

**To: The Deputy Leader and Members of the
Planning and Development Board
Councillors Simpson, Bell, T Clews, Deakin,
Dirveiks, Downes, Hayfield, D Humphreys,
Jarvis, Lebrun, Morson, Parsons, H Phillips,
Symonds, A Wright**

**For the information of other Members of the
Council**

This document can be made available in large print and electronic accessible formats if requested.

For general enquiries please contact Democratic Services on 01827 719221 or 719450 or via e-mail – democraticservices@northwarks.gov.uk

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

PLANNING AND DEVELOPMENT BOARD AGENDA

2 September 2019

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire, CV9 1DE on Monday 2 September 2019 at 6.30 pm.

AGENDA

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

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

4 Planning Applications - Report of the Head of Development Control

Summary

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

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

5 Consultation on Draft Warwickshire Rail Strategy 2019-2034 – Report of the Chief Executive

Summary

Warwickshire County Council is consulting on a draft Warwickshire Rail Strategy 2019-2034. Comments are required by 20 September 2019. The report recommends a response to the consultation.

The Contact Officer for this report is Dorothy Barratt (719250)

6 Air Quality SPD – Report of the Chief Executive

Summary

The report seeks approval for adoption of the Draft Supplementary Planning Document on Air Quality.

The Contact Officers for this report are Sue Wilson (719499) and Zoe Bickley (719467).

7 Tree Preservation Order – 99 London Road, Bassetts Pole – Report of the Head of Development Control

Summary

The report seeks confirmation of a Tree Preservation Order at this address.

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

- 8 **Tree Preservation Order – 35 Margaret Road, Atherstone** – Report of the Head of Development Control

Summary

The report seeks confirmation of a Tree Preservation order at this address.

The Contact Officer for this report is Jeff Brown (718310).

- 9 **Appeal Update** - Report of the Head of Development Control

Summary

The report updates the Board on recent appeal decisions.

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

STEVE MAXEY
Chief Executive

**Report of the
Head of Development Control**

1 Subject

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

2 Purpose of Report

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

3 Implications

- 3.1 Should there be any implications in respect of:

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

4 Site Visits

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

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 7 October 2019 at 6.30pm in the Council Chamber at the Council House.

6 **Public Speaking**

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

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
1	DOC/2019/0052	4	Heart Of England, Meriden Road, Fillongley, Approval of details required by condition no: 11 of planning permission PAP/2013/0391 dated 27/01/2016 relating to exterior lighting	General
2	PAP/2018/0743	12	Heart Of England, Meriden Road, Fillongley, Retention of footbridge and associated pathway (with dinosaur models, waterfall and pond feature, raised timber platforms, handrails and 'pergola' elements removed) for a temporary period of three years	General
3	PAP/2018/0745	31	Heart of England Conference and Events Centre, Meriden Road, Fillongley, New storage building	General
4	PAP/2018/0716	38	Land Rear Of 1 To 6, Copeland Close, Warton, Erection of 2 no: detached dwellings and 2 no: detached garages and associated works (regularisation of unauthorised increased finished floor levels by 650mm and variation in ground levels, contrary to reserved matters approval PAP/2017/0237)	General
5	PAP/2019/0037	74	The Woodlands, Reddings Lane, Nether Whitacre, Demolition of existing dwelling, garage and outbuildings and erection of detached dwelling house and associated works	General
6	PAP/2019/0237	87	Land Opposite Delves Field Stables, Boulters Lane, Wood End, Outline application for erection of 14 dwellings	General
7	PAP/2019/0455	102	The Belfry Hotel, Lichfield Road, Wishaw, Demolition of existing nightclub and remodelling of existing golf course, erection of new hotel and leisure buildings, car parking and access works, replacement water treatment works and associated landscaping	General

General Development Applications

(1) Application No: DOC/2019/0052

Heart Of England, Meriden Road, Fillongley, CV7 8DX

Approval of details required by condition no: 11 of planning permission PAP/2013/0391 dated 27/01/2016 relating to exterior lighting, for

Mr Stephen Hammon - Heart Of England Promotions

Introduction

The application is reported to Board in view of the planning history of the site. The matter of lighting has been presented to Board on a number of occasions.

The Site

The application site forms part of the premises known as the Heart of England Conference and Events Centre. The wider site comprises a range of former agricultural buildings which have been re-used in association with a conference centre/restaurant, recreation events business use, a lake and other land which benefit from planning permission for recreational purposes.

The site is located on the south side of the Meriden Road (the B4102) and Wall Hill Road just south of the M6 Motorway bridge over the B4102. This is 2.5km south of Fillongley and about 1km west of Corley Moor. The area is set in open countryside but there are private residential properties on both Wall Hill Road and the Meriden Road.

The Proposal

The application relates to the discharge of condition 11 of the planning permission granting consent for the hotel. This relates to the need to agree external lighting for the site. The current proposal is a comprehensive scheme combining proposals for the main complex with the hotel constructed as well as lighting proposed at the lake and in its vicinity. It should be noted that the lighting around the lake is to support a proposed wedding area which is the subject of a further application reported elsewhere on this agenda.

There are four types of lighting proposed – 39 columns; 25 bollards, 5 wall mounted luminaries and three coloured luminaires. The columns would be spread throughout the existing and new car parking areas to the north, west and south of the main building complex as well as the track down towards open land to the south. The bollards and wall mounted lights would be spread throughout the walkways that surround the outline of the new buildings as well as along the walkway from the range of buildings to the lake. The coloured lights would be at ground level on the island in the lake.

Illustrations showing the location of the light sources is at Appendices A and B with a potential lighting impacts included at Appendix C.

The applicant has provided a Lighting Assessment which concludes that the impact of the proposals would fall within the national guidance for light levels in a location such as this and that there would be little impact on the amenity of nearby residential property.

Background

Planning permission was granted in early 2016 for a new hotel at the site to be located north of the present conference centre together with new car parking and an extension to the existing conference area.

An application to discharge a range of pre-commencement conditions was approved in 2017 but the details submitted under condition 11 for lighting at that time were refused permission. The reason was that the details were considered to be too intensive for a rural location adversely affecting visual amenity, the setting of a Listed Building and the openness of the Green Belt.

Prior to the 2016 hotel permission, planning permission had also been refused for a lighting scheme to illuminate a route from the conference centre to the and around the lake on the site. The refusal reason reflects that used in the later 2017 refusal.

Development Plan

North Warwickshire Core Strategy 2014 - NW10 (Development Considerations); NW12 (Quality of Development), NW13 (Natural Environment) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV13 (Building Design); ENV14 (Access Design) and ENV16 (Listed Buildings, non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance including Scheduled Ancient Monuments)

Fillongley Neighbourhood Plan 2019 - FNP01 (Built Environment); FNP02 (Natural Environment) and FNP06 (Heritage)

Other Relevant Material Considerations

National Planning Policy Framework - (the "NPPF")

National Planning Practice Guidance – (the "NPPG")

The North Warwickshire Local Plan Submission Version 2018 - LP14 (Landscape); LP15 (Historic Environment), LP16 (Natural Environment), LP31 (Development Considerations) and LP32 (Built Form)

Supplementary Planning Guidance - Design for Lighting Schemes - 2003

Consultations

Environmental Health Officer - No objection

Warwickshire Wildlife Trust – No comments received

Representations

Fillongley Parish Council – Objection

Corley Parish Council – Objection

Two other objections have been received with the following comments:

- Misleading name on plan – Conference Park and Beach Resort;
- Light spillage into third party property and land;
- Light spillage issues across Meriden Road and Wall Hill Road.
- Lighting across the field has concern as may impact on the Green Belt and Ancient Woodland.
- Lighting is not in-keeping with the rural landscape.
- Too much lighting around the lake within the site and would not suit character of farm diversification.
- Seek justification why it would be necessary for these lights to the lake and surrounding it particularly in regards to the seasonality of this use i.e. in winter.
- Exacerbate existing noise and light pollution.
- The proposed artificial lighting would appear to be incongruous within the existing dark environment amenity and would encroach on to the Green Belt.
- Deliberately left third party land unlit to encourage wildlife and maintain the countryside setting.
- Concerns on the detrimental impact of the scale of the lighting on wildlife.
- Existing extensive coloured lighting on the main hotel on the frontage and rear and associated buildings which are illuminated from dusk till dawn – addition of lighting will have an impact on the natural landscape and the concern of possible night time events out of agreed hours.
- The nearby motorway in this area is not purposefully illuminated at night having regard to the countryside setting and to avoid light pollution.

Observations

Following the refusal of lighting details in 2017 it will necessary to see if the current scheme overcomes the reasons for that refusal. The main differences with the refused scheme are a reduction in the number of light sources; less upward light spillage and glow, the removal of the decorative coloured lighting from the front of the Conference Centre and a “softer” appearance throughout. However there is now the addition of the walkway lights to the lake and those coloured ones on the island.

Overall it is agreed that the new proposals are “better” than the previous scheme and that in general terms they may satisfy the thresholds set out in national guidance. However there remain some real issues. Premises which operate in the evening and which are visited by the public do require exterior lighting for the safe functioning of their operations. However extra care has to be taken in rural areas and any lighting should be to the minimum necessary to help preserve openness in the Green Belt.

The Light assessment concludes that the site falls within Zone E2 of the national guidance which is described as being “rural” such as “villages or relatively dark outer suburban locations”. The local community would not recognise this site in such a description. The next Zone is E1 and that is described as “natural”. This would better apply here as there is no settlement nearby and the area is wholly in open countryside with just a few dispersed houses. These proposed lights will change the character of the area and be more likely to move the site from Zone E1 into E2.

Additionally the Council’s own guidance sets out that lighting should have a clear purpose. The use of lights simply to create a presence at night is not supported. It

further sets out that consideration of the design of the overall site should seek to minimise the use of lighting. It is considered that the current scheme is still orientated to creating a presence rather than one which seeks to minimise the use of lighting. In this respect the proposals to light the lake, the island and the walkway are unnecessary as is the introduction of the lighting columns on the track to the south of the main buildings. These only extend the scale of the adverse impact over a wider area and exacerbate particularly because of the open nature of the site.

Whilst it is acknowledged that the lighting is softer, there are still concerns with the spillage and area covered by the lighting. There is no supporting Planning Statement; however one can assume that the lighting around the proposed hotel and conference centre would be to facilitate movements of people especially during the winter months for guests arriving later in the evenings. It is noted however that there is no 'leaner' proposal and as such it is concluded that the lighting as presented would be on during each evening from dusk until dawn.

The 16th-century manor house Fillongley Old Hall is immediately to the west side of the new hotel complex and part of the re-arranged car park will surround the building. The Hall is a Grade II listed building which possesses a low walled front garden. It is necessary to assess the impact of the lighting on the setting of this heritage asset. This is because the Council is under a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special or historic interest which it possesses. In this case it is the impact of the lighting scheme on the setting that is important.

The significance of the heritage asset here is the retention of a traditional farmhouse exhibiting external and internal contemporaneous features including its own walled garden. It is acknowledged that its significance has reduced through the development of the complex immediately to the east and the consequential loss of its agricultural status and function. However in this circumstance the setting that remains becomes more significant. The proposed lighting here will harm the setting because of the inclusion of lighting columns in this part of the car park and the increased area of lit car park around two sides of the Hall. The level of harm however is considered to be less than substantial. Nevertheless that carries significant weight in the final planning balance. In this case the public benefit of having this area lit to that proposed is very limited and the harm here would clearly outweigh that minimal benefit. In short the lighting is not imperative to the success and commerciality of the business.

Concerns have been raised by third parties in close proximity adjacent to the site of light intrusion into their amenity space. Whilst it is apparent that there would be a difference from the present dark amenity to a lit one through this scheme, the Environmental Health Officer does not agree that there would be any significant impact or detrimental harm to neighbouring amenity.

In conclusion therefore it is still deemed that the lighting is too intensive and that this leads to the same adverse impacts as originally found.

Recommendation

That the details submitted be **REFUSED** for the following reason:

“The proposed lighting is too intensive in a rural dark sky location. It would be harmful to the openness of the Green Belt and to the rural character of the area. The lighting proposed along the Conference Centre elevation and parking areas are harmful to Fillongley Old Hall, a Grade II listed building, to the extent that it is harmful to its setting. The scheme would be contrary to the provisions of the Council’s Adopted Supplementary Planning Guidance – A Guide for the Design of Lighting Schemes, September 2003 which seeks to avoid the use of lights simply to create a presence at night and which seeks to seek to minimise the use of lighting. The proposals do not accord with Policies NW10, NW12 and NW14 of the North Warwickshire Core Strategy 2014 together with policies FNP01, FNP02 and FNP06 of the Fillongley Neighbourhood Plan and the provisions of Section 13 within the NPPF 2019.”

BACKGROUND PAPERS

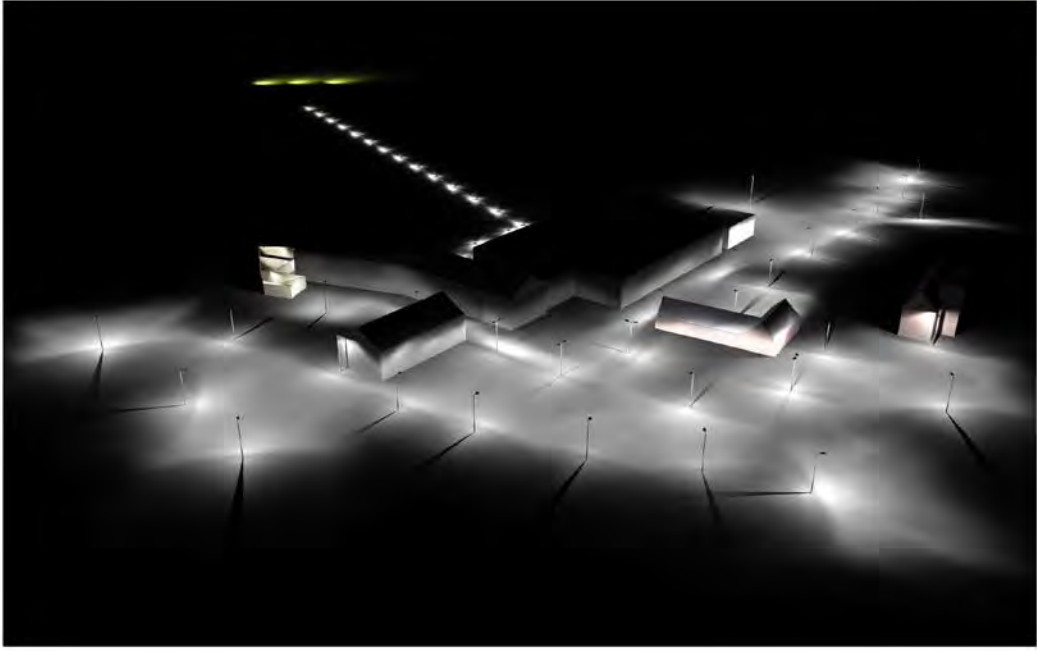
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: DOC/2019/0052

Background Paper No	Author	Nature of Background Paper	Date
1	The Agent	Application Forms, Plans and Statement(s)	13.05.2019
2	The Agent	Amended scheme	29.07.2019
3	NWBC Environmental Health	Consultation Response	18.06.2019
4	Fillongley PC	Representation	24.06.2019
5	Fillongley PC	Representation	11.07.2019
6	NWBC Conservation	Consultation Response	29.07.2019
7	Fillongley PC	Representation	9.08.2019
8	Corley PC	Representation	19.08.2019
9	Third Party	Representation	26.06.2019
10	Third Party	Representation	2.07.2019

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.



(2) Application No: PAP/2018/0743

Heart Of England, Meriden Road, Fillongley, CV7 8DX

Retention of footbridge and associated pathway (with dinosaur models, waterfall and pond feature, raised timber platforms, handrails and 'pergola' elements removed) for a temporary period of three years, for

Mr Stephen Hammon - Heart Of England Promotions

Introduction

The application is reported to Board in recognition of the planning history of the site.

The Site

The application site forms part of the premises known as the Heart of England Conference and Events Centre. The wider site comprises a range of former agricultural buildings which have been re-used in association with a conference centre/restaurant, recreation events business use, a lake and other land which benefit from planning permission for recreational purposes.

The site is located on the south side of the Meriden Road (the B4102) and Wall Hill Road just south of the M6 Motorway bridge over the B4102. This is 2.5km south of Fillongley and about 1km west of Corley Moor. The area is set in open countryside but there are private residential properties on both Wall Hill Road and the Meriden Road.

The relevant site plan can be found at Appendix A.

The site in question is outside of a development boundary and within the Green Belt.

The Proposal

It is proposed to retain a steel footbridge and paved walkway for a temporary period of three years. The bridge would span a former stone quarry pit and it together with the walkway would provide pedestrian access from a car park to an existing restaurant entrance. The route of these arrangements is shown on Appendix B.

The application has been amended during the course of the planning process with the proposal now incorporating the removal of decking, balustrades, a pergola and signage from the walkway.

The components to be removed include lighting features. It is not known if any replacement lighting is being considered.

The amended plan now before the Board is at Appendix C.

The arrangement is said to be required to provide temporary access to the restaurant whilst construction work on approved hotel works is undertaken.

Background

Planning permission was granted in early 2016 for the erection of a hotel north of the existing conference centre including the demolition of existing storage buildings, a new car park and extensions to the conference centre. The extent of this is shown on Appendix B.

In early 2017 planning permission was refused for the retention of a steel footbridge spanning the former quarry pit together with block paved sunken access ramp and a timber decked pathway to the entrance of the existing restaurant. The refusal reason referred to this being inappropriate development in the Green Belt and harmful to the visual amenities of the area with no benefits clearly outweighing the level of harm caused.

Following this refusal, the Council issued an Enforcement Notice requiring the removal of the bridge, the wooden pathway, a waterfall, a pond and its lining. These latter features were added into the former quarry pit. Appeals were lodged against the planning refusal and the Notice. The planning appeal was dismissed and the Notice upheld by way of a decision letter dated 23 July 2018. This is at Appendix D. The Notice requirements are the removal of the unauthorised works within six months.

The current application was submitted within the six months referred to above.

Development Plan

North Warwickshire Core Strategy 2014 - NW1 (Sustainable Development); NW3 (Green Belt), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment) and NW17 (Economic Regeneration)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV13 (Building Design); ENV16 (Listed Buildings, non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance -including Scheduled Ancient Monuments)

Fillongley Neighbourhood Plan 2018 - FNP01 (Built Environment); FNP02 – (Natural Environment), FNP05 – (Economy) and FNP06 – (Heritage)

Other Relevant Material Considerations

National Planning Policy Framework 2019 – (the “NPPF”)

National Planning Practice Guidance 2019 – (the “NPPG”)

The North Warwickshire Local Plan Submission Version, March 2018 - LP1 (Sustainable Development); LP3 (Green Belt), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP31 (Development Considerations) and LP32 (Built Form)

Consultations

Warwick Museum – No objection

Warwickshire County Council (Ecology) – No objection

Environmental Health Officer – No objection

Representations

Corley Parish Council objects. It says that the development was viewed by both the Council and the Planning Inspectorate to be inappropriate development in the Green Belt, and the Parish's previous submissions supported this view. Nothing has changed and therefore the Council requests refusal once again with the consequential enforcement action.

Fillongley Parish Council objects, concurring with the Corley Parish Council.

Observations

a) Introduction

The application has been submitted to overcome the previous refusal reason and the dismissed appeal. The key differences between the current proposal and those, the subject of the appeal proceedings are:

- The proposals are for a temporary period of three years in order to provide temporary access to the restaurant whilst hotel construction takes place.
- The removal of the above ground features of the walkway – i.e. the balustrades and pergola
- The removal of the waterfall feature from the quarry pit

The dinosaur models have already been removed.

a) The Green Belt

It is necessary to establish whether the now proposed development is appropriate or inappropriate development in the Green Belt. Much of the debate in the appeal case was whether the proposals were building or engineering operations. The Inspector came down in favour of the former (paragraph 126 of his letter). The applicant still considers that the proposals are engineering operations when treated as a whole. Officers disagree and the bridge has been built and is a self-supporting structure with its own foundations. As such new buildings are inappropriate by definition in the Green Belt and thus the presumption of refusal remains. The development neither fits any of the exceptions to this identified in the NPPF. The current proposal remains as inappropriate development and as such causes substantial harm to the Green Belt.

The Inspector looked at the potential likely actual Green Belt harm caused, as opposed to the definitional harm identified above. He found that the development he was looking at failed to preserve openness (paragraph 129).

However there has been a material change in circumstance now because the current application is different to that which the Inspector dealt with - it is a lesser scheme with practically no above ground components and for a temporary period. These differences are material and carry substantial weight. There are two reasons for this. Firstly the Inspector himself says that, "It may be that a temporary bridge and a simple paced walkway would have less of an impact on openness" (para 129). The current application follows this suggestion. Secondly, the NPPG has been updated to say that openness as

well as being assessed in spatial and visual terms can also take into account the “duration of the development and its remediability”. In other words a temporary impact on openness is materially different to a permanent impact particularly if the land is to be restored afterwards.

It is considered that these two matters will change the weight to be given towards the proposal. The reduction in the walkway arrangement as presented would have a negligible impact on the openness of the green belt – it is all surface development and the bridge would be removed. The impact on openness would thus be temporary.

As a consequence of all of these matters it is considered that the actual impact on openness of this revised application would be negligible.

It is not considered that other harm would be caused given to the lack of objection from the consultation process.

Given that there would be an operational and safety benefit from retaining a secondary access to the restaurant during other construction works, and the negligible harms caused it is considered that a temporary planning permission can be supported here.

b) Other Matters

The objections from the two Parish Councils are noted but the current proposal is materially different to that considered by the Inspector and the NPPG has been materially updated too since the appeal decision. A different assessment has thus to be made. It is not clear if those two Councils have undertaken such an exercise.

As mentioned above there are no lighting proposals included and this would have to be conditioned.

The Enforcement Notice referred to here is still extant and as such it can still be enforced through the Courts if appropriate.

Recommendation

That planning permission be **GRANTED** subject to the following conditions:

1. This permission shall expire on the 30 September 2022 and all development hereby approved shall be wholly removed from the site by that date and the land re-instated to a condition agreed in writing by the Local Planning Authority.

REASON

In recognition of the particular circumstances of this case.

2. Standard Plan numbers - 02 Rev C; 01 Rev B and 03A all received on 13/3/19
3. The walkway shall be constructed in red paviers the details of which shall first be approved in writing by the Local Planning Authority

REASON

In the interests of the visual amenities of the area

4. No lighting whatsoever shall be installed in connection with the development hereby approved without details first having been agreed in writing by the Local Planning Authority. Only the approved details shall then be installed.

REASON

In the interests of the visual amenities of the area.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0743

Background Paper No	Author	Nature of Background Paper	Date
1	The Agent	Application Forms, Plans and Statement(s)	
2	Corley Parish Council	Consultation Response	16.01.2019
3	Fillongley Parish Council	Consultation Response	25.01.2019
4	NWBC Environmental Health	Consultation Response	11.03.2019
5	Former Chairman of WGCG	Comments	12.03.2019
6	The Agent	Amended Plans as requested	13.03.2019
7	The Agent	Additional information	14.03.2019
8	The Agent	Additional lighting information as requested	16.04.2019
9	The Agent	Lighting Assessment	3.05.2019
10	Officer	Final Observations to Agent	5.06.2019

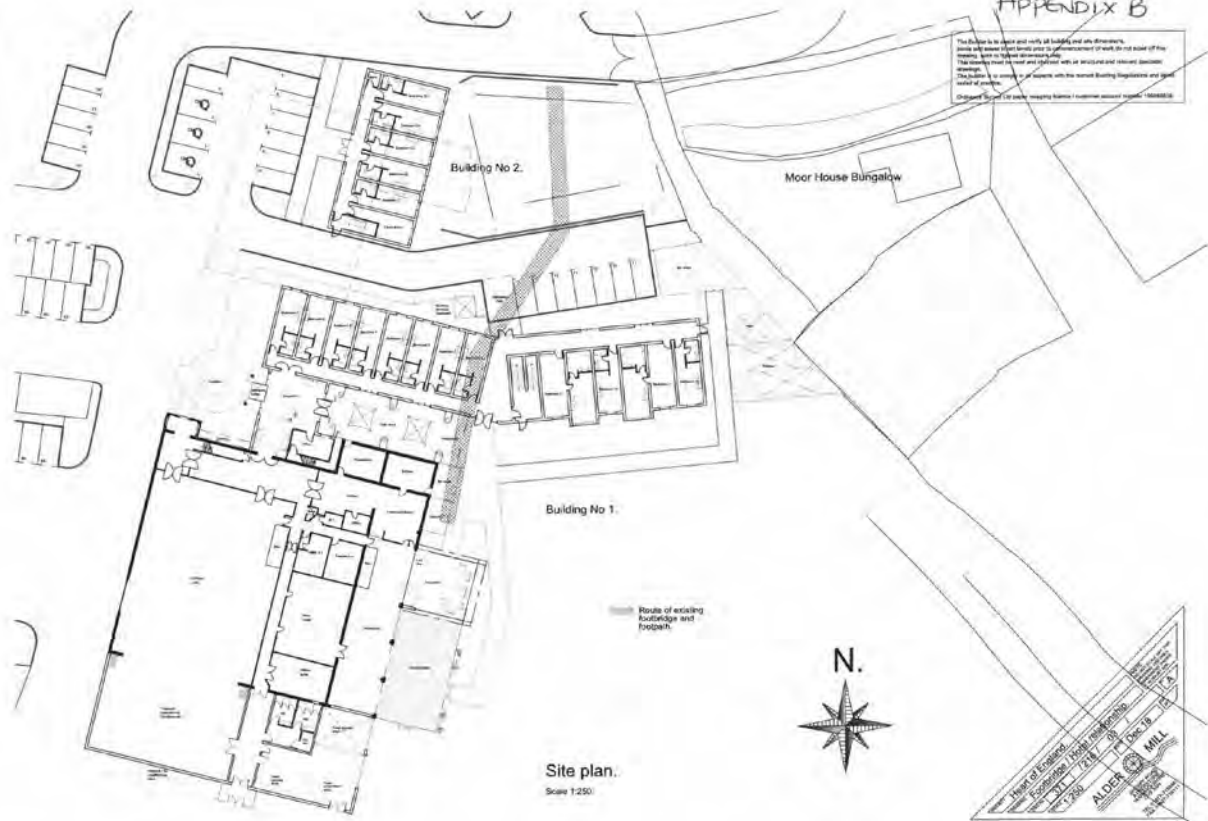
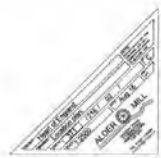
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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.



Location Plan
Scale 1:2500

REVISION
 13/03/2018
 Proposed 2 storey residential building

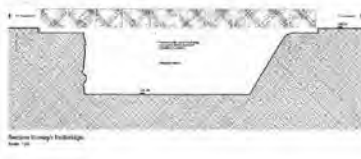
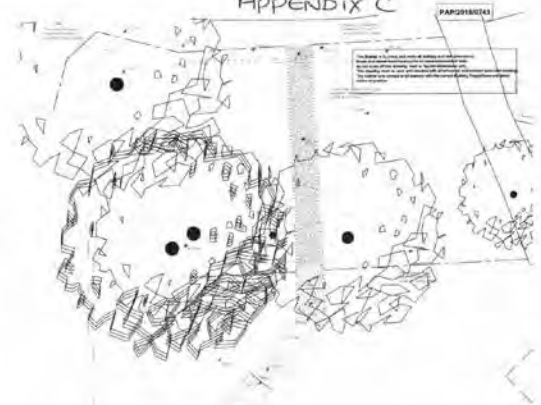
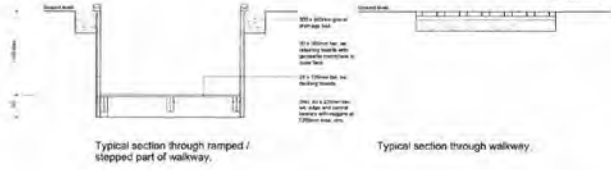


Site plan.
Scale 1:250



APPENDIX C

PAP20180243



REGISTERED
13082018
PLANNING & DEVELOPMENT
SECTION





Appeal Decisions

Site visit made on 3 July 2018

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 July 2018

Appeal A (Notice 1) - Ref: APP/R3705/C/17/3178455

Land at Heart of England Promotions Ltd, Old Hall Farm, Meriden Road, Fillongley, Coventry, Warwickshire CV7 8 DX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Heart of England Promotions Ltd, against an enforcement notice issued by North Warwickshire Borough Council.
 - The enforcement notice was issued on 15 May 2017.
 - The breach of planning control as alleged in the notice is as follows:
Change of use of a building and land from forestry use to a mixed use comprising B8 Storage use, to also include the storage of recreational items and parking of recreational vehicles not directly associated with the approved forestry use; toilet block and mess room, used partially in association with the recreational use of the adjoining land as approved on 8 March 2008, Council reference PAP/2007/0503, and to the internal dimensions approved 9 June 2011, Council reference MIA/2011/0006, as part of the mixed use; together with the erection of the palisade fencing and gates that forms a storage compound area to the rear of the forestry building and as an integral part of that storage and parking use.
 - The requirements of the notice are as follows:
 - i. Cease the unauthorised use of the building and land for B8 storage use, also including the storage of the recreational items and the parking of recreational vehicles that are not directly associated with the forestry use and remove the stored items and vehicles from the building and land.
 - ii. Demolish the palisade fencing that forms a storage compound area to the rear of forestry building and remove the resulting materials from the land.
 - The period for compliance with the requirements is Six Months.
 - The appeal is proceeding on grounds (a), (b), (c) and (f) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
-

Appeal B - Ref: APP/R3705/W/17/3177315

Land at Heart of England, Meriden Road, Fillongley, Coventry, Warwickshire CV7 8DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Heart of England Promotions Ltd against a decision by North Warwickshire Borough Council.
 - The application Ref PAP/2016/0414, dated 12 August 2016 was refused by notice dated 12 January 2017.
 - The development proposed is a change of use from agricultural/forestry to a mixed use of agriculture/forestry with D2 (assembly and leisure).
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<https://www.gov.uk/planning-inspectorate>

Appeal C (Notice 2) - Ref: APP/R3705/C/17/3182857
Land at Great Chapel Field, Wall Hill Road, Chapel Green, Fillongley, Coventry, Warwickshire CV7 8DX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Heart of England Promotions Ltd against an enforcement notice issued by North Warwickshire Borough Council.
 - The enforcement notice was issued on 18 July 2017.
 - The breach of planning control as alleged in the notice is as follows:
Change of use of land from agricultural to the unauthorised use of the land for dog training and exercising, together with the siting of an unauthorised field shelter, agility course equipment and other associated items.
 - The requirements of the notice are as follows:
 - i. Cease the unauthorised use of the land for dog training and exercising, together with the siting of an unauthorised field shelter, agility course equipment and other associated items.
 - ii. Remove the field shelter, agility course equipment and other associated items from the land.
 - The period for compliance with the requirements is Three Months.
 - The appeal is proceeding on ground (a) only as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
-

Appeal D - Ref: APP/R3705/W/17/3177385
Land at Great Chapel Field, Wall Hill Road, Chapel Green, Fillongley, Coventry, Warwickshire CV7 8DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Heart of England Promotions Ltd against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2016/0060, dated 8 February 2016 was refused by notice dated 16 May 2017.
 - The development proposed is the change of use of land from agricultural to dog training/exercising, including new access, car park and siting of moveable field shelter and dog agility equipment.
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Appeal E - (Notice 3) - Ref: APP/R3705/C/17/3178471
Land at Heart of England Promotions Ltd, Old Hall Farm, Meriden Road, Fillongley, Coventry, Warwickshire CV7 8 DX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Heart of England Promotions Ltd against an enforcement notice issued by North Warwickshire Borough Council.
 - The enforcement notice was issued on 15 May 2017.
 - The breach of planning control as alleged in the notice is as follows:
Unauthorised bridge, wooden pathway, waterfall, pond and lining and decking.
 - The requirement of the notice is as follows:
 - i. Demolish and remove the unauthorised bridge, wooden pathway, waterfall, pond and lining and decking and restore the land to its former condition.
 - The period for compliance with the requirements is Six Months.
 - The appeal is proceeding on grounds (a) and (f) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
-

Appeal F - Ref: APP/R3705/W/17/3176903
Land at Heart of England Promotions Ltd, Old Hall Farm, Meriden Road, Fillongley, Coventry, Warwickshire CV7 8 DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission (retrospective).
 - The appeal is made by Heart of England Promotions Ltd against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2016/0480, dated 25 August 2016, was refused by notice dated 12 January 2017.
 - The development proposed is the retention of a steel footbridge spanning between access driveway off Wall Hill Road and lawn on south side of old quarry pit (Warwickshire Logs 92) together with block paved sunken access ramp and timber decked pathway to restaurant entrance.
-

Costs Applications

An application for costs, in relation to Appeals C (Ref: APP/R3705/C/17/3182857) and D (Ref: APP/R3705/W/17/3177385), have been made by Mr Stephen Hammon, on behalf of Heart of England Promotions Ltd, against North Warwickshire Borough Council. This is the subject of a separate decision.

Summary of Decisions

1. Appeal A is dismissed and the notice is upheld.
2. Appeal B is allowed and planning permission is granted subject to conditions.
3. Appeals C and D are dismissed.
4. Appeals E and F are dismissed.
5. See Formal decisions below.

Introduction and matters of clarification

6. There are six appeals in total. I have referred to them above as A, B, C, D, E and F. There are three enforcement notices which I have referred to as 1, 2 and 3. Appeals A, C and E are against the issuing of the three enforcement notices and Appeals B, D and F relate to refusals of planning permissions. The wording in the allegations of the notices differ from the descriptions of the planning applications.

7. The changes of use referred to in these decisions are as set out in the Town and Country Planning (Use Classes Order, 1987 as amended). In Appeal A (Notice 1) the alleged change of use (of the building) relates to a change from a forestry use to a mixed use of Class B8 (General) storage use, which includes the storage of recreational items in association with the recreational use of the adjoining land.

8. The plan attached to the notice shows the buildings and its immediate surroundings including the area used storage and parking within the surrounding compound. Appeal B relates to the same building and is an application for a change of use from agriculture/forestry to a mixed use of agriculture/forestry with some Class D2 (assembly and leisure) use. The red line on the application plan is drawn tightly around the building and does not include its immediate surroundings. There is no site plan to indicate what the application sought in relation to the immediate surroundings, including the unauthorised compound and fencing.

9. Appeal C (Notice 2) and Appeal D relate to the same change of use (as alleged and retrospectively applied for). That is: from an agricultural use to a use for dog training

nuisance, even when attendances at training sessions were low and presumably the EHO had been made aware of these.

102. On 15 May 2017, following the deferrals and a site visit the Planning and Development Board resolved to refuse the application on the basis that it was contrary to Policy NW10 (9) of the NWCS 2014 in that it would have an unacceptable impact on the residential amenity of the nearest property by virtue of increased traffic, noise from activity at the site and the general appearance of the use by introducing new development to an open field in the Green Belt.

103. I have disagreed with the view on the visual impact and found the development to be not inappropriate and that it would preserve the 'openness' of this part of the Green Belt. Despite these favourable findings, however, and for the reasons set out above, I consider that the effect on living conditions outweighs these other findings. In my view, the effect that the use has already had, and would continue to have, on the living conditions of the nearest residents (due to undue levels of noise and disturbance) is not acceptable in this particular rural location.

104. I agree, therefore, with the Board that the use is contrary to Policy NW10(9) of the NWCS, as well as to the NPPF which seeks to pursue sustainable development that involves positive improvements in the quality of the built and natural environment as well as in the quality of peoples' lives. This development is harmful to, rather than resulting in an improvement to the lives of existing residents and also results in a poor standard of residential amenity for existing and future occupants in this part of Chapel Green. Although it meets an economic role in terms of sustainability, it fails to perform a satisfactory social or environmental role. I conclude that the use is not sustainable and any presumption in favour of sustainable development is outweighed by the harm caused to residential amenity.

Overall conclusions Appeals C and D

105. For the above reasons I consider that Appeal C on ground (a) and Appeal D should both fail. The notice is upheld and planning permission is refused on both the deemed application and the retrospective (with amended site access) application. There are no other matters of such significance to alter my conclusions or to change my decisions in these two Appeals.

Appeal E, Notice 3 and Appeal F

Introduction and background information

106. The planning permission was refused for the retention of the steel footbridge spanning between the access driveway off Wall Hill Road and the lawn on the south side of an old quarry pit (Warwickshire Logs 92), together with the construction of a stepped wooden walkway and a timber-decked pathway to the restaurant entrance. The submitted plans had been amended but the Council indicates that they still have significant omissions and inaccuracies. The plans still do not indicate the full extent of the works carried out no reference is made to lighting or signage.

107. At the site visit I noted the overall construction of the bridge and the stepped timber-decked, timber post and pergola walkway. Close to where the walkway meets the restaurant entrance a small section of the walkway has had timber panels fixed on both sides and this forms a partially enclosed section of the walkway. I also noted the lighting fittings attached to the timber structure and the signage to the restaurant. It would appear that the entrance to the northern car park was precluded from use by the public through other enforcement action. Nevertheless it was clearly in use for anyone to use at the time of my visit.

108. The Council indicates that the initial development description did not reflect the works as carried out and currently on site. It is indicated that the scheme was initially presented as a proposal for a block-paved access ramp but the works proceeded in a different manner. Instead the stepped wooded walkway was constructed and the plans were amended accordingly. The Council indicates that the description of the development was not altered to more accurately reflect the plans.

109. The appeals site is located close to the main hotel and conference facilities. The proposed hotel, to the north of the conference centre, was granted planning permission in January 2016 (PAP/2013/0391) and the permission included, amongst other things, the demolition of an existing storage building; the formation of a new car park and courtyards and extensions to the south and east sides of the conference centre. The permission was the subject of a S106 agreement which had the effect of revoking the previous planning permissions at the site. The decision notice was accompanied by approved plans. None of the items the subject of the enforcement notice (Appeal E) or the application (Appeal F) was shown on the approved drawings. Following my site visit I was sent some of the application drawings which showed the relationship of the newly approved hotel works to the existing restaurant. The latter use has extended beyond the original boundary by way of another small building and some decked areas.

110. I have considered the appeals on the basis of the enforcement notice as drafted and on what has been built on site. I have noted that part of the appellant company's arguments, in favour of the bridge and walkway link, relate to the fact that, until the hotel is built, a temporary route will be required from the car park adjacent to the bridge to the restaurant. However, the retrospective application was not for a temporary period. This was confirmed at the site visit and I have considered the application as not being made on the basis of a temporary period.

111. In any case, at the time of the application the appellant company had indicated that it has the long term purpose of spanning the area between the new hotel (main block) and the new car park area to the north of the site. This parking area was part of the hotel planning permission. The provision of the footbridge was to remove the need for hotel guests using the carpark to take a detour to reach the main hotel building. It was also intended to afford a much more direct route to the restaurant lobby on the east side of the conference centre.

112. The applicant has indicated that the bridge had been designed to span the Corley sandstone quarry pit, which is part of a local geological site and that the company had recently cleared away undergrowth and rubbish to make the feature visible. A small pond was created at the bottom of the pit and this is fed by a waterfall containing a mock rock at the top of the sandstone face. Various dinosaur and other statues with motion sensors and sound effects have been installed below the bridge.

113. The applicant's agent had informed the Council that the waterfall, pond and dinosaurs did not form part of the application and that the first two items had been in-situ for an extended period. In contradiction to that, however, the Design and Access Statement (DAS) recognised the features as being more recent and the Council indicates that there is photographic evidence to corroborate that this was the case.

114. At the consultation stage the Curator of Natural Sciences (CNS), Heritage and Culture, Warwickshire County Council, commented that the bridge had the potential to provide enhanced views of the geological feature and that if permission were to be granted a request would be made to allow access for geological investigations. However, he was concerned about the introduction of water which he considered would unacceptably erode the sandstone, thus harming the geological site.

115. Fillongley Parish Council was concerned about the use of the bridge on the basis that it would encourage guests to use the access next to Moor House Cottage which had previously been specifically excluded from public access through other permissions granted. The FPC also referred to the use of lighting which is already causing concern and indicated that previous lighting schemes have been rejected on Green Belt Grounds. As indicated above, this access from Mill Hill Road, next to the cottage, was open and in use at the time of my visit.

Appeal E on ground (a) and Appeal F

116. The main issues in both appeals are as follows:

- whether the development being carried out is inappropriate development in the Green Belt for the purposes of the NPPF and development plan policy,
- the effect of the development on the openness of the Green Belt,
- the effect on the character and appearance of the area,
- if the proposal does represent inappropriate development, whether the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development within the Green Belt.

Whether the works constitutes inappropriate development in the Green Belt

117. It is contended on behalf of the appellant company that the works carried out are essentially 'engineering operations' and are, therefore, 'not inappropriate', as long as they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The case of 'Fayrewood' is referred to whereby it was held that the term 'engineering operations' should be given its ordinary meaning and it was stated that such operations were usually undertaken by engineers.

118. It is stated that engineers designed and built the bridge and the raised walkways and that they must constitute 'engineering operations'. The case of 'Fordent' is also referred to whereby, even if not considered to be 'engineering operations', it was held in that case that 'Merely because a proposed development is inappropriate does not mean that there is a prohibition on it. The categories of what constitute very special circumstances are not closed'.

119. The Council does not accept these arguments and indicates that the 'engineering operations' category of development normally applies in practice to activities on land which alter its profile by, for example, excavation, tipping; the forming of embankments or a change in surface by the laying of a hardstanding. The Council disagrees with the appellant company that the works constitute an 'engineering operation' and stress that the construction of a bridge and walkway with a pergola is not akin to such operations as referred to above and constitute building operations.

120. The Council contends that the appellant company attempts to extrapolate the 'Fayrewood' case too far. It is stressed that to follow the logic of the appellant's argument it could be argued that a house designed and built by an engineer was an 'engineering operation' or that any operation that happened to be designed and carried out by an engineer was such an operation. It is also contended that the involvement of an engineer does not revert a building operation to an engineering operation.

121. The Council is of the view that the works carried are building operations. They refer to the physical fixing of the bridge structure to the ground; the excavation of sandstone to accommodate the construction of the bridge and the building (by carpenters) of the timber walkways, posts and pergola. The council also refers to photographic evidence showing the construction of the works. I noted the details during my site visit.

122. Having seen the works which are the subject of the appeals I can, to a certain extent understand the engineering point made on behalf of the appellant. A bridge is clearly a structure and its design would normally require the input of a structural engineer. In fact, even the walkway and the pergola would have required some structural calculations to make sure that the various components could perform the necessary structural and practical tasks required: that is to allow people to cross the quarry and to walk between the facilities at the site.

123. I accept, therefore that the operational development carried out required an *engineering* input. I also accept that a bridge is an *engineered* structure. However, for the purposes of the Act such a structure is also be a *building*. In the Act a *building* includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. *Buildings or works* can include waste materials, refuse and other matters deposited on land. The Act states that references to the erection or construction of buildings or works shall be construed accordingly. *Building operations* has the meaning given by section 55, one part of which refers to other operations undertaken by a person carrying out the business of a builder.

124. In this case, whoever carried out the works must have been a person carrying out the business of construction, whether that person was an engineer or a general builder. In this case it may well be that both an engineer and a general builder were involved but there is no definite evidence before me on this point.

125. In any case, from what I saw on site I do not consider, as a matter of fact and degree, that the whole of the works as carried out can be defined as an *engineering operation* in the context of that meaning in the Act. The works are typical of what a general builder might carry out, albeit with a need for a structural engineering input. Even if the bridge itself was classified as an *engineering operation* the alleged unauthorised development and the retrospective application must be considered on the basis of the whole of the works. The bridge would also be subject to the conditions set out in the second bullet point of paragraph 89 of the NPPF and to the same ones referred to in paragraph 90.

126. The bridge is an integral part of the overall works and because of the way they have been designed and constructed, the wooden walkway and the pergola cannot, in my view, be regarded as *engineering operations*. I conclude, therefore that the whole of the works as carried out cannot be considered as being 'not inappropriate'. The works are inappropriate and harmful in principle to this part of the Green Belt. However, as indicated above even if the whole of the works could be considered to be an *engineering operation* and not inappropriate in principle, paragraphs 89 and 90 would apply and I therefore now turn to their specific effect on *openness*.

The effect of the works as carried out on the openness of the Green Belt

127. In the 'Timmins' case the question of whether or not a visual impact of a development could be taken into account in considering *openness* was referred to. It was held that *openness* is epitomised by the lack of buildings but not by buildings that are unobtrusive or screened in some way. It was also held that *openness* and *visual impact are different concepts*, although they could *relate to each other*.

128. It was stated that it was wrong in principle to arrive at a specific conclusion on *openness* by reference to visual impact. However, it was also held that when considering whether a development in the Green Belt, (which adversely impacted upon openness) can be justified by very special circumstances, it is not wrong to take into account the visual impact of the development as one, amongst other things, of the considerations that form part of the overall weighing exercise.

129. Having seen the built form of the bridge, the wooden pathway and the other matters enforced against, they clearly introduce structures where none previously existed. The works are visible and together physically link two parts of the appellant company's land by cutting across this part of the Green Belt. Due to the physical length of the various components, their overall form and scale and their specific location I do not consider that the works preserve the 'openness' of this part of the Green Belt. Thus, even if I had concluded in favour of the appellant that the works constituted 'engineering operations' they fail to meet the test of preserving the openness of this part of the Green Belt and therefore cannot be considered to be 'not inappropriate'. It may be that a temporary bridge and a simple paved walkway would have less of an impact on openness but my decision must be based upon the works as carried out.

The effect of the works on the character and appearance of the area

130. In terms of their visual impact on the general character and appearance of the area, again I share the Council's concerns. In my view the design of the various components has resulted in an obtrusive and alien line of structures that detract markedly from the appearance of the rural setting, as well as from the settings of the existing buildings. Whilst acknowledging that the bridge itself is of a relatively simple design, the timber walkway deck and pergola are obtrusive, alien and of very poor design. From both near and distant viewpoints, these parts of the works look as though they are the result of a poorly executed do-it-yourself project. Although they appear to be structurally sound I would not consider them to be a good example of external carpentry. The poorly designed works give the distinct impression of extending inappropriate built form away from the approved hotel/conference facilities site and into the open countryside and the Green Belt to the east.

131. I agree with the Council that the overall result is one of an 'encroaching creep' into the open countryside and woodland. I find this to be contrary to the relevant development plan policies as well as to sections 7 (Requiring good design) and 11 (Conserving and enhancing the natural environment) of the NPPF and significantly harmful to the rural character and appearance of this part of the overall site and the open countryside.

132. At paragraph 64 of the NPPF it is specific that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Thus, as well as being harmful in principle (through inappropriateness and failure to preserve openness), I also find the works to be harmful due to their specific visual impact.

The effect on the geological site

133. I accept that the bridge itself has enabled the geological site to be more clearly seen and appreciated generally. In this respect I agree with the County Council's CNS. However, the officer was concerned about the impact of water on the sandstone face and it would seem to me, therefore, that any advantage relating to accessibility is outweighed by the potential of water damage to the site.

134. In addition I also consider that the theme park elements which have been introduced (moving and roaring dinosaurs etc) detract markedly from the character of the area, as well as from the integrity of the geological site. As well as visually detracting from the geological feature the installations have had a negative impact on the aural environment and on the living conditions of the occupiers of the adjacent cottage. During my site visit I could clearly hear the roaring sounds of the dinosaurs when standing adjacent to the garden boundary of the cottage.

135. It is also evident that the floodlighting of the installation and the lights along the walkway have caused light pollution issues for residents of the cottage. These other effects of the bridge/walkway and the installations reinforce my conclusions that the overall works, the subject of these appeals, have resulted in harm in principle to the Green Belt, (harm to openness) and other harm by way of impact on character and appearance and residential amenity. I now turn to whether or not the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development within the Green Belt.

Very Special Circumstances

136. On behalf of the appellant company various very special circumstances are put forward. These are that the works have provided a safe route between the restaurant and the conference centre; that the decking and walkways are a temporary measure pending the other approved works; that the footbridge enabled the Geological site to be cleaned up; that the CNS supported the fact that the bridge assisted in accessibility of the feature; and that the Geological site falls within the red line of the hotel application.

137. The Council indicates that the improvement of the visibility and accessibility of the geological feature was clearly not the appellant company's primary intent in forming the bridge; rather it was a fortuitous coincidence that this was the aim of the CNS. Furthermore the Council indicates that the company has been requesting that the site be removed from the county list and that the Warwickshire Geological Conservation Group (WGCG) has refused this request.

138. The Council does not accept that the reasons put forward by the appellant amount to the very special circumstances to justify the works as carried out. Nor does it accept that this is the only solution to allow movement through the site during construction of the hotel. In fact the Council makes the point that although planning permission has been granted the hotel may not go ahead and there has been no indication that the bridge would be removed after the temporary period.

139. Having considered the points made on behalf of the appellant, I do not accept that these amount to the very special circumstances required. I have concluded above that there is harm in principle to the Green Belt, through inappropriateness; that there is harm to the openness of the Green Belt; that there is other visual harm to the character and appearance of the area; that there is potential harm to the geological feature and that there is some harm to residential amenity.

140. The most relevant points put forward relate mainly to the operational needs of the business in linking the two areas. Whilst accepting that this has been an effective and safe way of connecting the north car park to the restaurant, it has resulted in the harm set out above and is not acceptable. I have not been shown any options for alternative routes which may have been considered but having seen some of the drawings relating to the approved hotel it seems to me that this route is not the only solution to the necessary link.

141. It may well be that a well-designed scaled down or alternative route could be acceptable on a temporary basis whilst the hotel itself is constructed and the appellant company could indeed consider such alternatives. But the scheme before me, which has not been submitted as a temporary solution, is harmful and unacceptable. As the Council indicates, any advantage regarding accessibility to the geological feature is fortuitous and in any case the advantage is outweighed by the potential water harm to the feature. I note that the feature falls within the red line for the hotel site but again this is no

justification for the construction of a poorly designed scheme that is both harmful in principle to the Green Belt and harmful in other ways.

142. In conclusion it is my view that these matters do not outweigh the harm in principle and the other harm identified, so as to amount to the very special circumstances necessary to justify this development within the Green Belt. Appeal E on ground (a) and Appeal F both fail, therefore, on the planning merits and planning permission will not be granted for the deemed application or the retrospective application for the works.

Appeal E on ground (f)

143. On behalf of the appellant company it is contended that lesser steps would suffice to remove any harm to the openness of the Green Belt and any other harm to amenity. It is stated that if the timber walkway is considered to be too visually intrusive, the pergola elements and the lighting could be removed leaving only the low timber platform. It is also argued that the bridge could be modified by means of cladding or painting and it is stressed that footbridges, in themselves, are not alien features within a rural landscape. It is also indicated that modifications could be carried out to mitigate any harm to the geological site. In any case it is stated that the timber walkway was only a temporary measure until the new hotel works were completed.

144. The Council acknowledges that the suggestions put forward on behalf of the appellant would be beneficial. However, it queries the powers available to vary the requirements accordingly. In any case the works carried out are considered by the Council to be of poor design and that the appellant's suggested measures would be insufficient to remedy the harm caused by what has resulted in opening up this part of the site as a public entrance to the land.

145. Having seen the works I do not consider that the requirements are excessive. To do as suggested would amount to a virtual re-design of the walkway and I do not consider that such variations would be appropriate or justified. The notice was issued to remedy a breach of planning control which I have concluded is harmful and ought not to be granted planning permission. The lesser steps of removing parts of the works and/or amending the bridge would not, in my view, overcome the introduction of inappropriate development in the Green Belt. The remaining features; their location and their obtrusiveness would not overcome the harm identified. I do not consider, therefore that lesser steps would overcome the objections and Appeal E also fails on ground (f).

Overall conclusions on Appeals E and F

146. For the reasons set out above I conclude that the works as carried out are harmful in principle to the Green Belt, harmful to openness, harmful to the character and appearance of the area and harmful to residential amenity. As such they are contrary to Policies NW1 (Sustainable Development); NW3 (Green Belt); NW10 (Development Considerations); NW12 (Quality of Development) and NW13 (Natural Environment). They are also contrary to policies within the NPPF in that they cannot be said to be sustainable; they do not protect the Green Belt and they are of extremely poor design.

Other Matters

147. In reaching my conclusions in all 6 appeals I have taken into account all other matters raised on behalf of the appellant company; by the Council and by other interested parties. These include the detailed and complex planning history of the site; the details of the previous enforcement actions and appeal decisions; all of the relevant case law references; the initial grounds of appeal in each case; the detailed statements and appendices; the DAS submissions; the Council Officers' various Board Reports; the

final comments on each appeal; the photographic evidence; all references to local and national policies; the economic benefits and the fact that the company is a major employer in Fillongley.

147. However, none of these carries sufficient weight to outweigh my conclusions on the grounds of appeal in the section 174 enforcement cases (Appeals A, C and E) or my conclusions on the section 78 appeals (B, D and F). Nor is any other matter of such significance so as to change any of my decisions which are set out below.

Formal Decisions

Appeal A

148. The appeal is dismissed and the enforcement notice (No 1) is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal B

149. The appeal is allowed and planning permission is granted for a change of use from agricultural/forestry to a mixed use of agriculture/forestry with D2 (assembly and leisure), on land at Land at Heart of England, Meriden Road, Fillongley, Coventry, Warwickshire CV7 8DX, subject to the conditions set out in the Schedule below.

Appeal C

150. The appeal is dismissed and the enforcement notice (No 2) is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal D

151. The appeal is dismissed.

Appeal E

152. The appeal is dismissed and the enforcement notice (No 3) is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal F

153. The appeal is dismissed.

Anthony J Wharton

Inspector

(3) Application No: PAP/2018/0745

Heart of England Conference and Events Centre, Meriden Road, Fillongley, CV7 8DX

New storage building, for

Mr Stephen Hammon - Heart Of England Conference And Events Centre

Introduction

The application is reported to Board in recognition of the planning history of the site.

The Site

The application site forms part of the premises known as the Heart of England Conference and Events Centre. The wider site comprises a range of former agricultural buildings which have been re-used in association with a conference centre/restaurant, recreation events business use, a lake and other land which benefit from planning permission for recreational purposes.

The site is located on the south side of the Meriden Road (the B4102) and Wall Hill Road just south of the M6 Motorway bridge over the B4102. This is 2.5km south of Fillongley and about 1km west of Corley Moor. The area is set in open countryside but there are private residential properties on both Wall Hill Road and the Meriden Road.

The site of this application relates to an area to the south west of the main conference and events centre on the site of an existing building which in a mixed use for agricultural and forestry together with D2 uses - assembly and leisure.

The site is accessed by a track from the north (which leads off the Meriden Road) as well as through the main site.

To the south of the application site is the Birchley Hays Wood, an area of ancient woodland.

The Proposal

Planning permission is sought for the erection of a storage building. This size of this was revised following concerns on the impact of the siting on the ancient woodland.

The amended proposals are presented at Appendix A.

The proposed storage unit would now measure 24.6 by 14.6 metres rather than the 30.6 by 18.6 as initially submitted, although it would still be around 9.6 metres to its ridge.

The storage unit would be sited to the south of and behind the existing building. However they would be retained as two separate buildings. There would be a mezzanine floor in the new building thus providing storage across two floors. That storage would be for outdoor leisure equipment which is currently kept in other buildings which are to be removed as part of a wider permitted hotel redevelopment.

Background

As indicated above planning permission was granted in early 2016 for a new hotel north of and linked to the existing conference centre; the demolition of existing storage buildings, the formation of a new carpark and extensions to the existing conference centre building. The current proposal would be a replacement storage facility.

As far as the existing building in front of the proposal is concerned then it has a lawful use for mixed uses following an appeal for agricultural and forestry use as well as for assembly and leisure use (education visits and changing facilities) in connection with the overall site wide recreational use of the holding

Following an appeal, there is an extant Enforcement Notice covering the application site requiring the removal of an outside storage compound at the rear of the existing building together with all of the materials and equipment stored there as well as the surrounding palisade fencing.

No action has been taken to enforce the Notice whilst the current application is being considered.

Development Plan

North Warwickshire Core Strategy 2014 - NW1 (Sustainable Development); NW3 (Green Belt), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment) and NW17 (Economic Regeneration)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV1 (Protection and Enhancement of Natural Landscapes); ENV4 (Trees and Hedgerows), ENV13 (Building Design) and ENV14 (Access Design)

Fillongley Neighbourhood Plan 2019 - FNP01 (Built Environment); FNP02 (Natural Environment) and FNP05 (Economy)

Other Relevant Material Considerations

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

National Planning Practice Guidance - (the "NPPG")

Ancient woodland, ancient trees and veteran trees: protecting them from development, revised 2018

The North Warwickshire Local Plan Submission Version 2018 - LP1 (Sustainable Development); LP3 (Green Belt), LP14 (Landscape), LP16 (Natural Environment), LP31 (Development Considerations) and LP32 (Built Form)

Consultations

Warwickshire Fire and Rescue Service – No objection

Warwickshire Wildlife Trust – It objects as even its reduced size means that its location is within Birchley Hays Wood which is a potential Local Wildlife Site (LWS). The woodland is also identified as ancient woodland. There is an insufficient buffer between the shed and the woodland.

Environmental Health Officer - No objection.

NWBC Tree Officer - Objection

Representations

Fillongley Parish Council – It objects

Observations

a) The Green Belt

The construction of a new building in the Green Belt is inappropriate development by definition in the NPPF. There is thus a presumption of refusal here. However there are exceptions to this position as set out in the NPPF. The relevant one here is that where the building is for the provision of appropriate facilities in connection with the existing use of land or a change of use for outdoor sport and outdoor recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The applicant claims that the building is such a facility as it would be used to store equipment used in connection with the recreational use of the wider land holding – particularly inflatable equipment. He also points out the planning permission for that recreational use includes such equipment within its conditions as well as requiring the equipment to be stored in a building when not in use. At present it is stored in one of the former agricultural buildings close to the main site entrance, but which would be demolished under the hotel permission referred to above. This building is currently being used for such purposes. As a consequence it does appear that the proposal could fall within the terms of this exception. However a final conclusion on this depends on whether it satisfies the conditions attached to that exception.

The two conditions are firstly that the building should preserve openness and secondly it should not conflict with the five purposes of including land within the Green Belt. It is considered that the first of these is not satisfied. This is a substantial building which when taken together with its neighbour will have a significant mass that adversely affects both the spatial and visual elements of openness. Moreover the activity associated with its use even without the cumulative impact of the other building, would be frequent and involve large vehicles and equipment. The Inspector dealing with the outside storage here concluded that the openness of the Green Belt would not be preserved. This current proposal is for a large new building. The Inspector's conclusion must therefore still apply. The second condition is neither satisfied. The building would conflict with the third purpose of safeguarding the countryside from encroachment. As a consequence because these conditions are not satisfied, the proposal is inappropriate development within the Green Belt

As a consequence the proposal carries the presumption of refusal as it causes substantial Green Belt harm. From the summary above too it can be seen that the proposal would also cause significant actual harm to the openness of the Green Belt.

b) Other Harm

It is considered that other harms would be caused by this development.

Of particular concern is the impact on Birchley Hays Wood which is identified as Ancient Woodland. Notwithstanding the reduction in the size of the building there are still objections from the Warwickshire Wildlife Trust who refer to national guidance – particularly that of Natural England. The issue is that the “buffer” with the Woodland is too small and there has been no technical ecological or arboricultural evidence submitted by the applicant to justify that lesser distance – 5 as opposed to 15 metres.

Additionally there is no evidence submitted in respect of damage likely to be caused by vehicle movements around the building and the subsequent degradation of the woodland and the ground surface. There is also no evidence submitted to assess the impacts of noise and lighting on the ecological value of the woodland. In all of these circumstances it has to be considered that significant harm is likely to be caused. In these circumstances the proposal would not satisfy policy NW13 of the Core Strategy 2014 and the relevant paragraphs of the NPPF.

As indicated above when looking at the impact on openness there is also concern that the objectives of Policy NW12 of the Core Strategy are not satisfied – namely that all development must positively improve the appearance and environmental quality of an area.

As a consequence there are other significant harms caused here.

c) The Applicant’s Considerations

The applicant has put forward planning considerations which he considers carry sufficient weight to override any Green Belt and other harm caused.

He says that the proposal will strengthen and support the offer at Heart of England, which provides local jobs and brings visitors to the area. He also refers to the NPPF where it states that *“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”* Again he refers to another reference, *“Planning policies and decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside”*. This is also supplemented by, *“Access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities”* He concludes that Core Policy NW17 supports his objectives.

His other consideration is that the proposal is a direct consequence of the grant of the planning permission for the hotel. Replacement storage space is required and he considers that the proposal is the best location on the remainder of the site for such provision believing it to have limited Green Belt harm

It is considered that these matters when treated cumulatively do carry significant weight.

d) The Planning Balance

It is necessary now to assess whether the significant weight attached to the applicant's case "clearly" outweigh the overall Green Belt and other harms identified above.

It is not considered that they do because the harm side of the balance is substantial – not only in terms of Green Belt harm but also that of harm to the Ancient Woodland. The recent Enforcement Notice decision is also material here.

Recommendation

That planning permission be **REFUSED** for the following reasons:

1. The development would be inappropriate development in the Green Belt. It would not preserve openness causing substantial actual harm by virtue of its size and its location due to the cumulative impact with an adjoining similar building. It would conflict with the Green Belt purpose of safeguarding the countryside from encroachment by virtue of its size and location. Other harm is caused in respect of the development not satisfying policies NW12 and NW13 of the North Warwickshire Core Strategy 2014 in that the proposal does not positively improve the appearance and environmental quality of the area or protect the distinctiveness of the natural environment. It is not considered that the matters advanced by the applicant clearly outweigh the cumulative substantial harm caused. The proposal does not accord with policies NW3, NW12 and NW13 of the North Warwickshire Core Strategy 2014 or the associated relevant sections of the National Planning Policy Framework together with Policies FNP01 and FNP02 of the Fillongley Neighbourhood Plan 2019.
2. The proposed development, by reason of its location immediately adjacent to an Ancient Woodland, would result in the deterioration of that woodland contrary to Paragraph 175 of the National Planning Policy Framework together with Policy NW13 of the North Warwickshire Core Strategy 2014.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0745

Background Paper No	Author	Nature of Background Paper	Date
1	The Agent	Application Forms, Plans and Statement(s)	17.12.2018
2	The Agent	Additional marketing information	14.05.2019
3	Barton Hyett Associates	Arboricultural Impact Assessment	20.03.2019
4	The Agent	Amended Plans and Planning Statement	27.06.2019
5	Warwickshire Wildlife Trust	Response 1 Objection	18.02.2019
6	Warwickshire Wildlife Trust	Response 2 Objection	30.05.2019

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.

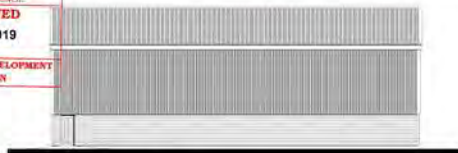
A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

For further information please contact the Planning Department on 01273 826100 or visit our website at www.southwian.gov.uk
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SOUTH WIAN BOROUGH COUNCIL
RECEIVED
27/06/2019
PLANNING & DEVELOPMENT
DIVISION



Proposed North East elevation
Scale: 1:50



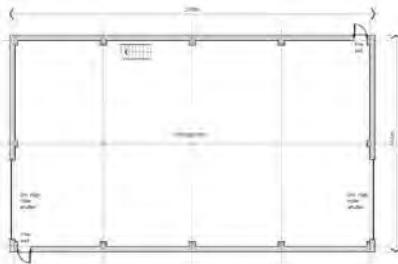
Proposed South East elevation
Scale: 1:50



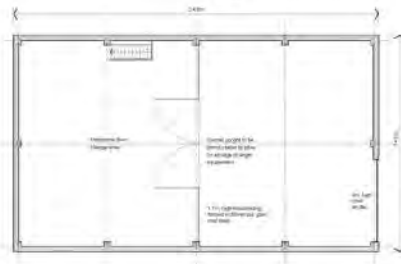
Proposed South West elevation
Scale: 1:50



Proposed North West elevation
Scale: 1:50



Proposed ground floor plan
Scale: 1:50



Proposed mezzanine floor plan
Scale: 1:50



Proposed section
Scale: 1:50



(4) Application No: PAP/2018/0716

Land Rear Of 1 To 6, Copeland Close, Warton, B79 0JE

Erection of 2 no: detached dwellings and 2 no: detached garages and associated works (regularisation of unauthorised increased finished floor levels by 650mm and variation in ground levels, contrary to reserved matters approval PAP/2017/0237), for

Cameron Homes

Introduction

This case was referred to the July Board meeting but determination was deferred to enable a meeting to be arranged between the applicant and local residents.

The previous report is at Appendix A.

Current Position

The meeting took place on 31 July and a note of this is included at Appendix B.

As can be seen from the note it was concluded that the resident's representative would consult other residents in respect of a proposal to add a trellis to the top of the boundary wooden fence of plot 4 – one of the two new houses. The residents subsequently responded that they could not agree to this as it would not help in reducing the amount of shadowing or overlooking.

At the meeting the applicant repeated his view that there had been no breach of planning control as had been indicated at the July Board meeting. He explained that he had sought legal advice on the issue and that this confirmed his view.

Following the indication from the residents that they could not agree to the suggestion made at the meeting on 31 July and in light of the legal advice obtained, the applicant has withdrawn the application PAP/2018/0716. There is thus no application to determine.

Observations

Following the withdrawal of the application, the Council still has to take a decision on the expediency of enforcement action.

Given that the applicant had sought legal advice on whether there had been a breach of planning control or not, the Council, with the agreement of the Chairman has also taken legal advice. That had not been received at time of publication of this agenda and thus a supplementary report will be circulated to Members prior to the meeting.

(2) Application No: PAP/2018/0716

Land Rear Of 1 To 6, Copeland Close, Warton, B79 0JE

Erection of 2 no: detached dwellings and 2 no: detached garages and associated works (regularisation of unauthorised increased finished floor levels by 650mm and variation in ground levels, contrary to reserved matters approval PAP/2017/0237), for

Mr Lee Ellis - Cameron Homes

Introduction

The application was reported to the May meeting of the Planning and Development Board. It was deferred to allow members to visit the site and to obtain an assessment of the effect of the development on daylight and in particular on shading from the proposed additional height in the new dwellings.

Background

The report to the May meeting of the Planning and Development Board is attached as Appendix A to this report.

Members will recall that at the Board meeting, a near neighbour spoke in opposition to the application proposal and raised issues with the written report. The speaker has since written on behalf of the residents of nos. 15, 21, 21a, 23 and 23a Ivy Croft Road to detail those issues. A copy of the letter is attached as Appendix B. This report will address the content of the letter.

Members requested the completion and submission of an assessment of the impact of shading from the raised height dwellings. This has been presented in the form of Shading Plans which compare the shading as a consequence of the development as approved to the shading as a consequence of the development as built. Illustrations depict different times of year at different times of day. The full shading assessment is reproduced in Appendix C (with a layout that enables direct comparison) for Member's reference.

Planning Board Members will have received copies in advance of this meeting in order that they can take them to the site.

A note of that visit, which takes place after the publication of this report, will be circulated at the meeting.

Observations

The observations here will be primarily confined to the matters identified by the Board and to the representations received since the report in May.

a) The Representation from Near Neighbours

Members are invited to read the representation and its associated illustrative photographs in full at Appendix B. The following is a summary and response to the matters raised.

The impact of mitigating tree planting is understated. The adverse effect will not be restricted to just shading but as the proposed trees are deciduous there would be an issue with falling leaves 'straying' into gardens belonging to Ivy Croft Road residents. It's a concern when we consider that had plots 3 and 4 been built to the correct height then tree planting/screening would not be required. Councillors should be aware that there were inaccuracies in the initial planning statement submitted by Cameron Homes in respect of the off-site planting of trees to mitigate changes in the construction.

The tree planting was carried out as a measure to mitigate the effects of a change in the form of the dwellings rather than as means to fully address the change. This was in the expectation that the trees would be welcomed by neighbouring residents. As a general rule, tree planting and enhanced landscaping is a welcome measure to improve the visual and ecological quality of development. The negative effects, such as leaf fall is commonly outweighed by the positive effect of 'softening' the effect of new built development. Given that the trees are rear garden trees with no substantial general public benefit, if it proves to be the case that the retention of the trees is not welcomed there would be no strong objection the part of the planning authority for the trees to be removed.

At an early stage in the build (at that point the ground floor windows were just about to be put in) residents raised concern with both Cameron Homes and the Planning Department that the houses were being built too high.

It is a major concern that NWBC didn't stop the development of these two plots when the deviation from the approved plans was first reported by both 23 and 23a (1st August 2018, 13th August 2018). A meeting was held between NWBC planning and the residents of nos. 21 and 23 Ivy Croft Road on 24th September 2018, followed by a site visit by NWBC on 28th September 2018. This culminated in a meeting between NWBC and Cameron Homes on 1st October 2018.

There is criticism of Cameron Homes in respect of their intention to build in accordance with the approved plans and the failure to notify NWBC of problems which would necessitate applying for permission to vary from the approved scheme.

It is correct to say that resident's concerns about a potential increase in height of these two plots was drawn to the Council's attention some time before the subsequent submission of the retrospective planning application. Officers worked to establish firstly whether there was a variance from the approved plans. With the co-operation of the applicant it was established that as a consequence of changed ground levels the overall height of the dwellings would be raised.

Members will be aware that it is not unlawful to carry out development in an unauthorised manner. When unauthorised development is established officers use judgement to establish the expediency of formal enforcement action. Where the breach is not deemed a serious breach, a common remedy is to invite the submission of a

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retrospective planning application. Where the breach is deemed to cause serious harm consideration can be given to the pursuit of formal enforcement action, including the service of Enforcement Notices and/or Stop Notices. Given that it was established that the increase in height of these dwellings was less than a metre, and for the reasons set out in the May report, this extent of deviation from the approved plans was not considered to be a circumstance warranting the service of an Enforcement Notice or a Stop Notice.

Residents believe that the statement 'no change has been made to the shape, size or actual height of the two buildings (plots 3 and 4)' to be untrue and point to the overall height being raised by +650mm.

The report is not incorrect, it fully acknowledges that the building is +650mm higher overall (as a result of an increased ground level) but the building itself is not altered, it is of the same footprint and the same width, depth and height above finished floor level.

Residents believe the statement 'No objections have been expressly received concerning the elevational changes.' to be incorrect because they drew attention to the effects of increased height.

Again, the report is not incorrect in this respect, the term 'elevational changes' refers only to the minor changes in the external appearance of the house such as the arrangement of window/door positions and attachment of garages. Indicating that there were no objections in this respect does not suggest a dismissal of concerns about the effects of an increase in height. Issues of the degree to which privacy will be affected by the increased height is addressed in the 20 May report.

Residents express the concern that photographic images contained in the May report taken from the rear garden of no. 17 Ivy Croft Road are not representative of the effect on nos. 21, 21a, 23 and 23a. 17 Ivy Croft Road is on slightly higher ground than the primarily affected neighbours. The statement 'it is primarily only the roof of the dwellings in view and that the limited fenestration does not cause undue harm from overlooking.' may well apply to no. 17. However, it is completely untrue for nos. 21, 21a, 23 and 23a.

This is acknowledged to be correct, the relationship of number 17 to the new dwellings does differ to that of its neighbours and it is acknowledged that it is on slightly elevated ground. For completeness, the following image depicts the relationship between numbers 21 and 21A and Plot 4.



It is also acknowledged that the inter-visibility between these dwellings is greater and it is acknowledged to be more visually dominant than that at number 17, however, the properties are side on to each other and there are no principal windows in the new dwelling that have a direct line of sight to windows in the Ivycroft Road properties. Overlooking as a consequence of the elevated height is not considered to be substantially different to the approved scheme.

The residents take a different view to the views expressed in the officer's report about the impacts from shading and challenged the technical basis upon which the officer's advice was founded.

Members now have had the benefit of a site visit to see the relationship of new to existing dwellings and have the benefit of a shading effects assessment to inform decision making. The following section addresses the previous absence of a technical analysis and offers commentary on the findings of the assessment.

b) The Shading Assessment

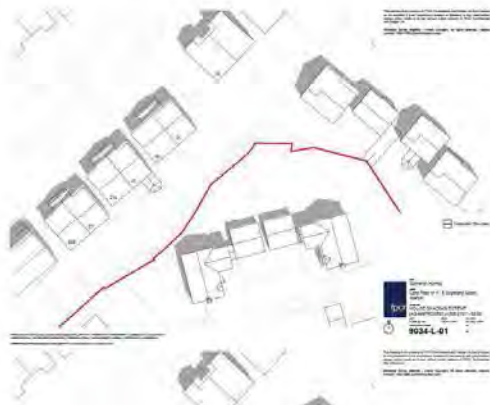
The shading assessment consists of the production of two sets of drawings that show the difference between the shade of the properties on the 'as approved' and the 'as built' schemes. It has been built using SketchUp to show the neighbouring (off site) properties and those within the Cameron Homes scheme at the approved ground level at and then at the higher, as built, level.

In line with standard methodology it locates the site co-ordinates and shows the shadows cast by the Cameron Homes properties at various times of day at both the summer and winter solstices – essentially the best and worst case scenarios in terms of the amount of shade cast.

The drawings show that some shade will be cast onto the neighbouring properties from the Cameron Homes dwellings as a part of the as approved and as built development. However, the difference in shadow pattern between the built and approved levels does not increase the amount of shade cast on the surrounding buildings significantly or to any material detriment. There are only minor differences in the shadow patterns

between the two different development heights and, where the neighbouring properties are shaded by the development, this was the case originally.

The images below show a snapshot of the seasonal differences and comparative differences (at midday).



(AS APPROVED) JUNE 21ST - 12:00



(AS APPROVED) DECEMBER 22 AT 12:00



(AS BUILT) JUNE 21ST - 12:00



(AS BUILT) DECEMBER 22 AT 12:00

Note: The images are shown at full size in the report appendix.

The images illustrate that any shading that results is primarily shading to gardens rather than shading in the neighbouring dwellings.

It is not considered that there would be a defensible reason to resist the increased height on the basis of a concern about shading.

c) Conclusions

The timescales involved in seeking to investigate and address the variation from the approved scheme and the frustrations felt by residents, though thoroughly appreciated and acknowledged to be regrettable, cannot be determining matters in this application. Members will appreciate that the investigation and remedy of breaches of planning control can be time consuming matters. Similarly, concerns about the applicant's intentions, motivations or conduct are not determining matters in this application. The application must be determined on the basis of an assessment of the effects of raising the height of the dwellings by 650mm.

It is considered that the submitted shading assessment evidences that the effect of raising the height is a very minimal detriment. The recommendation of the previous report remains sound in these circumstances.

d) Expediency of Enforcement Action

If, despite the findings set out above, the Board was inclined to consider a refusal of the application, consideration would need to be given to the expediency of remedying the breach of planning control.

A refusal of planning permission would mean that the dwellings as constructed are unauthorised. The only remedy available to the planning authority would be a requirement for the demolition of the properties. A reduction in ground level and the reconstruction of the dwellings, in accordance with the approved development, would follow should the developer choose to do so. The developer could, if he chose, make a new application for dwellings which take a different form at the current ground level.

It has to be considered if such a measure would be proportionate, given the levels of harm caused by the additional 650mm height. The dwellings are occupied by families. The families would be displaced for a considerable period of time. The works to remedy the breach would be time consuming and expensive. Even if action had been taken immediately when the suspected breach had been reported the works would have been substantial and expensive to remedy. It is not considered that it would be proportionate or expedient to take the available enforcement action given the levels of harm caused by the additional 650mm height and the nature of those works. The applicants would have a right of appeal against both the planning application and any Enforcement Notice served. An enforcement appeal can consider whether the requirements of a Notice are excessive and a Planning Inspector would consider the consequences of the required measures balanced against the harm.

Recommendation

That planning permission be **GRANTED** subject to the conditions as set out in the report to Board from May 2019.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0716

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Shading assessment	26/6/19
2	Near Neighbour	Representation	30/5/19

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.

General Development Applications

Application No: PAP/2018/0716

Land Rear Of 1 To 6, Copeland Close, Warton, B79 0JE

Erection of 2 no: detached dwellings and 2 no: detached garages and associated works (regularisation of unauthorised increased finished floor levels by 650mm and variation in ground levels, contrary to reserved matters approval PAP/2017/0237), for

Mr Lee Ellis - Cameron Homes

Introduction

The application is reported to Board as a consequence of the request of the local member concerned about the impacts of the changes.

The Site

The site comprises two dwellings on the residential estate that is currently under construction on land to the south of Copeland Close and Ivycroft Road in Warton – shown below:



The Proposal

The application seeks planning permission for the erection of two dwellings. It is, in effect, an application to regularise the unauthorised construction of Plots 3 and 4, as approved under reserved matters approval (PAP/2017/0237), which have been built to a finished floor level 650mm higher than approved under that reserved matters approval.

The differences are as follows:

Plot	Approved Level	As Built Level	Difference
3	83.25m	83.90m	0.65m
4	83.25m	83.90m	0.65m

Additionally, small elevational changes have been made to the dwellings approved under PAP/2017/0237, including the inclusion of patio doors at ground floor and the removal of the covered link between the dwellings and their respective garages.

The two plots in the context of their relationship to existing neighbouring dwellings is shown in the cross sections below in both the original approved form and the as built form that this application seeks to regularise.

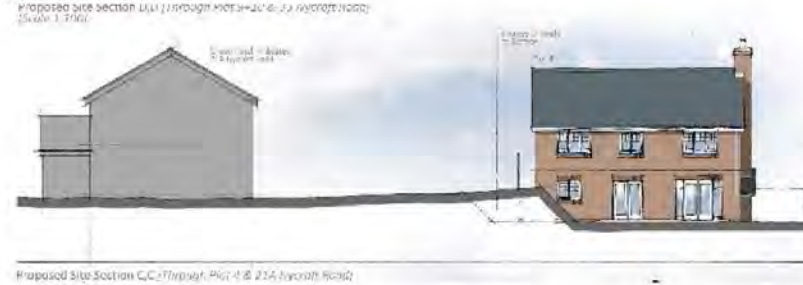
AS APPROVED:



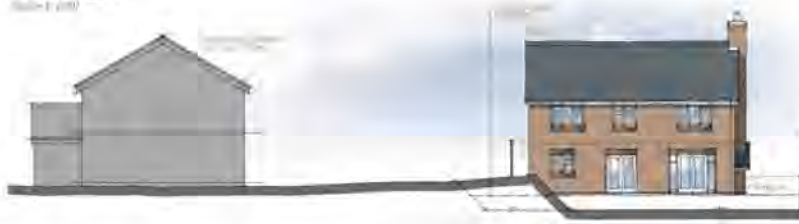
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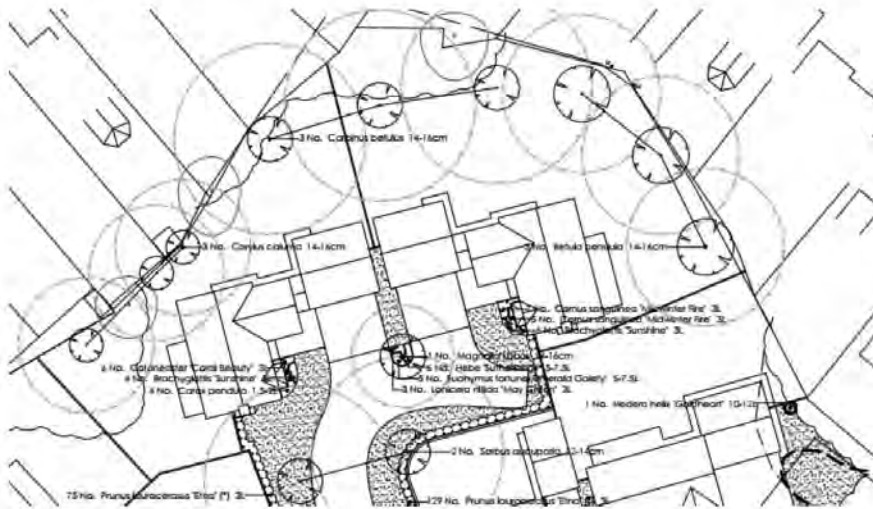
AS APPROVED:



AS BUILT:



The landscaping scheme is to be enhanced to provide tree planting along the rear site boundary:



There are consequential changes in ground levels and it is proposed that they be retained as built.

Development Plan

The Core Strategy 2014 - NW10 (Development Considerations) and NW12 (Quality of Development)

Other Relevant Material Considerations

National Planning Policy Framework (the "NPPF")

The North Warwickshire Local Plan Submission Version 2018 - LP31 (Development Considerations) and LP32 (Built Form)

Representations

Representations have been received from seven households raising the following concerns:

- Plot 4 is right at the end of my garden and when I sit in my lounge all I can see is a huge brick wall.
- The applicant has not worked with neighbours to mitigate concerns about vegetation in our property and our fences falling.
- The development causes shadowing in adjacent gardens. The roof height being higher than was originally agreed it has blocked out natural light from the end of a garden and a huge shadow, the shape of a pitched roof across the entire width of my garden and up my garden. Sunlight could previously be guaranteed all day. Loss of light has especially noticeable during the last few months when the sun stays low to the horizon.
- Plants have died.
- Light is lost from bedroom windows.
- Occupiers of existing properties feel that they have to avoid looking out of bedroom windows for fear of looking at occupiers of new dwellings and that they will be overlooked in bedrooms, more than they would have been if the plots had been constructed to the original level.
- There is complaint about the conduct and motivation of the builder.
- There is concern that the developer has not built in accord with the approved plans and a general disapproval at the fact that he should be 'allowed' to address this retrospectively. There is concern about precedent for others following suit.
- The height difference of +650mm is not, slightly higher, as described by the applicant, but significantly high.
- There is concern that the Council did not stop the development when the deviation from the approved plan was first reported.
- Concern about compliance with Building Regulations if the developer has not complied with the planning approval.
- Proposed tree planting will produce an even greater issue with shading and will not have any benefit to the residents of Ivy Croft Road and Copeland Close.
- It is suggested that Councillors should visit the site.
- One occupier of one of the adjacent new dwellings raises a detailed query which attempts to define the adherence to the approved drawings in respect of external works, boundary treatments and engineering layouts, with particular regard to the effect on drainage. He suggests that this application makes no reference to the impacts on plots 5 & 6 that adjoin Plot 4. There are concerns that the increased height is contributing to the excess water drain off that is collecting in the rear garden of Plot 5, potentially plot 6, access driveway and ultimately plots 7 & 8. He considers that further work is required to assess whether or not this is the root cause.
- Two objectors have supplied photographs to illustrate concerns:



Figure 1: 23a Bedroom 2 To Plot 4



Figure 5: 23a Living Room To Plot 4



To illustrate shadow cast on garden.

Observations

The principle of residential development has been accepted here. The issue with this application is to assess whether the changes made are so materially different from that approved so as to warrant a refusal. If so, then the expediency of enforcement action would be needed to be considered, which could result in the demolition of the two buildings and their re-construction to the approved plans.

In respect of the elevational changes, including the addition of patio doors on ground level and the removal of the internal connection between the main dwelling and garage, then no change has been made to the shape, size or actual height of the two buildings (plots 3 and 4). The scale, massing and external appearance is therefore materially similar to that approved at the reserved matters stage and are not a cause for concern in the determination of the application. No objections have been expressly received concerning the elevational changes.

The key issue for consideration is therefore the impact of the increased finished floor levels (FFLs) on the amenity of neighbours living on Ivycroft Road and Copeland Close. This will be explored in some detail below.

Cross-sections have been submitted to show the relationship between Plot 3 and no.3 Copeland Close and Plot 4 and no.21A Ivycroft Road (reproduced above) and the photographs below also show current relationships.

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The above images show the rear garden of the new dwelling (from Plot 3 looking towards Plot 4 and properties on Ivycroft Road) in the context of the relationship with existing dwellings on Ivy Croft Road. The separation distance between the two is relatively generous by modern housing estate standards.



The image above shows the elevation of adjacent properties on Copeland Close above the application premises.



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The image above shows the elevation and separation distance of adjacent properties on Copeland Close above the application premises and the length of the rear gardens to the new properties.



The image above shows the relationship of Plot 4 side at a side angle to properties on Ivycroft Road.



These images (taken early on a winter/spring morning in an Ivycroft Road rear garden) show that the sun clears the height of the new dwelling, affording natural sunlight and daylight to the rear of properties on Ivycroft Road. The first image also shows that it is primarily only the roof of the dwellings in view and that the limited fenestration does not causing undue harm from overlooking.



Even with the sun low in the sky the new dwellings have no shade casting effect on the houses themselves (illustrated example above)

Much of the concern expressed in the representations is about the effect of having dwellings where there were formerly none. This should carry no weight as there is a planning permission here for the erection of two houses. The issue as indicated above is to assess the differences between that approved and that constructed in terms of the degree of any adverse impacts.

The separation distance between new and existing dwellings is adequate to ensure no undue dominance or levels of privacy that are beyond the norm. The difference in land levels also assists in ensuring that the new dwellings do not have an unreasonable degree of dominance, overlooking or loss of privacy. The occupiers of adjacent dwellings formerly enjoyed an outlook over an undeveloped field. It is unsurprising that the construction of dwellings is an unwelcome change. However, permission exists for dwellings to be constructed at this location. The issue here is not whether the new houses cause harm because of their very presence but whether the altered, slightly elevated dwellings tip the balance of them having an unacceptable impact. It is considered that they do not. They do not significantly affect light to properties, nor do they have any substantial impact on light to rear gardens sufficient to justify very significant alteration to return them to the original approved height. There is no significant consequence to overlooking as a consequence of the increase of 0.65metres in height.

The harm to amenity from shadowing is judged in terms of degree of harm. Harm caused by shadowing of rooms in dwellings is generally of significant concern or weight. Harm to frequently used parts of gardens immediately adjacent to dwellings (patios) is generally of more moderate weight. However, harm from the shadowing of rear parts of gardens is most commonly held to be of less significant harm, since these parts of gardens are often less well used. In this instance, the degree of shade cast is not great and confined primarily to the rear portions of rear gardens (given separation distances and levels). The additional 0.65metres cannot be held to cause such significant loss of light to neighbouring dwellings as to suggest refusal and enforcement action.

The proposed landscaping scheme is considered an appropriate response to the partial screening and softening of the built form. The trees selected are suitable for small gardens. Any adjacent occupiers would have the rights to remove overhanging branches as the trees mature if the wish. It is also acknowledged that the inclusion of

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trees is a desirable measure to lessen impact, it is not considered essential to the acceptability or lack of acceptability of the dwellings in their new form. It is further acknowledged that, given the location of the trees in back gardens, they would not be afforded the protection of a tree preservation order. Thus, it is hoped that, by mutual agreement, if the retention of any of the trees were not desired at any future point, they could be removed as appropriate.

In respect of the levels and surface water drainage matters raised by an occupier of one of the adjacent newly constructed dwellings. There are some consequential changes to land form on the adjacent plot (Plot 5) the change is in the form of a slight elevation to the rear part of the garden (illustrated in the photograph below). Instead of a broadly flat rear garden, the garden now contains a relatively shallow slope towards the house.



The only plan approved relative to the reserved matters application containing levels information is the proposed cross sections. This drawing does not show specific slab levels but is to scale and shows a datum line from which the levels can be measured. The only plan approved that shows specific slab and garden levels is the RACE Engineering Layout Dwg No. 100 Rev P8 that was submitted and approved for the discharge of conditions 20, 21 and 22. Whilst these conditions are related to drainage it is reasonable to consider that the associated levels shown are also be deemed to be approved. In respect of the garden levels of plot 5, the levels shown on revision P8 of the engineering drawing verses the as built levels and these are identified below:

- Left hand corner (looking at the garden from the patio) – approved level 82.80 – as built level 82.66 – as built level therefore 140mm lower than approved.
- Change of direction at mid point of rear boundary – approved level 83.15 – as built level 83.18 – as built level therefore 30mm higher than approved.
- Right hand corner – approved level 83.30 – as built level 83.37 – as built level therefore 70mm higher than approved.

Though this is of acknowledged concern to the householder because it makes the mowing of the lawn a little more difficult and causes the garden to be a little less useable, the variation in levels is of minimal effect in the context of the development of

the site and in terms of its effect (in planning terms it is considered de-minimis). The change in levels causes no difference to the visual appearance of the area or to the amenity of neighbouring dwellings. The developer is in discussion with the householder about measures to remedy his concerns, including measures to deal with surface water drainage matters and the re-profile the garden. The wetness of the garden is believed, at least in part, to be as a consequence of compacted subsoil during the construction. The developer proposes that within Plot 5 he will remove the existing turf, loosen the sub-soil and prepare and lay new turf to the garden. He further proposes an additional gravel margin adjacent to the paving so that should there be any surface water run-off from the garden this will be intercepted before running onto the patio or path. This is a matter of ongoing dialogue between the developer and the householder but it is not considered to be a matter of substance to be resolved through this planning application. It is not considered that there is any consequence here that would suggest a refusal for the levels as constructed.

The garden boundary fence is shown on the approved drawings as larch lap fencing however the fence erected is close boarded (see image above). This change is also considered to be a de-minimis change. Had permission been sought for this type of fencing in the first instance, permission would not have been denied.

Given the increased overall elevation of the dwellings and the sensitivity of the near neighbours to overlooking and loss of light it would now appropriate to remove permitted development rights for extensions, roof alterations or garden buildings. This would not preclude the prospect of such works but would ensure a continuing level of control over impacts. The condition is also appropriate given the former ground conditions in this part of the site.

Finally, the local residents express 'in principle' concern that the developer should not 'be allowed to get away with' carrying out development in an unauthorised manner and seeking permission retrospectively. Members are reminded that planning legislation allows for retrospective applications and enforcement action is also discretionary. It is not automatically unlawful to carry out unauthorised development. The developer takes a risk of formal enforcement action but the Planning Authority will only proceed to take action if it is deemed expedient to do so. For the reasons set out above, it is not deemed expedient to do so in this case and the retrospective application may be supported.

Recommendation

That planning permission be **GRANTED** subject to the following conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 16-075-05E Landscape Proposals received by the Local Planning Authority on 30 November 2018, the 7503_450D_As Built Site Sections, As Built Plans and Elevations and BER_ENG_100 Rev P10 - As Built Levels received by the Local Planning Authority on 3 December 2018 and the Location Plan received by the Local Planning Authority on 7 December 2018.

REASON

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

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

REASON

In the interests of the amenity of occupiers of neighbouring dwellings and in the interests of the amenity of the area and in recognition of the ground conditions in the locality.

4. No additional windows or door openings in all elevations and roof plains shall be made, other than as shown on the plans hereby approved, nor shall any approved windows or doors be altered or modified in any manner.

REASON

In the interests .of the amenity of occupiers of neighbouring dwellings

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0716

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	Nov & Dec 2018
2	Various	Letters from occupiers of seven adjacent dwellings	Dec 2018 to April 2019

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

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

APPENDIX B

Ivy Croft Road
Warton
North Warwickshire
B79 0JJ

30th May 2019

Land to the rear of Copeland Close and Ivy Croft Road, Warton

Dear Mr Brown,

In response to your letter dated 21st May 2019 I am pleased to note the following on behalf of the residents of nos. 15, 21, 21a, 23 and 23a Ivy Croft Road.

Page 5/13 (of the report for the Planning and Development Board Agenda 20th May 2019)

Under 'Representations'

- *'Proposed tree planting will produce an even greater issue with shading and will not have any benefit to the residents of Ivy Croft Road and Copeland Close.'*
We feel it should have been noted there is not just an issue with shading but as the proposed trees are deciduous there would be an issue with falling leaves 'straying' into gardens belonging to Ivy Croft Road residents. It's a concern when we consider that had plots 3 and 4 been built to the correct height then tree planting/screening would not be required. (Contained within the submission of Jan 2019 by no. 23 Ivy Croft Road)
- We believe the following to be an omission from the representations and feel that Councillors should be made aware of this as it paints a whole different picture of Cameron Homes and their intentions regarding honouring existing planning permissions or notifying NWBC of any possible problems which would necessitate applying for a change in those permissions.

The following is an extract from the submission of Jan 2019 by no. 23 Ivy Croft Road but was echoed by nos. 21 and 23a.

"I would like to point out there are several inaccuracies in Cameron Homes' planning statement submitted with this application. Point 3.10 is one case in point. It states:

"Since the breach was identified, the Applicant has worked with neighbours to mitigate concerns where possible. This has included off-site planting (at no. 23 Ivy Croft Road) The planting of a tree within the garden of 23 Ivy Croft Road is a civil matter between the two parties and falls outside of planning control. It has nonetheless been planted and its retention is now within the control of the owner/occupier of 23 Ivy Croft Road."

This is wholly and completely untrue. No tree has been planted in my garden (23 Ivy Croft Road) therefore Cameron Homes have not resolved any civil matter between themselves and myself.

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In addition to this, Cameron Homes have not communicated anything to the residents affected since the breach was identified. On 24th July 2018, I invited Lee Ellis, Cameron Homes Technical Director, to visit 23 Ivy Croft Road to look at the height of Plot 4. At that point the ground floor windows were just about to be put in and I was concerned that it was all too high. His response was that it wasn't."

At the request of no. 23, CT Planning sent an amended statement to no. 23 Ivy Croft Road and Erica Levy via email but this amended statement never appeared on NWBC website.

- *'There is concern that the Council did not stop the development when the deviation from the approved plan was first reported.'*

We feel there isn't enough information for the Councillors in the sentence. It is a major concern to us that NWBC didn't stop the development of these two plots when the deviation from the approved plans was first reported by both 23 and 23a (1st August 2018, 13th August 2018). A meeting was held between NWBC planning and the residents of nos. 21 and 23 Ivy Croft Road on 24th September 2018, followed by a site visit by NWBC on 28th September 2018. This culminated in a meeting between NWBC and Cameron Homes on 1st October 2018. (Contained within the submissions of 21, 23 and 23a Jan 2019).

Page 5/14 (of the report for the Planning and Development Board Agenda 20th May 2019)

Under 'Observations'

- *'... then no change has been made to the shape, size or actual height of the two buildings (plots 3 and 4).'*

We believe this is untrue. Although the physical height of the buildings is the same, the overall height relevant to the original plans has changed by +650mm.

- *'No objections have been expressly received concerning the elevational changes.'*

We believe this is untrue. Specific objections were submitted as follows in the representations of Jan 2019:

From no. 21 – 'incorrect height of the two plots has had a significant impact to residents of Ivy Croft Road regarding shading'

From no. 23 – 'substantial difference in height has led to increased shadowing and our amenity has been compromised with an increased loss of outlook. The physical external space.....is visibly higher'

From no. 23a – Our main objection to the F.F.L. is regarding loss of privacy'

- *'The separation distance between the two is relatively generous by modern housing estate standards.'*

We feel this is completely irrelevant as this application is primarily concerned with raised F.F.L.

Page 5/16 (of the report for the Planning and Development Board Agenda 20th May 2019)

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- The second image on this page is taken from the rear garden of no. 17 Ivy Croft Road. This dwelling is on slightly higher ground than the primarily affected nos. 21, 21a, 23 and 23a. The statement '*it is primarily only the roof of the dwellings in view and that the limited fenestration does not causing undue harm from overlooking.*' may well apply to no. 17. However, as evidenced by the images on page 5/13 – figures 1 and 5 it is completely untrue for nos. 21, 21a, 23 and 23a.
- The last image on this page is of the rear of 17 Ivy Croft Road. There may be '*no shade casting effect*' on this dwelling, which isn't actually surprising as the garages of plots 3 and 4 are at the bottom of this garden. However, as evidenced by the image at the top of page 5/14 and the images below (taken from no. 21 Ivy Croft Road), it is very obviously not the case for all the dwellings.



Fig. 1



Fig. 2



Fig. 3



Fig. 4

Page 5/17 (of the report for the Planning and Development Board Agenda 20th May 2019)

- *'Much of the concern expressed in the representations is about the effect of having dwellings where there were formerly none.'*
We believe this isn't true. Residents have accepted that the development is there but have concerns about the F.F.L. of plots 3 and 4.
- *'The difference in land levels also assists in ensuring that the new dwellings do not have an unreasonable degree of dominance, overlooking or loss of privacy'*
Cameron Homes built up the land level when building commenced on plots 3 and 4. This does mean that there is a difference in land levels – these plots are now higher than the affected properties in Ivy Croft Road. Prior to this, the land level behind nos. 21, 21a, 23 and 23a Ivy Croft Road was considerably lower than it is now!
- *'The occupiers of adjacent dwellings formerly enjoyed an outlook over an undeveloped field. It is unsurprising that the construction of dwellings is an unwelcome change'*
In our opinion this is an extremely patronising statement. Furthermore, it implies that the residents of Ivy Croft Road have some sort of vendetta against Cameron Homes. As this is not the case, we feel this statement isn't representative of our concerns over the increased F.F.L. of plots 3 and 4.

- *'They do not significantly affect light to properties, nor do they have any substantial impact on light to rear gardens sufficient to justify very significant alteration to return them to the original approved height.'*

Who has decided this? To the best of our knowledge an independent specialist has not carried out an appropriate light survey. We believe it is worth noting that a light survey was carried out further down the site behind no. 31 Ivy Croft Road which found that the light level there was inadequate. Consequently, the two storey dwelling there was amended to a bungalow. Houses nos. 15 through to 31 Ivy Croft Road are all in a straight line and at the same angle to the development site so, if it was deemed necessary to undertake a light survey behind no. 31, surely it is just as necessary to carry one out behind nos. 15 – 23a.

- Following on from this is the observation *'The additional 0.65 metres cannot be held to cause such significant loss of light to neighbouring dwellings as to suggest refusal and enforcement action'*

Surely this must be an estimated opinion as a light survey has not been carried out?

Page 5/19 (of the report for the Planning and Development Board Agenda 20th May 2019)

- *'Given the increased overall elevation of the dwellings and the sensitivity of the near neighbours to overlooking and loss of light it would now appropriate to remove permitted development rights for extensions, roof alterations or garden buildings.'*

This statement in the report seems to imply to us that there is an acceptance by NWBC that loss of light is actually an issue.

In conclusion, we strongly recommend that the members of the Planning Committee take time to review the history of this retrospective planning permission from Cameron Homes by reading all the initial objections raised by the residents of Ivy Croft Road in January 2019. This will help to build a picture of the timescales involved since the initial concerns were highlighted to Erica Levy and the NWBC Planning Team and will also enable them to appreciate the associated frustrations that have come with it.

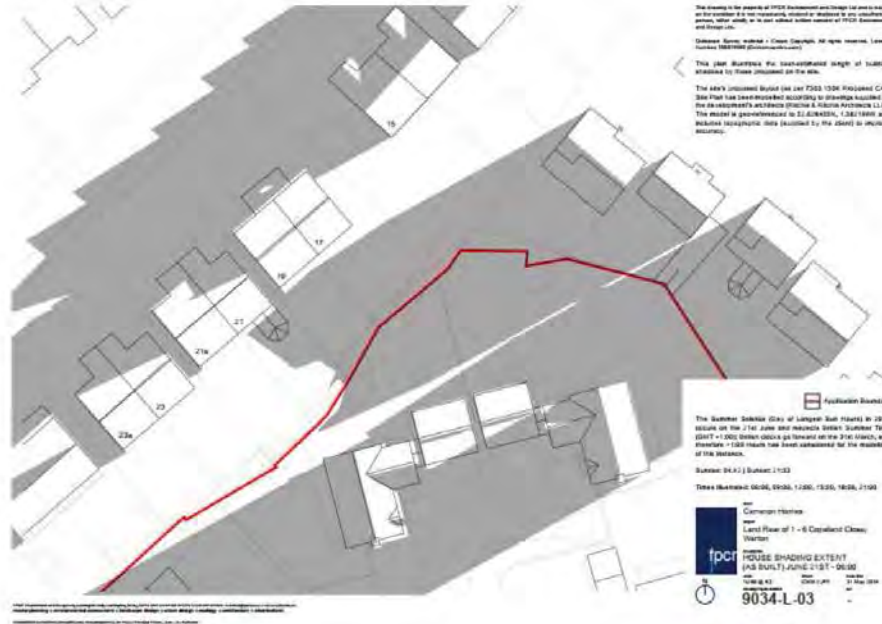
I hope that this document is of use to you in revising your report for the Councillors. Please don't hesitate to contact me if anything needs clarifying or if I can be of any further assistance.

Yours sincerely,

JUNE
HOUSE SHADING EXTENT (AS APPROVED) JUNE 21ST - 06:00



HOUSE SHADING EXTENT (AS BUILT) JUNE 21ST - 06:00



HOUSE SHADING EXTENT (AS APPROVED) JUNE 21ST - 09:00



HOUSE SHADING EXTENT (AS BUILT) JUNE 21ST - 09:00



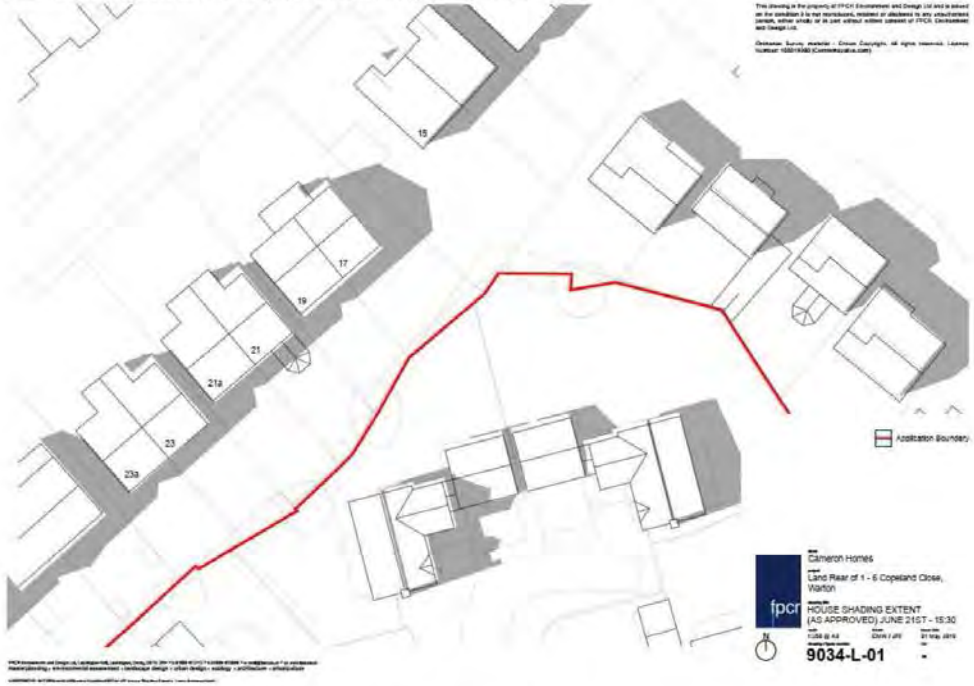
HOUSE SHADING EXTENT (AS APPROVED) JUNE 21ST - 12:00



HOUSE SHADING EXTENT (AS BUILT) JUNE 21ST - 12:00



HOUSE SHADING EXTENT (AS APPROVED) JUNE 21ST - 15:30



HOUSE SHADING EXTENT (AS BUILT) JUNE 21ST - 15:30



HOUSE SHADING EXTENT (AS APPROVED) JUNE 21ST - 18:00



HOUSE SHADING EXTENT (AS BUILT) JUNE 21ST - 18:00



HOUSE SHADING EXTENT (AS APPROVED) JUNE 21ST – 21:00

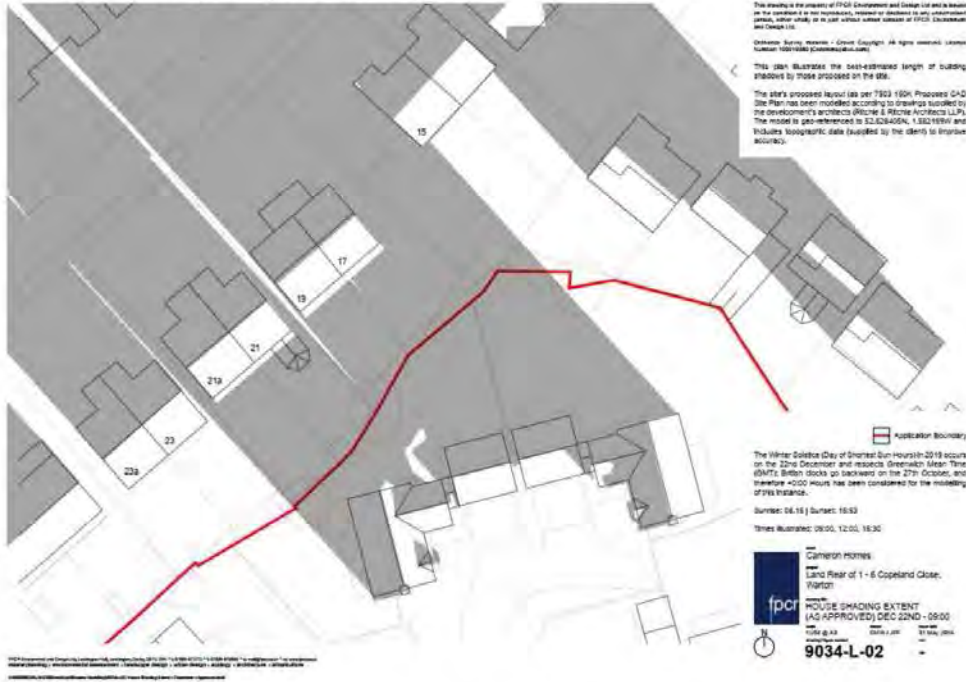


HOUSE SHADING EXTENT (AS BUILT) JUNE 21ST – 18:00

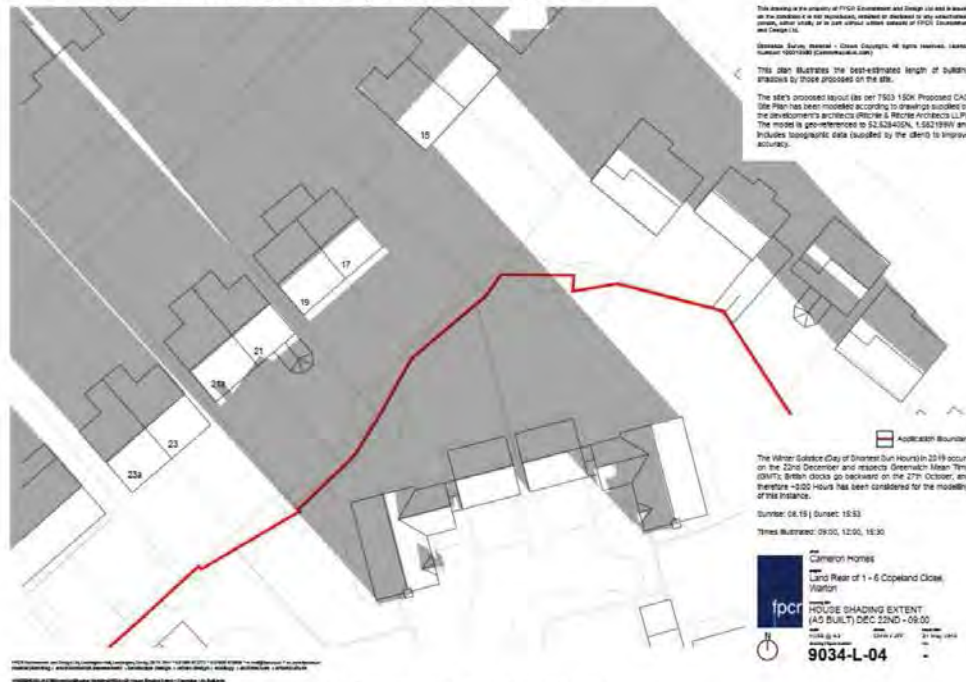


DECEMBER

HOUSE SHADING EXTENT (AS APPROVED) DECEMBER 22 AT 09:00



HOUSE SHADING EXTENT (AS BUILT) DECEMBER 22 AT 09:00



HOUSE SHADING EXTENT (AS APPROVED) DECEMBER 22 AT 12:00



HOUSE SHADING EXTENT (AS BUILT) DECEMBER 22 AT 12:00



HOUSE SHADING EXTENT (AS APPROVED) DECEMBER 22 AT 15:30



HOUSE SHADING EXTENT (AS BUILT) DECEMBER 22 AT 15:30



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PAP/2018/

The Hills/Ivycroft Road, Warton

Meeting – 31 July 2019 at 1700 held at the NWBC offices

Present:

Councillors D and M Humphries and Simpson; W Brearley (WB), L Ellis and P Downey (PD) on behalf of Cameron Homes, Mrs Talbot (JT) on behalf of Ivycroft Road residents and J Brown (JB)

1. Cllr Simpson opened the meeting referring to the Board deferral of this case at its July meeting
2. WB wanted to know what Cameron Homes could do to assist the Ivycroft Road residents, particularly as an offer of additional tree planting had not been accepted.
3. JT explained that she was representing the occupiers of numbers 15, 21, 21a, 23 and 23a and that their issues were with overshadowing and overlooking. The two new houses were particularly overbearing. The issue had been raised with the Council and Cameron Homes last year, yet still construction had continued. Additionally there was an issue with ownership boundaries and the impact of the new development, including its boundary fence affecting existing established fences.
4. WB explained that Cameron Homes were of the view that there had been no breach of planning control. Even if there was then in his view, there was no significant harm arising as had been shown on the diagrams submitted to the Board. Additionally, it was not possible to demolish the two houses and rebuild or indeed alter them as they were now privately owned and such works were not in Cameron Home's gift. As a consequence Cameron Homes could only offer mitigation measures – either landscaping or boundary treatments.
5. JT said that residents would be uncomfortable with tree planting in their rear gardens or in the new plots, due to extra shadowing and that in winter the houses would still be seen.
6. Cllr Simpson asked what might satisfy the residents as a "middle way". In other words what measures would make the situation better but accepting that they still had concerns.
7. JT felt that there were none.
8. Cllr Simpson asked Cameron Homes to outline their account of the situation.
9. PD reiterated that they did not agree that there had been a breach. Levels plans had been agreed before commencement. He acknowledged that the difficulties started because of cross section plans that had been produced which did give rise to some uncertainty. As construction continued enforcement officers investigated and suggested that some planting in the house gardens would help in reducing any impacts. Cameron Homes considered that the speediest way to resolve the issue was the submission of the application to retain what had been built. However that was eight months ago. They were unclear about a remedy.
10. There was an exchange about land ownerships with Cameron Homes and residents having different views.
11. Cllr Simpson asked whether the issue for the residents was one of overlooking or one of overshadowing.
12. JT said that numbers 23 and 23a had an overlooking problem but for numbers 21 and 21a, it was overshadowing.

13. Cllr Simpson asked whether raising the height of the boundary fence would help the four occupiers in alleviating their different concerns, but with one solution.
14. JT indicated that around an extra two feet would be helpful.
15. PD indicated that he would ask the occupier of plot four if he would agree to a trellis being added to his fence. If so, Cameron's would provide this.
16. JT agreed to contact the other residents to see if they would feel more comfortable with the trellis added.
17. JB pointed out that the trellis would be in breach of planning control, but that the prime consideration here was to see if the residents agreed to the work. In those circumstances he could not recommend any action.
18. It was agreed that PD would approach the occupier of Plot 4 and that JT would contact other residents. PD and JT would then liaise and let JB know the outcome.
19. The meeting concluded at 1800.

(5) Application No: PAP/2019/0037

The Woodlands, Reddings Lane, Nether Whitacre, B46 2DN

Demolition of existing dwelling, garage and outbuildings and erection of detached dwelling house and associated works, for

Mr J O'Neil

Introduction

This application is reported to the Board at the request of Local Members under the Scheme of Delegation, concerned about the impact of the proposal.

The Site

The application site relates to an existing dwelling and detached garage set back within a substantial plot on the east side of Reddings Lane. It is the last dwelling in a small linear frontage of similar large properties along Reddings Lane. The site of the former Garden Centre now redeveloped as a residential area is to the north. The properties along the road are a mix of design and all modern. The site is otherwise in open countryside.

A site location plan is at Appendix A.

The Proposal

It is proposed to demolish the existing dwelling, garage and outbuildings and erect a new detached with and associated works. The existing situation is shown in Appendix B being a layout plan of the existing situation and in Appendix C which illustrates the existing appearance of the house.

The originally submitted plans showed a replacement as in Appendices D and E.

This proposal has been amended since submission with the scheme that is now proposed for determination being illustrated at Appendices F and G.

Background

As will be seen below, because the site is in the Green Belt, the NPPF states that a replacement building should not be "materially larger" than the one it replaces. Hence a comparison of sizes is important in the determination of this application. In this case the volume of the existing buildings to be demolished is around 725 cubic metres.

In the last few months there have been three separate planning permissions for extensions to the existing building – for reference purposes these are PAP/2018/0588; 0682, and 717. These three extensions are separate developments and are mutually exclusive. Together these have a volume of 634 cubic metres. When added to the existing volume, this gives a figure of 1359 cubic metres.

The total volume of the amended scheme to be determined in 1432 cubic metres

In terms of % increases, then the amended scheme over the existing is just under 100% and over the existing plus the extensions it is 5%.

The overall height of the existing and the proposed remains the same as at 8 metres.

Development Plan

North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW10 (Development Considerations), NW11 (Renewable Energy and Efficiency), NW12 (Quality of Development) and NW13 (Natural Environment)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV12 (Urban Design); ENV13 (Building Design), ENV14 (Access Design), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking)

Other Relevant Material Considerations

National Planning Policy Framework 2019 – (the “NPPF”)

National Planning Policy Guidance 2019 – (the “NPPG”)

The Town and Country Planning (General Permitted Development) (England) Order, 2015 (as amended)

The North Warwickshire Local Plan Submission Version, March 2018 - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP3 (Green Belt), LP14 (Landscape), LP16 (Natural Environment), LP31 (Development Considerations), LP32 (Built Form), LP35 (Water Management) and LP36 (Parking)

Consultations

Warwickshire County Council as Highway Authority – No objection subject to conditions

Environmental Health Officer - No objection subject to conditions

Representations

Nether Whitacre Parish Council – It objects as it considers that the proposed building, even as amended is inappropriate development causing significant harm to the openness of the Green Belt.

Two representations have been received as comments summarised as follows:

- Any bats found should be adequately protected
- The proposal is not on the same footprint as the original and it is also larger thus harming the openness of the Green Belt.
- No considerations have been advanced that amount to the very special circumstances necessary to outweigh Green Belt harm.

Observations

a) The Green Belt

The site is within the Green Belt. Whilst the construction of new buildings here is defined by the NPPF as being inappropriate development carrying a presumption of refusal, the replacement of one building by another need not be inappropriate. The NPPF explicitly allows for such an exception. However there are two conditions attached. These are that the new building should be in the same use as the one it replaces and secondly that it is not “materially larger”. The first condition is satisfied here – replacing residential with residential - and so the main issue in deciding whether the proposal is appropriate or inappropriate development, revolves around the second.

The base-line is thus to establish the size of the existing. That is assessed primarily in terms of volume because that is a three dimensional measure which affects “openness” – the key attribute of the Green Belt. The existing house and its garage are included in that calculation. As the three small outbuildings are within the residential curtilage and are all used as incidental to that residential use, they too are to be included. As reported above, this comes to a total of 725 cubic metres.

The three extensions referred to above are all extant and could all be built out separately. They are well related to the existing house and all provide links and functionality with the main house. They therefore are a material planning consideration and should be given full weight as a “fall-back” position. That is to say if this application is refused, work could still commence on those extensions and any re-submission would have to take them into account as part of the existing dwelling at that time. By adding them in, there is a total volume of 1359 cubic metres.

The proposed replacement dwelling has a volume of 1432 cubic metres – a 5% increase. Saved policy ENV13 of the Local Plan refers to a figure of 30%. This however should be treated as a guideline and not a requirement as each application should be treated on its own merits. Here therefore that increase is well below the guide and in all of the circumstances the conclusion is that the replacement dwelling is not materially larger and is thus appropriate development in the Green Belt. The presumption is therefore that the proposal should be supported.

b) Other Harms

It is necessary to see if there is any significant harm caused by the proposal if the presumption above is to be carried though. The proposed house is set well back on its plot and is partially located on the existing footprint. That to the north is also set back and it is a three storey structure. There is thus not considered to be any adverse visual or landscape harm caused here as the development is in keeping with the general linear built character of the area. There are neither any over-looking or over-domineering impacts because of there being equivalent ridge heights; the separation distances and the significant intervening tree cover. There are no objections from the County Council or the Environmental Health Officer. Appropriate bat mitigation matters can be appropriately conditioned.

As a consequence it is considered that there is no significant demonstrable harm caused.

c) Other Matters

The representations received refer to the assessment of whether the proposal is materially larger or not. As indicated above, the inclusion of the three outbuildings is reasonable given the use being incidental to the main residential use and being within the lawful extent of the curtilage. The more significant matter is the inclusion of the three extensions.

As indicated above these extensions can all still be built out even in the event of a refusal and any resubmission would then have to include them in the calculations of the “existing” building. Case-law supports this approach if there is considered to be a reasonable prospect of those extensions being built out. The fact that permissions have been granted here does suggest that some weight has to be given to them, to the extent that it is more likely than not that they would be implemented.

d) Conditions

The recommendation below includes the use of pre-commencement conditions (this is a condition imposed on a grant of planning which must be complied with before any building or operation comprised in the development is begun or use is begun). The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 provide that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the Agent to the terms of the condition. In this instance there is a pending approval from the Agent to be confirmed.

Recommendation

That planning permission be **GRANTED** subject to the following conditions:

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

REASON

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

Details and Plans

2. The development hereby approved shall not be carried out otherwise than in accordance with the Location Plan received by the Local Planning Authority dated 22 January 2019 and amended plans referenced P19-0899_03-A entitled ‘Proposed Block Plan’ and P19-0899_04 entitled ‘Proposed Plans & Elevations’ both received by the Local Planning Authority on 20 June 2019.

REASON

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

3. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of the types and colour of the materials to be used in the external finishes of the development has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved materials.

REASON

To ensure that the development is in keeping with the locality

Pre-commencement conditions

4. Prior to the commencement of development, details of the mitigation as outlined within the Conclusions, Impact on Bats and Mitigation for Bats section within the Preliminary Bat Roost Assessment and Bird Survey dated 29 August 2019. The Assessment also seeks for the developer to apply for, and obtain, a European Protected Species Licence before work commences on the site from Natural England. The details sought for mitigation should be submitted to and approved in writing by the Local Planning Authority. The features shall remain and maintained in positions thereafter.

REASON

To protect and enhance the ecological value at the site.

5. No works other than demolition shall take place until a preliminary assessment for contaminated land has been undertaken. If the assessment identifies potential contamination a further detailed investigation shall be carried out and details of remediation measures shall be provided where necessary. All works shall be carried out by a competent person and agreed in writing by the Local Planning Authority prior to commencement of development.

REASON

To protect the future occupiers from sources of pollution.

6. In the event that contamination is found under condition 5, at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

REASON

To protect the future occupiers from sources of pollution.

7. Where remediation works have been carried out in pursuance with the preceding conditions 5 and 6, a post remediation verification report shall be submitted in writing to and approved by the Local Planning Authority before the development is first occupied.

REASON

To protect the future occupiers from sources of pollution.

8. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide for:
 1. The parking of vehicles for site operatives and visitors
 2. The loading and unloading of plant and materials
 3. The storage of plant and materials used in constructing the development
 4. Details of the storage and removal of materials either to be removed or used within the development.
 5. Wheel washing facilities
 6. Measures to control the emission of dust and dirt during construction
 7. Delivery and construction working hours, restricted to Mon-Fri 8 am - 6 pm, Sat 8 am - 1pm. No working Sundays or Bank Holidays
 8. Noise and vibration details
 9. Site lighting during construction works.

The Contractor shall comply with the general recommendations set out in BS 5228: Parts 1 and 2: 1997 'Noise and Vibration Control on Construction and Open Sites', together with any specific requirements in the contract.

REASON

To safeguard the character and appearance of the area, living conditions and road safety.

9. Prior to the commencement of development, a review of historical maps and any landfill sites within 250m of the site should be submitted to the Local Planning Authority. The assessment should also identify whether any further investigation is required to ensure the site is suitable for its new use. These details should be submitted to and approved in writing by the Local Planning Authority

REASON

To protect the future occupiers from sources of pollution.

10. No development shall commence until the hedgerows fronting the site have been cut back so as not to obstruct visibility splays from the vehicular access to the site or overhang the highway extent detrimentally.

REASON

To ensure the visibility splays can be afforded for public highway safety

11. That, prior to the commencement of development, a full surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme and results of soakage tests carried out at the site to demonstrate the infiltration rate. The Surface Water Drainage scheme should, where possible, incorporate Sustainable Drainage Techniques. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved.

REASON

To ensure the proper provision for surface water drainage and/ or to ensure flooding is not exacerbated in the locality.

12. That a scheme for the landscaping of the site, including the retention of any existing trees, hedgerows and shrubs and planting of additional trees, hedgerows and shrubs, shall be submitted to and approved in writing by the Local Planning Authority before development commences. The scheme shall be implemented as approved within 12 months of the commencement of the approved development or as otherwise agreed in writing by the Local Planning Authority and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub of equivalent number and species, shall be planted as a replacement and thereafter properly maintained.

REASON:

To safeguard the character and landscape of the area.

Pre-Occupation

13. Prior to the occupation of the replacement dwelling the boundary treatments proposed should be submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the buildings are occupied.

REASON:

To safeguard the character and appearance of the area and protect residential amenity.

14. The development shall not be occupied until the existing public highway verge crossing has been re-constructed in accordance with the specification of the Highway Authority and surfaced with a bound material for a distance of 6.0 metres, as measured from the near edge of the public highway carriageway. No gates shall be hung within the vehicular access so as to open with 6.0 metres of the near edge of the public highway carriageway.

REASON

To ensure the safety of the public highway

15. The unit shall not be occupied until the car parking and manoeuvring areas have been laid out in accordance with the approved details and such areas shall be permanently retained for the parking and manoeuvring of vehicles.

REASON

To ensure the safety of the public highway and adequate parking provision.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 2015 (or any Order revoking and re-enacting that Order with or without modification) no extension (or alterations) otherwise approved by Classes A, B, C and D of Part 1 of Schedule 2 to the Order, garage or outbuilding otherwise approved by Class E of Part 1 of Schedule 2 to the Order shall be erected or means of enclosure otherwise approved by Class A of Part 2 of Schedule 2 to the Order shall be erected or carried out without express planning permission first having been granted.

REASON

To avoid over-development to the detriment of the rural character of the area.

17. No external lighting shall be installed on any external wall or roof of any building or within the open land comprised in the application site other than in accordance with details first submitted to and approved in writing by the local planning authority.

REASON

To protect the amenities of neighbouring properties and protect the habitats of identified Protected Species.

BACKGROUND PAPERS

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

Planning Application No: PAP/2019/0037

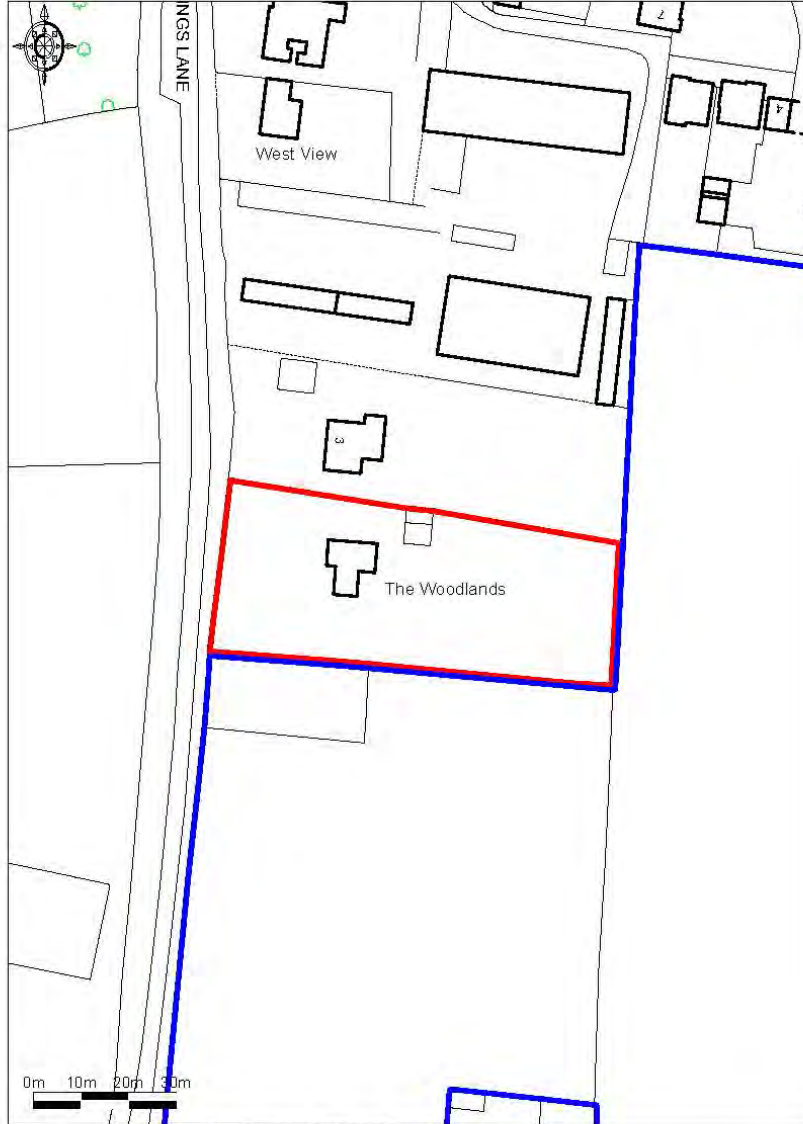
Background Paper No	Author	Nature of Background Paper	Date
1	The Agent	Application Forms, Plans and	22.01.2019
2	The Agent	Planning Statement	22.01.2019
3	Christopher Smith Ecologist	Bat and Bird Survey August 2018	22.01.2019
4	Tree Health Consulting	Report on Trees August 2018	22.01.2019
5	Nether Whitacre Parish Council	Representation Response 1	21.02.2019
6	The Agent	Amended Plans	20.06.2019
7	Nether Whitacre Parish Council	Representation Response 2	17.07.2019
6	Warwickshire County Council Highways Team	Consultation Response	25.07.2019
7	North Warwickshire Borough Council Environmental Health Team	Consultation Response	25.07.2019

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.



The Woodlands, Reddings Lane, Nether Whitacre,
Coleshill B46 2DN



Promap
LAND-MARK INFORMATION GROUP

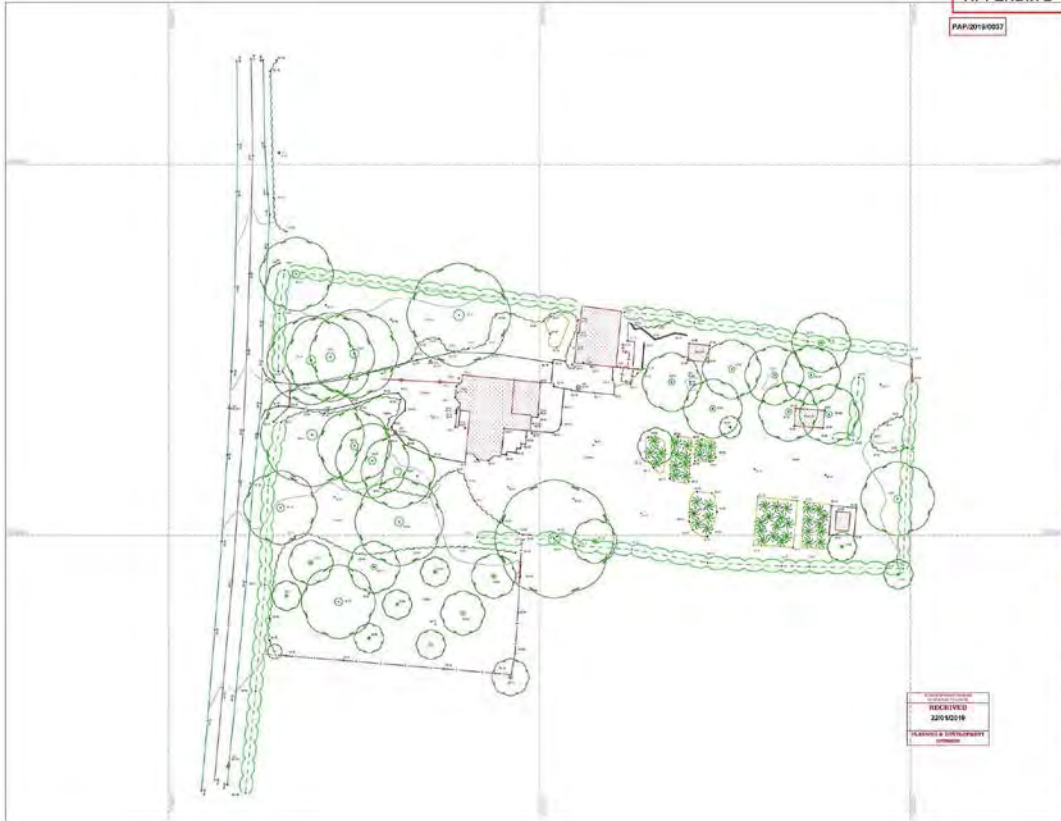
Ordnance Survey © Crown Copyright 2019. All rights reserved.
License number 100029832. Plotted Scale - 1:1250

Location Plan (Dwg No.5053.99) Scale 1:1250 at A4
(January 2019)



APPENDIX B

PAP/2019/0027



Legend	
[Symbol]	Boundary
[Symbol]	Proposed Boundary
[Symbol]	Proposed Fences
[Symbol]	Proposed Paths
[Symbol]	Proposed Driveways
[Symbol]	Proposed Walls
[Symbol]	Proposed Gates
[Symbol]	Proposed Windows
[Symbol]	Proposed Doors
[Symbol]	Proposed Roofs
[Symbol]	Proposed Chimneys
[Symbol]	Proposed Stairs
[Symbol]	Proposed Balconies
[Symbol]	Proposed Terraces
[Symbol]	Proposed Gardens
[Symbol]	Proposed Ponds
[Symbol]	Proposed Pools
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[Symbol]	Proposed Gardens
[Symbol]	Proposed Ponds
[Symbol]	Proposed Pools

axis surveys
 85-85 Parkway, 2nd Floor, Dublin 15
 T: 01 291 3376
 E: info@axis-surveys.com
 www.axis-surveys.com

Client: Mr. J. O'Neil

Project: The Woodlands, Redding Lane, Nether Wilshaw

Title: Topographical Survey

Date: 12th July 2019

Scale: 1:50

Sheet: 3 of 3

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22/04/2019
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APPENDIX C

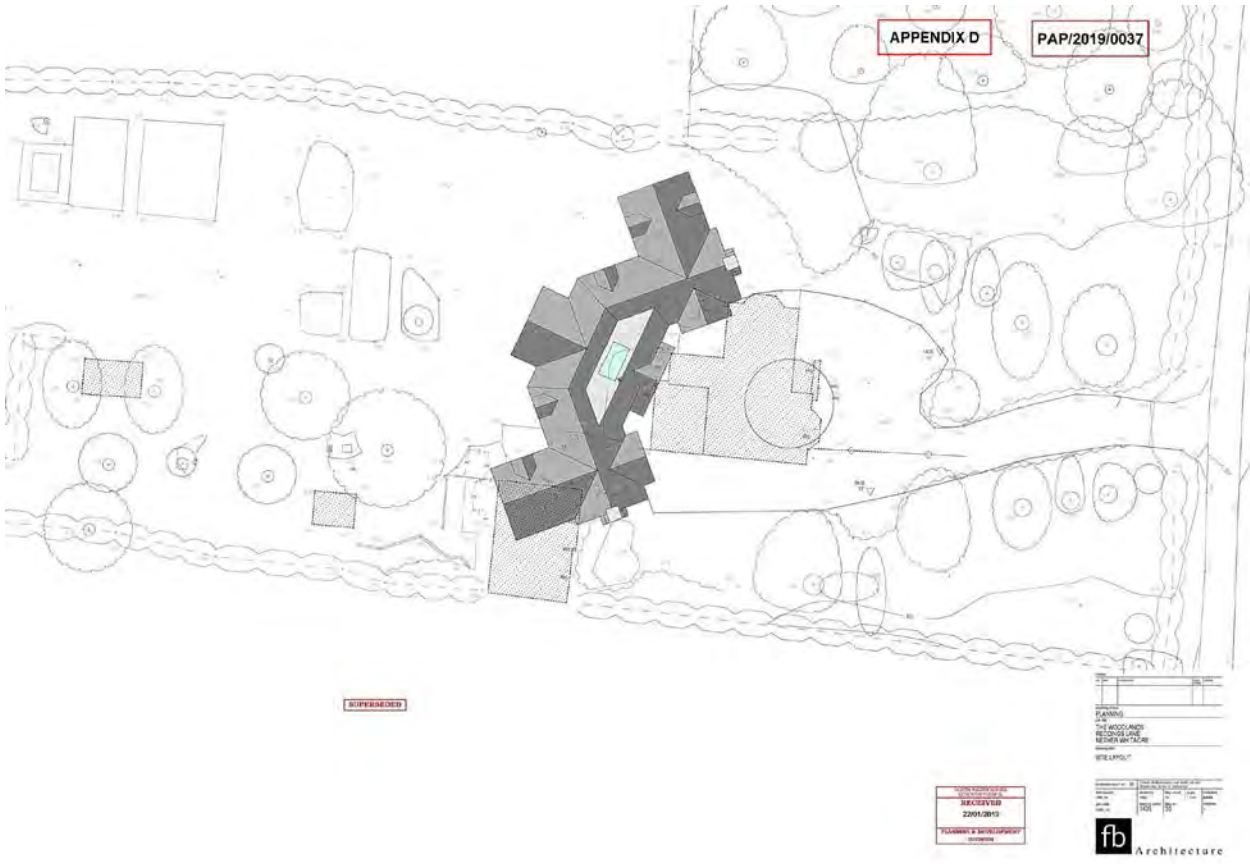
PAP/2019/0027

A1 @ 1:100



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Sheet 3

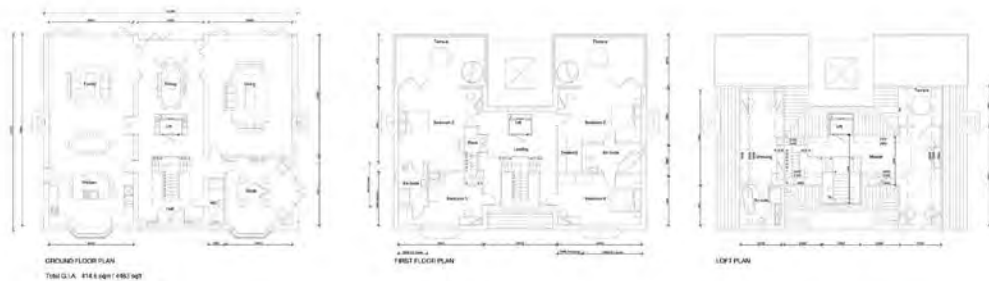




PROPOSED BLOCK PLAN
THE WOODLANDS, REDDING LANE, NETHER WHITACRE



| PLANNING | DESIGN | ENVIRONMENT | ECONOMICS | www.pegasusgroup.co.uk | TEAM DRAWN BY: KBM | APPROVED BY: KBM | Date: 06/06/2019 | SCALE: 1:500@ A3 | DRWG: P19_0859_3B | CLIENT: CT PLANNING |



PROPOSED PLANS & ELEVATIONS
THE WOODLANDS REDDING LANE, NETHER WHITACRE



| PLANNING | DESIGN | ENVIRONMENT | ECONOMICS | www.pegasusgroup.co.uk | TEAM DRAWN BY: KEM | APPROVED BY: JW | Date: 05/06/2019 | SCALE: 1:100@ A1 | DRWG: P19_0859_04 | CLIENT: CT PLANNING |

(6) Application No: PAP/2019/0237

Land Opposite Delves Field Stables, Boulters Lane, Wood End,

Outline application for erection of 14 dwellings, for

Glover Properties Ltd

Introduction

This application is referred to the Board because Members carried out a site visit at the same time as visiting another site in Wood End in connection with another application referred to the July Board. That was refused planning permission.

A note of the visit is attached at Appendix A.

The Site

This is a rectangular piece of flat agricultural land of around a hectare being the northern half of a larger field lying to the north of a frontage of residential property along Boulters Lane. Access to the site is via an existing access which leads to the farm further to the north. There is also established residential property further to the west.

A site plan is attached at Appendix B.

The Proposals

This is an outline application for fourteen houses with access via the recently improved existing access off Boulters Lane undertaken following the recent housing development here. No other detail is submitted.

The applicant considers that there is a change in circumstance since a recent November 2018 appeal decision on the same site – namely it is said that the Council does not have a five year housing supply; that the NPPF supports smaller house builders, that the financial contributions are of significant weight and that the recent appeal decision should be given a different interpretation.

This appeal decision letter is at Appendix C and his case is set out in Appendix D.

Background

A frontage development of 12 houses along Boulters Lane has been completed and this addressed the access arrangements referred to above. A further fourteen houses were allowed at appeal behind half of these frontage houses.

An appeal on the current application site – also for fourteen houses – which is at the rear of the fourteen referred to above was dismissed in November 2018.

The current application is therefore a resubmission following that dismissal.

Representations

Five letters of objection have been received referring to:

- Parking in Boulters Lane
- Not in keeping
- Recent appeal decision refused permission here
- No affordable housing
- There is congestion at the local shop
- Pressure of services and facilities
- Potential for the removal of trees and hedgerows
- Increased surface water issues
- Loss of privacy

Consultations

WCC (Flooding) – No objection subject to a standard condition.

WCC (Highways) - It did not object to the second appeal case that was dismissed at appeal and the access arrangements now proposed are no different.

WCC (Rights of Way) – No objection.

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

Environmental Health Officer – No objection subject to conditions.

Draft Section 106 Contributions

The applicant has submitted a Unilateral Undertaking under Section 106 and this contains the following contributions:

- Bio-diversity offsetting - £66,751
- Rights of Way contribution - £11111
- Off-Site Recreation improvements - £54,908
- George Eliot NHS Trust – A contribution of £8071 is requested.
- Affordable Housing Off-Site Contribution – A sum of £131,653.05 is to be contributed.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Amount of Housing), NW6 (Affordable Housing Provision), NW10 (Development Considerations) and NW12 (Quality of Development).

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 Contribution) and LP 31 (Development Considerations)

The applicant’s Unilateral Undertaking

The appeal decision – APP/R3705/W/16/3150168 – (the “first Wood End appeal”)

The appeal decision – APP/R3705/W/18/3207348 - (the “second Wood End appeal”)

The appeal decision – APP/R3705/W/16/3149827 - (the “Daw Mill appeal”)

The appeal decision – APP/R3705/W/18/3196890 – (the “Taylor Wimpey appeal”)

The North Warwickshire Five Year Housing Land Supply as at 31 March 2019

The North Warwickshire Landscape Character Assessment 2010

Observations

a) The Principle

Wood End is identified as a Category 4 settlement in the Core Strategy. Here policy NW2 says that new development will be limited to that identified in the Strategy, or that included in a Neighbourhood or Locality Plan. As neither of these alternatives is applicable here, policy NW5 of the Core Strategy has to be relied on. This says that Wood End will cater for a minimum of 30 new dwellings in the plan period usually on sites of no more than ten units. The site is also outside of the development boundary for Wood End as defined by the Strategy. Since adoption of the Strategy in 2014, planning permissions have already been granted for 30 dwellings. It is therefore understandable why the objections raised refer to non-compliance with the Development Plan.

However this does not automatically support a refusal. The Core Strategy development boundaries have been found to be out of date in the Daw Mill appeal decision. As a consequence they carry very little weight. In this situation the NPPF is engaged in decision making. Paragraph 11 says that where relevant policies are out of date, then planning permission should be granted unless there is demonstrable evidence of significant harm caused by the proposal.

So because of the above, there is a presumption that planning permission should be granted here because of the out of date development boundary. It is therefore necessary to assess whether there is demonstrable evidence of significant harm to outweigh this presumption.

b) Harms

There are no objections from the Highway Authority; the Lead Local Flood Authority or from the Environmental Health Officer. There are also no adverse heritage or ecological impacts. Indeed the appeal Inspector in the second Wood End appeal referred to above, neither found evidence of significant harm arising from these matters.

However there is concern that the proposal does not accord with Policy NW12 of the Core Strategy. Indeed it is this non-compliance that was given significant weight by the Inspector in the second Wood End appeal decision. There has been no change in circumstances surrounding the conclusion on this since the date of that decision. The site is exactly the same; there has been no review commenced of the Landscape Character Appraisal that provided the demonstrable evidence to support that decision and the landscape has not altered its character or appearance. Work may well have started on the fourteen houses to the south, but this was also known at the time the Inspector considered the appeal in late November 2018. The Inspector found that the development, “would be detached from the dwellings fronting Boulters Lane, more so than any development on the adjacent site, and would conflict with the generally linear pattern of development locally.” The proposal would therefore “conflict with the character and appearance of the area not according with policy NW12 of the Core Strategy which aims to ensure that development positively improves a settlement’s character.” Indeed this was also the conclusion of the Inspector dealing with the land to the south in the first Wood End appeal decision. In other words there would be a material change in the character of Wood End by the development not improving its character.

The applicant suggests that the strength of this argument has changed in that he will be developing the two sites together and thus that there is no potential for the second site – this application site – to go ahead on its own. That however does still not overcome the conclusion that this site in combination with the other will still be “back land development”; “incongruous” and “unrelated to the village and its strongly linear form in the vicinity of the site”. It would be perceived visually and spatially as an “appendage”, unrelated, unconnected and isolated from existing built form. As a consequence the position in respect of NW12 remains. The proposal does not accord with it and there is demonstrable evidence to support the harm caused.

There is another harm here and one that was explored in the “second” appeal. This development will lead to an isolated community with no connections to the existing community and divorced from the settlement. There is no planning here for a “place” or a “community”. Even if there were connections to the site to the south, the combined area would still not connect to the village community visually, physically or spatially. The principles of the NPPF are not followed – those set out in Section 12. These matters add weight to the non-compliance with Policy NW12 of the Core Strategy by not proposing good quality development.

As a consequence it is considered that there is significant demonstrable harm caused here and that the presumption to grant planning permission is not satisfied. The issue therefore now becomes one of whether the harm caused is of sufficient weight to override the presumption and the benefits that the development would accrue. This assessment now needs to be undertaken.

c) The Applicant's Case

The applicant as indicated above does not share the conclusion under the NW12 issue. Members will need to consider what weight should be given to his case.

The applicant additionally makes three arguments which he considers outweigh the recent appeal decision and thus add weight to the presumption to approve. The first is that the Council does not have a five year housing supply and this adds weight to the out of date argument; the second is that the NPPF indicates that small local builders should be supported and that this application will thus carry that benefit, and the third is that the proposal will provide an off-site affordable housing contribution together with additional contributions, as recorded above in his Unilateral Undertaking. The full range of these benefits is wider than those included in a similar Undertaking that was considered in the "second" appeal decision.

Cumulatively he considers that these arguments carry significant weight.

d) Planning Balance

It is not agreed that these considerations carry significant weight. There are several reasons for this conclusion.

Firstly, the Council can show a five year housing supply. The Taylor Wimpey appeal decision found a 4.75 year supply, but that calculation was at the time of that appeal Hearing – last November. The Council will be publishing its Annual Five Year Housing Supply Report in the next couple of weeks. The draft position set out in that report shows a supply of over six years. The Board will be notified of the publication at its October meeting. For the purposes of this application, the Board is advised that the situation has materially improved since the Taylor Wimpey decision and that a figure of over six years can be relied on for the position as at 31 March 2019. Paragraph 11 of the NPPF is thus not automatically engaged in the determination of this application in this regard.

Secondly, the proposal would support a small local house builder and promote a smaller site, an objective which is set out in the NPPF. However that cannot be overriding when the site is not appropriate. The applicant already is operating in the Borough and there is no evidence that the Council is preventing him from continuing in the Borough on appropriate sites. Moreover the land supply report does show there being a number of small and medium sites being available. The Council is meeting this objective.

Thirdly, it is agreed that the Undertaking is more extensive than before, but it is not considered to be of overriding weight. The affordable housing contribution is for off-site provision. It may well not benefit Wood End and its value would not be a material or fatal loss in restricting the Council's ability to deliver affordable housing. Similarly the other contributions are not essential. Whilst the loss of the recreational contribution is significant, it is not for new provision, only for improvement and enhancement of existing facilities.

As a consequence the combined weight of the applicant's considerations, carry only moderate weight.

The harm side is still of greater weight – there have been two appeal decisions both concluding that development in this location in Wood End is not appropriate and that it would not improve the quality of the settlement’s character. There is evidence to support this position. Moreover the development cannot satisfy the requirements of the NPPF in promoting good quality development through well designed places.

Recommendation

That planning permission be **REFUSED** for the following reason:

1. “The proposal is not considered to accord with Policy NW12 of the North Warwickshire Core Strategy 2014 and relevant sections of the National Planning Policy Framework 2019 – particularly Section 12. This is because significant and demonstrable harm will be caused to the impact of the proposal on the character and appearance of the surrounding area and the settlement of Wood End, which is not out-weighed by the benefits of allowing the development”.

Notes

The Local Planning Authority has met the requirements of the National Planning Policy Framework in this case through making a speedy decision and engaging with the applicant in order to overcome technical matters.

BACKGROUND PAPERS

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

Planning Application No: PAP/2019/0237

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	23/4/19
2	Resident	Objection	22/5/19
3	Resident	Objection	2/5/19
4	Resident	Objection	2/5/19
5	Resident	Objection	8/5/19
6	Resident	Objection	9/7/19
7	WCC Flooding	Consultation	1/5/19
8	Applicant	E-mail	10/5/19
9	WCC Flooding	E-mail	10/5/19
10	Warwickshire Fire Services	Consultation	14/5/19
11	WCC Rights of Way	Consultation	7/5/19
12	WCC Police	Representation	9/5/19
13	WCC Infrastructure	Consultation	31/5/19
14	Environmental Health Officer	Consultation	22/5/19
15	NWBC Leisure & Community	Consultation	5/6/19
16	WCC Flooding	Consultation	8/8/19
17	WCC Highways	Consultation	
18	Site Visit	Note	1/6/19
19	WCC Ecology	Consultation	10/5/19

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.

PAP/2019/0237

Delves Farm, Boulters Lane, Wood End

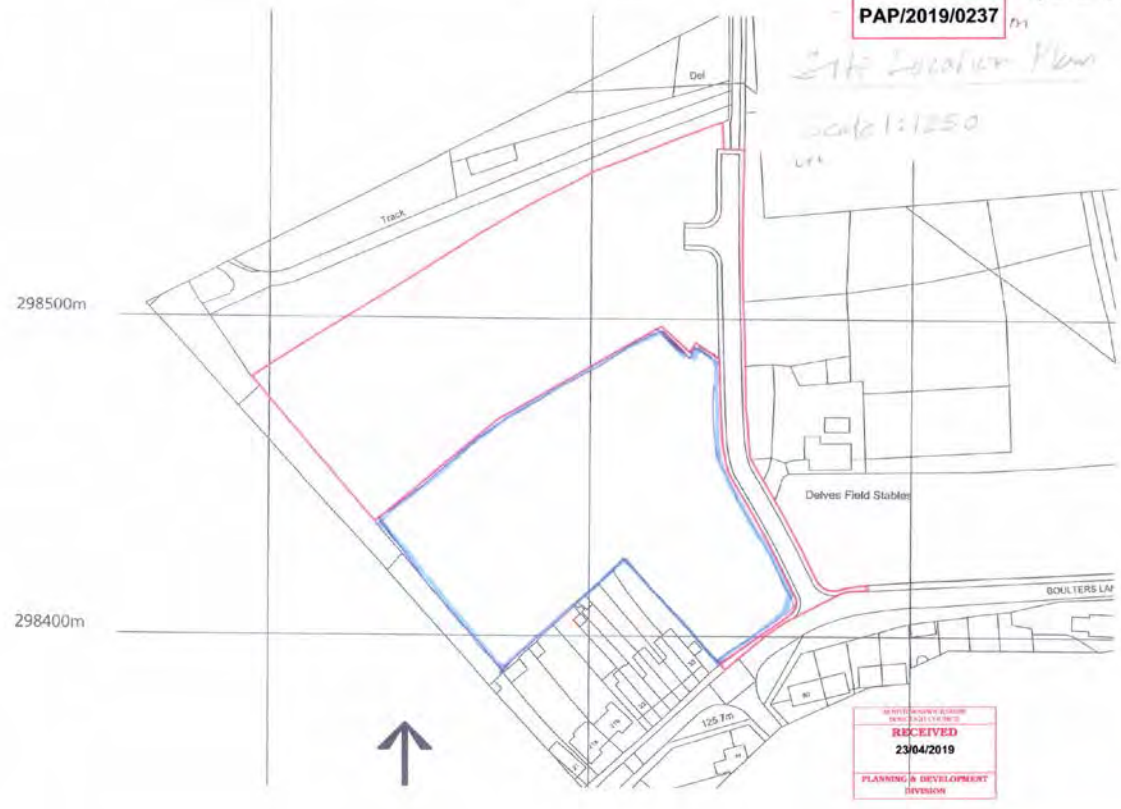
Member Site Visit – 1 June 2019 at 1130

Present: Councillors Chambers, D and T Clews, Dirveiks, D and M Humphries, Jarvis, H Phillips, Simpson and Symonds together with J Brown

1. Members met in the access to Delves Farm
2. Here they overlooked the field the subject of the application. The existing farm buildings at Delves Farm were noted together with the stables. The trees along the field boundary were noted.
3. Several sites were shown to Members here – the frontage development just completed; the site of another 14 houses to be built on in the front half of the field and the rear of the field which was the subject to the current outline application for a further 14 houses.
4. The visit concluded at 1140.

PAP/2019/0237

Site Location Plan
Scale 1:1250



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23/04/2019
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DIVISION



Appeal Decision

Site visit made on 23 October 2018

by **Andrew Owen BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26th November 2018

Appeal Ref: APP/R3705/W/18/3207348 Delves Farm, Boulters Lane, Wood End CV9 2QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Ken Simmons against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2017/0599, dated 9 November 2017, was refused by notice dated 13 February 2018.
- The development proposed is erection of up to 14 dwellings.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with all matters except access reserved for later consideration. I have determined the appeal on the same basis.
3. During the appeal process it was brought to my attention that one of the owners of the appeal site had not been formally notified of the application and the appeal. The appellant has now formally notified that owner and they have had the opportunity to comment on the proposals. I was also alerted to the fact that this landowner is not a signatory to the submitted unilateral undertaking and I have considered the effect of that below.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - whether it is necessary to provide contributions to affordable housing and healthcare facilities and if so whether an appropriate mechanism for securing these has been provided.

Reasons

Character and appearance

5. The appeal site forms the northern half of a field used for grazing. The southern half has outline planning permission, granted on appeal¹, for 14

¹ Ref APP/R3705/W/17/3171093

houses. In that case the Inspector found that the development would harm the character and appearance of the area but that this did not significantly and demonstrably outweigh the benefits of the development. The conclusion he reached on character and appearance was consistent with an Inspector's view on that specific issue on a previous appeal² for 14 dwellings on that same site.

6. Though the site in this case is different to that adjacent site, it is very similar in terms of its visibility in the wider context. The development would be visible from Boulders Lane along the access road, from the rear of the houses fronting Boulders Lane and, albeit from a greater distance, from those dwellings fronting Tamworth Road to the west. A limited view, through hedgerows, would be possible from public footpaths AE67 and AE68 to the east.
7. Furthermore, the development would be detached from the dwellings fronting Boulders Lane, more so than any development on the adjacent site, and would conflict with the generally linear pattern of development locally. Indeed it is not certain that aforementioned outline planning permission would be implemented, leaving the development on this site surrounded by fields.
8. The proposal would therefore conflict with the character and appearance of the area and would fail to accord with policy NW12 of the North Warwickshire Core Strategy (NWCS) which aims to ensure that development positively improves a settlement's character.

Planning obligation

9. A unilateral undertaking has been provided which includes an obligation to make a financial contribution to the provision of affordable housing elsewhere within the borough. I consider this contribution is necessary, is directly related to the development and is reasonably related in kind and scale to the development and so would meet the tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and paragraph 56 of the National Planning Policy Framework (the 'Framework').
10. The undertaking also includes an obligation to make a financial contribution towards additional healthcare facilities by the George Eliot Hospital NHS trust. I am satisfied that this contribution would also meet the tests in Regulation 122 and paragraph 56. Regulation 123 states that, where a CIL charging schedule is not in place, only five contributions to each project can be collected. In this case, as the contribution would relate to the running costs of the Trust, not an infrastructure project, it is not limited by this pooling restriction.
11. However, as referred to in paragraph 3 above, an owner of the land on which there would be a deed relating to financial obligations is not a party to that deed. This gives me concerns in respect of its execution and enforceability and therefore I am not satisfied that the Council could rely on it to secure the contributions. I have therefore not taken the undertaking into account in my decision.
12. Without these contributions the proposal would fail to accord with policy NW6 of the NWCS which seeks to secure appropriate levels of affordable housing through development, and NWCS policy NW22 which generally seeks contributions to infrastructure.

² Ref APP/R3705/W/16/3150188

13. The Council's comments on the undertaking are set out in their letter of 10 October 2018. However this only relates to the justification for the obligations and confirms that they do not object to the content of the undertaking. It does not demonstrate that the Council consider the document to be valid and enforceable. Moreover the Council's letter of 1 November 2018 also does not comment on the validity of the undertaking, and the emails from the Council in April 2018 pre-date by some months the revelations regarding the ownership of the site. My conclusion that the undertaking is flawed is not, therefore, inconsistent with the Council's correspondence.

Other Matters

14. Policies NW2 and NW5 of the NWCS are concerned with the distribution of housing across the settlements in the borough. I understand the target housing figure for Wood End, as set out in policy NW5, has already been reached and so any more housing could be considered disproportionate and hence would conflict with this policy. However the Council have stated that they have a 4.8 years supply of housing. Their policies relating to housing supply, such as NW2 and NW5, should therefore not be considered up to date. Indeed this view is consistent with the Inspectors into the appeals at Ansley³ and Daw Mill⁴ who attribute little weight to policy NW2. I recognise the supply of housing has increased recently (from 4.5 years in the appeal for the adjacent site and 3.5 years in the Ansley decision) and that housing completions over the past 3 years have exceeded their target, which illustrates good progress is being made. Nonetheless, I do not consider this justifies reaching a different view to the previous Inspectors with regard to policy NW2, and therefore NW5.
15. The emerging Local Plan is, I understand, currently being examined. As such whilst the submission version of the plan has been through public consultation, and in many respects it closely reflects the existing NWCS policies, it still cannot be given significant weight, and indeed the Council do not rely on it.

Planning balance & Conclusion

16. Part d) of paragraph 11 of the Framework advises that where relevant development plan policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
17. The proposal causes harm to the character and appearance of the area, but I consider the weight to be given to that harm would not be considerable. This is consistent with the Inspector of the appeal proposal for the adjacent site.
18. In its favour, the proposal would provide 14 houses to contribute to the Council's supply, and I recognise the support given in the Framework to small sites such as this. However the mechanism for securing a contribution to affordable housing is flawed and so this limits the weight I give to the benefit of the houses.
19. The contribution to healthcare would have mitigated the additional use of healthcare facilities generated by the occupiers of the development so would not have carried positive weight. Therefore the absence of an appropriate mechanism to secure it does not lend negative weight.

³ Ref APP/R3705/W/17/3189584

⁴ Ref APP/R3705/W/16/3149827

20. Overall I consider the adverse effect on the character and appearance of the area, whilst not considerable, does significantly and demonstrably outweigh the benefits of the development. Consequently the development would conflict with NWCS policy NW1 which says that in these circumstances permission will not be granted.

21. Consequently, for the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR

PLANNING APPLICATION REF. PAP/2019/0237; LAND AT DELVE'S FARM,
WOOD END

FURTHER SUPPORTING STATEMENT

1 The application site comprises half of an existing paddock. Planning permission has already been granted, on appeal, for the development of one half of this paddock. Although the Council raised the issue in its appeal statement of the development of this field constituting 'poor planning', and an unwarranted incursion into open countryside, this point was not acknowledged as a significant issue by the Inspector in reaching his decision.

2 The only reason the appeal for the current application site was dismissed was uncertainty regarding the deliverability of the associated benefits in terms of financial contributions. There was no mention in this decision of 'poor planning' or of unwarranted incursions into open countryside. The uncertainties regarding the provision of associated benefits no longer exist as the site is within my client's control and they have committed – through a draft Unilateral Undertaking – to the provision of the requested contributions. The amounts involved have increased considerably from those offered and agreed in respect of Phase 1, the other half of the paddock on which permission has been granted.

3 It is clear from the Planning Board's decision on the Islington Farm application that they do not wish to see ad hoc, large scale developments grafted on to the village. I would submit that Members and, most importantly, residents of the village would far prefer to see small scale, incremental additions to the village such as ours.....particularly when the full range of benefits requested by various consultees are guaranteed. The rejection of the Islington Farm proposal greatly increases the need to release other sites.

4 It is a requirement of the NPPF that at least 10% of development occurs on smaller sites such as ours. I believe that the Authority cannot demonstrate that such sites are included in its residential portfolio. Our development has the added advantage of being promoted by small scale, local developers who have been active in the area in recent years.

5 All 12 plots developed by my clients on Boulters Lane have been sold and there is a waiting list for Phase 1, Delve's Farm. Buyers and potential buyers have expressed a strong preference for buying on small-scale developments by small, local builders rather than massive estates developed by the established national housebuilders.

6 The Authority needs to be able to demonstrate that it has a 5 year housing land supply. This is one of the primary reasons why the Islington Farm proposal for 145

dwellings was recommended for approval. (The other being the promise of associated benefits). Following the Members' decision to refuse this application, the Authority's housing figures are now 145 down. It is common knowledge that a further permitted site (i.e. a site which was expected to be developed, application no. PAP/2014/0181) on the edge of Tamworth will not now be developed because of Hs2, leading to a further reduction of 88 dwellings. The 'loss' of these 2 sites increases the need to identify other suitable sites and reinforces arguments in favour of our site being released for development

7 In terms of 'associated benefits' (which played a major part in both appeal decisions) we have now committed ourselves, through a draft Unilateral Undertaking, to all of the financial contributions requested by various statutory consultees. These contributions greatly exceed those agreed in relation to Phase 1 and pro rata, contributions attached to the Islington Farm application

Ray Evans

Croft Consulting Ltd

(On behalf of Glover Properties)

August 2019

(7) Application No: PAP/2019/0455

The Belfry Hotel, Lichfield Road, Wishaw, B76 9PR

Demolition of existing nightclub and remodelling of existing golf course, erection of new hotel and leisure buildings, car parking and access works, replacement water treatment works and associated landscaping, for

TB Operations Limited

Introduction

The receipt of this application is reported to Members at this time for information. A determination report will be prepared for a further meeting once the consultation period has concluded. In the interim it is recommended below that the Board visit the site prior to that meeting

In advance of that determination Members should be aware that this application is “caught” by the 2009 Direction which means that whilst the Council can refuse planning permission, it cannot grant a permission without prior referral of the case to the Secretary of State to see if he wishes to determine the case himself. This is because of the scale of the development proposed within the Green Belt.

Additionally Members should be aware that a Screening Opinion was requested by the applicant prior to submission under the Environmental Impact Assessment Regulations.

The reply indicated that there were unlikely to be significant environmental impacts arising from the proposed development and thus an Environmental Statement was not required to be submitted with the application. Any impacts arising were all considered to be local in scale. As can be seen below however, a substantial amount of supporting documentation has been submitted with the application.

Members as well as being able to view the application online may also wish to see a hard copy of all of the application documents and plans. These are available in the Planning Division.

The Site

This large hotel and golf club complex is located about a kilometre north of Junction 9 of the M42 Motorway at the roundabout junction of the A446 Lichfield Road and the A4091 Tamworth Road. These roads bound two of the site boundaries, with Brick Kiln Lane and Wishaw Lane to the north. The entire site including its three golf courses, occupies an area of 220 hectares. It is wholly in open countryside with a few surrounding scattered residential properties. The land rises noticeably from the site’s southern tip – the roundabout – towards higher ground to the north-west.

The Belfry currently comprises a 319 bedroom hotel; a 25,000 square feet fitness centre, 20,000 square feet of meeting space with supporting facilities, a golf centre, the UK and European HQ of the Professional Golfers Association (PGA), as well as the PGA training Academy and the Bel Air night club. There are three golf courses, including the Brabazon which has hosted four Ryder Cup matches, the Derby and the PGA National course as well as a driving range.

The hotel and other buildings as described above are all towards the southern end of the site with the three courses extending to the north. The driving range adjoins the boundary with the A446. The main access into the site is off the A446 and there is a secondary “service” access off the A4091.

A site Location Plan is attached at Appendix A.

The Proposals

These all relate to the area around the present built footprint on the site. They include:

- A new 600 person capacity ballroom and co-joined 149 guest bedroom wing in place of the existing Bel-Air night club building and car park which is to be demolished
- A new leisure building incorporating a family swimming pool, gym, studio rooms and café to the north-east of the existing hotel building on the final hole of PGA National course.
- The re-configuration of this 18th hole.
- 215 additional parking spaces to the east of the driving range and a further 75 in place of the existing tennis courts at the north end of the site giving, with the loss of the Bel-Air spaces, a net gain of 181
- A new landscaping scheme will include 120 new trees around the new buildings.
- There would be an upgrade of the existing water treatment plant on the site
- The existing access would remain as the primary access into the site but with alterations so that there is a left turn out only arrangement. Staff and service and refuse deliveries would still use the secondary access off the A4091. Access to the new Leisure facility for members not staying at the hotel would also be from here.

A plan illustrating the general disposition of these various elements is at Appendix B.

The major building work is the demolition of the Bel-Air night club and removal of its car park and the erection of the ballroom and hotel bedroom accommodation. This would all be provided in one new flat roof building extending west from the main hotel towards the main access onto the A446 and overlooking the 10th fairway of the Brabazon golf course. It would measure some 160 by 45 metres with the ballroom being 10 metres tall and the three storey bedroom block being 17 metres tall at its closest to the ball room and 15 metres at its northern end. The height difference is because of the fall in ground levels, but in effect there would be a common roof line throughout. The plant and equipment rooms would be at lower ground level again making use of the fall in ground levels. A variety of materials are to be used - but they are predominantly light coloured bricks, timber, glass and grey aluminium. Car parking and access to the ballroom would be on its southern side.

The long elevations of this block are at Appendices C and D with more detailed sections of the elevations at E and F with an illustration at G.

The second new large building would be a new detached leisure centre located at the other end of the existing hotel beyond the golf centre and on the final hole on the PGA course. This would measure around 70 metres by 40, thus being more square than the other building. It would be 12 metres at its tallest. However the building is made up of a series of different “blocks” each with different roof plans and sizes. It is best understood through a series of illustrations at Appendices H and I. It too would be constructed in a variety of materials, but predominantly timber and grey steel cladding.

Cross sections through the site illustrating these two new buildings are at Appendix J.

A number of documents are submitted in support of the proposals. These are referred to below.

A Transport Statement has looked at the existing arrangements as well as the operation and management of the existing car parking provision. It concludes that with the proposed alteration to the A446 primary access as described above, there would be no significant impact on the capacity of the highway network. Additionally the secondary access can continue to be used. Present car parking provision is operating well and even at peak times there is 89% usage. It concludes that with the additional provision being made there will be sufficient space on site bearing in mind too that taxi services and bus/coach hire does lessen the overall parking requirement.

A Landscape and Visual Impact Assessment concludes that because of the size of the proposals there will unavoidable direct landscape and visual adverse impacts arising. However the overall conclusion is that because of the topography of the area, the established perimeter and onsite woodlands, the lack of public footpaths and neighbouring residential property, these impacts are likely to occur only at local and site level. The built form would be contained within the already “artificial” landscape of the golf complex.

An Archaeological Appraisal points out that the site does not contain any designated heritage assets and that the proposals would not affect the setting of any surrounding designated heritage assets. In terms of non-designated assets there is considered to be low potential for underground remains because of the already engineered landscape.

No further evaluation work is recommended.

An Arboricultural Assessment points out that some thirty trees would be lost as a consequence of the proposals – these are largely to the south of the site of the Leisure Building and around the Bel-air night club. However it concludes that new landscaping will more than fully compensate this loss because of the longevity and species diversity of that being proposed.

An Ecological Appraisal recognises no part of the proposals falling within a nationally designated area but it is within a recognised potential local wildlife site. However because the proposals are essentially focussed on existing built areas the actual location of the proposals is of low if not negligible ecological value. The significant perimeter woodlands are to be retained. There is evidence of bat roosts and foraging areas but appropriate mitigation measures would compensate for any loss.

A Noise Assessment concludes that given surrounding ambient noise levels; mitigation measures that can be installed into the buildings and the general paucity of nearby residential property, that there would be no adverse noise impacts arising from the proposals.

An Air Quality Assessment concludes that additional traffic and emissions from the new plant to be installed at the site would have no significant impacts.

A Flood Risk Assessment concludes that the application site is generally within Flood Zone One with a minimal area in Zones 2 and 3. The development proposals however are all in Zone One with ground levels above the Moxhull Brook and Pool sufficient to protect them, if that brook were to flood even with climate change impacts included.

There is very little likelihood of other flooding – e.g. ground water. Surface water would drain to the established attenuation measures on site and foul water would use the proposed upgrade of the existing on site treatment works with a new rising main. The new facility will have increased capacity but discharge will still be within permitted limits. A Ground Conditions Statement concludes that the overall risk to human health in terms of ground contamination is low but there is a greater risk through contamination of ground water. Further evaluation work is recommended.

A Lighting Assessment describes the existing built area of the site as having a low level of brightness but with the driving range and tennis courts as having high levels. The proposed development would extend the lower level of brightness into less well-lit areas - the ball room and new bedroom wing together with the new eastern car park. The tennis courts would be replaced by the new northern car park and thus there would be reduction here. It is concluded that all of the new lit areas would be self-contained within the existing site and fall within the national guidance thresholds.

A Design and Access Statement describes in some detail how the proposed built form has been conceived and developed so as to reduce its impacts visually and on the openness of the Green Belt but whilst retaining a high quality of design and appearance.

A Statement of Community Involvement describes a pre-application consultation event held in Middleton on 15 May for Parish Councillors and the public. Sixteen people attended and six feedback forms were completed. All supported the enhanced facilities.

A Planning Statement draws all of the above matters together and puts them into the planning policy context for determination of the application. In particular it recognises that this is inappropriate development in the Green Belt and thus carries a presumption of refusal. The Statement therefore sets out in some detail those planning considerations which the applicant considers when viewed cumulatively, do clearly outweigh the Green Belt and any other harm caused so as to amount to the very special circumstances enabling support to be given to the proposals. The planning considerations put forward for assessment in the final planning balance are the established lawful uses at the site; the substantial economic and tourism benefits to be brought to the Borough and the region as well as the wider image of the Belfry and profile of North Warwickshire. It is estimated that an additional 149 FTE jobs would be provided with an additional £8million of visitor expenditure per annum.

Background

An outline planning permission was granted in 2017 for extensions and alterations to the Hotel and its facilities. These included the demolition and redevelopment of the Bel-air night club site with a new spa facility including 40 bedrooms; a new conference suite close to the existing hotel reception area, 72 extra bedrooms and a new “water entertainment” area within the central courtyard of the hotel. The applicant has reviewed this consent and wishes to replace it with the current proposals.

The scope of that permission is attached at Appendix K.

Earlier planning permissions for the redesign of the main reception and arrival area have already been implemented.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment) NW14 (Historic Environment) and NW15 (Nature Conservation)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV 4 (Trees and Hedgerows); ENV13 (Building Design), ENV14 (Access Design), ECON10 (Tourism); ECON11 (Hotels and Guest Houses), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Transport) and TPT6 (Vehicle Parking)

Other Material Planning Considerations

The Submitted North Warwickshire Local Plan 2018 – LP1 (Sustainable Development); LP3 (Green Belt), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP22 (New Services and Facilities), LP31 (Development Considerations), LP32 (Built Form) and LP37 (Renewable Energy)

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

The National Planning Practice Guidance – (the “NPPG”)

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

The Town and Country Planning (Consultation) (England) Direction 2009

Observations

The site is in the Green Belt and the proposal does amount to inappropriate development thus carrying a presumption of refusal. The main issue will thus be whether the considerations put forward by the applicant are of such weight to clearly outweigh that Green Belt harm as well as any other harms that might be caused. If so, then there would be the “very special circumstances” necessary to support the proposal. It is this planning balance that will be the subject of the final determination report. At that time Members will have the benefit of the various consultation responses from the technical agencies as well as the representations of the local community.

Recommendation

That the receipt of the application be noted and that a site visit be arranged prior to determination of the proposal

BACKGROUND PAPERS

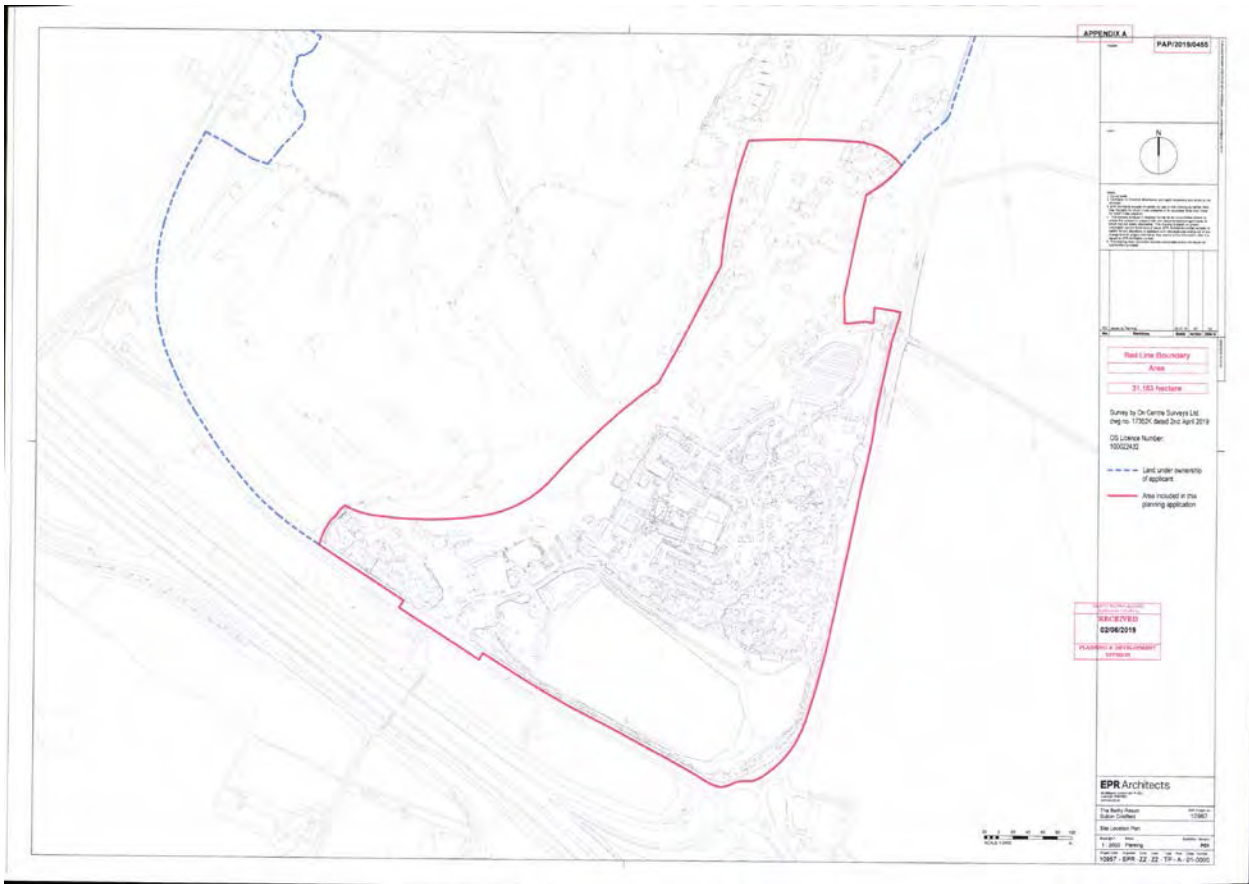
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

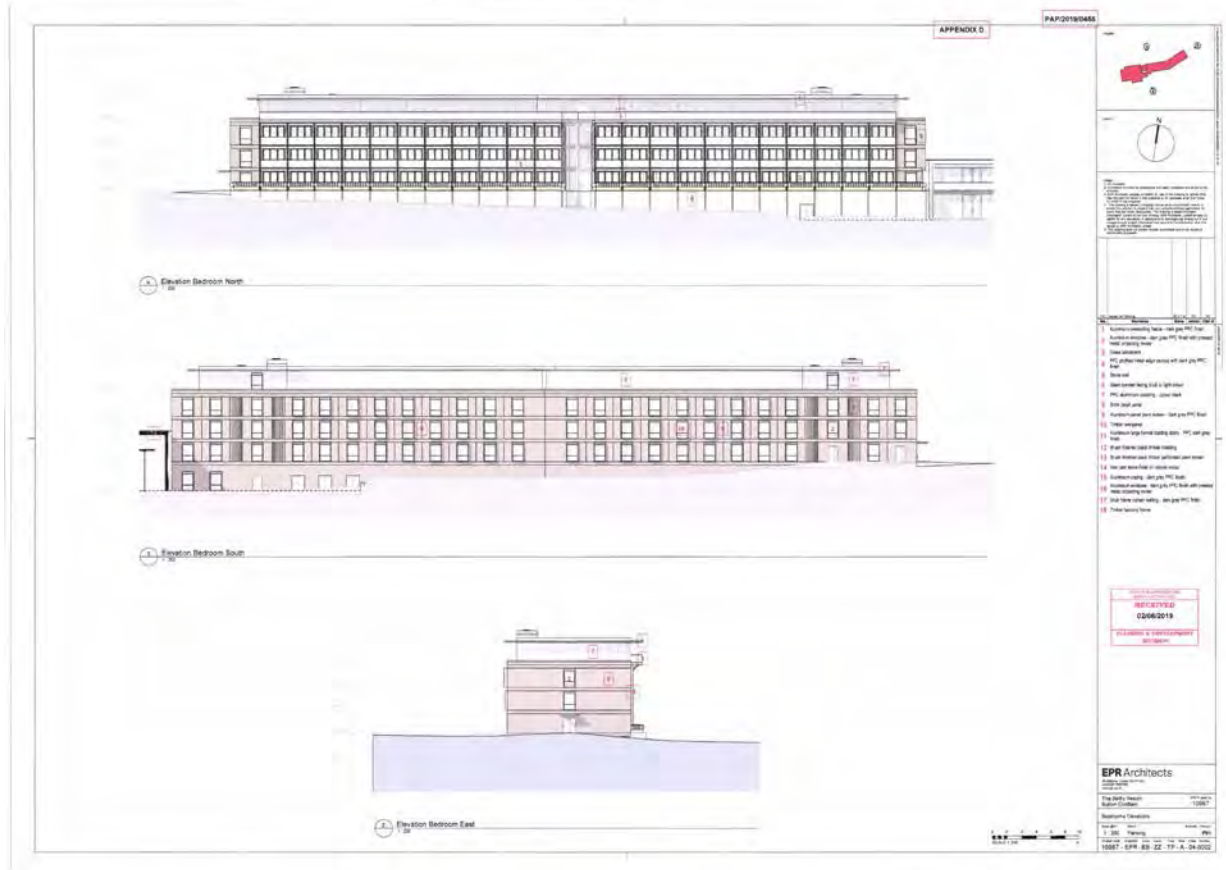
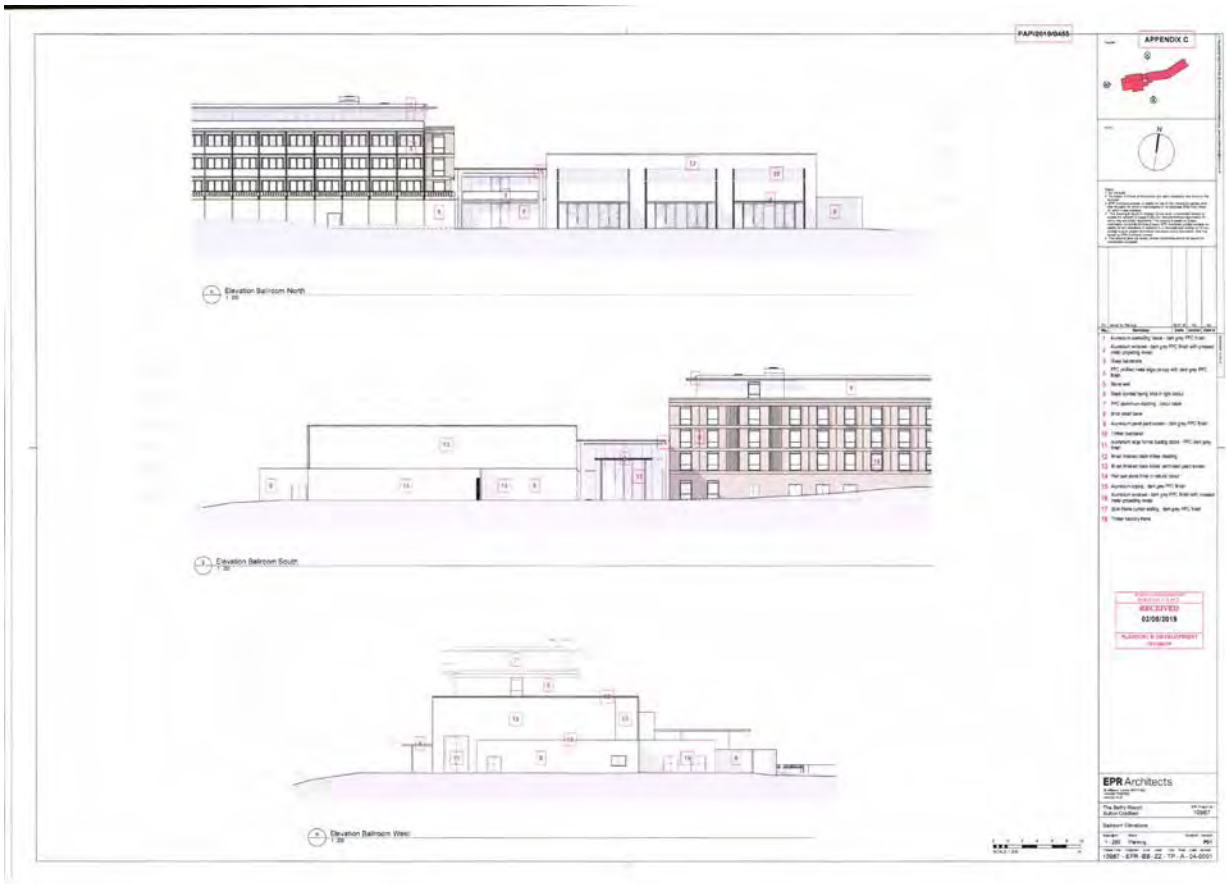
Planning Application No: PAP/2019/0455

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	2/8/19

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.





Design Development Guestrooms & Conferencing Facade Design

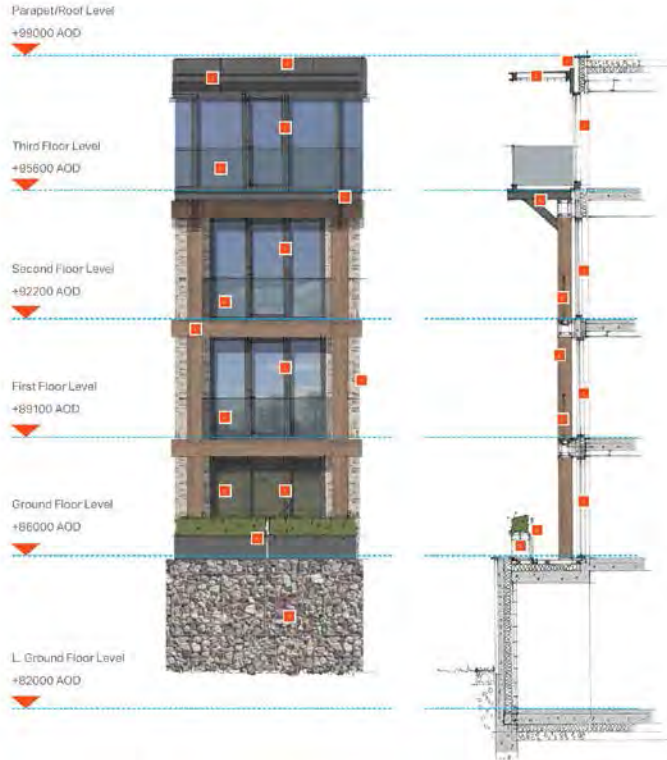
SOUTH ELEVATION TYPICAL BAY

The south elevation of the guestrooms building will have views over the Brabazon golf course. As such these rooms have been designed with 'Juliet' balconies and this detail is expressed by a projecting timber frame with frame less glass balustrade.

A key consideration has been how the building is perceived visually from the golf course and also providing a degree of safety on the golf course edge. A stone 'stereobate' establishes the building with the ground level and provides this defensive barrier for the guestrooms themselves.

The top floor has a small walkout balcony, expressed with a haunched metal frame cantilevering off the facade.

- Dark grey PPC cladding to parapet.
- Dark grey PPC cantilevered soffit.
- Dark grey PPC window / door frames.
- Timber balcony frames.
- Cantilevered balcony with haunch brackets.
- Glass balustrade.
- Light colour brick in stack bond.
- Planter with glass balustrade behind.
- Stone 'stereobate' wall.



Design Development Guestrooms & Conferencing Facade Design

BALLROOM ELEVATION TYPICAL BAY

The ballroom is a singular volume space with the facade just over 10M in height. A parapet detail conceals a pitched dark metal roof while the elevations are wrapped in a black timber cladding, selected to blend into the dark backdrop of dense trees that bound the property.

Three large apertures allow for expanses of glazing which overlook the golf course and create a well-coylit internal space. Sliding doors within these also give access onto exterior terraces, which are partially covered by canopies which extend from the facade.

- Black timber cladding.
- Timber cladding / overpanel.
- Dark grey PPC 'stick' curtain walling.
- PPC canopy with timber soffit.
- Aluminium hopperhead & rainwater goods.
- Aluminium coping.





Design Development Leisure Building Facade Design

FACADE DESIGN

The proposed leisure building has been designed as two juxtaposed forms, the easterly building containing the gym / fitness spaces and the westerly building containing the swimming pool. These are conceived as a series of pitched forms, which will be expressed internally. The varied roofline aids in sculpting the massing of the building, to reduce its perceivable scale.

- Black timber cladding.
- Accent timber cladding.
- Dark grey PPC 'stick' curtain walling.
- PFC canopy with timber soffit.
- Aluminium coping.
- Red colour tumbled facing brick.
- Dark grey steel standing seam roofing.



East Elevation



West Elevation



North Elevation

Design Development Leisure Building Renderings

VIEW OF LEISURE BUILDING NORTH - EAST CORNER

In this view the proposed exterior terrace to the cafe space is shown, which provides views onto the golf course. The entrance is elevated from the edge of the golf course by a gabion wall, to provide a level of protection to patrons and the building.

On the upper level is the gymnasium space, which has a glass wall running for the majority of the north elevation to provide a view out to the course.

N.B. All landscaping is shown indicatively for illustration only, please refer to EDP landscape architects information for details on landscape proposals.





The Betsy Resort

78 Drawings | EPR Architects

APPENDIX K

08

Introduction Recent Planning History

2017 OUTLINE PLANNING PERMISSION

In 2017, in response to the ongoing and evolving needs of the business an Outline Planning Application was made by the current applicant to expand the resort with the following facilities:

- 1. **72 ADDITIONAL GUESTROOMS** in a newly developed 4 storey wing within the inner courtyard. The ground floor would include an expanded hotel lobby, pre-function space and ancillary entertainment space.
- 2. **NEW CONFERENCE SUITE**, providing much needed capability for hosting local, regional, international guests, events and conferencing. The new suite would cater for around 500 persons at a 6:30 down banquet.
- 3. **NEW SPA LEISURE FACILITY** would be created by redeveloping the 800-400 sq ft club, in tandem with this a further 40 additional guestrooms would be created overlooking the 10th hole of the Brabazon golf course.
- 4. **WATER ENTERTAINMENT AREA** within the inner courtyard providing over 2500 sq ft of indoor leisure attraction space containing swimming pools, slides and lazy river. This facility would be focused primarily towards improving amenities for families.

This application was granted toward the end of 2017.

Within the intervening period the ownership have considered how best to evolve this consent into a Detailed Planning Application. As a consequence of this approval new plans have been developed by the design team which are described in this document.



Sketch Plan of 2017 Proposal (New Construction Indicated in yellow)

Agenda Item No 5

Planning and Development Board

2 September 2019

Report of the Chief Executive

Consultation on Draft Warwickshire Rail Strategy 2019- 2034

1 Summary

- 1.1 Warwickshire County Council is consulting on a draft Warwickshire Rail Strategy 2019-2034. Comments are required by 20 September 2019. The report recommends a response to the consultation.

Recommendation to the Board

That the comments in the report be submitted to WCC by the closing date following further consideration at the LDF Sub-Committee.

2 Consultation

- 2.1 Consultation has taken place with Councillors Simpson, Jarvis and Phillips. Any comments received will be reported at the meeting.

3 Introduction

- 3.1 WCC has published for consultation Draft Warwickshire Rail Strategy 2019-2034 which sets out the County Council's ambitious and challenging plans to improve the rail offer in Warwickshire and will form part of the County's fourth Local Transport Plan (LTP4). The draft strategy and other supporting documents can be downloaded at:
<https://ask.warwickshire.gov.uk/communities/draft-warwickshire-rail-strategy-2019-2034/>
- 3.2 The closing date for comments is 20 September 2019.
- 3.3 The County is seeking support for investment in the local rail network to help improve wider connectivity, contribute to the delivery of housing and employment opportunities and maximise the benefit of economic growth in Warwickshire over the next fifteen years and beyond. The Draft Rail Strategy has been developed to maximise the economic, social and environmental benefits of the rail network to Warwickshire's residents and businesses.

- 3.4 Four key overarching objectives have been identified to support the delivery of the Rail Strategy and policies have been developed to support the delivery of these objectives:
1. Maximise economic, social and environmental benefits of the rail network to Warwickshire residents and businesses;
 2. Maximise opportunities for journeys within Warwickshire (and beyond) to be undertaken by rail, particularly for commuting purposes;
 3. Maximise opportunities for travel demands of new developments to be met by rail;
 4. Support opportunities to transfer freight from road to rail.
- 3.5 These objectives are supported by 11 policies:
- WRS 1: Partnership
 - WRS 2: Existing levels of service & stations
 - WRS 3: New rail services & stations
 - WRS 4: New Developments & Connectivity to Rail Services
 - WRS 5: Transformational Change
 - WRS 6: Station Facilities
 - WRS 7: Station Access & Car Park Capacity
 - WRS 8: Community Rail Partnership
 - WRS 9: High Speed 2 (HS2)
 - WRS10: Freight
 - WRS11: Rail Fares & Ticketing
- Full details of these can be found on pages 16 to 20 of the consultation Draft Strategy.
- 3.6 The new Rail Strategy 2019-2034 will be a successor to the existing rail strategy, as contained in the Local Transport Plan 3.
- 3.7 Warwickshire is a growing County with a population of approximately 550,000 people, with up to 160,000 new homes committed in Local Plans across Warwickshire – the equivalent of a new town. This growth will place additional pressure on the existing rail services and infrastructure (e.g. access to stations) and present new connectivity opportunities. The County will seek to maximise in order to help secure infrastructure, service and capacity improvements.
- 3.8 As the train services and infrastructure are not restricted to the Warwickshire the County Council will engage with a variety of partners and stakeholders in order to realise the ambitions of the strategy. Warwickshire is looking to work closely with key partners, including Midlands Connect, West Midlands Rail Executive, Network Rail and the relevant Train Operating Companies in order to achieve the aspirations set out in the strategy.
- 3.9 Funding to enable the delivery of the Rail Strategy will be sought as appropriate, for example, via the Department for Transport's New Station Fund. The County Council will work with Partners, such as Midlands Connect to help secure funding for regionally significant interventions e.g. capacity upgrades.

Next Steps

- 3.10 It is expected that a final strategy will be taken to the County Council's Cabinet for consideration and approval. Full Council will then be asked to endorse the Strategy and it will then take effect as a non-statutory supplement to the Local Transport Plan 3. This is anticipated to happen by December 2019.

4 Observations

- 4.1 The Draft Rail Strategy proposes a number of new stations two of which are in North Warwickshire. The first is the long standing proposal of Kingsbury Station. Land has been safeguarded in the emerging Local Plan to the east of Kingsbury (Policy LP27). This carries forward the proposal in the 2006 Local Plan. The Borough Council supports this station being delivered.
- 4.2 The second is Polesworth Parkway. As Members know the current Polesworth Station has been only been kept open by the stopping of a train each work day on the northbound platform. This is known as a "parliamentary train" and basically keeps the station open as this is cheaper than formally closing the station.
- 4.3 Policy LP 27 of the emerging Local Plan seeks the station to be opened up fully. However, there is a need to carry out a feasibility study to ascertain whether the existing station could be used rather than replacing it with a new station somewhere else prior to a new location being explored. The exact location of a new station is yet to be determined if re-opening the current station is not possible or viable. Although the Borough Council supports the improvements the wording in the draft strategy needs to reflect this process rather than assuming that the best and only option is to relocate the Polesworth station to the south.
- 4.4 It is unclear at the present time the implications on changes to the lines in the Water Orton area on the number and frequency of trains to this station. However the Borough Council is pleased to see a policy on maintaining services to existing stations.
- 4.5 The Draft Rail Strategy is very light on Improvements to assist with freight movements. There is a need to improve the line to the east of Kingsbury to ensure that trains entering and leaving the EMR site do not have to cross over the lines. This also impacts on the trains going to Birch Coppice. A change in this area would enable more passenger trains to use the line as the crossing of trains across lines takes time out of the timetable.

5 Consultation Response

- 5.1 The report will also be considered by the LDF sub-committee which is due to meet on 11 September and Executive Board on 16 September. A composite response will be sent to incorporate all comments by the deadline of 20 September.

The Contact Officer for this report is Dorothy Barratt (719250).

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
1	WCC	Consultation Draft	July 19

Agenda Item No 6

Planning and Development Board

2 September 2019

Report of the Chief Executive

Air Quality SPD

1 Summary

- 1.1 The report seeks approval for adoption of the Draft Supplementary Planning Document on Air Quality.

Recommendation to the Board

That the Air Quality SPD be approved for adoption.

2 Consultation

- 2.1 The Air Quality SPD document recommended for adoption has been sent to Councillors Bell and Chambers as lead Councillors on health issues. Any comments received will be reported at the meeting.

3 Introduction

- 3.1 The Draft Air Quality SPD was brought to Board in December 2018, seeking approval to go out for consultation. A member information session was then held on 4 February 2019. Due to work on the Local Plan examination a 6 week consultation on the Draft document was carried out between 13 June and 24 July 2019.
- 3.2 Parish Councils were also invited to attend three briefing sessions about the Air Quality SPD. These were carried out by members of both the Forward Planning and Environmental Health Team.
- 3.3 A total of 4 responses were received and are summarised below. Following the consultation, the document has been amended to reflect the responses and comments received verbally at the briefing sessions.

Consultee	Comment	NWBC Response
Canal & River Trust	No Comment	Noted
Development Control	Query on PM figure regarding biomass and biomass in general	Noted. Additional text to be added with reference to Biomass to clarify Document
Environment Agency	General DC comments	Noted

Individual	Some sections need to be more localised. No mention of Dust Impacts from the quarry	Noted. Paragraph added regarding construction and dust
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... 3.4 The Air Quality SPD recommended for adoption is attached as Appendix A to this report.

4 **Report Implications**

4.1 **Finance and Value for Money Implications**

4.1.1 There will be costs of approximately £1,500 involved with the consultation process which will be taken from an existing budget. There will also be staff resources required to carry out the consultation as well as implement the guidance once adopted.

4.2 **Legal, Data Protection and Human Rights Implications**

4.2.1 For the SPD to carry weight it needs to have been through an appropriate consultation process and any comments considered

4.3 **Environment, Sustainability and Health Implications**

4.3.1 The SPD should assist in ensuring that air quality is taken into consideration and any adverse impacts mitigated. This will ensure that developments will not have an adverse impact on the health of residents and workers in the Borough.

4.4 **Human Resources Implications**

4.4.1 Once adopted there will be a need for staff and member training to ensure its full implementation.

4.5 **Links to Council's Priorities**

4.5.1 Good air quality can have an impact directly or indirectly on all of the Council's priorities but in particular in improved well-being.

The Contact Officers for this report are Sue Wilson and Zoe Bickley (719499 and 719467).

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date

Air Quality & Planning Guidance

September 2019



North Warwickshire Borough Council

Air Quality & Planning SPD
September 2019

This guidance is designed to support measures to mitigate against and improve air quality impacts from and on new developments.

This guidance has been developed in co-operation between Coventry City Council, Coventry & Warwickshire Public Health, North Warwickshire Borough Council, Nuneaton and Bedworth Borough Council, Rugby Borough Council, Stratford District Council and Warwick District Council.

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Glossary

AA DT	Annual average daily traffic flows
Air Quality Assessment (AQA)	An assessment of the impact of a development on the levels of certain pollutants in the local area and the impact of pollution levels on future occupants.
Air Quality Management Areas (AQMAs)	Areas where the air quality objectives are likely to be exceeded. Declared by way of an order issued under the Section 83(1) of the Environment Act 1995.
Air Quality Objectives	Air quality targets to be achieved locally as set out in the Air Quality Regulations 2000 and subsequent Regulations. Objectives are expressed as pollution concentrations over certain exposure periods, which should be achieved by a specific target date. Some objectives are based on long term exposure (e.g. annual averages), with some based on short term objectives. Objectives only apply where a member of the public may be exposed to pollution over the relevant averaging time.
Biomass boiler	System of heating where biomass, usually wood or wooden pellets, are used as the fuel
CEMP	Construction Environmental Management Plan – used to manage and minimize environmental impacts from construction and demolition
Clean Air Zones (CAZ)	Zone implemented by a local authority setting nationally set emission standards for vehicles. Non-charging zones can be implemented through policies covering bus and taxi emissions. Charging zones require non-compliant lorries and possibly vans to pay a charge to enter the zone.
Damage Costs	Damage Costs are a simple way to value changes in air pollution. They estimate the cost to society of a change in emissions of different pollutants
Dust	Solid particles that are suspended in air, or have settled out onto a surface after having been suspended in air. The terms dust and particulate matter (PM) are often used interchangeably.
Emission Factor Toolkit	On-line toolkit provided by DEFRA to calculate emissions from road transport vehicles in current and future years
Environmental Impact Assessment (EIA)	Assessment required for projects specified in Environmental Impact Assessment Directive. Governed by the Town & Country Planning (Environmental Impact Assessment) Regulations 2017
EU Limit Value	Legally binding pollutant concentration limit on Governments of EU Countries
Euro Standards	European Emission Standard (progressively tightened emission standards for vehicles. Euro Standards for cars and small vans are stated in Hindu-Arabic numbers and HDVs in Roman numerals)
Exceedance	Concentrations of a specified air pollutant greater than the appropriate Air Quality Objective or EU Limit Value
HDV	Heavy Duty Vehicle (lorry or bus greater than 3.5 tonnes gross vehicle weight)

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LAQM.TG(16)	Local Air Quality Management Technical Guidance (2016). This document provides national advice on how local authorities should assess air quality.
LETCP	Low Emission Towns & Cities Programme ¹ – joint programme between all 7 West Midlands Metropolitan Authorities to produce the West Midlands Low Emission Vehicle Strategy (LEVS), including good practice guidance on planning and procurement
Low Emission Strategy (LES)	Overarching strategy to integrate policies and practices to achieve year on year vehicle emission reductions, optimising opportunities for national funding assistance
Low Emission Zone (LEZ)	Council area in which emission standards apply for either road transport vehicles or power generation/industrial emissions. The council can set emission standards that differ in standard and scope from the Government requirements for implementing Clean Air Zones for vehicles
LDV	Light duty vehicle (car or small van less than 3.5 tonnes gross vehicle weight)
Limit Values/EU limit values	The maximum pollutant levels set out in the EU Daughter Directives on Air Quality. In some cases the limit values are the same as the national air quality objective, but may allow a longer period for achieving.
Mitigation	Mitigation measures will minimise, but not necessarily remove, the impact of or effect of poor air quality on a development
National Air Quality Objectives	See Air Quality Objectives
National Air Quality Plan	Government Plan to improve roadside concentrations of nitrogen dioxide (July 2017)
Non-road mobile machinery (NRMM)	Diggers, cranes, bulldozers, plant etc used on construction sites
NO ₂	Nitrogen dioxide
NO _x	NO _x = nitrogen oxides, which includes nitric oxide and nitrogen dioxide. Most pollution sources emit nitrogen oxides primarily as nitric oxide. However, once in the atmosphere nitric oxide can be converted to nitrogen dioxide. Therefore, it is important to know the concentrations of both NO _x and NO ₂
Offsetting	Measures which ‘compensate’ for anticipated increases in pollution in the area but not necessarily at the exact locality. This might be for example by funding more general measures in the air quality action plan.
PM	Particulate matter
PM _{2.5}	Particulate matter with a diameter of 2.5 microns or less
PM ₁₀	Particulate matter with a diameter of 10 microns or less.
Part A1 and A2 Processes	Industrial processes which are regulated under the Pollution Prevention and Control (PPC) Regulations and subsequent Integrated Pollution Prevention and Control (IPPC) for emissions to all media (i.e. atmosphere, land and water).
Part B Processes	Industrial processes which are regulated under the Local Air Pollution Control (LAPC) and Local Air Quality Pollution

¹ https://go.walsall.gov.uk/low_emissions_towns_and_cities_programme

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	Prevention and Control (LAPPC) Regulations for emissions to air only.
Point sources	Chimneys
Polluting development	A development which will directly or indirectly increase levels of relevant pollutants. This may include industrial processes but may also include developments which could cause increased traffic emissions.
Road canyon	A road which is flanked by buildings on both sides, creating a canyon like environment that can inhibit the dispersion of pollutants
SCR	Selective Catalytic Reduction – abatement equipment on vehicles to reduce NOx emissions. Requires the addition of urea (commercially known as Ad Blu)
SCRT	SCR and continuous regeneration technology (soot / particulate filter)
Sensitive development	A development which would allow users of the site to potentially be exposed to pollutants above the objective for the relevant period. For example, the introduction of a new residential development into an area where an air quality objective is already exceeded would create the potential for the exposure of residents to poor air quality above the objective. Incidentally, this type of development may also generate significant additional traffic flow and also be a polluting development.
Standby generator	Back-up electrical generator that automatically starts up and provides power following a utility outage

1 Purpose of the guidance

- 1.1 North Warwickshire Borough Council (the Council) has to weigh up economic, social and environmental factors when deciding to grant or refuse planning permission or decide if conditions are required to achieve sustainable development.
- 1.2 Air quality is a material consideration that planners are required to take into account when making their plans and when taking planning decisions.
- 1.3 This guidance aims to simplify the consideration of air quality impacts associated with development schemes and focus on incorporation of mitigation at design stage, countering the cumulative impacts of aggregated developments, providing clarity to developers and defining *sustainability* in air quality terms.
- 1.4 The objectives of this supplementary planning document (SPD) are:
 - Improve the consideration of air quality & health impacts in the planning process, in line with national / local policy and practice
 - to help ensure consistency in the approach to dealing with air quality and planning in the district;
 - to highlight the existing policy framework and emphasise the importance of air quality as a material planning consideration;
 - to identify the circumstances where detailed assessments and/or low emission strategies will be required as part of planning applications;
 - to provide guidance on measures that can be implemented to mitigate the potentially harmful impacts of new developments on air quality;
 - to promote the identification of suitable mitigation on major schemes through pre-application discussions;
 - to provide guidance on the use of planning conditions and Section 106 obligations to improve air quality; and
 - to encourage co-benefits of reducing carbon and noise emissions

2 Local Air Quality

- 2.1 The Council revoked the Coleshill Air Quality Management Area (AQMA) in 2013, due to improvements in annual average concentrations of nitrogen dioxide (NO₂).
- 2.2 The Council continues to monitor air quality in the Borough and seeks to maintain compliance with the Government Air Quality Objectives (AQO).
- 2.3 While levels of particulate matter (PM₁₀) in North Warwickshire do not breach Air Quality Objectives it is acknowledged that fine particulate matter (PM_{2.5}) levels have a significant impact on health across the Borough. It is estimated that around 1 in 20 deaths can be attributed to PM_{2.5} concentrations accounting for 34 deaths (over 25s) and 343 associated life-years lost in 2010².
- 2.4 For the purpose of improving air quality and health impacts in North Warwickshire this guidance is concerned with maintaining compliance with Air Quality Objectives and with improving air quality further, particularly with respect to particulate concentrations.

2

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/332854/PHE_CRCE_010.pdf

3 National Policy & Practice

3.1 National Planning Policy Framework

The National Planning Policy Framework (NPPF) 2019 sets out the overarching national policy objectives relating to air quality and development. Most notably, it emphasises that development should, wherever possible help to improve local environmental conditions such as air quality. The most relevant paragraphs in respect of air quality are set out below:

Para 170 Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air quality;

Para 181 Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

The following paragraph outlines the relationship between the planning process and the environmental permitting system:

Para 183 The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

The following paragraphs recognise the impact of traffic on air quality and health and the benefits of sustainable transport modes:

Para102 Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for mitigation and for net gains in environmental quality; -

Para103 The planning system should actively manage patterns of growth in support of these objectives significant development should be focused on locations which are or can be made

sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

Para105. If setting local parking standards for residential and non-residential development, policies should take into account:

- a) the accessibility of the development;
- b) the type, mix and use of development;
- c) the availability of and opportunities for public transport;
- d) local car ownership levels; and
- e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

3.2 National Planning Practice Guidance

3.2.1 National Planning Practice Guidance (NPPG)³ provides advice to planning authorities on implementing the NPPF, including guidance on how air quality can be considered as part of the planning process, stating that, “Local Plans may need to consider:

- the potential cumulative impact of a number of smaller developments on air quality as well as the effect of more substantial developments;
- the impact of point sources of air pollution (pollution that originates from one place); and,
- ways in which new development would be appropriate in locations where air quality is or likely to be a concern and not give rise to unacceptable risks from pollution. This could be through, for example, identifying measures for offsetting the impact on air quality arising from new development including supporting measures in an air quality action plan or low emissions strategy where applicable.

3.2.2 When deciding whether air quality is relevant to a planning application, considerations may include whether the development would:

- Significantly affect traffic in the immediate vicinity of the proposed development site or further afield. This could be by generating or increasing traffic congestion; significantly changing traffic volumes, vehicle speed or both; or significantly altering the traffic composition on local roads. Other matters to consider include whether the proposal involves the development of a bus station, coach or lorry park; adds to turnover in a large car park; or result in construction sites that would generate large Heavy Goods Vehicle flows over a period of a year or more.
- Introduce new point sources of air pollution. This could include furnaces which require prior notification to local authorities; or extraction systems (including chimneys) which require approval under pollution control legislation or biomass boilers or biomass-fuelled CHP plant; centralised boilers or CHP plant burning other fuels within or close to an air quality management area;
- Expose people to existing sources of air pollutants. This could be by building new homes, workplaces or other development in places with poor air quality.
- Give rise to potentially unacceptable impact (such as dust) during construction for nearby sensitive locations.

³ <https://www.gov.uk/government/collections/planning-practice-guidance>

- Affect biodiversity. In particular, is it likely to result in deposition or concentration of pollutants that significantly affect a European-designated wildlife site, and is not directly connected with or necessary to the management of the site, or does it otherwise affect biodiversity, particularly designated wildlife sites.”

3.2.3 The NPPG states that where a planning proposal, including mitigation, prevents sustained compliance with EU Limit Values or National Objectives for air quality and cannot be made acceptable then refusal of planning permission should be considered.

4 Local Plan

- 4.1 The Planning and Compulsory Purchase Act 2004, amended by the Localism Act 2011 requires planning authorities to prepare Local Plans.
- 4.2 As part of the Local Plan for North Warwickshire, the Core Strategy⁴ was adopted in October 2014. The Core Strategy includes the following policy on air quality, saved from the Local Plan 2006.

POLICY ENV9 - AIR QUALITY

The air quality of the Borough will be safeguarded and enhanced by:

1. Not permitting new potentially polluting forms of development within and bordering the Borough's Air Quality Management Areas (AQMA) to minimise potential risks to health. The existing AQMA is shown on the Proposals Map.
2. Not permitting development that would include hazardous substances likely to have an unacceptable risk to nearby areas and people.
3. Not permitting development in the vicinity of notifiable hazardous installations or premises if there is an unacceptable risk to occupiers.
4. Not permitting places of residence, employment or other noise-sensitive uses if the occupants would experience significant noise disturbance.
5. Not permitting development that would create significant noise disturbance to nearby housing, schools and other noise-sensitive uses.

- 4.3 The Borough Council no longer has an Air Quality Management Areas (AQMA).
- 4.4 The Local Plan is currently being updated and a Local Plan Submission Version⁵ published in March 2018. Air quality is contained in policy LP31 in criterion 9:

LP31 Development Considerations

Development should meet the needs of residents and businesses without compromising the ability of future generations to enjoy the same quality of life that the present generation aspires to. Development should:

1. Be targeted at using brownfield land in appropriate locations reflecting the settlement hierarchy; and,
2. be adaptable for future uses and take into account the needs of all users; and,
3. maintain and improve the provision of accessible local and community services, unless it can be demonstrated that they are no longer needed by the community they serve; not needed for any other community use, or that the facility is being relocated and improved to meet the needs of the new, existing and future community; and,
4. promote healthier lifestyles for the community to be active outside their homes and places of work; and,
5. encourage sustainable forms of transport focussing on pedestrian access and provision of bike facilities; and,

⁴ https://www.northwarks.gov.uk/downloads/file/7246/cd62b_core_strategy_2014

⁵ https://www.northwarks.gov.uk/downloads/file/7127/local_plan_submission_version_march_2018

7. before proposals are supported expand or enhance the provision of open space, sport and recreation facilities, using, in particular, the Green Space Strategy and Playing Pitch Strategies; and,
8. not lead to the loss unless a site of equivalent quality and accessibility can be provided, or shown that it is surplus to needs; and,
9. **avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution;** and,
10. protect and enhance the historic and natural environment; and,
11. manage the impacts of climate change through the design and location of development, including sustainable building design and materials, sustainable drainage, water efficiency measures, use of trees and natural vegetation and ensuring no net loss of flood storage capacity; and,
12. protect the quality and hydrology of ground or surface water sources so as to reduce the risk of pollution and flooding, on site or elsewhere; and
13. not sterilise viable known mineral reserves; degrade soil quality or pose risk to human health and ecology from contamination or mining legacy and ensure that land is appropriately remediated, and,
14. seek to maximise opportunities to encourage re-use and recycling of waste materials, both in construction and operation, and,
15. Adequate space for bins should be provided within all new developments to enable the storage of waste and for materials to be re-cycled. Guidance is provided at Appendix J,
16. provide for information and communication technologies; and,
17. seek to reduce crime and in particular the threat of terrorism.

- 4.5 In addition, the Local Plan has a policy on parking in which there is a section relating to promoting electric charging points within developments:

LP36 Parking

Electric Vehicle Charging points

Electric charging points will be provided as part of all developments. Rapid charging points will be provided on sites when located in the public realm. On housing sites homes with on-site parking will provide an electric charging point in an accessible location close to the parking space(s). On commercial sites there will be employee and visitor rapid charging points.

5 Development Classification, Assessment and Mitigation

- 5.1 The assessment of air quality for relevant planning applications should follow a three-stage process:
1. Determining the classification of the development proposal;
 2. Assessing and quantifying the impact on local air quality;
 3. Determining the level of a mitigation required by the proposal to make the scheme acceptable.

Stage 1 - Development Type Classification

- 5.2 The classification of developments is shown in Tables 1 and 2. The assessment and mitigation of development proposals is shown in Figure 1.

Table 1 – Air quality classification of developments

Scheme Type	Minor	Medium	Major
Threshold	Below threshold criteria for a Transport Assessment ⁶ or Travel Plan	Meets threshold criteria for a Transport Assessment or Travel Plan	Medium type developments which also trigger any of the following criteria: i) Where development is within or adjacent ⁷ to an AQMA or CAZ ii) Where development requires an EIA ⁸ and air quality is to be considered iii) Where any of the criteria in table 2 are triggered
Assessment	None (other than for exposure)	None (other than for exposure)	Air Quality Assessment required including an evaluation of changes in emissions ⁹
Mitigation	Type 1	Types 1 and 2	Types 1,2 and 3

- 5.3 The Department for Transport (DfT) threshold criteria for Transport Assessments (TA) can be found in **Appendix 1**.

Table 2 – Additional Trigger Criteria for Major Developments

<ul style="list-style-type: none"> • Proposals in areas where sustained compliance with EU Limit Values may be at risk¹⁰ • Any development proposing a net increase of 100 or more parking spaces • Any development that could increase the existing traffic flows on roads of > 10,000 AADT by 5% or more • Any development that causes a change in LDV (cars and small vans) flows of: <ul style="list-style-type: none"> - more than 100 AADT within or adjacent to an AQMA, CAZ or exceedance area - more than 500 AADT elsewhere • Any developments that could increase traffic flows by 5% or more in road canyons
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⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/263054/guidance-transport-assessment.pdf

⁷ Where development has potential to impact on concentrations in AQMA or CAZ

⁸ <https://www.gov.uk/guidance/environmental-impact-assessment>

⁹ Assessment includes monetisation of the impacts arising from emission changes in line with Defra IGCB Damage Costs

¹⁰ Where current monitoring data shows NO₂ annual average concentrations of 36 ug/m³ or more

- (or creates a canyon) with > 5,000 AADT
- Any development that causes a change in HDV flows (lorries, large vans and buses) of:
 - more than 25 AADT within or adjacent to an AQMA, CAZ or exceedance area
 - more than 100 AADT elsewhere
 - Proposals that could introduce or significantly alter congestion and includes the introduction of substantial road infrastructure changes
 - Proposals that reduce average speeds by more than 10 km per hour
 - Proposals that include additional HGV movements by more than 10% of total trips
 - The construction, widening or repositioning of a road in the vicinity of sensitive receptors¹¹
 - Where significant demolition and construction works are proposed¹²
 - Where a centralised combustion unit of thermal input >300kWh is proposed
 - All biomass boiler applications
 - All stand-by/short-term power generation units regulated by the Environment Agency

Stage 2 - Air Quality Impact Assessment

(i) MINOR and MEDIUM Classified Proposals

- 5.4 Smaller development proposals, except Biomass applications (refer to 5.25), may not in themselves create an additional air quality problem but will add to local air pollution and potentially introduce more people likely to be exposed to existing levels of poor air quality. An assessment of the likelihood of introducing additional exposure will be determined using the following criteria:
- The proposal is adjacent to or within an AQMA;
 - The proposal is sited less than 20m from roads at or above the relevant national objective highlighted on the DEFRA GIS modelled maps - <http://uk-air.defra.gov.uk/data/gis-mapping>
 - The proposal is one of the Land Use types:
 - C1 to C3;
 - C4 (Homes of Multiple Occupation);
 - D1
 - and within 20m a of road with >10,000 AADT movements
- 5.5 The outcome of the exposure assessment will determine the level of mitigation required to make the development acceptable. Should there be no acceptable or insufficient mitigation the recommendation may be to consider refusing the proposal on air quality grounds

¹¹ See section 5.2

¹² Significance determined by professional judgement based on scale of works and proximity of sensitive receptors

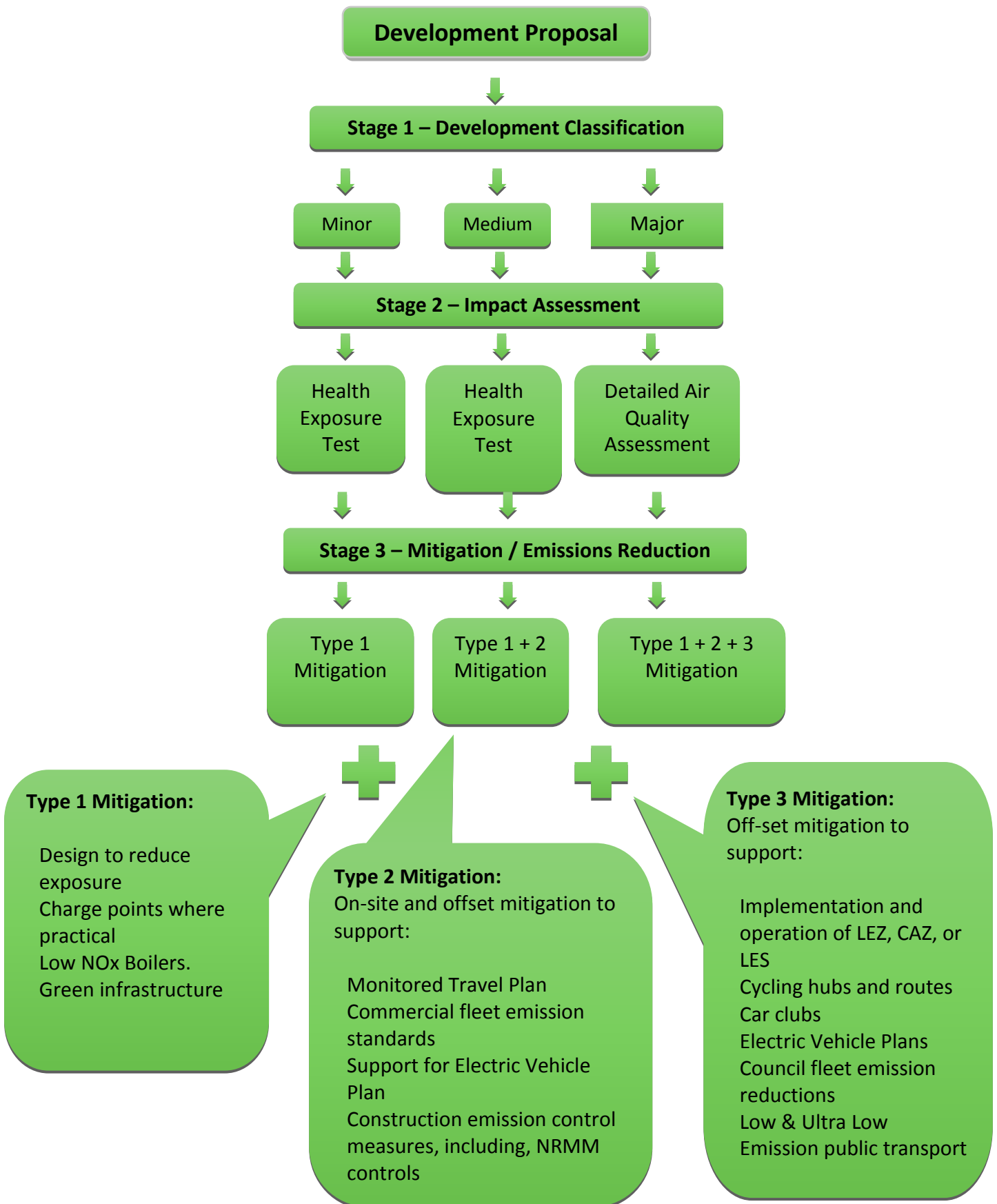
(ii) MAJOR Classified Proposals

5.6 ***It is important that all major schemes should identify suitable assessment requirements and potential mitigation through pre-application discussions.***

5.7 The scale and nature of this type of proposal is such that a detailed air quality assessment will be required to determine the impact on public health and the local environment. The assessment requires:

- The identification of the level of exposure through the change in pollutant concentrations including cumulative impacts arising from the proposal, during both demolition/construction operations and operational phases. Mitigation measures should be identified and modelled where practicable.
- The calculation of pollutant emissions costs from the development.

Figure 1 – Classification, assessment & mitigation of new developments



- 5.8 The methodology to be used for the determination of pollutant concentration change should meet the requirements of the Department for the Environment, Food and Rural Affairs (DEFRA) Technical Guidance Note LAQM TG. (16)¹³. Further details of the air quality assessment requirements can be found in **appendix 2** and through the NWBC Environmental Health Department.
- 5.9 All Air Quality Assessments received will be assessed by the Council against the requirements of this Technical Guidance Note. If the requirements are not met, the Council may request that the applicant carries out the assessment again, If the assessment does not meet the required standards, the application may be refused.
- 5.10 The pollutant emissions costs calculation will identify the damage costs associated with the proposal and will assist the Council in assessing the overall impacts on air quality arising from major developments. NWBC **may** use the damage costs in considering the appropriate scale and kind of mitigation that is required to make certain major schemes acceptable in terms of air quality. The overall benefit of the scheme will be taken into account in taking decisions about whether proposals are acceptable. The calculation should utilise the most recent DEFRA Emissions Factor Toolkit¹⁴ to estimate the additional pollutant emissions from a proposed development and the latest DEFRA IGCB Air Quality Damage Costs for the specific pollutant of interest, to calculate the resultant damage cost¹⁵. The calculation process includes:
- Identifying the additional trips generated by the proposal (from the Transport Assessment);
 - The emissions calculated for the pollutants of concern (NO_x and PM₁₀) [from the Emissions Factor Toolkit];
 - The air quality damage costs calculation for the specific pollutant emissions (from DEFRA IGCB);
 - The result is totalled for a five-year period to enable mitigation implementation. Where there is long development build out programmes, the Council may require the developer to consider a longer period than 5 years where construction activity is likely to be intensive.
- 5.11 The calculation is summarised below. Further information can be obtained from the NWBC Environmental Health Department. **Should there be no net increase in trips arising from a development scheme then the damage costs are zero.** Further information on damage costs can be found in **appendix 3**.

<p>Road Transport Emission Increase = Σ[Estimated trip increase for 5 years X Emission rate per 10 km per vehicle type X Damage Costs]</p>

Stage 3 - Mitigation

- 5.12 Where mitigation is not integrated into a proposal, the Council will require this through planning conditions. The NPPF (paragraph 32) states that “Where significant adverse impacts are unavoidable, suitable mitigation measures should be proposed (or, where this is not possible, compensatory measures should be considered)”. If on-

¹³ <https://laqm.defra.gov.uk/technical-guidance/>

¹⁴ <https://laqm.defra.gov.uk/review-and-assessment/tools/emissions-factors-toolkit.html>

¹⁵ <https://www.gov.uk/guidance/air-quality-economic-analysis>

site mitigation is not possible then NWBC will seek compensation for the identified air quality impacts through a section 106 agreement or similar agreement.

- 5.13 Default mitigation measures are presented for each type of proposal that demonstrate a minimum requirement. This is not an exhaustive list but a suggested suite of measures and will be adapted for particular locations and needs identified by the Council. NWBC welcomes the opportunity to work with developers to devise innovative measures that will lead to improving local air quality.
- 5.14 Type 1 mitigation is listed in table 3 and Types 2 and 3 are listed in tables 4 and 5 respectively.
- 5.15 Medium and Major developments will be required to implement suitable abatement controls for the use of non-road mobile machinery (NRMM) – see table 6.

Type 1 Mitigation

Table 3 – Type 1 Mitigation

Plug-in Vehicle Re-Charging:

Residential:

1 charging point per unit (dwelling with dedicated parking) or 1 charging point per 10 spaces (unallocated parking) and ensure appropriate cabling is provided to enable increase in future provision

Commercial/Retail:

10% of parking spaces (32 amp) which may be phased with 5% initial provision and the remainder at an agreed trigger level. At least 1 charging unit should be provided for every 10 disabled parking spaces. Where 50 parking spaces or more are provided then 1 rapid charging unit (43kW/50kW) per 50 spaces shall also be considered and parking time limited to a maximum of 1 hour for public access car parks.

Industrial:

10% of parking spaces which may be phased with 5% initial provision and the remainder at an agreed trigger level. At least 1 charging unit should be provided for every 10 disabled parking spaces. Where 50 parking spaces or more are provided then 1 rapid charging unit (43kW/50kW) per 50 spaces shall also be considered

All charging unit shall be installed where practical. Developers installing public charging points shall ensure that the National Charge Point Registry is updated

(<http://www.national-charge-point-registry.uk/>)

Low NOx heating and boilers (see section 5.25)

Code of Construction Practice

Construction Environmental Management Plan (CEMP) to be incorporated into MEDIUM and MAJOR developments and agreed with Council Officers, usually via the Discharge of Planning Conditions. This shall include NRMM controls (see table 6)

Green Infrastructure

Where it can be shown that such infrastructure will reduce exposure from air pollution

Type 2 Mitigation

5.16 The following tables provide a suite of measures to be considered where appropriate.

Table 4 – Type 2 Mitigation

- Monitored Travel Plan¹⁶
 - Measures to support public transport infrastructure and promote use
 - Measures to support cycling and walking infrastructure
 - Measures to support an Electric Vehicle Plan
 - Designated parking spaces and differentiated parking charges for low emission vehicles
 - Non-road mobile machinery (NRMM) controls (see table 6)
- Commercial development specific:
- Use reasonable endeavors to use/require vehicle use complying with the latest European Emission Standard
 - Provide a fleet emission reduction strategy/Low Emission Strategy, including low emission fuels and technologies, including ultra-low emission service vehicles

Type 3 Mitigation

Table 5 – Type 3 Mitigation

Off-set mitigation to support:

- Implementation and operation of Clean Air Zones (CAZ), Low Emission Zones (LEZ) or Low Emission Strategies (LES)
- Growth in low and ultra-low emission public transport, including buses
- Electric Vehicle Plans
- Car clubs (including electric) and car sharing schemes
- Cycling Hubs and corridors, including bike and e-bike hire
- Plugged-in development and demonstration schemes eg new occupants given demonstration use of plug-in vehicles
- Low emission waste collection services
- Infrastructure for low emission, alternative fuels eg. refuse collection and community transport services

5.17 Further information on the suitability of mitigation for developments can be obtained from the Council Environmental Health Team and through pre-application discussions.

Table 6 – Non-Road Mobile Machinery (NRMM) Controls

NRMM of net power between 37kW and 560kW will be required to meet the standards based upon the engine emissions standards in EU Directive 97/68/EC and its subsequent amendments. This will apply to both variable and constant speed engines for both NOx and PM. These standards are:

- (a) NRMM used on the site of any MEDIUM classified development in the built-up areas will be required to meet Stage IIIA of the Directive as a minimum.
- (b) NRMM used on any MAJOR classified development in the built-up areas will be required to meet Stage IIIB of the Directive as a minimum.

From 1 September 2020 the following changes will apply:

- (a) NRMM used on any construction or demolition site within the built-up areas will

¹⁶ Where the developer funds the monitoring of a travel plan

- be required to meet Stage IIIB of the Directive as a minimum.
- (b) NRMM used on any MEDIUM or MAJOR classified development in built-up areas will be required to meet Stage IV of the Directive as a minimum.

The requirements may be met using the following techniques;

- (a) Reorganisation of NRMM fleet (b) Replacing equipment (with new or second-hand equipment which meets the policy) (c) Retrofit abatement technologies (d) Re-engining.

All eligible NRMM should meet the standards above unless it can be demonstrated that the machinery is not available or that a comprehensive retrofit to meet both PM and NO_x emission standards is not feasible.

Emissions from Construction Sites

5.18 For all types of development the control of emissions from construction will be agreed with the local authority Environmental Health Department.

Emissions from Permitted Sites

5.19 Any premises requiring an Environmental Permit - such as quarries, landfills and other industrial sites - may be regulated by the Environment Agency, County Council or NWBC are subject to controls for air emissions including dust.

Assessing the acceptability of a scheme

5.20 NWBC will determine the acceptability of a scheme and its location based on the outcome of the air quality assessment and the provision of on-site and/or off-set mitigation.

5.21 While applicants may present evidence as to the significance of scheme impacts or the impact of air quality on a scheme, NWBC reserves the right to determine the acceptability of an application based on local air quality knowledge and the cumulative impacts of schemes.

5.22 Failure to meet the requirements in this guidance may result in the application being delayed as the Council may request extra information, amendments or conditions to the application. If the issues remain, planning permission will not normally be granted

Specific Issues:

1. Heating & Power

5.23 Minimum emission standards that are outlined below should be applied where relevant.

A Heating plant on developments outside of the built-up, urban areas:

Individual gas fired boiler <40mgNO_x/kWh

Spark ignition engine 250mgNO_x/Nm³

Compression ignition engine 400mgNO_x/Nm³

Gas turbine 50mgNO_x/Nm³

B Heating plant on developments in the built-up, urban areas:

Individual gas fired boiler <40mgNO_x/kWh

Spark ignition engine 95mgNO_x/Nm³

Compression ignition engine 400mgNO_x/Nm³

Gas turbine 20mgNO_x/Nm³

- 5.24 It should be noted that all plant permitted under the Pollution Prevention and Control Act 1999 and the Environmental Permitting Regulations 2016 (as amended), including CHP plant 20 MW_{th} input or above, will need to comply with the emission standards set through the permitting process and the planning system cannot set alternative standards. This means that, based on the permitted emissions of such plant, the Council will need to decide whether such schemes are an acceptable use of the application site depending on their impact on air quality.

2. Biomass boilers

- 5.25 Biomass boiler provision has increased over recent years, supported by the financial benefits of the Government's Renewal Heat Incentive (RHI)¹⁷. However, the emissions from biomass plant can lead to significant emissions of NO_x and PM, even from relatively small plant.

All biomass boiler plant applications will require a full air quality assessment to be submitted along with full emission details from the unit and all stack height calculation information obtained.

- 5.26 Biomass boilers will be resisted in North Warwickshire unless mitigation is provided to achieve emissions of NO_x and PM that are capable of achieving the following standards:

Solid biomass boiler (< 1 MW thermal input) NO_x 180mgNm³ / PM 5mgNm³

Solid biomass boiler (=> 1 MW thermal input) NO_x 125 mgNm³ / PM 5mgNm³

- 5.27 These standards can be achieved through the use of fabric or ceramic filters.

3. Standby / back-up power generation

- 5.28 All standby/back-up power generation applications, including schemes regulated by the Environment Agency, will require a full air quality assessment to assess the acceptability of the site for such a scheme.

¹⁷ http://www.energysavingtrust.org.uk/scotland/grants-loans/renewables/renewable-heat-incentive?gclid=EAlaIqobChMI_ZiY2Z7Q2gIVgbHtCh0dwxgCEAAAYASABEgKGgvD_BwE

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- 5.29 The Council expects all such assessments to include reasoning as to whether gas powered generation can be utilised in the first instance eg. identify the provision of suitable gas mains in the vicinity.
- 5.30 Any diesel-powered generators will be required to incorporate abatement equipment such as selective catalytic reduction and particulate trap (SCRT) and demonstrate that they don't add to the problem.

4. Permitting under the Pollution Prevention and Control Act 1999 and the Environmental Permitting Regulations 2016 (as amended)

- 5.31 Industrial processes which may range from large industrial plant to dry cleaners and paint spraying workshops, are regulated by the Environment Agency (Part A1 processes) and the Borough Council (Part A2 and Part B processes). The planning regime must assume that the permitting regime will ensure the processes comply with their permits and the Act. The planning regime can, however consider whether a land use is appropriate and it must consider the exposure to pollutants.
- 5.32 All Part A and B Process developments requiring planning applications and where NO_x and PM emissions are relevant will be required to carry out a detailed air quality assessment

5. Green Infrastructure

- 5.33 Plants and trees may provide an aesthetically pleasing aspect to a scheme and may also be used to provide a barrier from a pollutant source such as a trafficked road.
- 5.34 While there is conflicting evidence as to whether green infrastructure can help reduce concentrations of NO₂, it is acknowledged that certain types of shrubs and trees are effective at removing particulates from the atmosphere.
- 5.35 For example, a living wall or a framework for climbing plants may offer some protection between a pollution source such as a road and a dwelling. Additionally, certain types of trees such as varieties of pine, planted between a road and residential accommodation may help reduce exposure to particulates.
- 5.36 Careful consideration is needed as to the type of green infrastructure to be used as certain tree species can produce their own emissions which may exacerbate air pollution.

6. Section 106 Agreements and the Community Infrastructure Levy (CIL)

- 5.37 The Council has not yet adopted the Community Infrastructure Levy (CIL). If and when it is adopted the Council will not seek planning obligations for infrastructure included in the Regulation 123 List.
- 5.38 Subject to the rules on pooling, NWBC will seek Section 106 Agreements (Town and Country Planning Act 1990) and other relevant obligations with developers to secure mitigation, including off-set, on larger schemes (Medium and Major), where appropriate, to make the scheme acceptable.
- 5.39 Section 106 Agreements will only be sought where the following legal tests are satisfied:
- necessary to make the development acceptable in planning terms
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 5.40 Additionally, Section 106 Agreements must also satisfy the policy tests in the NPPF, paragraph 203.

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Appendix 1: Department for Transport Criteria for Transport Assessments (now archived¹⁸)

Land Use	Description	TA Required
Food Retail (A1)	Retail sale of food goods to the public – supermarkets, superstore, convenience food store	>800 m ²
Non-Food Retail (A1)	Retail sale of non-food goods to the public; but includes sandwich bars or other cold food purchased and consumed off site	>1500 m ²
Financial and professional services (A2)	Banks, building societies and bureaux de change, professional services, estate agents, employment agencies, betting shops.	>2500 m ²
Restaurants and Cafes (A3)	Use for the sale of food for consumption on the premises.	>2500 m ²
Drinking Establishments (A4)	Use as a public house, wine-bar for consumption on or off the premises.	>600 m ²
Hot Food Takeaway (A5)	Use for the sale of hot food for consumption on or off the premises.	>500 m ²
Business (B1)	(a) Offices other than in use within Class A2 (financial & professional). (b) Research & development – laboratories, studios. (c) Light industry	>2500 m ²
General industrial (B2)	General industry (other than B1).	>4000 m ²
Storage or Distribution (B8)	Storage or distribution centres – wholesale warehouses, distribution centres & repositories.	>5000 m ²
Hotels (C1)	Hotels, boarding houses & guest houses	>100 bedrooms
Residential Institutions (C2)	Hospitals, nursing homes used for residential accommodation and care.	>50 beds
Residential Institutions (C2)	Boarding schools and training centres	>150 students
Residential institutions (C2)	Institutional hostels, homeless centres.	>400 residents
Dwelling Houses (C3)	Dwellings for individuals, families or not more than six people in a single household.	>80 units
Non-Residential Institutions (D1)	Medical & health services, museums, public libraries, art galleries, non-residential education, places of worship and church halls.	>1000 m ²
Assembly and Leisure (D2)	Cinemas, dance & concert halls, sports halls, swimming, skating, gym, bingo, and other facilities not involving motorised vehicles or firearms.	>1500 m ²
Other		
1. Any development generating 30 or more two-way vehicle movements in any hour		
2. Any developments generating 100 or more two-way vehicle movements per day		
3. Any development proposing 100 or more parking spaces		
4. Any development generating significant freight or HGV movements per day, or significant abnormal loads per day		

¹⁸

<http://webarchive.nationalarchives.gov.uk/20100409053422/http://www.dft.gov.uk/adobepdf/165237/202657/guidanceontaappendixb>

5. Any development proposed in a location where the local transport infrastructure is inadequate

6. Any development proposed in a location within or adjacent to an Air Quality Management Area (AQMA)

Appendix 2: Air Quality Assessment Protocol to Determine the Impact of Vehicle Emissions from Development Proposals

An air quality assessment should clearly establish the likely change in pollutant concentrations at relevant receptors resulting from the proposed development during both the construction and operational phases. It must take into account the cumulative air quality impacts of committed developments (i.e. those with planning permission).

An air quality assessment should consider NO_x and PM emissions and NO₂ and PM concentrations

Key Components of an Air Quality Assessment

The assessment will require dispersion modelling utilising agreed monitoring data, traffic data and meteorological data. The modelling should be undertaken using recognised, verified local scale models by technically competent personnel and in accordance with LAQM TG.16. The study will comprise of:

1. The assessment of the existing air quality in the study area for the baseline year with agreed receptor points and validation of any dispersion model;
2. The prediction of future air quality without the development in place (future baseline or do-nothing);
3. The prediction of future emissions and air quality with the development in place (with development or do-something).
4. The prediction of future emissions and air quality with the development (with development or do-something) and with identified mitigation measures in place.

The assessment report should include the following details:

- A. A detailed description of the proposed development, including:
 - Identify any on-site sources of pollutants;
 - Overview of the expected traffic changes;
 - The sensitivity of the area in terms of objective concentrations;
 - Local receptors likely to be exposed;
 - Pollutants to be considered and those scoped out of the process.
- B. The relevant planning and other policy context for the assessment.
- C. Description of the relevant air quality standards and objectives.
- D. The assessment method details including model, input data and assumptions:
 - For traffic assessment;
 - Traffic data used for the assessment;
 - Emission data source;
 - Meteorological data source and representation of area;
 - Baseline pollutant concentration including any monitoring undertaken;
 - Background pollutant concentration;
 - Choice of base year;
 - Basis for NO_x:NO₂ calculations;
 - A modelling sensitivity test for future emissions with and without reductions;
 - For point source assessments:
 - Type of plant;

- Source of emission data and emission assumptions;
 - Stack parameters – height, diameter, emission velocity and exit temperature;
 - Meteorological data source and representation of area;
 - Baseline pollutant concentrations;
 - Background pollutant concentrations;
 - Choice of baseline year;
 - Basis for deriving NO₂ from NO_x.
- E. Model verification for all traffic modelling following DEFRA guidance LAQM.TG (16):
- F. Identification of sensitive locations:
- G. Description of baseline conditions:
- H. Description of demolition/construction phase impacts:
- I. Summary of the assessment results:
- Impacts during the demolition/construction phase;
 - Impacts during the operation phase;
 - The estimated emissions change of local air pollutants;
 - Identified breach or worsening of exceedances of objectives (geographical extent)
 - Whether Air Quality Action Plan is compromised;
 - Apparent conflicts with planning policy and how they will be mitigated.
 - Uncertainties, errors and verification
- J. Mitigation measures.

Air Quality Monitoring

In some cases it will be appropriate to carry out a short period of air quality monitoring as part of the assessment work. This will help where new exposure is proposed in a location with complex road layout and/or topography, which will be difficult to model or where no data is available to verify the model. Monitoring should be undertaken for a minimum of six months using agreed techniques and locations with any adjustments made following Defra technical guidance LAQM.TG (16).

Assessing Demolition/Construction Impacts

The demolition and construction phases of development proposals can lead to both nuisance dust and elevated fine particulate (PM₁₀ and PM_{2.5}) concentrations. Modelling is not appropriate for this type of assessment, as emission rates vary depending on a combination of the construction activity and meteorological conditions, which cannot be reliably predicted. The assessment should focus on the distance and duration over which there is a risk that impacts may occur. The Institute of Air Quality Management (IAQM)¹⁹ has produced a number of documents to which this guidance refers. The document 'Guidance on the Assessment of the Impacts of Construction on Air Quality and the Determination of their Significance' should be the reference for reporting the construction assessment.

Cumulative Impacts

The NPPF (paragraph 124) recognises that a number of individual development proposals within close proximity of each other require planning policies and decisions to consider the cumulative impact of them. Difficulties arise when developments are permitted sequentially, with each individually having only a relatively low polluting potential, but which cumulatively result in a significant worsening of air quality. This will occur where:

¹⁹ IAQM www.iaqm.co.uk

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- A single large site is divided up into a series of units, such as an industrial estate or retail park;
- A major development is broken down into a series of smaller planning applications for administrative ease; and
- There are cumulative air quality impacts from a series of unrelated developments in the same area.

The first two cases the cumulative impact will be addressed by the likelihood that a single developer will bring forward an outline application for the whole site which should include an air quality assessment as part of an Environmental Assessment. For major developments that are broken down into a series of smaller planning applications, the use of a 'Master or Parameter Plan' that includes an air quality assessment will address the cumulative impact.

Appendix 3: Damage Costs: calculations and example

Damage costs are the costs to society (mainly health) per tonne of pollutant emitted. They provide an easy reckoning of the monetised value of changes in pollution. The Government publishes damage costs for NO_x and PM and also provides an Emission Factor Toolkit to allow the calculation of the emissions from schemes over the coming years.

Applicants calculating damage costs should incorporate the following:

- The most recent version of the Emission Factor Toolkit
- Both NO_x and PM to be considered
- Appropriate HGV % traffic split to be used
- Traffic speed of 30km / hour to be used
- The appropriate damage cost category as advised by the Council Air Quality Team

The Emission Factor Toolkit is updated periodically due to updates to underlying data including vehicle fleet composition and emissions factors. Users are therefore advised to check regularly to ensure they are using the most up to date version of the tool for their studies.

Agenda Item No 7

Planning and Development Board

2 September 2019

**Report of the
Head of Development Control**

**Tree Preservation Order –
99 London Road Bassetts Pole**

1 Summary

- 1.1 The report seeks confirmation of a Tree Preservation Order at this address.

Recommendation to the Board

That the Order is confirmed.

2 Background

- 2.1 The Council received notice that the possible demolition of number 99 might result in the loss of trees which backed onto ancient woodland.
- 2.2 The trees were inspected by the Council's Tree Officer and he recommended that the trees within the curtilage were worthy of an Order, because of their relationship with the woodland and its high visibility being on the main London Road. As a consequence the agreement of the Board Chairman was sought and an Emergency Order was served on the 7 June. This was later confirmed by the Board at its June meeting.

3 Observations

- 3.1 Following the making of the Order, a period of consultation took place, but no representations have been received.
- 3.2 As a consequence, given the matters raised above, it is considered that the Order should now be confirmed.

4 Report Implications

4.1 Finance and Value for Money Implications

- 4.1.1 There is no implication arising from confirming the Order, but Members are aware that in certain circumstances, compensation may be paid if Consent is refused for works to be undertaken to the protected tree.

4.2 Links to Council's Priorities

4.2.1 The conservation of the Borough's rural heritage is one of its priorities as reflected in the Development Plan.

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date

Agenda Item No 8

Planning and Development Board

2 September 2019

**Report of the
Head of Development Control**

**Tree Preservation Order –
35 Margaret Road, Atherstone**

1 Summary

- 1.1 The report seeks confirmation of a Tree Preservation Order at this address.

Recommendation to the Board

That the Order is confirmed.

2 Background

- 2.1 The Council received notice from the executor of the estate of this address in Margaret Road querying whether there was an Order on a Chilean Pine tree situated at the property. This suggested that the tree could potentially be removed if the new owners wanted to undertake works at the site.
- 2.2 The tree was inspected by the Council's Tree Officer and he recommended that it was worthy of an Order, being a rare example of this species in the Borough, adding to its amenity value as it is visible from the public realm. As a consequence the agreement of the Board Chairman was sought and an Emergency Order was served on the 7 June. This was later confirmed by the Board at its June meeting.

3 Observations

- 3.1 Following the making of the Order, a period of consultation took place, but no representations have been received.
- 3.2 As a consequence, given the matters raised above, it is considered that the Order should now be confirmed.

4 Report Implications

4.1 Finance and Value for Money Implications

4.1.1 There is no implication arising from confirming the Order, but Members are aware that in certain circumstances, compensation may be paid if Consent is refused for works to be undertaken to the protected tree.

4.2 Links to Council's Priorities

4.2.1 The conservation of the Borough's rural heritage is one of its priorities as reflected in the Development Plan.

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date

Agenda Item No 9

Planning and Development Board

**Report of the Head of
Development Control**

2 September 2019

Appeal Update

1 Summary

1.1 The report updates the Board on recent appeal decisions.

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

2 Appeal Decisions

a) The Boot Inn, Watling Street, Grendon

2.1 The proposed development here related to the change of use of these premises and their extension for retail and other uses. The refusal reason related solely to access and highway issues. The appeal was allowed and planning permission has been granted. The decision letter is attached at Appendix A. It can be seen that following the appeal being lodged, Highways England was satisfied with outstanding information that it had requested and consequently withdrew its holding objection. In these circumstances the Inspector concluded that there was no technical highway objection.

2.2 Members have been uncomfortable with development proposals along the A5, but can be seen from both this and recent Black Swan decision that without the support of Highways England, there is very little likelihood of a refusal at appeal.

b) The Cedars, Whitacre Heath

2.3 This is a very welcome decision upholding an Enforcement Notice requiring the removal of an office building within the Green Belt. This site has been the subject of earlier enforcement action and this decision reinforces the Council's approach. The compliance period of three months was also upheld and therefore visits will now be arranged to ensure compliance

2.4 The decision letter is at Appendix B.

3. Report Implications

3.1 Links to Council's Priorities

- 3.1.1 The second of these decisions accords with the Council's priorities of protecting the Borough's rural heritage and character.

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



Appeal Decision

Site visit made on 20 May 2019

by **Ben Plenty BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th August 2019

Appeal Ref: APP/R3705/W/19/3223444

The Boot Inn Public House, Watling Street, Grendon CV9 2PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by F Espley & Sons Ltd SSAS against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2018/0065, dated 26 January 2018, was refused by notice dated 4 September 2018.
 - The development proposed is a change of use including building works.
-

Decision

1. The appeal is allowed. Planning permission is granted for the change of use from public house (A4 use) to a mixed-use development comprising of a convenience store (A1 use), business offices (A2/B1 use) and community use (D1/D2 use) including building works and extensions, at The Boot Inn Public House, Watling Street, Grendon CV9 2PG, in accordance with the terms of the application PAP/2018/0065 dated 26 January 2018, and subject to the attached schedule of conditions.

Procedural Matter

2. I have changed the description of development to the one used by the Council for clarity.
3. The Council's reason for refusal refers to policy NW10(6) of the North Warwickshire Local Plan 2006 (LP) which is in fact from the North Warwickshire Local Plan - Core Strategy 2014 (CS), I have taken this into account accordingly.
4. The Council's reason for refusal explains that the proposal attracted a holding objection from Highways England (HE) in its capacity as statutory consultee. However, in representations HE has confirmed¹ that it did not object to the proposal as it considered there to be no insurmountable issues. Instead, it had recommended that permission not be granted for a period of 3 months to enable the receipt of a revised Walking, Cycling and Horse-riding Assessment and Review (WCHAR) and a Stage 1 Road Safety Audit (RSA1). The application was refused before this matter was fully resolved. However, dialogue continued between the appellant and HE. HE has now seen a compliant WCHAR and RSA1 and is now satisfied² that the details shown on drawings SCP/17218/F07 Revision A and SCP/17218/ATR08 are acceptable.

¹ Highways England letter 24 April 2019

² Highways England email 8 October 2018

Main Issue

5. The main issue is the effect of the proposal on highway safety, with particular regard to the comments of Highways England.

Reasons

6. The appeal site consists of a former public house and includes rear car park. The car park has two access points onto the A5 (Watling Street) and a small delivery access onto Boot Hill. The site access points on the A5 are close to a roundabout. There is also a pedestrian refuge in front of the site. The main road is straight, and visibility is generally clear in both directions from egress/access points from the site.
7. The proposal is for a change of use and extension to a public house to create convenience retail, office and community use. This includes the closure of the two existing access points and the provision of a new bell mouth junction. The development also includes the relocation of the pedestrian refuge nearer to the roundabout to enable the new bell mouth to function correctly. The Highway safety assessments required by HE, consisting of the WCHAR and RSA1, now illustrate that the proposal would not result in an unacceptable impact on highway safety. Furthermore, I note that the Local Highway Authority has also raised no objection to the proposal.
8. Paragraphs 108 of the National Planning Policy Framework (The Framework) requires development to provide safe and suitable access. Paragraph 109 requires decision makers to only refuse development on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. I understand that the proposal no longer raises any concerns from the Highways England in regard to highway safety. Subsequently, based on my own observations of the context of the site, I am satisfied that highway safety has been properly addressed in this case. Moreover, I am content that the proposal would not result in an unacceptable impact on highway safety. Furthermore, there is no contrary evidence submitted that suggests I take a different view.
9. As a result, the proposal would comply with policy NW10(6) of the CS, which seeks development to provide a proper vehicular access, sufficient parking and adequate manoeuvring for vehicles. The proposal would also comply with saved policy ENV14 of the LP, which seeks amongst other things for the design of an access to demonstrate that priority has been given to pedestrians, cyclists and those using public transport and access is safe onto the local road network. The proposal would also accord with the Framework as the proposal would not result in an unacceptable impact on highway safety.

Conditions

10. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance. I shall impose the majority of the Council's suggested conditions with some amendments and adjustments for clarity.
11. For materials, suggested condition 5 is not necessary as condition 3 suitably requires the extension to be built in accordance with the proposed materials.

12. I have added a new condition to limit the hours of use to those stated on the application form, I do not consider that the appellant would be disadvantaged by the inclusion of this. I have also added a condition to require the provision of the required changes to the highway prior to the commencement of use.
13. I have altered the trigger time for submission details for the boundary details, to remove this unnecessary pre-commencement condition in accordance with the Guidance. I have simplified the construction loading/unloading condition to specify only where this activity would be appropriate and combined this with acceptable construction hours. I have added further details in regard to CCTV coverage, to satisfy some concerns from residents in regard to security and privacy. I have also required details for the method of closing the access from Boot Hill to provide certainty as to when that requirement can be considered achieved. I have also altered the lighting condition to ensure that lighting would provide adequate security to the premises, whilst also protecting the living conditions of neighbouring occupiers.
14. Subsequently, I have attached the following conditions which are necessary in the interests of certainty [1 and 2], would safeguard the character and appearance of the area [3 and 4], would protect the living conditions of existing residents [5, 6, 7, 10 and 11] and would meet highway safety expectations [8, 9 and 12].

Other Matters

15. Representations have included matters relating to concerns of disturbance caused by use of the car park and the hours of use. However, the local context shows that background noise levels would be relatively high into the evening. This coupled with the lawful use of the site leads me to conclude that the proposed hours would not have a significantly worsening effect on the living conditions of occupiers of nearby dwellings. Concerns raised regarding potential night-time access has been addressed by a condition requiring security barriers.
16. The proposal would result in the loss of the public house use, which I sympathise may have been felt by some to be the heart of the community. However, no evidence is before me to illustrate that the former use would be viable at this time. Furthermore, the proposal seeks to adapt the building and reuse it with a community room, office and retail. Consequently, this would revitalise the site and make good use of a vacant building.
17. I have also taken into account representations in regard to flooding, car parking levels and competition with local shops, but these matters do not affect my findings on the main issue.

Conclusion

18. For the above reasons, the appeal is allowed, and planning permission is granted.

Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be constructed in accordance with the following approved plans: - referenced 5364-010 Rev A 'site location', 5364-009 'existing site layout', 5364-008 'existing floor plans and elevations', 5364-006 Rev D 'proposed floor plans and elevations' and plan reference 5364-007 Rev G 'site layout plan'.
- 3) The materials to be used in the approved development shall be those annotated within the application form received by the Council on 29 January 2018 and within the detail contained within plan reference 5364-006 Rev D 'proposed floor plans and elevations'.
- 4) Prior to the commencement of any approved use, details of boundary treatment and security barriers, shall be submitted to and approved in writing by the Local Planning Authority. This shall indicate the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the building is first occupied.
- 5) The retail use hereby permitted shall only take place between the following hours: 0700 to 2300 hours Mondays to Sundays (including Bank Holidays). The office use hereby permitted shall only take place between the following hours: 0700 to 1800 Mondays to Fridays; 0900 to 1400 hours on Saturdays and not be open Sundays and Bank Holidays. The community use hereby permitted shall only take place between the following hours: 0700 to 2200 Mondays to Saturdays and not be open Sundays and Bank Holidays. All deliveries shall only take place during retail opening hours.
- 6) During construction, demolition or construction works shall take place only between 0800 to 2000 on Monday to Friday, 0900 to 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays. Furthermore, all loading and unloading of construction materials shall be undertaken from within the existing car park.
- 7) Prior to the commencement of any approved use, details of the method to permanently close off the existing vehicular access from Boot Hill shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented prior to the use commencing.
- 8) Prior to the commencement of any approved use, the access, car parking, manoeuvring and service areas shall be laid out in accordance with the approved details. Such areas shall be retained for the purpose of parking and manoeuvring of vehicles in perpetuity.

- 9) Prior to the commencement of any approved use, works to the highway shall be completed in accordance with the agreed details shown on plan reference SCP/17218/F07 Revision A (June 2018) and SCP/17218/ATR08 (July 2018).
- 10) Prior to the commencement of any approved use, details for the provision of CCTV cameras shall be submitted to and approved by the local planning authority. The details shall include the location of cameras, height and field of vision and include coverage of the car park. The approved details shall be implemented prior to the commencement of use and retained thereafter.
- 11) Prior to the commencement of any approved use, details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. The agreed details shall then be installed prior to the commencement of use and retained thereafter.
- 12) All deliveries and collections, for any approved use, shall be made from the car park and servicing area on site.

End of Conditions



Appeal Decision

Site visit made on 22 July 2019

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2019

Appeal Ref: APP/R3705/C/18/3214815

Land adjacent and abutting The Cedars, Coton Road, Neither Whitacre B46 2HH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Ruth Roberts against an enforcement notice issued by North Warwickshire Borough Council.
 - The enforcement notice was issued on 20 September 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an office building.
 - The requirements of the notice are demolish and remove the unauthorised office building from the site.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matter

2. Although different to the addresses shown on the appeal form and in the Council's statement, I have used the appeal address as stated in the enforcement notice together with correcting a typographical error 'Whitachre' to 'Whitacre'. No injustice is caused to either party.

The appeal on ground (a)

Main Issues

3. The appeal site lies within the Green Belt; accordingly, the main issues are:
 - (i) Whether or not the development represents inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - (ii) the effect of the development on the openness of the Green Belt and the purposes of including land within it; and
 - (iii) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other

considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

4. The Cedars is an industrial complex which has a number of industrial buildings and travelling gantry cranes. The appeal office building has been erected on land north of the industrial site outside the settlement boundary. The building is contained within a fenced, gated and hard surfaced compound to the north of which is a grassed bund and field.
5. The Framework advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, except in very special circumstances, subject to a number of exceptions. One such exception at paragraph 145 (g) of the Framework is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development or would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
6. The Framework defines previously developed land as "land which is or was occupied by a permanent structure, including curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings..."
7. The planning history of the Cedars includes two Lawful Development Certificates (LDC)¹ and a previous planning appeal². Contrary to the appellant's submissions, it is clear from the submitted evidence, that the land on which the appeal building has been sited does not benefit from a lawful industrial use because it is not included in either of the LDCs. Moreover, having regard to the findings of the previous Inspector³, the land has been successfully restored and falls outside the definition of previously developed land. Consequently, on the evidence, the appeal building does not fall within this particular exception. Furthermore, the appeal building does not fall within any other exceptions set out in the Framework and thus represents inappropriate development in the Green Belt.

Openness

8. The Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
9. Whilst the appeal building is sited within an existing fenced compound close to industrial buildings and crane gantries and is not readily visible from outside

¹ Appendix A of the Council's Statement.

² APP/R3705/C/14/2212774, Appendix C of the Council's Statement.

³ APP/R3705/C/14/2212774, Appendix C of the Council's Statement.

the site, the physical presence of the building reduces openness. Whilst this loss is minimal, harm is caused.

10. The appeal development has reduced the openness of the Green Belt which adds to the harm to the Green Belt found by reason of inappropriateness. The Framework advises that substantial weight should be given to any harm to the Green Belt.
11. Thus, the development conflicts with Policies NW1, NW2 and NW3 of the North Warwickshire Local Plan Core Strategy (2014) (CS) which amongst other things, state that development in settlements without a settlement boundary will be limited to that necessary for agriculture, forestry or other uses that can be shown to require a rural location. It is also at odds with the aims of the Framework regarding the protection of the Green Belt.
12. The appellant refers to a number of policies in the Council's emerging Local Plan. Given that the emerging plan is still to be adopted only limited weight can be given to its provisions.

Other Considerations

13. Paragraph 144 of the Framework says inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework says that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
14. The Council have not indicated any non-Green Belt harm and I agree. In light of this the effect of the development is neutral and this matter does not weigh for or against the development.
15. I have had regard to CS Policy NW17 concerning economic regeneration and the Framework which seek to enable the sustainable growth and expansion of all types of business in rural areas. In addition, the Framework requires that development is sensitive to its surroundings. I acknowledge that the business provides employment to a number of people. In addition, given the location of the associated gantry crane, I accept that health and safety have to be considered.
16. Whilst according to the appellant, the location may best serve the industrial unit occupied by the business tenant, the appellant has not provided sufficient information to show whether the office administration for the business could be accommodated within an existing building or elsewhere within the industrial complex. Thus, whilst this may be a safe and convenient place for the office building, based on the evidence I cannot be certain that the appellant's need for an office building in this location is sufficient to justify the identified harm to the Green Belt. I therefore attach moderate weight to these considerations.

Conclusion

17. The appeal building is inappropriate development in the Green Belt which is harmful by definition. In addition, there is harm to openness. These matters carry substantial weight.

18. Taking into account all other considerations, I find nothing, individually or cumulatively sufficient to clearly outweigh the totality of the harm by reason of inappropriateness, and any other harm, which is the test they have to meet. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
19. For the above reasons and with regard to all other matters raised, I conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Elizabeth Jones

INSPECTOR