any other consideration and therefore the harm is such that it is necessary to take enforcement action for its removal and remediation.

The use of the additional shepherds hut has not commenced as yet, however the hut has been sited on a hard-surface and some services have been provided. Generally, a similar assessment as above has been carried out. However, in terms of the impact on the openness the hut is well assimilated within a dense area of landscaping at present.

It must be remembered that the hut is an inappropriate form of development and inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. These would only exist where the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. As the development is not yet complete it could include some additional paraphernalia which may harm the green belt. The use also exacerbates the existing substandard access arrangements. Overall, officers conclude that the benefits of the scheme would be limited in terms of providing farm diversification and tourist accommodation. In line with the Framework officers attach substantial weight to the harm that would be caused to the Green Belt by reason of inappropriateness and the loss of openness. Therefore, the benefits and all other considerations would not clearly outweigh the totality of harm to the Green Belt. As such, the very special circumstances necessary to justify the scheme do not exist. In this regard the proposal would conflict

6E/43

5G/158

7h/183

with the Framework and as it already exists consideration should be given whether it is expedient to take enforcement action. The harm is such that it is necessary to take enforcement action for its removal and remediation.

Recommendations

a) That planning permissions be **REFUSED** for the following reasons:

i) PAP/2021/0028 – the Shepherd’s Hut

1. The application site is located within the Green Belt and the shepherds hut and other associated development and infrastructure is considered to represent an inappropriate form of development. It would not preserve openness and would conflict with the purposes of including land within it. There are no material considerations to clearly outweigh the Green Belt harm caused so as to amount to very special circumstances. The proposal does not accord with Policy NW3 of the North Warwickshire Core nor Section 13 of the National Planning Policy Framework 2019.
2. The development fails to secure safe vehicular access by reason of the limited width of the access road without separate pedestrian footway and a substandard access onto Hurley Common. Accordingly, the proposals are contrary to saved policies TPT1 and ENV14 of the 2006 North Warwickshire Local Plan policy NW10 of the 2014 North Warwickshire Core Strategy and paragraph 109 of the National Planning Policy Framework 2019.
3. The development fails to show any bio-diversity gain and thus does not accord with Policy NW15 of the North Warwickshire Core Strategy 2014 nor Section 15 of the NPPF, particularly paragraph 170 (d).

ii) PAP/2021/0029 – HGV maintenance

1. The application site is located within the Green Belt and the change of use to a workshop and associated development would not preserve the openness of the Green Belt by introducing development onto a previously open part of the site, reducing openness from both a spatial and visual perspective. Furthermore, the proposal would encroach into the open countryside, conflicting with one of the five purposes of including land within the Green Belt. There are no material considerations identified which clearly outweigh the harm caused and thus amount to very special circumstances. The proposal does not accord with Policy NW3 of the North Warwickshire Core Strategy 2014 nor Section 13 of the National Planning Policy Framework 2019,
2. The development fails to secure safe vehicular access by reason of the limited width of the access road without separate pedestrian footway and a substandard access onto Hurley Common. Accordingly, the proposal is contrary to saved policies TPT1 and ENV14 of the 2006 North Warwickshire Local Plan; policy

6E/44

5G/159

7h/184

NW10 of the 2014 North Warwickshire Core Strategy and para 109 of the National Planning Policy Framework 2019.

3. The development fails to show any bio-diversity gain and thus does not accord with Policy NW15 of the North Warwickshire Core Strategy 2014 nor Section 15 of the NPPF, particularly paragraph 170 (d).

iii) **PAP/2021/0030 - stabling**

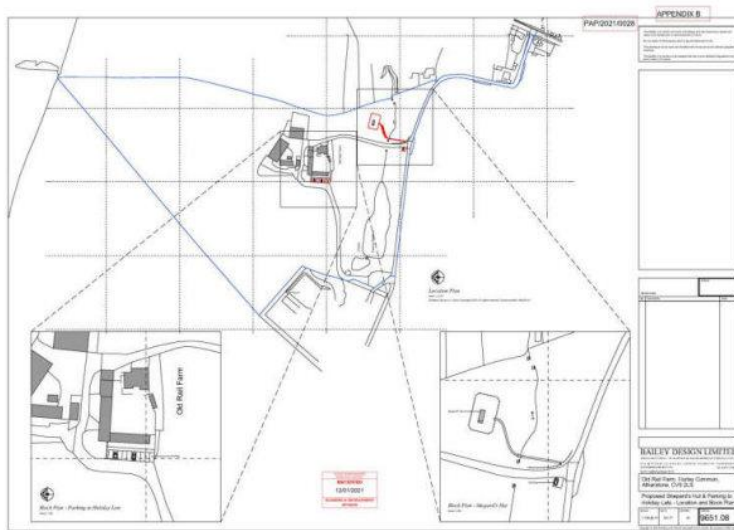
1. It has not been demonstrated to the satisfaction of the Local Planning Authority that there is a demonstrable essential need for a permanent groom's dwelling at the site and as such, the proposal would not accord with Policy NW2 of the North Warwickshire Core Strategy 2014 nor Paragraph 79 of the National Planning Policy Framework 2019.
 2. The development fails to secure safe vehicular access by reason of the limited width of the access road without separate pedestrian footway and a substandard access onto Hurley Common. Accordingly, the proposals are contrary to saved policy TPT1 and ENV14 of the 2006 North Warwickshire Local Plan, policy NW10 the 2014 North Warwickshire Core Strategy and para 109 of the National Planning Policy Framework 2019.
 3. The development fails to show any bio-diversity gain and thus does not accord with Policy NW15 of the North Warwickshire Core Strategy 2014 nor Section 15 of the NPPF, particularly paragraph 170 (d).
- b) That it is considered expedient to serve Enforcement Notices for the reasons as outlined in this report in respect of the unauthorised developments with the requirements as outlined and with the compliance periods as recommended.

6E/45

5G/160

7h/185

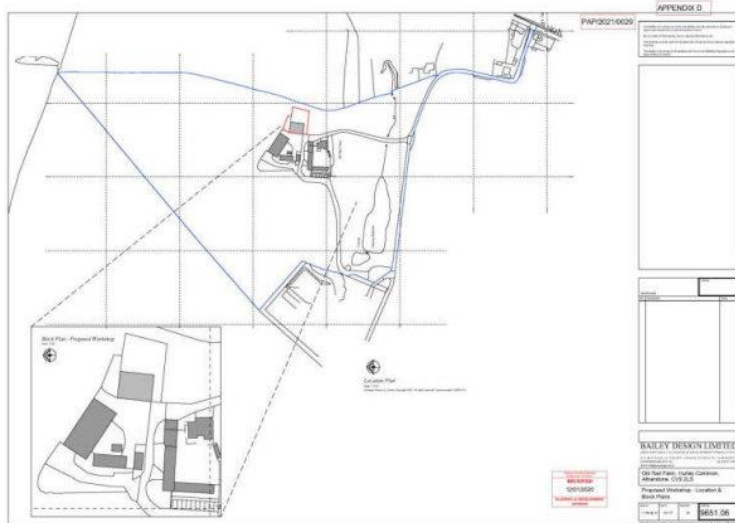
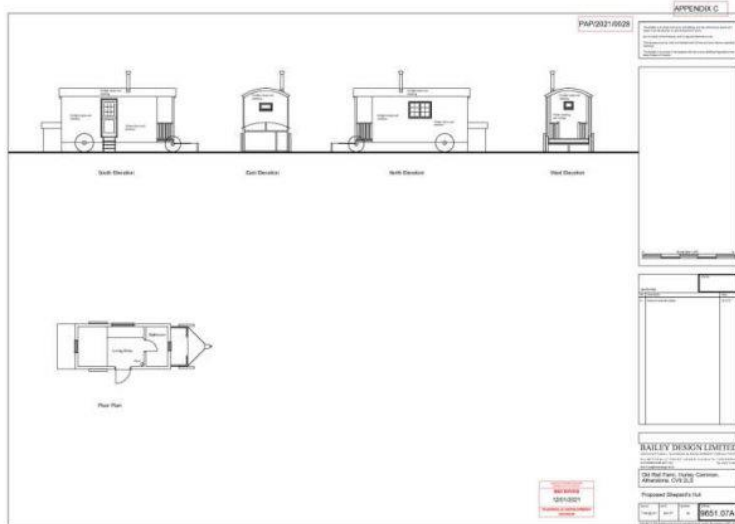
Appendix A - Aerial photograph and footpaths



6E/46

5G/161

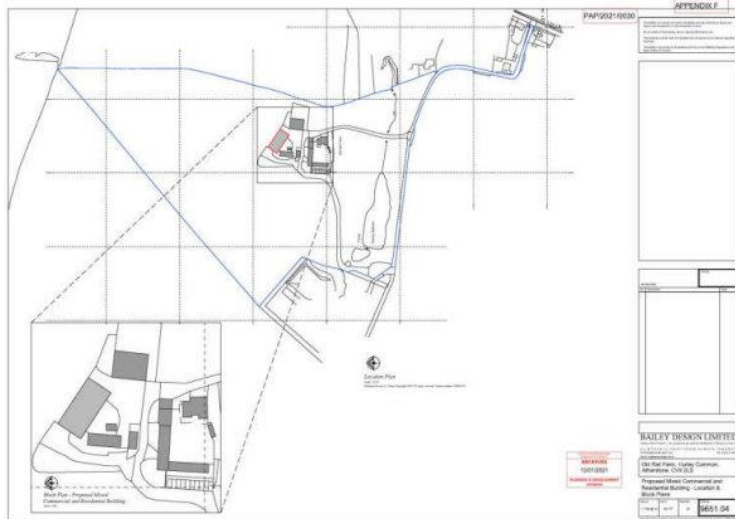
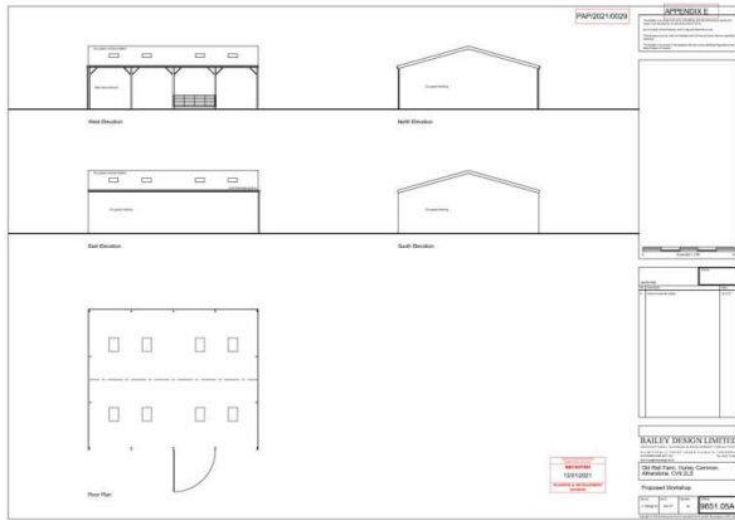
7h/186



6E/47

5G/162

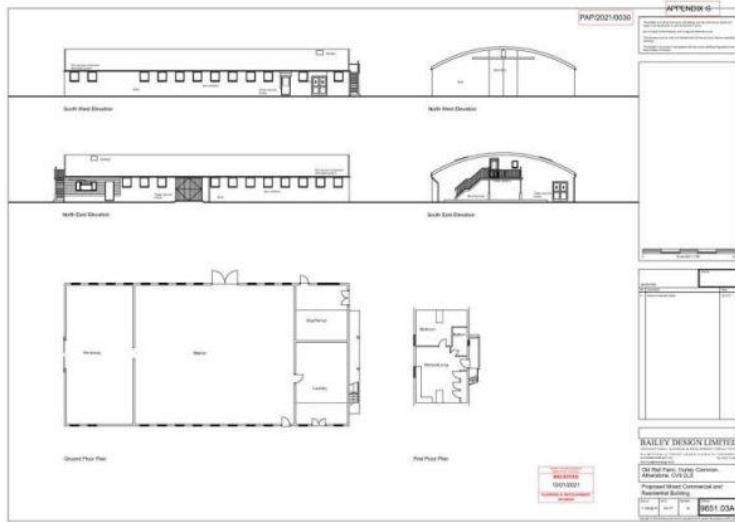
7h/187



6E/48

5G/163

7h/188



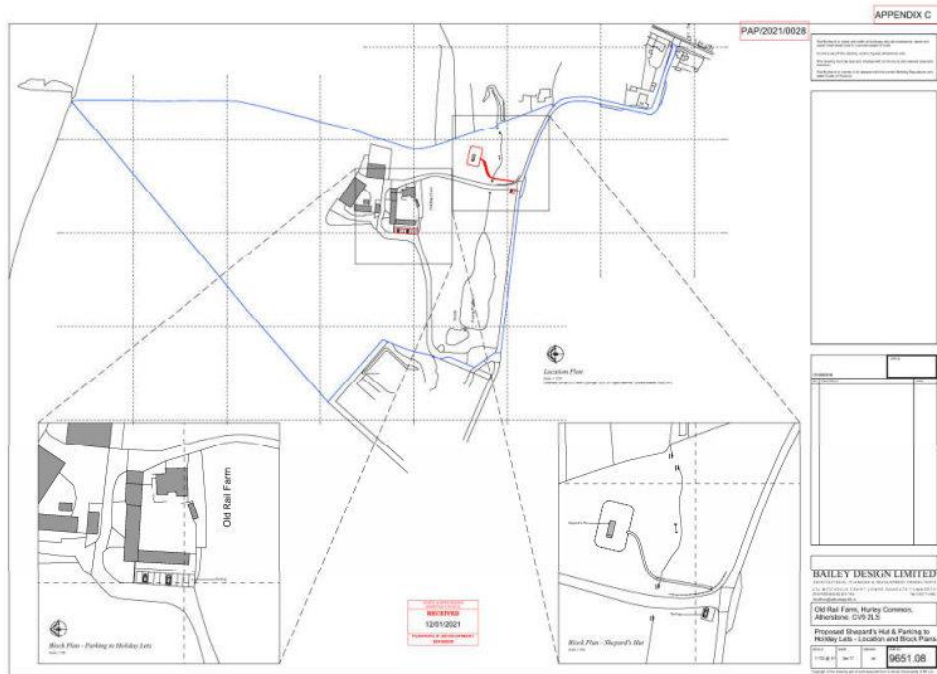
6E/49

5G/164

7h/189

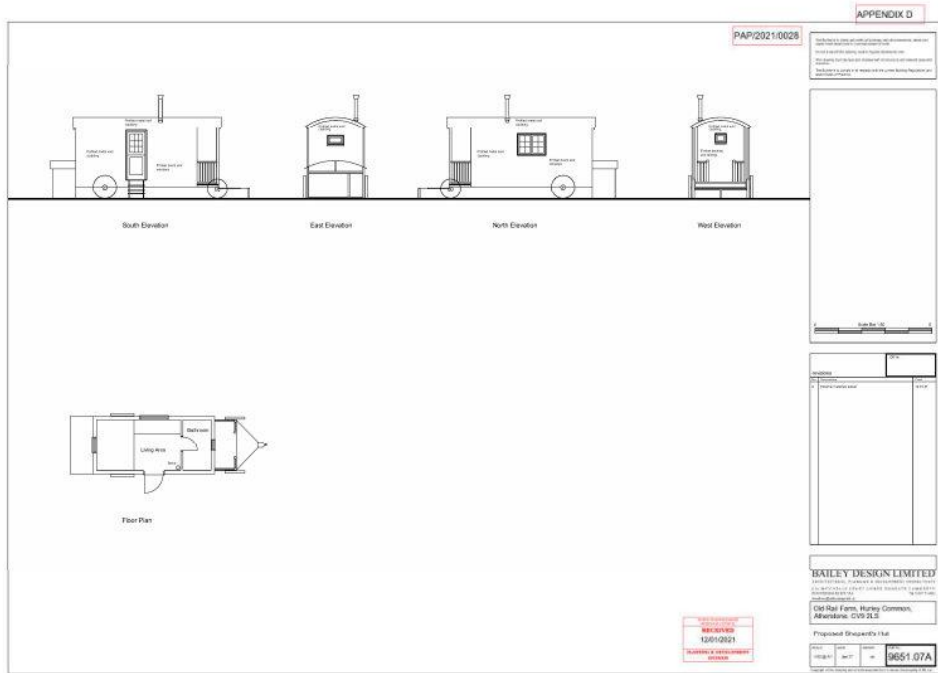
APPENDIX B

Appendix A - Ariel photograph and footpaths



5G/165

7h/190

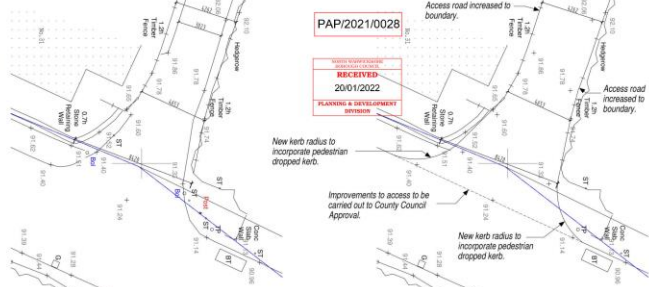


5G/166

7h/191

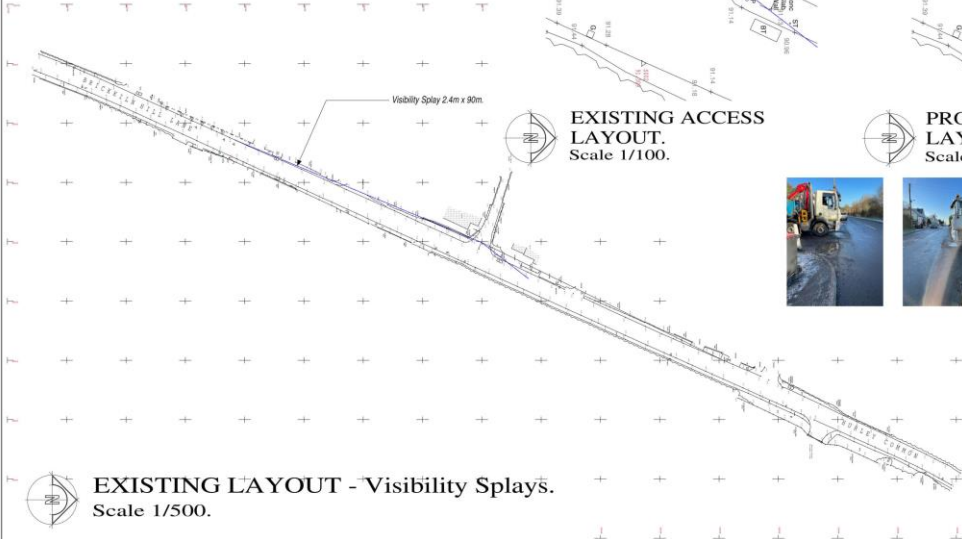
OLD RAIL FARM, HURLEY COMMON, NEAR ATHERSTONE, CV9 2LS.

NOTE.
Photographs show visibility from HGV's.



PAP/2021/0028

RECEIVED
20/01/2022
PLANNING & DEVELOPMENT DIVISION



EXISTING ACCESS LAYOUT.
Scale 1/100.

PROPOSED ACCESS LAYOUT.
Scale 1/100.



EXISTING LAYOUT - Visibility Splays.
Scale 1/500.

REVISIONS		DATE
1	Initial design	20/01/2022

HAILEY DESIGN LIMITED ARCHITECTURAL, PLANNING & STRUCTURAL CONSULTANTS 45A MITCHELLS COURT, LONGER GREEN, STAMFORD LEICESTERSHIRE LE10 2BE 01530 820000 www.haileydesign.co.uk			
OLD RAIL FARM, HURLEY COMMON, ATHERSTONE, CV9 2LS			
ACCESS LAYOUT.			
SCALE	DATE	DRAWN BY	CHECKED BY
1:100	Sept 21	IN	9651.50

Agenda Item No 8

Planning and Development Board

7 February 2022

Report of the Head of Development Control

Consultation - Transport and Works Act Order application for the High Speed Rail (London – West Midlands) Act 2017 (Amendment) (Bromford Tunnel) Order 202[X].

1 Summary

- 1.1 On 20 January 2022, HS2 Ltd submitted a Transport and Works Act Order application for the High Speed Rail (London – West Midlands) Act 2017 (Amendment) (Bromford Tunnel) Order 202[X]. The Council, amongst others, has been consulted for its views. The consultation period runs from 20 January to 3 March 2022. The report identifies matters for consideration when formulating a response.

Recommendation to the Board

That the report be noted and that delegated authority to formulate and submit the final consultation response is given to the Chief Executive, in consultation with the Chair, Opposition Spokesman and Local Ward Members.

2 Background

- 2.1 A TWA Order is a statutory instrument made under the Transport and Works Act 1992. It is as much a piece of legislation as an Act of Parliament. An order made under the Transport and Works Act 1992 (the TWA) is the usual way of authorising a new railway or tramway scheme in England and Wales, except for nationally significant rail schemes in England which require development consent under the Planning Act 2008.
- 2.2 Applications for TWA orders are made to the relevant Secretary of State. Applications are made by (or on behalf of) the promoters of the scheme. The procedure that has to be followed allows any interested person to have their say before the Secretary of State take their decision.

- 2.3 HS2 indicates that the Order seeks to make a minor amendment to the High Speed Rail (London – West Midlands) Act 2017 (“the 2017 Act”) which authorises the construction and operation of Phase One of the proposed high speed railway between London and the West Midlands. It argues that the effect of the amendment would be to remove a legal impediment to a small part of the High Speed railway authorised by the 2017 Act being constructed within tunnel under the powers conferred by the Act, rather than partly on viaduct (being less than 30 metres in length and located near Water Orton to the east of Birmingham) as originally envisaged under the 2017 Act.
- 2.4 The Council, amongst others, has been consulted for its views. The consultation period runs from 20 January to 3 March 2022.
- 2.5 At the time of writing there has been insufficient opportunity to report fully. The consultation response needs to be sent before 3 March, and there is thus no opportunity to report to the March meeting of the Planning and Development Board.

3 Early Identified Issues

3.1 a) Environmental Impact

3.1.1 The requirements of the Environmental Impact Assessment (“EIA”) Directive apply to TWA Orders. This means that where the project falls into one of the categories listed in Annex I or II to the EIA Directive, the application for the Order must include an Environmental Statement (“ES”). Annex I projects include the construction of a long distance railway line and Annex II projects include other railways and tramways.

3.1.2 If the project falls into one described in the list in Annex II, the Secretary of State for Transport may (on request) issue a “screening decision” confirming that an EIA is not required as the project would be unlikely to have a significant effect on the environment. The request for a screening decision is made before the TWA Order application.

3.1.3 HS2 made such a request, and the Secretary of State issued a decision indicating that the development was EIA development and would require the submission of an Environmental Statement. A copy of the Screening Decision referred to is attached as Appendix A.

• • •

3.1.4 Not all schemes require an ES. If the proposed scheme does not constitute an Annex I or II project, then there is no statutory requirement for an ES, although some guidance suggests that the applicant may wish to produce a written appraisal of the likely environmental effects of the project on a voluntary basis to persuade potential objectors that environmental considerations have been taken fully into account.

3.1.5 Officers at this point are minded to query the omission of an Environmental Statement with the application given the Screening Decision of the Secretary of State for Transport in March 2021.

3.2 **b) Works Authorised by The High Speed Rail (London - West Midlands) Act 2017**

3.2.1 Members will be aware that matters related to the Bromford Tunnel are already being considered by the Council. It's recent decision to decline to determine an application for Scheduled 17 Consent for works incorporating the Eastern Tunnel Portal on land adjacent to Attleboro Lane is now the subject of an appeal against non-determination which is before the Planning Inspectorate.

3.2.2 With the benefit of legal opinion, the Council issued a decision to the following effect:

This is to notify you that North Warwickshire Borough Council does not consider that the proposed works are authorised by the Act and therefore are not capable of being approved by the requested method of determination.

Specifically, the proposed Bromford Tunnel East Portal is not a Scheduled Works. HS2 Ltd and the Secretary of State for Transport acknowledge that fact and propose to pursue a Transport and Works Act Order to authorise a change to the scheme. Furthermore, the Secretary of State has deemed that the change to the scheme is EIA development and that an EIA should accompany the application for the Transport and Works Act Order. The application is not yet made, nor granted.

The Council is aware that HS2 consider the changes incorporated in this application to be authorised by reliance upon Section 2 of the High Speed Rail (London - West Midlands) Act 2017. North Warwickshire Borough Council disagrees and considers that the works, by virtue of the fact that they are not related to a Scheduled Works, and by fact and degree, are beyond the scope of the Act. It is the Council's view is that section 2 cannot be relied upon to consent variations to the scheme which are of a magnitude not envisaged by the Act and work which, in their own right, would need to be the subject of stand alone separate consenting regime and associated Environmental Assessment.

In addition, the Council considers that the proposals falls foul of s.20(2) of the Act on account of the Secretary of State's conclusion to the effect that the extension would be likely to have significant effects on the environment (Screening Decision dated 3 March 2021).

If you wish to proceed with an application for the Bromford Tunnel East Portal it is the Council's view that the submission of a full planning application will be required.

3.2.3 The Council and HS2 have differing opinions about the interpretation of how far the High Speed Rail (London - West Midlands) Act 2017 can be relied upon to authorise the wider tunnel construction.

3.2.4 The Order pre-supposes that HS2 are correct in their liberal interpretation that the wording of the scheduled works is the only impediment to the revision of the scheme to tunnel the route in all parts of the tunnel extension other than in this small section.

3.2.5 Officers at this point are minded to prompt the Secretary of State to make a ruling on his interpretation of whether HS2 are entitled to hold the position that the Act already authorises the tunnel extension as ancillary change to the scheme.

3.3 c) **Mitigation of the consequences of changing the scheme to a tunnel**

3.3.1 Whilst the Council recognises that, as a whole, there are beneficial effects from altering the scheme from an overland route to a tunnelled solution (ie, less disruption from traffic, noise, harm to sites of nature conservation interest etc), it has enduring concern about the effects on the settlement of Water Orton where the tunnelled route will emerge to return overland.

3.3.2 The construction phase will be significantly different. The scheme envisaged at the time of the original Environmental Assessment proposed the line in a cutting and the formation of earth bunds along the side of the route. Under the revised scheme the tunnel boring machine is proposed to operate from land west of Attleboro Lane, the tunnel waste materials are proposed to be processed and the waste materials are proposed to be deposited into newly excavated borrow pits south of the village. Officers are looking into the significance of the consequential changes during the construction phase and may make a representation to the consultation in respect of any identified concerns.

3.3.3 The operational phase will also be significantly different. The use of land within Act limits is proposed to differ from the scheme envisaged at the time of the original Environmental Assessment. It was originally proposed as a landscaped roadside bund with planting and a balancing pond across the remainder of the land. There was no built form proposed between the new Attleboro Lane overbridge and the Birmingham Road. The current scheme proposal introduces built form, roadways and parking and makes reduced provision for landscaped embankments and planting. Officers are looking into the significance of the consequential changes during the operational phase and may make a representation to the consultation in respect of any identified concerns.

4 **Conclusion**

4.1 At this moment in time Officer's foresee the prospect of making representation in respect of the need for Environmental Assessment, the powers of the High Speed Rail (London - West Midlands) Act 2017 and the consequential impacts of tunnelling construction and operation and adequacy of proposed mitigation. This is subject to further research and obtaining legal advice.

4.2 Delegated authority, in consultation with specified Members, is therefore sought to ensure that representation can be made within the consultation timeframe.

5 Report Implications

5.1 Finance and Value for Money Implications

5.1.1 In the event that an objection is advanced to the Secretary of State, the Council will become a Statutory Objector, and could, if it wished, have its objection heard before a person appointed by the Secretary of State. The objection may be heard at a public hearing or inquiry and there would be officer and professional costs associated with representation.

5.2 Legal Implications

5.2.1 The Council has sought legal advice from counsel throughout this process and the disputed issues are now before Secretaries of State through the appeal process where the differing interpretations of the legislation will be aired. The specific legal issues which arise from the TWAO application that are in dispute are set out in the body of the report.

5.3 Environment, Climate Change and Health Implications

5.3.1 It is important that scheme changes are appropriately assessed for environmental impact. The considerations set out in this report seek to establish that due process and effective assessment and mitigation are established.

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

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

Background Paper No	Author	Nature of Background Paper	Date
1	HS2 (Ltd)	Transport and Works Act Order Application	20 January 2022



Department
for Transport

Mr Stephen Collings
Eversheds Sutherland (International)
LLP
One Wood Street
London
EC2V 7WS

Natasha Kopala
TRANSPORT INFRASTRUCTURE PLANNING UNIT
DEPARTMENT FOR TRANSPORT
ZONE 1/14-18
GREAT MINISTER HOUSE
33 HORSEFERRY ROAD
LONDON
SW1P 4DR
DIRECT LINE: 07971145878
transportinfrastructure@dft.gov.uk

Web Site: www.dft.gov.uk

31 March 2021

BY EMAIL ONLY

Dear Stephen,

**TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE)
(ENGLAND AND WALES) RULES 2006: REQUEST FOR SCREENING DECISION**

PROPOSED BROMFORD TUNNEL EXTENSION ORDER

Thank you for your letter of 9 February 2021 and attached documents in which you requested a screening decision under rule 7 of the above Rules as to whether an Environmental Impact Assessment ("EIA") is required in relation to the above proposed Order. Our letter of 23 March extended the deadline for decision until 31 March to allow us more time to consider responses received to our consultations. The proposed Order would amend the High-Speed Rail (London-West Midlands) Act 2017 (the "2017 Act"), to enable part of the surface railway, which is authorised under the 2017 Act to be constructed above ground and partly on viaduct, to instead be placed underground in a tunnel.

The Secretary of State has consulted the Canals and River Trust, the Environment Agency, Highways England, Network Rail, Birmingham City Council, and Warwickshire County Council, Historic England and the Environment Agency and has considered their responses. Copies of their responses are attached for information. In reaching his decision, the Secretary of State has had regard to the selection criteria referred to in rule 7(11) of the above Rules, and has taken into consideration the information within the supplied screening opinion request documentation.

The Secretary of State notes the EIA Screening Report attached to your request concludes that the project, if amended as proposed, would not result in any new or different significant environmental effects as compared against the existing consented project and it therefore does not need to be subject to EIA. However, the Secretary of State considers that the necessary consideration is whether the project, to which the proposed Order would apply,

is EIA development or not. The project would be EIA development if it falls within paragraph 13 of Annex II to the EIA Directive i.e. *"Any change or extension of projects listed in Annex I or [Annex II] already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment (change or extension not included in Annex I)"*.

As acknowledged in the EIA Screening Report, the proposed changes to the project are likely to have significant effects on the environment (even if these are no greater than those previously assessed). The Secretary of State therefore considers that the development that would be subject to the proposed Order falls within paragraph 13 of Annex II. Therefore, in accordance with rule 7(13) of the above Rules, **the Secretary of State's screening decision is that an environmental impact assessment is required** in relation to the Bromford Tunnel Extension Scheme which is to be the subject of the above proposed Order.

Yours sincerely

Natasha Kopala

Agenda Item No 9

Planning and Development Board

7 February 2022

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

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

Agenda Item No 10

Land at Kingsbury – Report of the Head of Development Control

Paragraph 5 – by reason of the information relating to legal proceedings order.

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

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