

(2) Application No: PAP/2018/0140

Land East of Castle Road & North of Camp Hill Road, Hartshill & Nuneaton,

Outline application for mixed development comprising the erection of up to 382 residential (class 3a) dwellings together with a local centre providing up to 280sqm net sales area with ancillary parking (22 spaces) associated access to Castle Road and Camphill Road (including demolition of 116 and 118 Camp Hill Road), sustainable drainage system (Suds) open space, landscaping and related infrastructure works, including courtyard bungalow development of two bed sheltered bungalows (Class C3b) and 28 x 2, 3 and 4 (Class 3a) discount for sale ""starter homes"" , for

Tarmac Trading Limited

a) Application Progress to Date

This application was referred to the Board's April meeting but determination was deferred as the Board requested further information on the potential impact of the adjoining quarry on the residential development; the potential impact of the residential development on the quarry, any consequential mitigation measures, the "fit" with the Hartshill Neighbourhood Plan and on a specific drainage issue.

The April report is attached in full at Appendix A

Between the publication of the April agenda and the meeting, the Board received a Supplementary Report addressing a matter raised by the owners of the adjoining quarry. This draws attention to the need for the Board to address the impact of the residential development on the quarry operations.

The Supplementary Report is attached at Appendix B and it contains the letter from the quarry owner giving rise to that report and a copy of an email in response from the Warwickshire County Council acting as the Minerals Planning Authority.

The matter was referred back to the Board's July meeting. It particularly referred to the four matters arising from the April deferral, as well as the matter raised in the Supplementary report. It is attached at Appendix C.

Once again, following publication of the July report and the meeting a further letter from the quarry operator was received which addressed the matters raised in the report. This necessitated a further Supplementary report and this is attached at Appendix D. It also contains a copy of the quarry operator's letter and a further response from the County Council.

The July Board again deferred determination. It wished to see a Master Plan for the allocated site known as H19 in the Regulation 19 Submitted Local Plan; for there to be further discussion concerning a through route, for more information on access to the School, and finally to obtain more information on air overpressure as a consequence of possible changing quarry operations as well as impacts arising from dust deposition, blasting and air quality.

b) Other Matters

The Secretary of State has issued an Article 31 Direction. This means that whilst the Council can refuse planning permission, it is unable to grant planning permission. If it is minded to support the application then such a resolution would have to be referred to the Secretary of State. He would then decide whether or not to “call-in” the application for his own determination following a Public Inquiry conducted by a Planning Inspector.

The representatives of the quarry operator have indicated in their letter of 5 July (paragraph 12 of Appendix D) that they reserve the right to seek a Judicial Review of a decision to grant planning permission. This arises because of need for the Council to consider paragraph 182 of the National Planning Policy Framework 2019. This says that,

“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing business facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. When the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) the applicant (or “agent of change”) should be required to provide suitable mitigation before the development has been completed”.

Following the July Board meeting, the quarry operators submitted a report which addresses the potential impacts on blasting practices at Hartshill Quarry as a consequence of a proposed housing development. This is attached at Appendix E.

The County Council's response is at Appendix F.

Tarmac's response is at Appendix G

The most recent Blast Monitoring report from September 2019 is at Appendix H.

The quarry operator has also submitted an updated report addressing the potential impacts on blasting practices at the Quarry. This is attached at Appendix I.

The applicant has provided a “Master Plan” for the allocated site – Appendix J.

There have been no material changes to the Development Plan since the previous July reports.

c) The Report

The Board's current position is as set out above following the July deferral. It is therefore now proposed to address the issues that led to that deferral. This will necessitate some references to previous reports and thus they should all be treated together.

The Master Plan and Associated Matters

There are several matters tied up under this heading and they also reflect some of the reasons for deferral from the April meeting – i.e. the “fit” with the Neighbourhood Plan.

In summary, the site is part of a larger allocated site contained in the Regulation 19 Local Plan and this reflects its earlier allocation in past planning policy documents. The

Hartshill Neighbourhood Plan, which is part of the Development Plan, contains policies as to how this allocation should be implemented. The current application site is smaller than the allocation, and the Board considered that this gave rise to two main concerns, firstly that the same number of dwellings was being proposed but on a smaller site as the allocation and secondly that this might prevent the provision of a road through the whole of the allocation thus providing some relief for the existing highway network. Because of the smaller application site, the current application does not include this through road. However, the Neighbourhood Plan does refer to the Council's draft CIL Charging Schedule Plan that does itself refer to the possibility of one access being off Camp Hill Road – paragraph 6.28.

The July Board report responded to these two concerns and to others – see Appendix C, pages 5/6 to 5/8 – and so it is not intended to repeat these responses.

The conclusion on these matters is that as any planning permission would be accompanied by a Section 106 Agreement relating to financial contributions, that Agreement would also:

- Obligate any future developer to follow the features of the attached Master Plan;
- Obligate the developer to enable the provision of a through route in the detailed layout for the site by extending any road right up to the site boundary and to enable the provision of an access from the site into the School.
- Obligate the developer to construct the main road through the estate to a standard that can be adopted as a through distributor road and that the road providing access into the school is also at an adoptable standard
- Obligate the applicant not to retain a “ransom” strip at the site's boundaries so as to negate the provision of a through road and the provision of the access into the School
- Obligate the applicant to use his reasonable endeavours to enable the residential redevelopment of the Windmill Club premises and to safeguard the line of the through road in any resultant proposal.

Additionally, condition 8 in the draft conditions – Appendix A page 5/31 – would need to refer to the new Master Plan – see Appendix I.

It is now considered that this particular matter has reached a conclusion which coincides with and which adds to that outlined in Appendix C page 5/8.

The Impact of the Development on the Quarry

The July report explored this issue in some detail – Appendix C pages 5/8 to 5/12 – and the July Supplementary report added to that exploration - Appendix D. The quarry operator has responded to the conclusions that were reached at that time – Appendix E - and the County Council as Minerals Planning Authority has also responded – Appendix F – with Tarmac's position set out in Appendix G. The quarry operator has also submitted a further report which updates its earlier position – Appendix I.

These matters are now brought together.

a) The County Council acting as Minerals Planning Authority

Firstly, it is proposed to deal with the County Council's approach to the principle of the planning application as the Minerals Planning Authority. There are several points here:

- The County Council as Minerals Planning Authority has not objected at any stage during the preparation of the Regulation 19 Local Plan or to the preceding Draft Site Allocations DPD which first identified the site. Indeed it did not appear at the recent Examination in Public when the Inspector considered site allocations or their deliverability.
- The County has not objected to the current planning application.
- The County Council published its draft Minerals Local Plan in 2018. It is at pre-submission stage. Policy MCS3 states that the Council will seek to maintain at least a ten year land bank for crushed rock. The Justification says that the current land bank is 30.97 years. Policy MCS5 states that, "non-mineral developments shall not normally be permitted if they would unnecessarily sterilise existing and future mineral reserves and mineral infrastructure or prejudice their use by creating incompatible land uses nearby". As indicated above, even with these policies, the County Council has not objected to the current application.
- It is acknowledged at the time of the Draft Site Allocations DPD that the quarry was not operational. It re-opened in early 2017. That was before the submission of the current application and before the Regulation 19 Plan was submitted to the Secretary of State. The re-opening of the quarry did not lead the County Council to object to the application or to the submission. Indeed the County says that the previous owners "always indicated that it was their intention to re-open at some point" – the County's email in Appendix B. In other words the re-opening of the quarry was not an unknown possibility.
- The quarry operator made no representation or objection to the Borough Council or to the Secretary of State during the preparation of the Regulation 19 Local Plan. Engagement in this process after 2017 when the quarry re-opened, would have established the operator's concerns at formative stages in that Plan's progress.
- It is also understood from County Officers that there is no record of the current quarry operator making duly made representations during any of the previous three consultations on the new Minerals Local Plan – that is in 2015, 2016 and 2018.

It is therefore considered that this evidence shows that the County Council acting as the Minerals Planning Authority does not object to the grant of planning permission in principle. As a consequence significant weight can be given to this in the determination of the current application.

b) Paragraph 182 of the NPPF

It is next proposed to explore paragraph 182 of the NPPF in more detail. It essentially has two main issues – whether the development would lead to unacceptable restrictions being placed on quarry operations and secondly whether the applicant should “suitable mitigation”. Each will be dealt with in turn.

i) “Unacceptable Restrictions”

There are several points to make here:

- The quarry is operating under a lawful planning permission. The conditions attached to that should be taken to be reasonable given that there was no appeal lodged against them and neither have there been planning applications submitted to vary them since the quarry re-opened, or indeed since the submission of the planning application in early 2018.
- Condition 10 of the permission recognises that blasting is to be controlled by measurement adjacent to any occupied dwelling outside the boundary of the site – not therefore just in respect of existing buildings. Appendix B.
- The County Council as the Minerals Planning Authority says that until 2031, the quarry “is free to operate so long as the operators comply within the conditions imposed upon the quarry permission of 2001” – Appendix F.
- If breaches of these conditions are alleged, then they will be followed through by the County Council. That would happen whether the houses were there or not. The new houses do not cause the breaches.
- It is acknowledged that the re-opening of the quarry led to complaints being submitted to the County Council in respect of the blasting regime. Monitoring and assessment has concluded that operations to date are within the terms of the planning conditions and that there has neither been action under other non-planning legislation. Indeed the Parish Council itself commissioned a monitoring assessment on behalf of its residents but this came to the same conclusion.
- Notwithstanding this situation, the County Council did latterly in the summer of 2019 issue a Planning Contravention Notice in respect of alleged breaches of conditions affecting blasting operations. This is a Notice which requires information to be provided. Importantly, the County Council has not taken any further action, nor has it issued any further such Notices.
- It is accepted that the likelihood of complaint may well increase if new homes are occupied on the application site. But that can happen through change in occupation of existing dwellings as well, as newcomers move into the area. There are established procedures in place through planning and other legislation to investigate any complaint. The quarry operator already has to monitor operations because of this legislation and thus will have the ability through normal practice to respond by providing evidence. The site is close to existing residential development and thus the operator should anticipate the likelihood of complaint due to the nature of the activity here. There is no evidence submitted that the new development would introduce any change in the nature of

complaints. There may be more, but the existing monitoring regimes are already in place to respond.

- The County Council agrees that complaints may well give rise to extra operating costs and that the adoption of adjusted blast regimes may be required. However that has already occurred with respect to the existing residential properties without apparent detriment to the viability of the quarry. Additionally an existing planning condition sets the base-line in respect of impacts, as being any dwelling outside of the site. So changes to operations as progress towards new housing occurs, should not be unusual or unexpected. In other words, some flexibility is already “built-in” to the current planning permission.
- The County Council concludes that the evidence submitted – Appendix E - would not indicate that the quarry could not operate under these circumstances. It may be that extra operating costs would reduce the viability of the quarrying operation, but it has not been shown that these would make the quarrying unviable. Appendix H is the latest blast monitoring report. This suggests that adjustments to blasting practices in relation to the proposed development are unlikely to be necessary to meet the Quarry’s planning conditions, but even if needed, similar practices are used in relation to the existing housing and thus can be used in relation to the proposed development and that as such, it is technically feasible to meet the terms of planning conditions.
- The County Council and the applicant have had the opportunity to comment on the latest updated impact report from the quarry operator – Appendix I. Neither wishes to alter its position as set out above – Appendices K and L.

In all of these circumstances, it is considered that changes to the blasting regime as a consequence of the new development may well incur a cost on the quarry and potentially that may make the operation less profitable. There may well also be an increase in the number of complaints. However the issue under para 182 is to assess whether these matters, would place “unacceptable restrictions” on the quarry operator. In this case, as a matter of planning judgement, there is considered not to be an unreasonable restriction based on the evidence set out on pages 5/10 and 5/11 of the 8th July report (Appendix C) and as referred to in this report. Complaints may well continue, but this is not an unusual occurrence, given the nature of the permitted activity.

ii) Mitigation

Secondly, it is necessary to see if “suitable mitigation” should be provided by the applicant in case the quarry could have a significant adverse impact on the new residential development. In this regard the applicant has reviewed para 10 of Appendix E where mitigation is suggested. Whilst he has given technical and architectural consideration to the suggested conditions, he does not see them as necessary under para 182, because the quarry operator is required to comply with the blasting condition within the quarry planning permission and because such conditions would not alleviate any resulting additional restriction on the quarry operator due to the blasting condition. He considers that the noise bund suggestion should be discounted as one is already in place and in any event the Environmental Health Officer has not requested additional measures.

These reasons are understood but the Board should take a wider perspective here balancing all of the views expressed by the applicant, the quarry operator and its own planning remit. In this regard and because of the particular circumstances of this case, it is considered that the Board should take a precautionary approach in the public interest. Two conditions are therefore to be recommended. One would require the design and implementation of the foundations to the new houses to be agreed prior to construction. The second would require the reserved matters application to exclude windows to habitable rooms facing the quarry and thereafter not to introduce new windows. It is agreed that additional bunding or fencing is not necessary. Such conditions have not yet been agreed by the applicant and as such the recommendation below acknowledges this position. However it is considered that they would meet the appropriate tests contained in para 55 of the NPPF in that they are necessary, relevant to planning and to the development, enforceable, precise and reasonable in all other respects.

The applicant however, notwithstanding his overall position in respect of paragraph 182 of the NPPF, has volunteered another possibility. He offers a "Mitigation Fund" to be included in the Section 106 Agreement. This would enable the Council to undertake monitoring of the quarry operations – noise, dust and vibration impacts. A figure and time period for monitoring is yet to be agreed. It is considered that this offer would in principle be a form of "suitable mitigation" under para 182. It is also considered that it would accord with the Regulation 122 tests in the CIL Regulations and that it would be in line with paragraph 56 of the NPPF in regard to its inclusion in a Section 106 Agreement being necessary to make the development acceptable in planning terms and directly, fairly and reasonably related to the development. The Environmental Health Officer would support such a measure in principle.

Additionally as indicated in previous reports, the grant of a planning permission here would also include an Informative on the Notice, drawing attention to the presence of the lawful quarry operation and to the fact that there are planning conditions attached to that permission.

Conclusions

Throughout these reports, two main issues have come to the fore – the "fit" with the Development Plan and secondly the paragraph 182 matter.

There is no objection in principle to the development given the planning background relating to this site; its inclusion in the Neighbourhood Plan, its significance in delivering the Council's strategic housing requirements and the fact that the County Council as Minerals Planning Authority does not object. Its actual implementation has been the cause of concern, but it is now considered that there is little more that can be added. The application is to be considered on its merits. With the principle established and with the draft conditions along with the financial contributions and the safeguarding obligations in the draft Section 106 Agreement, it is considered that the Council can fully support the grant of a planning permission here as it is in accordance with the Development Plan as a whole and that there are no material considerations of sufficient weight to indicate otherwise.

The para 182 matter too has been thoroughly reported and with information in front of the Board that is relevant to the matter in hand. Paragraph 182 advises caution and it is considered that Members will now have a deeper understanding of the matters on which they have to come to a decision. The issue is whether there are likely to be "unacceptable restrictions" placed on the quarry as a consequence of the proposed

development together whether there should be “suitable mitigation” provided by the applicant. The conclusions from the sections above recommend that when taken as a whole, the Board can continue to support the proposal notwithstanding the content of paragraph 182 subject to the conditions and the offer of the mitigation fund. Members can note that the Council has deferred the matter on more than one occasion in order to give all parties a number of opportunities to refresh their case and to give additional evidence to the Council. Officers have reached the position where the evidence has crystallised sufficiently so Members are in a position to weigh up the competing factors and reach an overall planning judgement. Members have a clear idea of the nature and character of the objections to the application advanced by the quarry operator and it is for the Board to judge what weight is to be given to them and whether the substance of these objections outweighs the identified compliance with the Development Plan.

Recommendation

- a)** That the Council is minded to support the grant of planning permission in this case subject to:
- the conditions as included in Appendix A
 - the alteration to condition 8 to accommodate the Master Plan.
 - the addition of the two conditions as referred to in this report once they have been agreed with the applicant
 - the completion of a Section 106 Agreement in line with the draft heads of terms included in Appendix A, the additional Obligations set out in this report and the principle of including the Mitigation Fund as set out in this report.
 - the inclusion of an Informative on any Notice referring to the extant quarry planning permission
- b)** That the case be referred to the Secretary of State following the Article 31 Direction and
- c)** that in the event of the case not being “called-in” for his own determination, planning permission be granted following completion of the Section 106 Agreement in the terms set out above along with the conditions as also set out above.

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Introduction

The receipt of this application was reported to the Board a little while ago and it is now reported for determination. Members will be aware of the general outline of the proposed development from that report and the earlier presentations made to the Board by the applicant. For convenience and as part of the consideration of the determination, that initial report is attached at Appendix A. It is not proposed to repeat the content of that here, only to update it where appropriate.

One of the proposed access points to enable the development is off the Camp Hill Road and that is located within the Nuneaton and Bedworth Borough Council's area. A planning application has been submitted to that Council for those works. That Council has indicated that it will await determination of the principal application prior to its consideration of its application.

The application site is illustrated at Appendix B and an illustrative Master Plan is attached at Appendix C. More detail on the two access points is provided at Appendices D and E.

Representations

Hartshill Parish Council – It acknowledges that it has been engaged with the applicant throughout the process and that its approach towards the application has been to seek a development which is in accordance with the criteria set out in its Neighbourhood Plan.

Twenty five letters have been received from local residents objecting to or making representations on the proposal. The matters referred to are:

- There are too many houses being proposed – they are not needed.
- There are safety concerns about the proposed two vehicular access points; concerns about the amount of traffic that will use these, also amenity concerns particularly in respect of additional traffic now passing directly by houses and rear gardens and the relocation of the bus stop.
- Access should be via Mancetter Road not Camp Hill Road.

- The working at the quarry has resumed and this will impact on the development – air quality/noise and vibrations from the blasting. Housing next to the quarry is not appropriate.
- There will be an adverse impact on trade at the established retail stores in Hartshill from the proposed centre
- More bungalows are needed
- There is not enough capacity in the local schools and health centres
- There will be a loss of village character
- The outfall from the drainage is into a residential area
- The proposal is contrary to the Neighbourhood Plan
- There will be loss of wildlife from the development.

A letter from Marcus Jones MP indicates that he has concerns about the impact on existing highway infrastructure bearing in mind other developments approved, particularly in the Galley Common area.

Consultations

Warwick County Archaeologist - Following a significant amount of evaluation work undertaken after an initial objection, there is no objection, subject to standard pre-commencement conditions.

Warwickshire County Council as Highway Authority - Following initial objections a substantial amount of additional work has been undertaken resulting in the withdrawal of that objection subject to conditions and Section 106 contributions.

Warwickshire County Council as Lead Local Flood Authority - Following initial objections there has been a significant amount of additional information supplied such that the objection has been withdrawn subject to standard conditions.

Warwickshire Fire Services – No objection subject to a standard condition.

Sport England – No objection subject to proportionate contributions being agreed towards open space/recreation and sports facilities.

Historic England – No objection as less than substantial harm is likely to be caused.

Warwickshire Wildlife Trust – There is no net gain in bio-diversity and thus an objection was lodged, but this is now tempered by bio-diversity offsetting as set out in the draft 106 terms.

Environmental Health Officer – No objection.

Director of Housing – No objection.

A Draft Section 106 Agreement – Heads of Terms

Draft terms for a Section 106 Agreement have been submitted amounting to just over £3 million worth of contributions. These are itemised below:

Education – A total of £1,746,415 has been requested by the Warwickshire County Council. This includes contributions towards the Hartshill Secondary School; Michael Drayton Junior School and Camp Hill Primary School, as well as for early years' provision and for sixth form and SEND support.

Libraries – A contribution of £7053 towards the Hartshill Library.

Primary Care – A contribution of £250, 000 towards a new Hartshill Surgery.

George Eliot NHS Trust – A contribution of £200,217 towards services at the Hospital.

Police – A contribution of £48,240 towards Police services.

Sport Facilities – A contribution of £24,200 towards enhancing local facilities.

Open Space and Recreation – A total contribution of £368,000 towards improvements to the Snow Hill Recreation ground; for an on-site play area and towards maintenance of the Snow Hill Wood which would be transferred to the Parish Council.

Bio-Diversity off-setting – A contribution of £140,583 towards enhancements at Hartshill Hayes

Off-site Highways - A total of £300,000 towards improvements (traffic lights) at the B4111 Nuneaton Road/Atherstone Road/Woodford Lane junction and towards extending cycle way marking on Camp Hill Road and Green Lane to meet up with existing arrangements.

Additionally, the applicant will undertake to add traffic lights to the Bucks Hill/Victoria Road/Coleshill Road junction. This would be agreed under Section 278 of the Highways Act 1980.

Affordable Housing – 27% provision is proposed. This will include the four bungalows and the 28 starter homes.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Split in Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Consideration), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment), NW15 (Nature Conservation) NW20 (Services and Facilities) and NW22 (Infrastructure)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV12 (Urban Design) ENV13 (Building Design) and ENV14 (Access Design)

Hartshill Neighbourhood Plan 2017 – H14 (Land at Hartshill Quarry – Site Development Framework); H15 (Land at Hartshill Quarry – Design), H15 (Land at Hartshill Quarry –

4/35

Access and Car Parking), H17 (Land at Hartshill Quarry – Open Spaces and Green Infrastructure) and H18 (Land at Hartshill Quarry – Integrating with and enhancing the vitality of the wider area)

Other Material Planning Considerations

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

The Submitted Local Plan 2018 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP7 (Housing Development), LP9 (Affordable Housing Provision), LP15 (Historic Environment), LP16 (natural Environment), LP22 (New Services and Facilities), (Recreational Provision), LP29 (Walking and Cycling), LP31 (Development Considerations), LP32 (Built Form) and LP39 (Housing Allocations)

The Community Infrastructure Levy Regulations 2010

The Draft Air Quality SPD – 2019

The North Warwickshire Landscape Character Appraisal 2010

Observations

a) The Principle of the Development

Members will know that the Core Strategy identifies Hartshill and Ansley Common together as a Local Service Centre appropriate as a location for new development and that this be for a minimum of 400 houses – Policy NW5. In respect of the location for this increase in housing development, then Policy NW2 of the Core Strategy says that in Hartshill and Ansley Common, this development will be permitted in or adjacent to development boundaries. This current application site abuts the Hartshill development boundary at its western and southern boundaries and together with the recent planning permission for 75 dwellings off Coleshill Road, the proposal would accord with both of these two policies.

The site is part of a larger one that is allocated for up to 400 dwellings within the Submitted North Warwickshire Local Plan 2018 – site H19 in Policy LP39. This Plan is not yet adopted and does not therefore carry full weight. It is currently under Examination in Public and the Inspector dealing with the Plan has indicated that the housing requirement for the Borough should rise above the Core Strategy figure of 3650 by 2029 and thus the need to address a higher provision carries weight. There have been six representations submitted to the allocation H19 in the Submitted Plan and these all relate to concerns about the capacity of the infrastructure to cope – highways and local facilities. These are all however matters which are dealt with directly as a consequence of this application and will be reviewed later in this report. As such it is considered that these representations would not prejudice the determination of this application.

Members will be aware too that the development boundaries as defined by Policy NW2 of the Core Strategy have been found to be out of date. Given the fact that the application site abuts the established built up areas of Hartshill and Nuneaton; that Hartshill is identified as a Local Service Centre in the Core Strategy with a wide range of local facilities and services and that it is well served by public transport, it is considered that in general terms the proposal is sustainable development. In line with the NPPF, it should therefore be supported unless there is significant demonstrable harm caused.

These matters will be looked at below, but in principle the proposal would appear to accord with the NPPF.

The Board is aware too that as at March 2018, the Council had a 5.8 year housing land supply. Whilst this does not render the housing policies of the Core Strategy “out of date”, Members will be aware that there would have to be significant and demonstrable harms caused if the Board was minded to refuse the application on the grounds that the Borough has a five year supply. Those potential harms will be reviewed later in the report but at this stage in the report, it is considered that this possible argument should not carry substantial weight.

The Hartshill Neighbourhood Plan, as part of the Development Plan, has a set of policies that look to shape the development of the allocation H19 and as such the principle of supporting the current application is acknowledged.

When all of these matters are put together, it is considered that there is support in principle for this development and that unless there are significant and demonstrable harms caused, the Board will be recommended to do so.

A number of the representations received in respect of the planning application, refer to this matter of principle. The outline above carries greater weight than the view that too many houses are being proposed and the Neighbourhood Plan does recognise that this land will be developed. As such there is no representation made that would challenge the conclusion set out above,

The report will now turn to a review of a large number of more detailed issues to assess the level of any such harm. Many of the representations received relate to these matters too. The two central issues are highway impacts and the impact of the resumption quarrying activity directly to the north of the site. These will be addressed first.

b) Highway Matters

The applicant's Transport Assessment has been scrutinised by the Highway Authority to the extent that the County Council's initial objection was only very recently withdrawn. The issues that it was considering revolved around the two access points into the site and the extent of likely impacts on the surrounding highway network. Both issues dealt with matters of safety as well as those of recent planning permissions and future potential land allocations. The County Council is now satisfied that the two proposed access points are satisfactory and these are illustrated at Appendices D and E.

Much of the scrutiny of the proposal has been related to an assessment of potential off-site impacts. The Highway Authority has identified the following two measures that will be needed to mitigate those impacts:

- The developer will fully fund the cost of installing signals at the Camp Hill/Buck Hill/Coleshill Road/Victoria Road cross roads and this will be delivered through a Section 278 Agreement under the 1980 Highways Act. The cost is in the order of £510k.
- A contribution towards improvements at the Nuneaton Road/Atherstone Road/Woodford Lane junction – the junction under the West Coast Main line. This junction has been identified by the County Council in its Strategic Transport Assessment supporting the Submitted Local Plan and thus can be justified as the

application site was taken into account in that Assessment as an allocated site. The full cost of improvements here cannot be fully laid at the applicant's proposals and thus a proportionate contribution of £150k has been requested.

In order to satisfy the new NPPF's increased emphasis of alternative modes of transport, the County Council is requesting the following:

- Cycle infrastructure improvements in Camp Hill Road and Green Lane in order to connect cycle lanes from the proposed Camp Hill junction to existing lanes in Nuneaton on these two roads.

No contribution is sought in respect of public transport as the majority of the site will be within 400 metres of existing bus stops, with the remainder being within 450 metres. The existing services are good and frequent with destinations being Atherstone, Tamworth, Nuneaton and Coventry. As such there is no enhancement sought. Bus operators may in the event of an approval, choose to re-route through the development but that is a matter for them. The layout that is eventually approved however should allow for this possibility.

The outcome of the County Council's scrutiny of the proposal should be given substantial weight and as a consequence it is considered that traffic impacts can be mitigated to the extent that they are not severe and thus can be supported.

Traffic impacts generated the most concern from the representations received. Whilst the Highway Authority's response should outweigh these concerns, there were a couple of matters raised that require explanation.

The first was that there should be no second access onto Camp Hill Road with that second access being off the Mancetter Road to the east. This would in effect lead to an alternative route if not a by-pass to the several congested junctions in Hartshill. This was the original outcome when the site was first considered, but ownership issues have led to the submission of only part of the site – albeit almost two thirds. Members will be familiar with the need to determine the application submitted and not the one they might prefer. In this case the highway solution is acceptable to the County Council. The later applications dealing with layout may wish to ensure that there are no ransom strips at the eastern end of the site so as to retain the possibility of a third access point onto Mancetter Road.

The second matter was the implications for the Plough Hill Road/Coleshill Road junction in Chapel End. The County Council has taken a significant amount of time to look at impacts here. Its conclusion was that this development would only add a small amount of additional traffic at the junction, bearing in mind the great majority of new traffic at the junction would be from the extant and committed developments in Galley Common. The County Council considered that there would however be a material impact at the Bucks Hill junction and that is why the works are proposed there. This too has the benefit of impacting on the Plough Hill Road junction through better regulation of the traffic flows through the network.

As concluded above, given the response of the County Council it is considered that the impacts arising from the development are likely to give rise to limited harm.

c) The Impact of the Quarry

When the allocation for this site first appeared in the early drafts for the new North Warwickshire Local Plan, the quarry to the north was inactive. There is an extant planning permission which expires in 2042 and thus there was always the possibility of quarrying activity re-commencing. That of course has now happened with the quarry under new ownership. Its presence is a material planning consideration and significant weight has to be given to it. If approved, the new residential properties will be located close to that quarry. The potential impacts do therefore need to be assessed. In this regard these impacts are vibration as a consequence of blasting; the noise from blasting and any resultant air quality issues. The applicant undertook a number of assessments which were submitted with the application and these have been updated in light of initial comments from the Council's Environmental Health Officers; the County Council's monitoring of the site under the terms of the planning permission and complaints received from local residents about the blasting. Each of these will now be reviewed.

In respect of the first of these, the blasting takes place under controlled circumstances. The County Council acting as Minerals Planning Authority has confirmed that this activity is taking place within the parameters set out in the extant quarry planning permission. Members will be aware that the enforcement of these parameters and thus the blasting regime is the responsibility of the County Council. Its Officers have already been fully engaged with the local community since recommencement of the activity, but there has not been any enforcement action taken. Monitoring of the blasting has taken place and the most affected existing residential property is some 95 metres from the potential extraction area. As extraction nears that property, the blasting regime will alter under the conditions set out in the permission. The applicant reasonably points out that the closest of the proposed properties would be 135 metres distant from extraction operations. Again the planning permission has conditions restricting blasting levels as extraction approaches that distance. The applicant therefore points out that the quarry operations are outside of his control but that there are relevant conditions attached which recognise the approach of extraction towards his development. Non-compliance with those conditions is a matter for the Mineral Planning Authority. It is also pertinent to point out that there has been no move made by that Authority to commence a review of those conditions following the allocation of this site, even in its draft stages, and there have been no representations made to the Submitted Local Plan. These matters therefore carry significant weight and thus it is considered that there would be no material adverse impact and therefore that there is limited harm caused.

In respect of noise emissions, then the submitted assessments show that ambient noise levels even with continued blasting, will fall within accepted noise guidance. Blasting is the main noise issue raised by the representations, but blasting will not take place continually and the blasting regime is controlled by the quarry's planning permission. New residents will certainly become aware of the quarry activity, but that occurs presently. There is no evidence to suggest that any noise emitted from the quarry would result in significant adverse harm. Both the Borough Council and the County Council have access to other legislation should that be considered appropriate if there were to be material noise concerns.

The same conclusions arise from consideration of the air quality impacts of the quarry operations – i.e. dust emissions. The matter here is to control dust from blasting and from subsequent removal of the rock, at source. The current quarry permission is thus the key control here.

The Environmental Health Officer has been fully involved in all of these matters and acknowledges that the present controls operating at the quarry are not being breached. Complaints will continue to be investigated by both the Borough and the County Councils, but the enforcement of the quarry working conditions is a matter for the County.

It is in all of these circumstances that it is not considered that this issue gives rise to "unacceptable" impacts which is the test set out in Development Plan policy.

d) Heritage Matters

The application site is not within, nor does it adjoin a designated Conservation Area. However there are number of Listed Buildings around the site – notably in Hartshill and particularly the Castle and the Church. The Castle too is a Scheduled Ancient Monument. The Council has a Statutory Duty to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which they possess. The applicant has undertaken a thorough assessment of the significance of each of the assets. In this case there are no direct impacts on the majority of these Listed Buildings, but the impact of the proposal on their settings does need to be assessed. In practically all of these cases however, the site is some distance away from these buildings; there is intervening development and established vegetation or the ground topography restricts visibility or ambience. There is thus no impact. However there are three assets where further assessment needs to be undertaken.

Hartshill Castle is located on the western edge of the village and is a Scheduled Ancient Monument as well as a Grade 2 Listed Building. Its significance derives from the architectural, artistic and historic interest of its built fabric, the motte-and-bailey features and its strategic location in a visually commanding position, together with its enclosure in the 14th Century. The Castle has no historical or functional connection to the application site and the visual impact of the Castle will be unaffected by the proposed development and the site itself does not contribute to the significance of the Castle. As a consequence of this assessment, its significance will not be harmed. It is also of significant weight that Historic England has not raised an objection.

Holy Trinity Church is a Grade 2 Listed Building built of local Hartshill granite rubble with sandstone dressings in the Neo-Norman style. The apse and small tower will be visible from within the application site and it is only separated from the site by a re-ordered churchyard containing re-located headstones but partially screened by vegetation. As a consequence there would be an impact on the setting of the Church as its open aspect to the east would be harmed. However this is considered to be of limited harm provided an open buffer of land behind the Church can be retained in the Master Plan for the site, thus increasing separation distances.

The final asset is Charity Farm, which is an undesignated asset but one that appears in the Neighbourhood Plan as of local value. It is a brick farmhouse and yard backing onto the site close to the new junction onto Castle Road. Its significance is as a local farmhouse contributing to the historic interest and aesthetic value of the local street scene. The development will impact on its setting by bringing new development closer

to the asset. This would be moderate harm given that the main road through the development would be likely to change the character of the eastern boundary of the setting.

As a consequence of these assessments, it is considered that the impact on the settings of these assets when taken together is limited and thus less than substantial harm would be caused.

In respect of underground assets, then the applicant has noted that there have been finds recorded from the site and that his further on-site evaluation work has established that there is some potential for prehistoric activity and a high potential for further evidence of Romano-British activity to be found within the site. The latter is linked to the known kiln sites of the Mancetter/Hartshill pottery industry. It is also likely that medieval and post medieval agricultural and settlement remains are present at the western end of the site. Later quarrying activity is also likely at its eastern end. As a consequence of this evaluation the Warwickshire Museum have no objection to the development but has asked for pre-commencement investigations to be undertaken. A scheme for this work has been agreed. This is a proportionate response given the applicant's evaluation work. It is thus agreed that the proposal would cause less than substantial harm to these underground assets.

In respect of the local geological sites in the former Jeas Quarry, it is considered that the application site is too distant to have any impact.

Apart from the view that the development would alter the village character of Hartshill there were no representations received directly relating to harms being caused to local heritage assets.

In conclusion therefore, bearing in mind all of the matters raised above, it is considered that overall there would be less than substantial harm caused to heritage assets in the vicinity of the site. Mitigation measures would lessen this harm further through the use of design in the final Master Plan layout. Members will know that even less than substantial harm has to be given great weight in the final planning balance. That will be undertaken in the concluding sections of this report.

e) Ecological Matters

Members will know that the NPPF requires there to be bio-diversity gains as a consequence of new development proposals. However where there are losses identified, then compensation in the form of off-setting needs to be addressed. In this case, the applicant has undertaken a full ecological appraisal of the site and this has been reviewed by the Warwickshire Wildlife Trust and the County Council.

The closest statutory nature conservation site is the Ensor Pool SSSI which is separated from the site by significant areas of existing residential development. It is agreed that the designation will not be affected by the development.

There are however two non-statutory sites present – The Snowhill Wood and Hartshill Quarry Local Wildlife Sites. The former is a broad-leaved woodland and the latter is known to support common reptiles. Both have the potential to be impacted by increased

recreation pressure as a consequence of the development in the absence of mitigation. In respect of the quarry, then this site is far less accessible than the former, and the existing footpath along the established bank here is very likely to continue to direct pedestrian access away from the site. This is a continuation of the present arrangement and thus it is considered that increased pedestrian use along the path is likely to only have a limited impact on the habitat of the Wildlife Site. There is more likely to be a greater impact through pedestrian use of Snowhill Wood. Mitigation measures will include new footpaths that directly link to the Snowhill recreation ground just beyond the wood; new fencing, strengthened planting, way marked paths and interpretation boards. These measures would be included within a Management Plan and the wood itself is proposed to be disposed of directly to the Parish Council. That Plan would be accompanied by a commuted maintenance sum. These mitigation measures are considered to be proportionate and significant, such that the potential impact on the bio-diversity value of the woodland can be managed and thus the degree of harm would be limited.

The majority of the site comprises arable and improved pasture land that has limited nature conservation value and supports no notable botanical species. Features of value include hedgerows, mature trees and woodland. The majority of these features can be retained through the design of the layout for the site and indeed their connectivity can be enhanced as a consequence.

In respect of protected species on the site then bat surveys do show that the site is suitable for foraging and roosting and there was a moderate level of bat activity found. The small, existing buildings on the site however have only low potential for roosting. However the Trust agrees with the applicant that this is not considered to be unexceptional. As a result, with good practice and mitigation there should not be harm caused to the local population. These measures would include retaining and enhancing "green corridors"; the installation of bat boxes and the longer term maintenance of Snowhill Wood. There was limited evidence to show that the habitats that other species might need, were present on site but there is agreement that the presence of protected species on the site is not likely to act as a constraint to development. Indeed, the measures outlined above to incorporate features within the layout and the enhancement of the woodland, are the preferred method of enhancing bio-diversity.

Notwithstanding these measures, the Bio-diversity Impact Assessment shows a small nett loss as a consequence of the development. As indicated above this can be compensated through bio-diversity off-setting and this is the case here. The draft 106 Agreement includes provision for such a payment and it is anticipated that this would be focussed on enhancements at the nearby Hartshill Hayes Country Park.

Some of the representations received refer to the loss of wildlife as a consequence of the proposals. That will be the case, but the level of impact as indicated above is likely to be limited. Nevertheless, there is a net loss here and that will have to be added to the harm side of the final planning balance.

f) Drainage Matters

The land levels on the site mainly fall southward to converge at an existing ditch running through the central part of the site. The ditch is culverted under an old quarry access which passes over it. It discharges into a large storm water sewer in Hillside Drive in the established residential area to the south which then runs south eastwards into the Camp Hill area of Nuneaton and eventually into the River Anker. There are other smaller boundary ditches which feed into this system. The site itself is in Flood Zone One which is the zone that is at least risk of fluvial flooding. However there have been reported flooding instances in the corridor comprising the ditch and the sewer particularly at the outfall into Hillside Drive. Surface water is considered to pose a low risk within the site and then only confined to the ditch course but there is a higher risk off-site as described above. There is a known sewer flooding problem north of the site that is downstream of the combined sewer in Church Road, but there are no direct connections from the site to this sewer. Severn Trent Water has however identified a foul sewer at the southern end of the site which has adequate capacity for the full development's requirement for domestic drainage.

The site's ground conditions would not favour use of infiltration drainage as a solution. As a consequence a surface water drainage solution has been designed to provide attenuation on site with final outfall to the south and the sewer referred to above. The site would effectively be divided into three sections. A small area to the very north-west would fall northwards and discharge into the existing combined sewer on Church Road and the two very much larger areas would fall southwards either side of the central ditch to which they would eventually discharge at the far southern end of the site. Attenuation basins are thus proposed either side of the ditch as well as underground tanks and oversized sewers at the far southern end before it discharges into the outfall running off-site. These systems are designed to restrict discharge rates from the site to green field equivalent values and will include flow control mechanisms – e.g. hydro-brakes.

The County Council acting as the Lead Local Flood Authority asked for substantially more information on the capacity of the attenuation systems described above in respect of severe storms so as to "test" them against exceedance rates – i.e. when rainfall exceeds projected levels. The County was satisfied with that additional information and has not raised an objection subject to standard conditions. This carries substantial weight and as a consequence the degree of harm caused by surface water flooding impacts is considered to be limited.

The representations received have referred to the existing problems sometimes experienced off site at the southern end of the site, as acknowledged above. The applicant and the County Council are aware of this issue and the withdrawal of the objection is significant. In short the County Council is saying that as well as satisfactorily draining the site, these systems will also improve the local situation by attenuating surface flows before they discharge into the sewer running under the Hillside Drive area.

As concluded above, it is therefore considered that limited harm should be added to the harm side of the final planning balance.

g) The Impact on the Character and Appearance of the Area

In terms of landscape character then the site falls within the “Baddesley to Hartshill Uplands” Landscape Character Area of North Warwickshire. This is described as a “distinct upland and steeply undulating landscape located on a rocky escarpment which has led to rock quarrying activity both past and present. The landform also gives rise to characteristic upland woodland, heath and marginal pastoral farmland. The landscape is heavily disturbed by these quarrying activities and related modern industries. There are long views to the north over the Anker Valley”.

The application site however is well contained visually with it not being visible from the north and confined to locations around its perimeter. The proposal would extend the built up area of Hartshill into an area under agricultural use with a relatively low topography and perimeter hedgerow and woodland. There would be no landscape impact over the wider area, nor would there be an impact on the ridgeline of the escarpment when viewed from the north. However, there would be adverse permanent change to the local landscape because of its scale. But the development would be well related to the existing settlement edge and to the established built form. It would continue the same built form in scale and appearance. It is considered therefore that the adverse impact amounts to moderate landscape harm.

In terms of overall visual impact, then the site has the ability to absorb the development as impacts would be local. Retention of existing features throughout the site together with new landscape planting would reinforce this general conclusion. However the local impacts would be adverse as they would be where existing residential property backs onto the site and particularly in the vicinity of the new access onto Castle Road.

The representations received do not really focus on these matters. They rather refer to the loss of village character and thus the distinctiveness of the village. Whilst the local community still understand and perceive Hartshill to be a village, in terms of built form it is well connected physically to the more urban areas of Nuneaton, Galley Common and Ansley Common. As indicated above this site is self-contained visually and can absorb this level of development without substantial landscape or visual harm. It is well connected to the existing built form. It is considered to be sustainable development because of this and this is reflected in the Core Strategy and the Submitted Local Plan.

The Hartshill Neighbourhood Plan is part of the Development Plan and it acknowledges the principle of development here. That Plan as indicated above, contains several policies intended to address the issues raised by the representations. The proposal will be assessed against these later on in this report. At the present time, it is considered that the policy background here does override the weight to be given to the representations made.

As a consequence of these matters, it is considered that the proposal has limited landscape harm and limited to moderate visual harm.

h) The Impact on Services and Facilities

There are several areas to look at here.

As Members are aware, the Infrastructure Agencies are consulted on all major applications and in this case that has led to the request for a number of contributions as set out in the draft Section 106 terms at the beginning of this report.

The Education contribution is made of several elements which cover the range of education requirements arising from the size of the development. Work is already underway on extending the Michael Drayton Junior School and the contribution will go towards the cost of that. It is known that the County Council is looking to replace the Hartshill School and the contribution will be added to any funding agreed by the Education Funding Agency. The contributions here are proportionate to the requirements arising from the development and thus there is no adverse impact as a consequence.

The Health contributions are similarly in line with others made for new development in North Warwickshire. That for Primary Care will be put towards a new Surgery in Hartshill which the County Council is anticipated to be proposing quite soon. The NHS Trust contribution is in line with similar requests for the George Eliot Hospital. There is thus no adverse impact as a consequence of the proposed development.

The recreation/open space contributions are made up of three elements. As Members are aware this type of contribution is focussed on new on-site provision as well as going towards enhancements of off-site existing facilities. A new play area is to be proposed on-site and the sports contribution could well be used in conjunction with a proposal to replace the Secondary School and its Sports Hall. Significantly though, the majority of the contributions will be focussed off-site on the established Snowhill recreation ground.

The applicant has met the Parish Council several times and the value of the contribution will cover the proposed improvements which it has requested. Additionally, the contribution will cover costs for the improvement and enhancement to Snowhill Wood. It is also understood that the applicant is proposing the transfer of the Wood to the Parish Council. In all of these circumstances it is considered that the contributions are entirely community focussed and that as a result there is no adverse impact.

The Police and Library contributions reflect those already agreed on other residential developments in the Borough.

There have been representations submitted on the grounds that the development will add pressure to existing services which do not have capacity. The contributions described above are a direct and proportionate response to this. They too have been requested by those Agencies which manage these services. As such the representations will carry little weight.

One other matter has been raised in the representations, namely the impact of the new retail unit on the viability of the established outlets – one in Church Road opposite the School and the second on the Green. It is unlikely that the trade at these two locations will be affected as their existing catchments will remain largely unaffected. The new

centre will certainly cater for the new population and there would be some migration from existing residents, but there is no evidence submitted to show that these centres would be materially prejudiced. As Members are aware too, competition between outlets is not a planning consideration. Whilst there may be some adverse impact arising, it is considered that this would be minor.

In all of these circumstances it is considered that the impacts on local services and facilities would not be material and thus little harm would be caused.

i) Residential Amenity Impacts

Members will know that this is an outline application and thus that separation distances between new houses and established ones will be a matter for later consideration when the detailed layouts are submitted. The Master Plan attached to this report is illustrative. It is thus considered that these matters will be reviewed at that time. They should not prevent the support in principle for the development.

However there are two locations where there will be an immediate impact – where the two new access points leave the site to connect to Castle Road and the Camp Hill Road. This is because these access arrangements will directly impact on the residential amenity of neighbouring occupiers. There will be harm caused in these two locations and without mitigation that harm could be moderate. It is thus important at this stage to register this impact such that measures can be included within the later detailed submissions. These will not remove the harm but they should lessen it. As a consequence the harm caused does need to be added into the final planning balance.

j) The Impact of the Hartshill Neighbourhood Plan

The Neighbourhood Plan acknowledges that this site is to be developed and therefore seeks to set out a framework to be followed such that it does result in a development that does “belong” to Hartshill and one that in the words of Policy NW12 of the Core Strategy, “demonstrates a high quality of sustainable development”. The Policies quoted above outline the framework sought and are detailed. It is not proposed to run through all of the matters as these will more realistically affect the later detailed plans subsequent to any outline permission. The general thrust of the policies however will need to be addressed at this stage.

The main elements of Policy H14 have all been achieved – early engagement with the Parish Council; the extent of the scope for the Transport Assessment and the undertaking of a pre-determination Archaeological Evaluation, measures for Snow Hill wood, a full flood risk assessment and reviews of how the Snowhill Recreation Ground can be enhanced.

Policies H15, H16, H17 and H18 all deal with the design of the development which as indicated above will need to be assessed in any later applications and this is not relevant at this time. The policies seek good quality design and lay down a number of criteria which presently cannot be assessed – e.g. separation distances; landmark buildings, car parking provision, connecting green infrastructure and strong built frontages. It is important to recognise however that consideration of the current application will not prejudice these matters.

As a consequence it is clear that the requirements set out in Policy H14 in respect of consideration of the principle of the development have been satisfied. There is therefore not cause to consider a reason for refusal based on this Plan.

k) Affordable Housing Provision

This is a green-field site and the policy requirement for affordable housing is 40% provision subject to viability. In this case 20% is being proposed – that is 78 units – which will include four new bungalows. On top of this the applicant is proposing 28 “starter homes” following changes in Government policy and the new NPPF, which would include such provision as being “affordable”. This means that the overall provision would be 27%. This clearly does not accord with 40% provision but the applicant argues that there are unusual costs involved with the access arrangements and that there are substantial 106 contributions all of which affects viability. He has therefore submitted an appraisal for consideration as is required by the Policy.

This will be discussed below, but in the interim it is acknowledged that the Council's Housing Director is satisfied that the 27% provision reflects local needs, particularly as the recent 75 houses built in Ansley Common, referred to in section (a) above, included 100% affordable provision. On top of this, the bungalows are an added benefit which will enhance the overall mix of housing on the site. It is also acknowledged that the 106 Agreement is very likely to amount to £3 million in contributions. Initially therefore a possible refusal based on non-compliance with policy provision is not clear cut. The overall viability assessment will be reviewed later.

In overall terms it is considered that there may not be harm caused by not meeting the affordable provision in full.

l) Air Quality

Whilst air quality matters were looked at in the context of the quarry operations above, the development will clearly generate increased traffic movements and updated air quality assessment reports have been submitted particularly in light of the draft Air Quality SPD that Members have been briefed on. These assessments show that air quality would not be materially affected. The Environmental Health Officer agrees with the assessment.

m) The Draft 106 Agreement – CIL compliance

All Members will be aware that Section 106 Agreements have to accord with the Statutory requirements which are set out in the CIL Regulations. Those Members that sit on the Council's Section 106 Working Group too will have seen the evidence base that Planning Inspectors require when they consider such Agreements against the Regulations. The draft terms of the Agreement relating to this application are set out above. Officers are fully satisfied that each obligation meets the CIL Regulations and that there are both evidential and planning policy reasons for their inclusion. Members can take comfort from other cases, where similar obligations were included and successfully tested at appeal.

n) The Draft 106 Agreement – Viability

Given the conclusion in respect of the content of the draft 106 Agreement, it is necessary to see whether that level of contribution materially affects the viability of the development. The applicant argues that it does. He points out that there are other costs here that need to be taken into account over and above those identified in the draft 106 terms – the cost of acquisition of the two houses to be demolished to make way for the new access onto Camp Hill Road; the construction of the access arrangements; the additional cost of the Bucks Hill Section 278 works at £500k and a £1.5 million upgrade to electricity provision on the site. These have resulted in the submission of a viability appraisal which the applicant claims shows that the 40% affordable provision cannot be satisfied. The District Valuer has thus been engaged to test this appraisal.

His initial conclusions show that there could be a greater degree of flexibility against the policy requirement. However the full 106 requirements were not known at the time of that initial consultation and there was no allowance made for the inclusion of the 28 “starter” homes or the extra care bungalows. It has also been pointed out that house values from new estates in Nuneaton have been included as a guide. It has been suggested that Hartshill values may be lower. As a consequence subsequent assessments show that that flexibility is now far more limited in scope. Further exchanges with the Valuer acknowledge that the full 27% provision is within the range of possibilities for the development of this site.

Officers take the view that the balance that has now been identified in this report between all the competing contributions, the additional costs not included and the overall scope of the affordable provision being proposed is one that should be supported. This site is an allocated site and in terms of meeting the Council's Local Plan increased housing requirements in a sustainable way, it is important that it be delivered.

o) The Final Planning Balance

As outlined right at the beginning of this section there is no objection in principle to the residential development of this site. As a consequence the Board is in a position that a refusal should only be considered, as outlined in the NPPF, if there are significant and demonstrable harms that cumulatively or singly outweigh that principle. The outline of the numerous planning considerations set out above indicates that there is not a single harm of such weight to do so. Cumulatively the level of harm is still considered to be minor to moderate. In the final planning balance, even when the great weight of the heritage harm is added, it is considered that all harms are outweighed by the significant weight and benefit to be attached to supporting the principle – it is an allocated site; it will assist in the early delivery of new market and affordable houses in the Borough, it is acknowledged as a housing site by the Neighbourhood Plan and the overall proposal contains local community benefits that have evolved with community engagement (the Snowhill recreation ground enhancement, the Snowhill Wood transfer and contributions to local services).

Recommendation

That planning permission be **GRANTED** subject to the draft Section 106 Agreement as outlined in this report and the following conditions:

Defining Conditions

1. Details of the appearance, landscaping, layout and scale (hereinafter called "reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason: Standard outline reason

2. If the development hereby permitted is to be constructed in more than one phase, details of the proposed phases of construction shall be submitted to the Local Planning Authority for approval prior to, or at the same time as the first application for approval of reserved matters. Development shall be carried out in accordance with the approved phasing details, or such other phasing details as shall subsequently be submitted to and approved in writing by the Local Planning Authority.
3. The first application for approval of the reserved matters shall be made to the Local Planning Authority not later than two years from the date of this permission. All applications for approval of reserved matters shall be made to the Local Planning Authority not later than five years from the date of this permission.
4. The development hereby permitted shall take place not later than three years from the date of approval of the last of the reserved matters to be approved.
5. Insofar as it relates to the vehicular access points into the site, the development hereby permitted shall be carried out in accordance with the following approved plans: MID3709/110D and 120E.
6. Not more than 382 dwellings shall be constructed on the application site, four of which shall be bungalows constructed to Part M (4) Category 2 of the Building Regulations.
7. Not more than 280 square metres of retail ground floor area shall be constructed on the application site together with not less than 22 associated car parking spaces.
8. The reserved matters shall be designed within the parameters contained on plan number N001/00216 and the Vision Statement dated February 2018.
9. The FPCR Management Plan for Snow Hill Wood dated January 2018 and received on 6/3/18 is hereby approved.

10. The reserved matters shall be designed so as to include details of electric vehicle charging points within at least 10% of the dwellings hereby approved and so as to include space for three refuse bins within the curtilage of each dwelling.

Pre-commencement conditions

11. No development shall commence on site until:

- a. an Archaeological Investigation of the site undertaken in accordance with the Written Scheme of Investigation prepared by Wessex Archaeology referenced 212750/01 and dated September 2018 has first been fully completed and the results of that investigation submitted to the Local Planning Authority.
- b. an Archaeological Mitigation Strategy for the site based on the evaluation submitted under (a) above, has been submitted to and approved in writing by the Local Planning Authority.
- c. Development shall then only proceed on site in accordance with the approved Strategy.

12. No development shall take place on site until detailed technical drawings for the two accesses into the site, one from the B4114 Camp Hill Road and one from Church Road, in accordance with the plan numbers MID3709/120/G and MID3709/110D, have first been submitted to and approved in writing by the Local Planning Authority. The two accesses shall then only be constructed in accordance with the approved technical drawings.

13. No development shall commence on site until detailed technical drawings for the signalisation of the B4114 Coleshill Road/Victoria Road/Camp Hill Road/ Bucks Hill crossroads in accordance with plan number MID/3709/100F have first been submitted to and approved in writing by the Local Planning Authority. The signalisation shall then only take place in accordance with the approved technical drawings.

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

- a) The phasing of the development
- b) The means of preventing mud, waste and debris to be deposited on the public highway
- c) The means of suppressing dust
- d) An HGV routing plan
- e) Details of the location of site compounds; workers car parking areas and any other storage compounds, including their migration through the phases
- f) Details of the hours of construction – bearing in mind the presence of local Schools

- g) Details of the hours of deliveries- bearing in mind the presence of local Schools
- h) Details of on-site security
- i) Details of contacts on site for the purposes of resolving complaints

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

15. No development shall commence on site until details of a scheme for the provision of adequate water supplies and fire hydrants necessary for fire-fighting purposes has first been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall then be implemented on site
16. No development shall commence on site until a detailed surface water drainage scheme, based on sustainable drainage principles and the Flood Risk Assessment prepared by Systra dated July 2017 and referenced 105112/R/02, has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the results of infiltration testing in accordance with BRE365 guidance; demonstrate compliance with the SUDS Manual CIRIA Report C753, limit the discharge rate generated by all rainfall events up to and including the 100 year plus 40% critical rain storm to the QBar greenfield runoff rate of 3ls/sec/ha for the site, demonstrate accordance with Science Report SC030219, demonstrate detailed design in support of any surface water drainage scheme, including any attenuation system and outfall arrangements, demonstrate performance against a range of return periods and storm durations, provide plans and details showing the allowance for exceedance flow and overland flow routing, include drainage features to be utilised through the development site particularly source control measures which seek to minimise and slow surface water before leaving the site and provide a maintenance plan giving details of how the entire surface water systems are to be maintained and managed after completion in perpetuity. Only the approved drainage scheme shall then be implemented on site.
17. No development shall commence on site until a specification for the on-site play area has first been submitted to and approved in writing by the Local Planning Authority. Only the approved specification shall then be implemented on site
18. No development shall commence on site until details of a proven means of outfall have first been submitted to the Local Planning Authority together with details of surveys conducted along watercourses to assess their suitability to accept flows and downstream connectivity.

Pre-Occupation Conditions

19. There shall be no occupation of any of the site for residential purposes until the whole of access works shown on plan number MID3709/120E as supplemented by the drawings approved under condition (7) above, have been fully completed to the written satisfaction of the Local Planning Authority.
20. There shall be no occupation of the 101st dwelling on the site until the whole of the signalisation works as approved under condition (8) above have been fully completed to the written satisfaction of the Local Planning Authority.
21. There shall be no occupation of the 151st dwelling on the site until the whole of the access works shown on plan number MID3709/110D as supplemented by the drawings approved under condition (xii) above have been fully completed to the written satisfaction of the Local Planning Authority.
22. The electric vehicle charging points as approved under condition (10) above shall be installed in each of the respective dwellings before each is occupied for residential purposes to the written satisfaction of the Local Planning Authority and shall be maintained for the life of the development thereafter.
23. No dwelling hereby approved shall be occupied until it has been provided with space for three refuse bins as approved under condition (10) above.

Other Conditions

24. Any gas boiler installed in any dwelling hereby permitted shall meet a dry NOx emission concentration rate of less than 40mg/kWh. That dwelling shall not be occupied until confirmation in writing by the Local Planning Authority has been obtained that the boiler meets this requirement. The boiler shall be maintained as such for the life of the development thereafter.

Notes

- 1 The Local Planning Authority has met the requirements of the NPPF in this case through pre-application engagement and substantial work with the various technical agencies and bodies in order to overcome concerns such the proposal could be supported
- 2 Attention is drawn to Sections 149, 151, 163 and 278 of the Highways Act 1980 the Traffic Management Act 2004, the New Roads and Street Works Act 1991 and all relevant Codes of Practice.
- 3 Warwickshire County Council as the Lead Local Flood Authority does not consider that oversized pipes or box culverts as sustainable drainage. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, with a preference for above ground solutions. Surface water run-off should be controlled as near to its source as possible through a sustainable drainage

approach to surface water management. Sustainable Drainage systems are an approach to managing surface water run-off which seek to mimic natural drainage systems and retain water on-site as opposed to traditional drainage approaches which involve piping water off site as quickly as possible.

- 4 Attention is drawn to the nearby quarry which is the subject to a conditional planning permission granted by the Minerals Planning Authority – namely the Warwickshire County Council.
- 5 Standard Radon Gas Informative

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0140

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	2/3/18
2	M Jones MP	Representation	22/5/18
3	Resident	Objection	7/5/18
4	Resident	Objection	25/4/18
5	Resident	Objection	23/4/18
6	Resident	Objection	16/4/18
7	Resident	Objection	16/4/18
8	Resident	Objection	13/4/18
9	Resident	Objection	13/4/18
10	Resident	Objection	10/4/18
11	Resident	Objection	3/4/18
12	Resident	Objection	30/3/18
13	Resident	Objection	29/3/18
14	Resident	Objection	28/3/18
15	Resident	Objection	28/3/18
16	Resident	Objection	28/3/18
17	Resident	Objection	28/3/18
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23	Resident	Objection	27/3/18
24	Resident	Objection	27/3/18
25	Resident	Objection	22/3/18
26	Resident	Objection	15/3/18
27	Resident	Objection	12/3/18
28	Resident	Objection	21/3/18
29	Resident	Objection	21/3/18
30	Resident	Objection	8/3/18
31	WCC Public Health	Consultation	
32	Place Partnership	Consultation	10/4/18
33	GE NHS Trust	Consultation	
34	WCC Fire Services	Consultation	20/3/18
35	Warwickshire Wildlife Trust	Consultation	29/3/18
36	WCC Flooding	Consultation	16/4/18
37	Sport England	Consultation	3/4/18
38	WCC Highways	Consultation	25/4/18
39	WCC Highways	Consultation	12/12/18
40	WCC Highways	Consultation	18/12/18

41	WCC Highways	Consultation	14/1/19
42	WCC Highways	Consultation	19/2/19
43	WCC Museum	Consultation	20/3/18
44	WCC Museum	Consultation	18/10/18
45	NWBC Waste Officer	Consultation	19/1/18
46	WCC Ecology	Consultation	10/4/18
47	NWBC Open Spaces Officer	Consultation	4/4/18
48	Warwickshire Police	Consultation	26/3/18
49	Environmental Health Officer	Consultation	29/3/18
50	WCC Infrastructure	Consultation	10/5/18
51	District Valuer	Consultation	25/10/18
52	District Valuer	Consultation	20/3/19
53	WCC Ecology	Consultation	21/3/19

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

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

(10) Application No: PAP/2018/0140

Land East of Castle Road & North of Camp Hill Road, Hartshill & Nuneaton,

Outline application for mixed development comprising the erection of up to 382 residential (class 3a) dwellings together with a local centre providing up to 280sqm net sales area with ancillary parking (22 spaces) associated access to Castle Road and Camphill Road (including demolition of 116 and 118 Camp Hill Road), sustainable drainage system (Suds) open space, landscaping and related infrastructure works, including courtyard bungalow development of two bed sheltered bungalows (Class C3b) and 28 x 2, 3 and 4 (Class 3a) discount for sale ""starter homes"", for

Tamac Trading Limited

Introduction

This application is reported to the Board for information at this time. This report will outline the content of the application; describe the supporting documentation, identify the relevant Development Plan policies together with any other material planning considerations. A full determination report will be brought back to the Board in due course once the consultation period has expired.

The Site

The site lies on the western edge of Hartshill which is about three miles north-west of Nuneaton town centre. Hartshill is situated between Nuneaton and Atherstone. The southern boundary of the site adjoins the common administrative boundary with Nuneaton and Bedworth BC, although the village maintains an independent character despite being close to the neighbouring settlements of Ansley Common, Galley Common and the Camp Hill area of Nuneaton.

Hartshill is also an important education centre which benefits from two primary schools and a secondary Academy school; two local supermarkets, three public houses, a café, florist and post office and other local businesses together with a doctor's surgery, church, library and community centre, along with a number of recreational and social facilities.

In terms of accessibility, Hartshill is close to the A5 trunk road which in turn means that it has good access to the M42, M69 and M1. It is also served by bus services that run from the edge of the site on Castle Road and Camp Hill Road into the centre of Atherstone and Nuneaton and further afield. Hartshill is a sustainable settlement and it will consequently see its population grow over the plan period.

The District Council and Parish Council have endorsed and supported this housing growth focused on the application site on the western edge of the village.

The area immediately surrounding the site can generally be characterised as residential. The proposal adjoins existing houses fronting Castle Road with school playing fields adjoining the south west boundary of the site. On the south side the site includes Snow Hill Wood and residential development fronting onto Camp Hill Road and off Hillside Drive (in Nuneaton).

To the north is an embankment that is designated as a Local Wildlife Site and is surmounted by the 'Quarryman's Walk' long distance footpath.

The closest school is Hartshill Academy, part of the Midland Academy Trust, which is located within walking distance to the south west of the site. The primary school that shares the same site is the Nathaniel Newton Primary that is again accessible from the site.

The location of the application site has the potential to reduce vehicular movements as it is located within easy walking and cycling distance from Hartshill and Chapel End via the Camp Hill Road access.

In addition the nearest bus stops located on Castle Road provide access to six bus routes (numbers 5, 48, 207, 766, 767 and Cx48) offering a combined peak frequency of one bus every 10 minutes between Nuneaton, Tamworth, Atherstone and Coventry.

The Camp Hill Road access is also served by six buses with stops located adjacent to the site entrance. These buses provide a combined peak frequency of one bus every 10 minutes between Nuneaton, Tamworth, Cawston, Atherstone and Coventry. Bus services operate between 07.30 and 18.00 hrs, facilitating travel by bus for traditional commuting purposes. The journey to Nuneaton takes around 20 minutes.

An identical application has been submitted to Nuneaton and Bedworth Borough Council (NBBC) however it is only the Camp Hill Road access which falls within the boundary of that Local Planning Authority.

An overall site location plan is attached at Appendix A.

Background

The applicant has been involved in pre-application discussions with Council Officers, Hartshill Parish Council and the Neighbourhood Plan Steering Group. Members were also briefed on the emerging application on 14 December 2016 and again on 10 July 2017.

Two public consultation events; a community planning morning (22 October 2016) and a public exhibition (8 April 2017) were arranged and held by the applicant.

The Proposal

The application seeks outline planning approval for a residential development of up to 382 dwellings with a new local convenience store with ancillary parking area, landscaping and public open space and a through road between Castle Road, and Camp Hill Road, in addition to associated infrastructure works comprising a sustainable drainage system (Suds), including a Management Plan for Snow Hill Wood.

The means of access (a priority junction on Castle Road and a second priority junction with ghost right turn lane on Camp Hill Road) are submitted as part of the outline application, however all other matters (i.e. appearance, landscaping, layout and scale) will be determined as part of a reserved matters application.

The application has been submitted by Tarmac Trading Limited and is accompanied by the following supporting documents.

An Ecological Appraisal concludes that the site is of low wildlife interest. The grassland was found to be not particularly diverse in grasses and wildflowers. None of the trees scattered throughout the site supported features suitable for bat roosts or for foraging, however enhancements such as bat and bird boxes are recommended within the report. No signs of other protected species were found, which was anticipated due to the lack of suitable habitats. There was also limited connectivity to habitats outside of the site.

The report concludes that the overall ecological impact of the proposal will thus be limited.

A Woodland Management Plan has also been submitted with the application for the long term retention and management of the 3.5 hectare Snow Hill Wood.

A Transport Statement together with a Travel Plan (prepared by Systra) has been submitted. This concludes that there is no material or overriding highway or transport reason to support a highway reason for refusal.

A Flood Risk Assessment concludes that the site is located within Flood Zone 1 and is therefore at low risk of flooding. However the proposal does increase the amount of non-permeable surfacing on the site and thus surface water flooding risk will increase. As a consequence sustainable drainage measures are to be included such as on site water storage with floor levels set higher than ground level so as to reduce the risk should these storage measures themselves fail.

A Design and Access Statement describes the setting of the site and outlines several different styles and designs of the variety of built form in the vicinity. This concludes by identifying a number of constraints and opportunities related to the proposed development of the site. The proposed illustrative layout is also explained in some detail.

A Planning Statement brings together all of these documents and puts them into a planning context. It explains the national and local policy background as well as outlining the emerging policies for the town. It also indicates that the precise layout of dwellings has yet to be determined, but the submitted design Vision Statement, Masterplan, Illustrative Layout and Phasing Plan submitted with the application show that the site is to be developed in three phases to accommodate up to 382 dwellings in a variety of sizes and types, at a net density of 35 dwellings per hectare, including a percentage (20%) for socially rented houses and an additional 20% for "starter homes".

The Statement concludes that the proposal is sustainable development and thus that it should be permitted as there would be no significant or demonstrable harm arising. Possible draft Heads of Agreement for a Section 106 Agreement are said to include a contribution towards affordable housing; education provision if justified, as well as to offsite local play and open space provision and enhancement. Other supporting documentation is also submitted.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision),

5/179

4/58

5/91

NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment) and NW15 (Nature Conservation)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations) and TPT6 (Vehicle Parking)

Hartshill Neighbourhood Plan 2017 – H3; H4, H5, H6, H7, H8, H10, H11, H14, H15, H16, H17 and H18

Other Material Planning Considerations

The National Planning Policy Framework 2012 – (the "NPPF")

National Planning Practice Guidance,

The North Warwickshire Local Plan Submission Version - March 2018

Observations

Members will be aware that the application site is part of an allocated site in the Submission Version of the North Warwickshire Local Plan 2018 – site H19 – for up to 400 houses. As such the development is appropriate in principle both in terms of its location and its overall content. From recent presentations to Members, the Board will be aware of its setting and the connections that are proposed in respect of access to the surrounding road network and to local services. In this respect the re-opening of the adjoining quarry will become a significant issue in the determination of the application.

Members will appreciate that the details of the proposed access arrangements are included within this application but that other matters such as layout and appearance are not. Indicative and illustrative plans have been submitted in order to give an idea as to the potential layout of the site and its phasing. The Hartshill Neighbourhood Plan is part of the Development Plan and many of its policies are directly focussed on this allocated site. However much of their content will only be relevant at the later reserved matters stages. However the main parameters of the site's development will need to be established at this outline stage.

The impact of the proposal on local services and facilities will be reported in the later report and much will depend on the responses from the main Agencies – WCC Education and Public Health for instance. The Board will also wish to understand the impacts on Snow Hill Wood and the adjoining recreation area. The proposals include what is termed a "local centre" and this is anticipated to refer to a retail outlet. However the location and scope of such a facility will need investigation to ensure that there is no adverse impact on the viability of established facilities in Hartshill itself.

At the present time Members are asked to note the receipt of the application. Several Members have already visited the site prior to the Council considering the Submission Version of the Local Plan. Members may wish to take another look now that the application has been submitted.

5/180

4/59

5/92

Recommendation

That the application be noted at this time and a site visit be arranged.

5/181

4/60

5/93

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0140

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	2/3/18

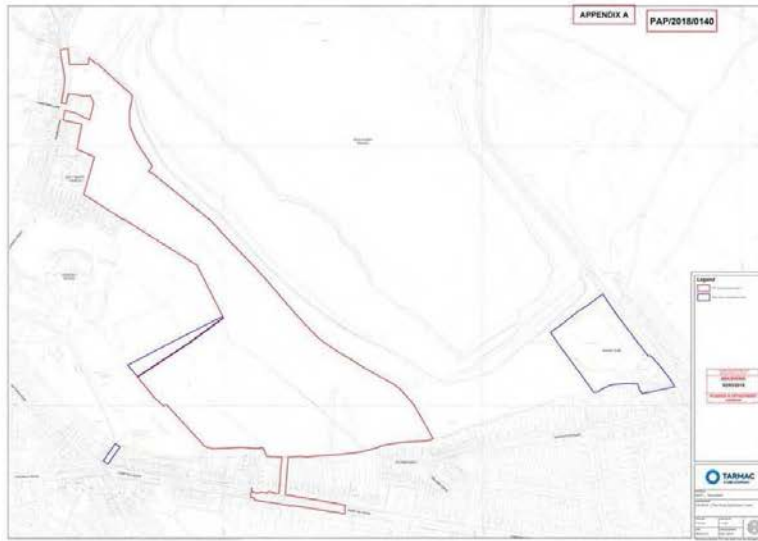
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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

5/182

4/61

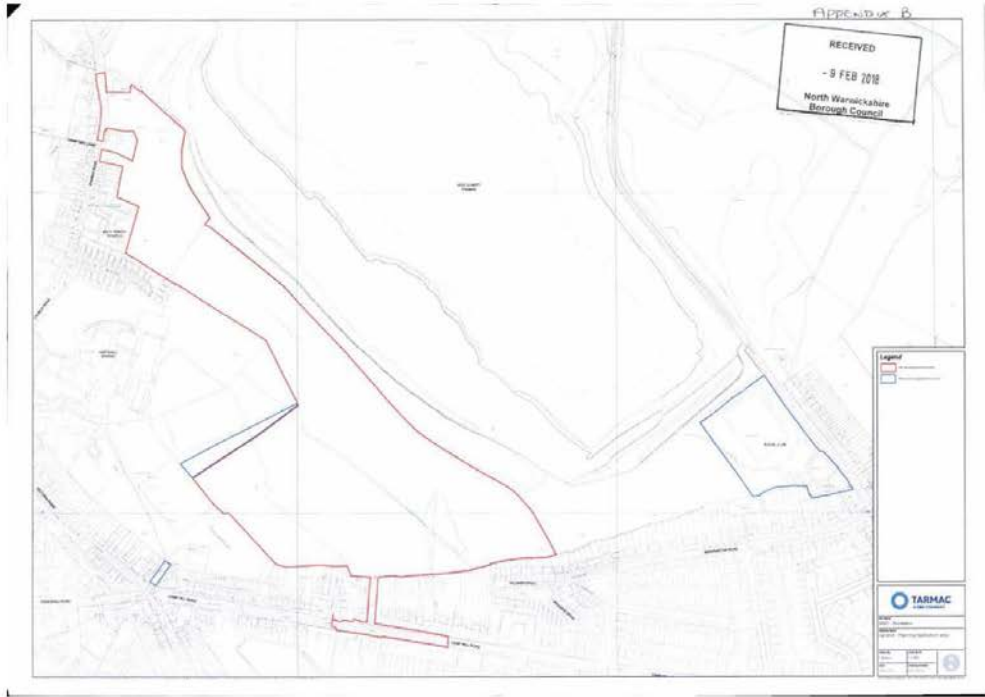
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Appendix C



Appendix D



APPENDIX E



SUPPLEMENTARY REPORT**PAP/2018/0140 – Proposed Residential Development at Hartshill by Tarmac****Introduction**

A letter has been received from representatives of the new owner of the quarry referred to in the report for this application after the publication of the Board Agenda. In short, it requests a deferral of the decision such that there can be a discussion within the authority to discuss the concerns raised in the letter.

The Letter

The main issue raised is a potential future conflict between the operation of the quarry and the proposed residential development and for that conflict to restrain the lawful operations at the quarry.

The letter refers to a number of matters that are not considered to be adequately covered in the section of the report dealing with the impact of the quarry:

- The lack of objection to the allocation in the Submitted Plan was probably due to there being no interest in the quarry recommencing, when the allocation was first muted in 2014 and onwards.
- The Minerals Planning Authority has not been consulted and the full extent of the permission has not been explained.
- The report does not explicitly say that there would be 400 new houses close to an operational quarry and that notwithstanding compliance with conditions that will not prevent complaints from new occupiers.
- The report should refer to complaints already being received from established residents and recognise that these have placed a demand on the time and resource of the operator
- The report does not refer to para 182 of the NPPF where it states that “ existing business and facilities should not have unreasonable restrictions placed upon them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed.”

Observations

The following responses are made:

- The letter says that the current owner acquired the quarry in early 2016. The first public consultation on the possibility of a residential allocation to its south was in 2014. It is a matter of fact that at no time since then has the new owner lodged a formal objection or made a formal representation against that proposed allocation. Significantly there has been no representation made by the current owner to the Regulation 19 Submitted Plan in the consultation period of Autumn 2017. As a consequence there has been no representation

made to the Examination Inspector into the Submitted Plan that the allocated site is “undeliverable”. Indeed there has been no such representation from any other quarter including materially, from the Minerals Planning Authority.

- The site is recognised as a housing site in the Hartshill Neighbourhood Plan and the Parish Council raises no objection to the proposal. The Neighbourhood Plan was adopted in March 2017.
- The introductory comments in the relevant section of the report explicitly state that the quarry has an extant planning permission running to 2042 and that this is a material planning consideration of significant weight. It also makes it explicit that the Minerals Planning Authority has confirmed that present quarry operations are not in breach of planning control.
- The report explains the existing quarry operations and the separation distances involved. Those operations are controlled by an extant permission which is enforceable. It is acknowledged that this will not prevent complaints, but provided the operator manages activity under existing conditions there is a defence in the face of those complaints. It is part and parcel of a quarry operation that the operator will at times face complaint and that monitoring will inevitably take place either under Mines and Quarries legislation, planning legislation or the Environmental Protection legislation.
- It is acknowledged that there should have been explicit reference to Para 182 of the NPPF and Members are requested to give that paragraph significant weight. The substance of that paragraph is one of a matter of judgement. The factors raised in the written report and herein, should give the Council confidence that a proportionate balance had been reached. In particular, the Minerals Planning Authority has not raised objection during the Local Plan process or to this application; our own Environmental Health Officer has not raised objection to the application, the current operation is operating lawfully within a set of conditions designed to not have significant adverse effects on the local community and indeed the quarry operator.

Recommendation

It is not considered that the receipt of the letter should alter the recommendation made to the Board.

General Development Applications

(1) Application No: PAP/2018/0140

Land East of Castle Road & North of Camp Hill Road, Hartshill & Nuneaton,

Outline application for mixed development comprising the erection of up to 382 residential (class 3a) dwellings together with a local centre providing up to 280sqm net sales area with ancillary parking (22 spaces) associated access to Castle Road and Camphill Road (including demolition of 116 and 118 Camp Hill Road), sustainable drainage system (Suds) open space, landscaping and related infrastructure works, including courtyard bungalow development of two bed sheltered bungalows (Class C3b) and 28 x 2, 3 and 4 (Class 3a) discount for sale ""starter homes"", for

Tarmac Trading Limited

This application was referred to the Board's April meeting but determination was deferred as the Board requested further information on the potential impact of the adjoining quarry on the residential development; any consequential mitigation measures, the "fit" with the Hartshill Neighbourhood Plan and on a specific drainage issue.

The previous report is attached in full at Appendix A

Between publication of the April agenda and the meeting, the Board received a Supplementary Report addressing a matter raised by the owners of the adjoining quarry. This draws attention to the need for the Board to address the impact of the residential development on the quarry operations.

The supplementary report is attached as Appendix B, together with a copy of the letter from the quarry operator and a copy of an email from the County Council as the Minerals Planning Authority.

This report outlines the progress that has been made since the deferral in April. It will refer to the four matters the subject of the deferral and to the issue raised by the quarry operator.

Additionally, since the deferral the Parish Council has written requesting that consideration is given to the opportunity of providing a car parking area at the rear of the Church and Community Centre. This is followed through in the report below.

Development Plan and Material Planning Considerations

Because of the matter raised by the quarry operator, Members are asked to note that the following Plan should be added to the list of plans that comprise the Development Plan for consideration of this application.

The Saved Policies of the 1995 Minerals Local Plan for Warwickshire - M1 (Areas of Search and Preferred Areas) and M5 (Sterilisation of Mineral Reserves)

These policies are being reviewed by the County Council and its Warwickshire Minerals Plan of 2018 is now a further material planning consideration in this case. Relevant policies are MCS3 and MCS5.

The Deferral

As a consequence of the deferral, the applicant was invited to meet representatives of the Board and the matters raised below describe how the four issues have been progressed.

a) Stubbs Pool

Concern was raised at the April Board meeting that the development could lead to off-site flooding particularly at Stubbs Pool further downstream. This matter is referred to in the main report – section (f) of Appendix A. The Flood Risk Assessment undertaken by the applicant; the Lead Local Flood Authority's assessment of that and its final observations recognised that this could be an issue. The attenuation measures that are proposed on-site are designed to limit discharge such as not to make matters worse at the Pool. This is the approach set out in the NPPF and there has been no drainage evidence submitted to question the efficacy of the proposed attenuation measures. As set out in the April report, there is not the evidence available that can demonstrate significant harm arising here. Members noted this explanation at their meeting with the applicant.

b) The Impact of the Quarry on the Proposed Residential Development

The particular concern here was about dust. As acknowledged in the main report – Section (c) of Appendix A – the applicant had submitted a number of assessments and the conclusions were submitted with the application. Those conclusions were referred to both the County Council and to the Borough's Environmental Health Officer. It is seen from Appendix A that the conclusion was that the quarry operations were being conducted within the terms of the planning permission for the site. This was later confirmed by the County Council in its email at Appendix B. Indeed the Parish Council too commissioned consultants to look at the re-opening of the quarry and that work also confirmed compliance. The Council's Environmental Health Officer has investigated complaints from residents since the quarry has re-opened but no breaches of the planning conditions were established or action commenced under other relevant legislation. Neither the County Council nor the Borough's EHO concluded that continuation of quarrying within the permitted terms would prejudice the grant of a planning permission for the Tarmac proposals.

The applicant has however continued air quality monitoring since the deferral due to the Member concerns about dust deposition. An interim report concludes that the permitted thresholds for dust deposition had not been exceeded. Work in the quarry was continuing as usual during this period, however there was no blasting undertaken. The monitoring is to continue so as to "capture" any consequences from blasting. The dates of blasting are known and thus this period can be extended. The applicant has confirmed that this will be the case.

Members agreed that the extension of this monitoring was essential.

c) The Neighbourhood Plan - Principles

There are several policies in the Neighbourhood Plan that explicitly refer to the housing allocation in Hartshill. These relate to the site known as HAR3. This was the initial designation given to this site in the Borough Council's original draft 2016 Site Allocations Plan. That was taken forward into the 2017 Neighbourhood Plan. The same site is now known as H19 in the 2018 Submitted Local Plan. It is larger than the current application site as it includes additional land to the east, between it and the Mancetter Road. This land includes woodland and the Windmill Sports and Social Club. The reason for the April deferral was so that several matters to do with the "fit" of the application with the Neighbourhood Plan policies for HAR3/H19 could be further explored with the applicant.

The first area that has been discussed was how to deal with the application as it only covers some two thirds of the HAR3/H19 site and the Neighbourhood Plan's policies for this site are predicated on developing the site as a whole. To this end, those policies at the "strategic" level refer to an overall Development Brief for the site and to an east/west distributor road running through the site from Castle Road to Mancetter Road. In short, a Brief has not been completed and the current proposals do not include such a road.

The applicant has explained that the current application does not cover the whole HAR3/H19 site as there is an intervening third party land owner who owns woodland referred to above. The applicant does however own the land where the Club is located with its playing field, but significantly he has no control over the intervening parcel of land. Members will be aware that the Board has to determine the application that is submitted, not the one that it would like to see. To this end, it is significant that the Highway Authority has not objected to the highway arrangements here despite there not being a through route. Secondly the intervening land is a designated Local Wildlife Site. It therefore has value as it is in its present state. As such its loss would be contrary to the NPPF - Section 15 and to Core Strategy Policy NW13. Indeed Neighbourhood Plan Policy H8 also seeks protection of wildlife sites identifying this woodland as being part of the Jeas Quarry Wildlife Site. Thirdly the loss of the Club and its playing field as a community facility will not be straight forward particularly in respect of Sports England approach to the loss of playing fields. There is thus more than a degree of uncertainty about the future development of the remaining third of the site to be developed and/or to include the route of a distributor road. In these circumstances given the need to retain a five year housing supply and to deliver housing on allocated sites, the presumption is that the current application should be supported.

These issues have been explored more deeply with the applicant in light of the deferral and the weight that the Neighbourhood Plan carries as part of the Development Plan. It has been suggested that the applicant, through additional clauses to the draft Section 106 Agreement, would write in that any future developer would be required to enable the opportunity to provide a through route in the detailed layout for the site by extending any road right up to the common boundary; to construct the main road through the estate to a standard that could be adopted as a through distributor and that the current applicant would not retain a "ransom strip" at the site's boundary. This can also be taken further, in that the provision of a through road can be required as part of any subsequent reserved matters application and the recommended condition (8) in Appendix A can be so amended. This same approach would apply to safeguard the opportunity of an access into the School site from the proposed residential development.

Additionally the applicant is looking at a further clause to indicate that he would use his reasonable endeavours to look at redevelopment opportunities for the Club premises with the option of safeguarding the through route.

As indicated, the applicant has agreed to look at these matters.

As a consequence of treating the HAR3/H19 site as a whole, the issue of housing numbers has arisen as the deferral raised the matter of the "full" allocation – 382 out of 400 - being taken up on only two thirds of the whole site. It was suggested that the number for the current application site should be in the order of 260 (that is two-thirds of the 400).

It is important to recognise immediately that the allocation for HAR3/H19 says a minimum of 400, not a maximum. As such the current proposal is wholly policy compliant. The Neighbourhood Plan does not contradict this position – paragraphs 3.17 and 3.18. Additionally as indicated above there are significant planning issues on the remaining third of the site such that part of it may not be built on. So if an application had come in for the whole of the HAR3/H19 site, it is highly likely that the greater part of the minimum figure of 400 would be on that part of the site the subject of the current application in any event. There is one other relevant matter here. In terms of density, the 382 houses on the application site gives a net density of 28 dwellings per hectare. The Council has no Development Plan policy prescribing densities, but general practice is to look for between 30 and 35 dwellings per hectare within a settlement. This proposal is thus compliant with such practice. The 28 is a net density as the site for the purposes of the calculation excludes Snowhill Wood and the land involved in the access arrangements onto Camp Hill Road. It is thus considered that as a matter of fact the current application has an appropriate density and that that recognises the amount of green and amenity space that is to be retained.

d) The Neighbourhood Plan – Details

The Plan has a number of detailed policies, for instance concerning the layout; the parking provision, the design of the houses and the protection of some views and heritage assets. All of these matters will be considered at the later reserved matters application stage. No lesser weight is to be given to the content of these policies at that stage. There will still be consultation process undertaken with the local community.

Several of the main "building blocks" however are already in place as required by several of the Neighbourhood Plan policies - an archaeological evaluation has taken place; there is substantial enhancement and benefit to local bio-diversity and recreation facilities, footpath linkages are to be retained and surface water drainage is to be enhanced and attenuated. These all come together in the Master Plan and Vision Statement that are to be conditioned as approved documents; the reference to a through route within any reserved matters, other conditions as set out in the recommendation in Appendix A and the draft Heads of Terms in the Section 106 Agreement.

e) The Neighbourhood Plan – The School

One of the matters raised in the Neighbourhood Plan but not yet fully referred to, is to see how any planning application for the HAR3/H19 site might improve or attempt to resolve access provision to the Secondary School. It is a matter of fact that the Highway Authority has not objected on these grounds. It is also significant that the Education Authority has neither objected. The School, itself is managed by the Midlands Academy

Trust and it too has not raised this issue. Indeed no party at the Examination in Public into the H19 site queried this issue when the deliverability of the H19 site was being discussed. However this is not reason for the Borough Council as Local Planning Authority to ignore any opportunity for a new access arrangement to be safeguarded such that there is some “future proofing” here. Regrettably the Trust has no published option of how it is to expand in light of the increased pupil numbers arising in its catchment and thus no timetable. The Board however can leave the option of a new access open through the use of planning conditions and/or a clause in the Section 106 Agreement. This was referred to above and if agreed would go as far as the Board could do in the circumstances, in respect of this aspect of meeting the Neighbourhood Plan policies.

f) The Neighbourhood Plan – Conclusions

The over-arching vision in the Neighbourhood Plan for this site is at paragraph 5.2 of that Plan. This indicates the need to ensure that the development is handled in a way that minimises any impacts on the village but maximises its benefits. This perhaps could be seen as the “test” for this application. The main report at Appendix A concludes that impacts have been minimised such that there are no significant and demonstrable harms found and that benefits are maximised through the Heads of Terms of the Section 106 Agreement and the use of planning conditions. The Policy calls for a phased approach to the development. This can be conditioned in any outline approval - indeed see condition (ii) in Appendix A. Additionally, the deferral has led the applicant to review the future of the remainder of the site and it is anticipated that the outcome will substantially see the best “fit” with the Neighbourhood Plan that can presently be achieved.

The Parish Council

The late request from the Parish Council for safeguarding land at the rear of the Church and the Community Centre for car parking is not something that is explicitly recognised in the Neighbourhood Plan. Indeed it also appears to conflict with that Plan’s objective of retaining the setting of the heritage asset through leaving an open area of amenity land here. A heritage assessment has not been undertaken. Additionally the Parish Council has not looked to see if other options are available. Its implementation too is dependent on whether the Parish Council can acquire or lease the land. As a consequence this is not something that perhaps can be followed through in this application as it is for the Parish Council to approach Tarmac or indeed any prospective future house builder.

The Impact of the Development on the Quarry

a) Introduction

The Hartshill Neighbourhood Plan at para 3.19 says that, “areas to the northwest of the site are potentially operational for mineral extraction”. Additionally, Policy H19 at paragraph 14.68 of the Regulation 19 Submitted Local Plan says that, “there are areas of land to the north west of the site which are still potentially operational for mineral extraction, but these lie outside of the allocated site”. The possibility of continuing quarry operations was therefore recognised as being a material planning consideration in the determination of any planning application submitted for site H19.

The weight given to this consideration has to be looked at in two ways – the impact of continuing quarry operations on the proposed housing development and the impact of that development on the continuing quarry operations. The present position on the first

of these is explained above – section (b). The second was the cause of the Supplementary Report at Appendix B.

As the determination of the application was deferred, the opportunity arose for officers to meet with representatives of the quarry. That meeting expanded on the matters raised in the letter – now at Appendix B. Essentially this draws attention to paragraph 182 of the NPPF and this was set out in Appendix B. At the meeting the quarry owner's representatives suggested that there possibly was a form or wording that could be added to the grant of any planning permission in the form of an "Informative". This would in effect be an expansion of the wording already drafted into the recommendation – see Informative (4) at Appendix A in the recommended Notice. However notwithstanding this offer – made on 15 April – there has been no exchange for that possible wording.

Those representatives however did write to the Inspector dealing with the Submitted Local Plan Examination questioning the deliverability of the residential development on the allocated site given the re-commencement of operations. The Inspector has responded by saying that that representation had not been "duly made" and thus he could not take it into consideration.

Officers are continuing to seek receipt of the wording suggested by the quarry operator. He is aware of the agenda item at this Board meeting.

b) Background

In order that Members can be made aware of the consideration that has been raised here, a copy of the extant planning permission for the quarry is attached at Appendix C.

An aerial photograph is attached at Appendix D which shows the quarries and the application site. The site consists presently of two quarries – Jeas Quarry (the larger) to the south and Boons Quarry (to the north). In summary the permission allows for the winning and working of mineral and the deposit of mineral waste and colliery spoil at the site until 21 February 2042. Restoration is required following cessation of the mineral extraction. The phasing programme means that in the first phases the two quarries would be made into one and deepened through the removal of the intervening ridge. This is all in the north-west part of the overall quarry site, furthest from the application site. In the final phase, the south-west wall of that larger quarry would be extended towards the site boundary. This is the part of the quarry closest to the application site. The planning conditions controlling the site operations are numbers 5 dealing with working hours and the hours permitted for blasting; condition 6 in respect of noise thresholds and condition 10 in respect of blasting operations.

c) Para 182 of the NPPF

So that Members are fully aware of the operator's argument here, paragraph 182 of the NPPF 2019 says that,

"Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing business facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes

of use) the applicant (or "agent of change") should be required to provide suitable mitigation before the development has been completed".

d) Observations

The quarry operator is saying several things. The first is that his quarry operations and thus his business could be prejudiced by the proposed housing as a consequence of the likelihood of additional complaints being made – see Appendix B. In other words he fears the potential of "unreasonable restrictions being placed on him" – e.g. he has to change his operating regime which may affect the viability of his business.

In response attention is drawn to the following matters:

- Firstly, there was no representation/objection made to the Council or to the Secretary of State during the Regulation 19 Submission process for the new Local Plan. Engagement in this process would have established the quarry operator's concerns at the formative stages of that Plan. The only time that this was recorded was very recently after the conclusion of the Examination and the Inspector concluded that as it had not been duly made, he could not consider it. That of course does not mean that the Council should give no weight to his case. That still has to be done now.
- The Warwickshire County Council as Minerals Planning Authority has not objected at any stage during the Local Plan review process to the proposed allocation or drawn the Borough Council's attention to any concerns that would question that allocation.
- Thirdly, the quarry is operating under a lawful planning permission. Provided that those operations continue within the terms of the controlling conditions then the operator is acting lawfully. Those conditions should not be taken to be unreasonable as there was no appeal lodged against them and neither have there been planning applications submitted to vary them since the quarry re-opened.
- Fourthly, the County Council acting as Minerals Planning Authority has confirmed its position – "Blast monitoring undertaken to date has demonstrated that Hartshill Quarry can be operated within the parameters and limits set by the planning consent. No evidence has been presented to suggest that this would not remain the case with the introduction of additional dwellings to the locality".
- Fifthly, the planning conditions do recognise and account for the approach of extraction towards the development site.
- Sixthly, if breaches are found, they will be followed through by the County Council. That would happen whether the houses were there are not. The new houses do not cause the breaches.
- It is accepted that the re-commencement of quarry operations has led to complaints being made with both the County Council and the Borough Council. Monitoring and assessment has concluded that operations to date are within the terms of the planning conditions and that action under other non-planning legislation is not appropriate. Indeed the Parish Council itself commissioned a monitoring assessment on behalf of its residents, but this came to the same conclusion.

- It is accepted too that the likelihood of complaint may well increase if new homes are occupied on the application site. But that can happen through change in occupation of existing dwellings as well, as newcomers move into the area. In order to draw attention to the quarry operations, an Informative has been included on the draft Notice and this can be expanded as appropriate to provide additional factual information about the quarry permission. Additionally, there are established procedures in place through different legislative routes to investigate any complaint. The quarry operator already has to monitor operations because of this legislation and thus will have the ability through normal practice to respond by providing evidence. The site is close to existing residential development and thus the operator should anticipate the likelihood of complaint due to the nature of the activity here. There is no evidence submitted that the new development would introduce any change in the nature of complaints. There may be more, but there should be monitoring regimes already in place to respond. In other words there is nothing new.

The second matter that needs to be addressed is that the grant of a planning permission here could “sterilise” the mineral resource – i.e. the building of houses close to the quarries may prejudice a future grant of permission to further excavate minerals.

This position has support in the NPPF where at paragraph 203 it states that, “It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite resource, and can only be worked where they are found, best use needs to be made of them to secure their long term conservation”.

The following points are made in response:

- The Warwickshire County Council as Minerals Planning Authority did not make any representations throughout the Regulation 19 Local Plan process objecting to the proposed allocation at HAR3 or H19. It neither has objected to this current application.
- The Saved Policies of the 1995 Warwickshire Minerals Local Plan are part of the Development Plan. There are no areas of search or preferred areas identified in those policies that affect the application site.
- The County Council has published its Warwickshire Minerals Plan 2018. It is at the pre-submission stage. Draft policy MCS3 states that the Council will seek to maintain at least a ten year land bank for crushed rock. The Justification continues by saying that the current land bank stands as 30.97 years. Policy MCS5 states that “non-mineral development shall not normally be permitted if they would unnecessarily sterilise existing and future mineral reserves and mineral infrastructure or prejudice or jeopardise their use by creating incompatible land uses nearby.” As indicated above the County Council has not objected to this current application.
- It is understood from County Officers that there is no record of the current quarry operator making duly made representations during any of the previous three consultations on the new Mineral Local Plan – that is in 2015, 2016 and 2018.

Finally as indicated earlier in this section, following the receipt of the letter on behalf of the quarry operator, a meeting was held in order to discuss the issue raised. Two points should be made:

- Notwithstanding the offer by the representative of offer a form of wording to add to the Informative that already is to be recommended, no draft has been received. A resolution has thus not been possible.
- At that meeting and indeed in the letter, there is no reference to any mitigation measures that should be implemented on the application site in order to allay the operator's concerns. This is important because of the reference to this approach within paragraph 182.

Overall Conclusions

The basis for determining the application was set out in the April Board report (Appendix A) and its' supplementary at Appendix B. In particular Members will know that the application is to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act)

The previous reports note that the application accords with the Development Plan as a whole in that the Core Strategy identifies Hartshill and Ansley Common together as a Local Service Centre appropriate as a location for new development and that this is to be for a minimum of 400 houses; the Hartshill Neighbourhood Plan acknowledges the principle of development here and recognises that this land will be developed and that the proposal represents sustainable development and thus in line with the NPPF it should be supported unless there is significant demonstrable harm caused.

As a consequence the planning application was recommended to be granted an outline planning permission at the April meeting. That remains the position. The deferral raised a number of matters which have required further assessment as material planning considerations, but as can be seen from the above report, progress has been made on all of those matters. Additionally, the deferral has enabled the representations of the quarry operator to be explored further with the prospect of a potential resolution.

This progress report indicates strongly that the direction of travel here remains unchanged.

Recommendation

- a) That the Board is minded to support the **GRANT** of outline planning permission subject to the draft conditions and Section 106 Terms as set out in Appendix A and to:
 1. The reserved matters condition in Appendix A being extended to include reference to the through route;
 2. Additional Air Quality Measurements being undertaken to include times when blasting takes place and that they show compliance with permitted thresholds;

3. The applicant reviews the draft terms of the 106 Agreement to include reference to access provision as indicated in this report in respect of the through road and to the School as well as reference to the future of the Windmill Club site
 4. That officers continue to invite the quarry owner representatives to meet with them in order to seek a satisfactory resolution to the matter that has been raised, but that in view of the lapse of time since the April Board, that be time limited to two weeks from the date of this meeting.
- b) That the application be reported back to the Board in August.