

Agenda Item No 5

Planning and Development Board

8 July 2019

Planning Applications

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, 5 August 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	PAP/2018/0140	4	Land East of Castle Road & North of Camp Hill Road, Hartshill & Nuneaton, Outline application for mixed development comprising the erection of up to 382 residential (class 3a) dwellings together with a local centre providing up to 280sqm net sales area with ancillary parking (22 spaces) associated access to Castle Road and Camphill Road (including demolition of 116 and 118 Camp Hill Road), sustainable drainage system (Suds) open space, landscaping and related infrastructure works, including courtyard bungalow development of two bed sheltered bungalows (Class C3b) and 28 x 2, 3 and 4 (Class 3a) discount for sale ""starter homes""	General
2	PAP/2018/0716	63	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
3	PAP/2018/0762	96	Land East of Islington Farm, Tamworth Road, Wood End, Outline application for residential development (class C3) with associated access, landscaping, open space and drainage infrastructure, with all matters reserved save for access	General
4	PAP/2018/0764	117	Land to the rear of, Trinity Close, Warton, Erection of 23 dwellings comprising of 2 and 3 bed houses with landscaping and parking spaces for Church Row cottages	General
5	PAP/2019/0022	148	Land North East Of Manor Farm Buildings, Main Road, Shuttington, Outline application for a residential development of 24 dwellings, all matters are reserved except for access	General

General Development Applications

(1) Application No: PAP/2018/0140

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

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

Tarmac Trading Limited

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

The previous report is attached in full at Appendix A

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

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

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

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

Development Plan and Material Planning Considerations

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

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

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

The Deferral

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

a) Stubbs Pool

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

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

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

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

Members agreed that the extension of this monitoring was essential.

c) The Neighbourhood Plan - Principles

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

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

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

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

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

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

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

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

d) The Neighbourhood Plan – Details

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

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

e) The Neighbourhood Plan – The School

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

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

f) The Neighbourhood Plan – Conclusions

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

The Parish Council

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

The Impact of the Development on the Quarry

a) Introduction

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

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

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

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

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

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

b) Background

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

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

c) Para 182 of the NPPF

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

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

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

d) Observations

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

In response attention is drawn to the following matters:

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

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

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

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

The following points are made in response:

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

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

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

Overall Conclusions

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

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

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

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

Recommendation

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

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

APPENDIX A

General Development Applications

(#) Application No: PAX/2018/0140

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

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

Tarmac Trading Limited

Introduction

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

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

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

Representations

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

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

- There are too many houses being proposed – they are not needed.

- There are safety concerns about the proposed two vehicular access points; concerns about the amount of traffic that will use these, also amenity concerns particularly in respect of additional traffic now passing directly by houses and rear gardens and the relocation of the bus stop.
- Access should be via Mancetter Road not Camp Hill Road.
- The working at the quarry has resumed and this will impact on the development – air quality/noise and vibrations from the blasting. Housing next to the quarry is not appropriate.
- There will be an adverse impact on trade at the established retail stores in Hartshill from the proposed centre
- More bungalows are needed
- There is not enough capacity in the local schools and health centres
- There will be a loss of village character
- The outfall from the drainage is into a residential area
- The proposal is contrary to the Neighbourhood Plan
- There will be loss of wildlife from the development.

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

Consultations

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

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

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

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

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

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

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

Environmental Health Officer – No objection.

Director of Housing – No objection.

A Draft Section 106 Agreement – Heads of Terms

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

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

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

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

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

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

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

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

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

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

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

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

Development Plan

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

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

Hartshill Neighbourhood Plan 2017 – H14 (Land at Hartshill Quarry – Site Development Framework); H15 (Land at Hartshill Quarry – Design), H15 (Land at Hartshill Quarry – Access and Car Parking), H17 (Land at Hartshill Quarry – Open Spaces and Green Infrastructure) and H18 (Land at Hartshill Quarry – Integrating with and enhancing the vitality of the wider area)

Other Material Planning Considerations

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

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

The Community Infrastructure Levy Regulations 2010

The Draft Air Quality SPD – 2019

The North Warwickshire Landscape Character Appraisal 2010

Observations

a) The Principle of the Development

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

The site is part of a larger one that is allocated for up to 400 dwellings within the Submitted North Warwickshire Local Plan 2018 – site H19 in Policy LP39. This Plan is not yet adopted and does not therefore carry full weight. It is currently under

Examination in Public and the Inspector dealing with the Plan has indicated that the housing requirement for the Borough should rise above the Core Strategy figure of 3650 by 2029 and thus the need to address a higher provision carries weight. There have been six representations submitted to the allocation H19 in the Submitted Plan and these all relate to concerns about the capacity of the infrastructure to cope – highways and local facilities. These are all however matters which are dealt with directly as a consequence of this application and will be reviewed later in this report. As such it is considered that these representations would not prejudice the determination of this application.

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

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

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

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

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

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

b) Highway Matters

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

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

- The developer will fully fund the cost of installing signals at the Camp Hill/Buck Hill/Coleshill Road/Victoria Road cross roads and this will be delivered through a Section 278 Agreement under the 1980 Highways Act. The cost is in the order of £510k.
- A contribution towards improvements at the Nuneaton Road/Atherstone Road/Woodford Lane junction – the junction under the West Coast Main line. This junction has been identified by the County Council in its Strategic Transport Assessment supporting the Submitted Local Plan and thus can be justified as the application site was taken into account in that Assessment as an allocated site. The full cost of improvements here cannot be fully laid at the applicant's proposals and thus a proportionate contribution of £150k has been requested.

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

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

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

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

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

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

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

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

c) The Impact of the Quarry

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

In respect of the first of these, the blasting takes place under controlled circumstances. The County Council acting as Minerals Planning Authority has confirmed that this activity is taking place within the parameters set out in the extant quarry planning permission. Members will be aware that the enforcement of these parameters and thus the blasting regime is the responsibility of the County Council. Its Officers have already been fully engaged with the local community since recommencement of the activity, but there has not been any enforcement action taken. Monitoring of the blasting has taken place and the most affected existing residential property is some 95 metres from the potential extraction area. As extraction nears that property, the blasting regime will alter under the conditions set out in the permission. The applicant reasonably points out that

the closest of the proposed properties would be 135 metres distant from extraction operations. Again the planning permission has conditions restricting blasting levels as extraction approaches that distance. The applicant therefore points out that the quarry operations are outside of his control but that there are relevant conditions attached which recognise the approach of extraction towards his development. Non-compliance with those conditions is a matter for the Mineral Planning Authority. It is also pertinent to point out that there has been no move made by that Authority to commence a review of those conditions following the allocation of this site, even in its draft stages, and there have been no representations made to the Submitted Local Plan. These matters therefore carry significant weight and thus it is considered that there would be no material adverse impact and therefore that there is limited harm caused.

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

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

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

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

d) Heritage Matters

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

is thus no impact. However there are three assets where further assessment needs to be undertaken.

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

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

The final asset is Charity Farm, which is an undesignated asset but one that appears in the Neighbourhood Plan as of local value. It is a brick farmhouse and yard backing onto the site close to the new junction onto Castle Road. Its significance is as a local farmhouse contributing to the historic interest and aesthetic value of the local street scene. The development will impact on its setting by bringing new development closer to the asset. This would be moderate harm given that the main road through the development would be likely to change the character of the eastern boundary of the setting.

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

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

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

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

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

e) Ecological Matters

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

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

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

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

In respect of protected species on the site then bat surveys do show that the site is suitable for foraging and roosting and there was a moderate level of bat activity found.

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

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

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

f) Drainage Matters

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

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

site. These systems are designed to restrict discharge rates from the site to green field equivalent values and will include flow control mechanisms – e.g. hydro-brakes.

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

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

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

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

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

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

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

The representations received do not really focus on these matters. They rather refer to the loss of village character and thus the distinctiveness of the village. Whilst the local community still understand and perceive Hartshill to be a village, in terms of built form it

is well connected physically to the more urban areas of Nuneaton, Galley Common and Ansley Common. As indicated above this site is self-contained visually and can absorb this level of development without substantial landscape or visual harm. It is well connected to the existing built form. It is considered to be sustainable development because of this and this is reflected in the Core Strategy and the Submitted Local Plan. The Hartshill Neighbourhood Plan is part of the Development Plan and it acknowledges the principle of development here. That Plan as indicated above, contains several policies intended to address the issues raised by the representations. The proposal will be assessed against these later on in this report. At the present time, it is considered that the policy background here does override the weight to be given to the representations made.

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

h) The Impact on Services and Facilities

There are several areas to look at here.

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

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

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

The recreation/open space contributions are made up of three elements. As Members are aware this type of contribution is focussed on new on-site provision as well as going towards enhancements of off-site existing facilities. A new play area is to be proposed on-site and the sports contribution could well be used in conjunction with a proposal to replace the Secondary School and its Sports Hall. Significantly though, the majority of the contributions will be focussed off-site on the established Snowhill recreation ground. The applicant has met the Parish Council several times and the value of the contribution will cover the proposed improvements which it has requested. Additionally, the contribution will cover costs for the improvement and enhancement to Snowhill Wood. It is also understood that the applicant is proposing the transfer of the Wood to the Parish Council. In all of these circumstances it is considered that the contributions are entirely community focussed and that as a result there is no adverse impact.

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

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

One other matter has been raised in the representations, namely the impact of the new retail unit on the viability of the established outlets – one in Church Road opposite the School and the second on the Green. It is unlikely that the trade at these two locations will be affected as their existing catchments will remain largely unaffected. The new centre will certainly cater for the new population and there would be some migration from existing residents, but there is no evidence submitted to show that these centres would be materially prejudiced. As Members are aware too, competition between outlets is not a planning consideration. Whilst there may be some adverse impact arising, it is considered that this would be minor.

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

i) Residential Amenity Impacts

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

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

j) The Impact of the Hartshill Neighbourhood Plan

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

The main elements of Policy H14 have all been achieved – early engagement with the Parish Council; the extent of the scope for the Transport Assessment and the

undertaking of a pre-determination Archaeological Evaluation, measures for Snow Hill wood, a full flood risk assessment and reviews of how the Snowhill Recreation Ground can be enhanced.

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

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

k) Affordable Housing Provision

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

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

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

l) Air Quality

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

m) The Draft 106 Agreement – CIL compliance

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

n) The Draft 106 Agreement – Viability

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

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

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

o) The Final Planning Balance

As outlined right at the beginning of this section there is no objection in principle to the residential development of this site. As a consequence the Board is in a position that a refusal should only be considered, as outlined in the NPPF, if there are significant and demonstrable harms that cumulatively or singly outweigh that principle. The outline of the numerous planning considerations set out above indicates that there is not a single harm of such weight to do so. Cumulatively the level of harm is still considered to be minor to moderate. In the final planning balance, even when the great weight of the

heritage harm is added, it is considered that all harms are outweighed by the significant weight and benefit to be attached to supporting the principle – it is an allocated site; it will assist in the early delivery of new market and affordable houses in the Borough, it is acknowledged as a housing site by the Neighbourhood Plan and the overall proposal contains local community benefits that have evolved with community engagement (the Snowhill recreation ground enhancement, the Snowhill Wood transfer and contributions to local services).

Recommendation

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

Defining Conditions

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

Reason: Standard outline reason

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

8. The reserved matters shall be designed within the parameters contained on plan number N001/00216 and the Vision Statement dated February 2018.
9. The FPCR Management Plan for Snow Hill Wood dated January 2018 and received on 6/3/18 is hereby approved.
10. The reserved matters shall be designed so as to include details of electric vehicle charging points within at least 10% of the dwellings hereby approved and so as to include space for three refuse bins within the curtilage of each dwelling.

Pre-commencement conditions

11. No development shall commence on site until:
 - a. an Archaeological Investigation of the site undertaken in accordance with the Written Scheme of Investigation prepared by Wessex Archaeology referenced 212750/01 and dated September 2018 has first been fully completed and the results of that investigation submitted to the Local Planning Authority.
 - b. an Archaeological Mitigation Strategy for the site based on the evaluation submitted under (a) above, has been submitted to and approved in writing by the Local Planning Authority.
 - c. Development shall then only proceed on site in accordance with the approved Strategy.
12. No development shall take place on site until detailed technical drawings for the two accesses into the site, one from the B4114 Camp Hill Road and one from Church Road, in accordance with the plan numbers MID3709/120/G and MID3709/110D, have first been submitted to and approved in writing by the Local Planning Authority. The two accesses shall then only be constructed in accordance with the approved technical drawings.
13. No development shall commence on site until detailed technical drawings for the signalisation of the B4114 Coleshill Road/Victoria Road/Camp Hill Road/ Bucks Hill crossroads in accordance with plan number MID/3709/100F have first been submitted to and approved in writing by the Local Planning Authority. The signalisation shall then only take place in accordance with the approved technical drawings.
14. No development shall commence on site until a Construction Management Plan has first been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:
 - a) The phasing of the development
 - b) The means of preventing mud, waste and debris to be deposited on the public highway
 - c) The means of suppressing dust
 - d) An HGV routing plan

- e) Details of the location of site compounds; workers car parking areas and any other storage compounds, including their migration through the phases
- f) Details of the hours of construction – bearing in mind the presence of local Schools
- g) Details of the hours of deliveries- bearing in mind the presence of local Schools
- h) Details of on-site security
- i) Details of contacts on site for the purposes of resolving complaints

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

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

18. No development shall commence on site until details of a proven means of outfall have first been submitted to the Local Planning Authority together with details of surveys conducted along watercourses to assess their suitability to accept flows and downstream connectivity.

Pre-Occupation Conditions

19. There shall be no occupation of any of the site for residential purposes until the whole of access works shown on plan number MID3709/120E as supplemented by the drawings approved under condition (7) above, have been fully completed to the written satisfaction of the Local Planning Authority.

20. There shall be no occupation of the 101st dwelling on the site until the whole of the signalisation works as approved under condition (8) above have been fully completed to the written satisfaction of the Local Planning Authority.

21. There shall be no occupation of the 151st dwelling on the site until the whole of the access works shown on plan number MID3709/110D as supplemented by the drawings approved under condition (xii) above have been fully completed to the written satisfaction of the Local Planning Authority.

22. The electric vehicle charging points as approved under condition (10) above shall be installed in each of the respective dwellings before each is occupied for residential purposes to the written satisfaction of the Local Planning Authority and shall be maintained for the life of the development thereafter.

23. No dwelling hereby approved shall be occupied until it has been provided with space for three refuse bins as approved under condition (10) above.

Other Conditions

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

Notes

- 1 The Local Planning Authority has met the requirements of the NPPF in this case through pre-application engagement and substantial work with the various technical agencies and bodies in order to overcome concerns such the proposal could be supported
- 2 Attention is drawn to Sections 149, 151, 163 and 278 of the Highways Act 1980 the Traffic Management Act 2004, the New Roads and Street Works Act 1991 and all relevant Codes of Practice.

- 3 Warwickshire County Council as the Lead Local Flood Authority does not consider that oversized pipes or box culverts as sustainable drainage. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, with a preference for above ground solutions. Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management. Sustainable Drainage systems are an approach to managing surface water run-off which seek to mimic natural drainage systems and retain water on-site as opposed to traditional drainage approaches which involve piping water off site as quickly as possible.
- 4 Attention is drawn to the nearby quarry which is the subject to a conditional planning permission granted by the Minerals Planning Authority – namely the Warwickshire County Council.
- 5 Standard Radon Gas Informative

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0140

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	2/3/18
2	M Jones MP	Representation	22/5/18
3	Resident	Objection	7/5/18
4	Resident	Objection	25/4/18
5	Resident	Objection	23/4/18
6	Resident	Objection	16/4/18
7	Resident	Objection	16/4/18
8	Resident	Objection	13/4/18
9	Resident	Objection	13/4/18
10	Resident	Objection	10/4/18
11	Resident	Objection	3/4/18
12	Resident	Objection	30/3/18
13	Resident	Objection	29/3/18
14	Resident	Objection	28/3/18
15	Resident	Objection	28/3/18
16	Resident	Objection	28/3/18
17	Resident	Objection	28/3/18
18	Resident	Objection	28/3/18
19	Resident	Objection	28/3/18
20	Resident	Objection	28/3/18
21	Resident	Objection	27/3/18
22	Resident	Objection	27/3/18
23	Resident	Objection	27/3/18
24	Resident	Objection	27/3/18
25	Resident	Objection	22/3/18
26	Resident	Objection	15/3/18
27	Resident	Objection	12/3/18
28	Resident	Objection	21/3/18
29	Resident	Objection	21/3/18
30	Resident	Objection	8/3/18
31	WCC Public Health	Consultation	
32	Place Partnership	Consultation	10/4/18
33	GE NHS Trust	Consultation	
34	WCC Fire Services	Consultation	20/3/18
35	Warwickshire Wildlife Trust	Consultation	29/3/18
36	WCC Flooding	Consultation	16/4/18
37	Sport England	Consultation	3/4/18
38	WCC Highways	Consultation	25/4/18
39	WCC Highways	Consultation	12/12/18
40	WCC Highways	Consultation	18/12/18
41	WCC Highways	Consultation	14/1/19

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

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

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

(10) Application No: PAP/2018/0140

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

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

Tarmac Trading Limited

Introduction

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

The Site

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

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

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

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

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

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

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

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

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

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

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

An overall site location plan is attached at Appendix A.

Background

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

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

The Proposal

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

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

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

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

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

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

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

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

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

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

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

Development Plan

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

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

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

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

Other Material Planning Considerations

The National Planning Policy Framework 2012 – (the “NPPF”)

National Planning Practice Guidance,

The North Warwickshire Local Plan Submission Version - March 2018

Observations

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

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

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

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

Recommendation

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

BACKGROUND PAPERS

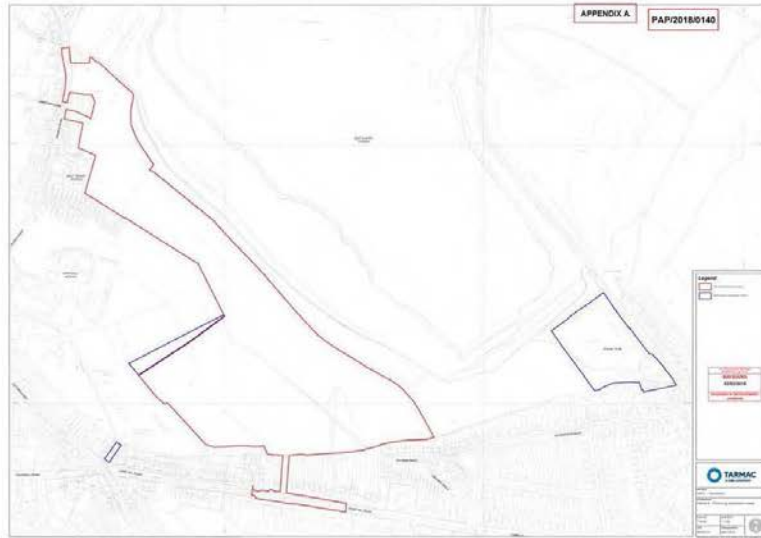
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2018/0140

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

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

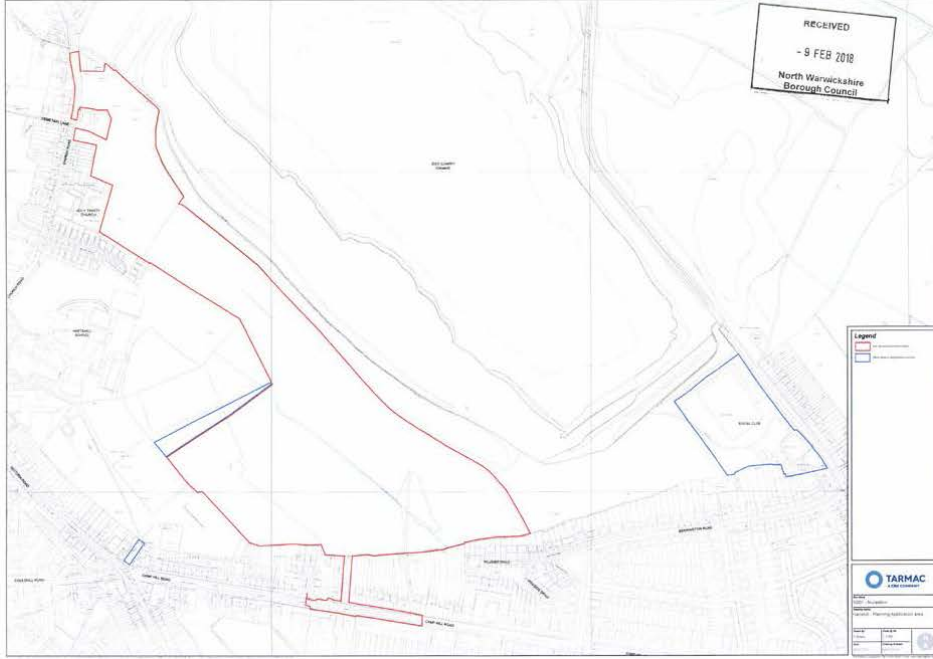
A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.



5/183

5/43

RECEIVED
- 9 FEB 2018
North Warwickshire
Borough Council



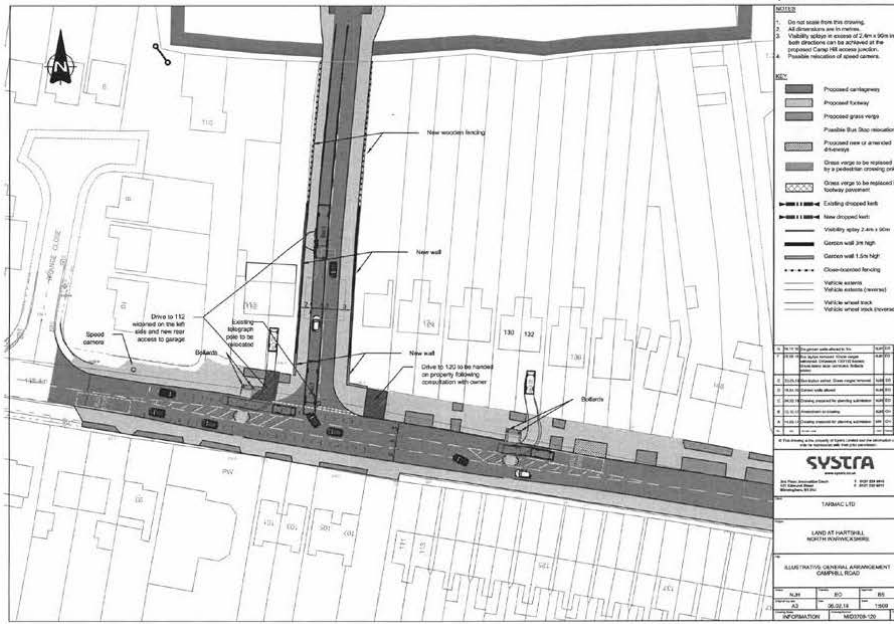
Appendix C



APPENDIX D



APPENDIX E



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

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

The Letter

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

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

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

Observations

The following responses are made:

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

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

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

Recommendation

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

Groves Town

Planning LTD

Chartered Town Planners and

Local Government Management Consultants

www.grovestownplanning.uk

Mr J Brown

Head of Development Control

North Warwickshire Borough Council

The Council House

South Street Atherstone

Warwickshire CV9 1DE

Our ref: gtp19-04-001

Yr ref: PAP/2018/0140

4th April 2019

Dear Mr Brown

Application no PAP/2018/0140 – Land East of Castle Road & North of Camp Hill Road Hartshill.

I am commissioned to act on behalf of Olive Branch Holdings Ltd, owners and operators of the Hartshill Quarry which shares a boundary with the site of the application which is referenced above.

My apologies for corresponding with you late in the process of determination, but as the officer report in respect of the application has become available, my client has identified his concerns to me prompting this communication.

My client's principal concern relates to the potential conflict between the now operational quarry and the proposed residential development in terms, and the potential for that residential development to act as a restraint on the lawful operation of the quarry.

Tel 07769 958520

Email gtp19@btinternet.com

31 Kildonan Road Grappenhall Warrington WA4 2LJ

Registered in England and Wales No. 11033055

Registered Office 8 Winmarleigh St Warrington WA1 1JW



Groves Town Planning Ltd

Having reviewed the generally thorough and comprehensive report, I considered that there are some areas which are not covered adequately and potentially leave a decision to grant outline planning permission open to challenge. I have to note at the outset that my client's preference would be to secure a deferral of a decision on the application in order to enable dialogue with you and your officers to further explore these areas of concern.

I am aware that the site is a proposed allocation in the emerging local plan. My client only acquired the site in early 2016. It would seem that the gestation of this allocation reflects the fact that the quarry had been left dormant for sometime by the previous owners of the Quarry who were at one stage the current applicant. It would have been unlikely given those circumstances and the apparent lack of interest for subsequent owners up until January 2018, in recommencing quarrying activity, that objection would have been raised to allocations in 2014 or 2016/17 as the emerging local plan was being formulated. I am not convinced that the development plan position in this regard is adequately explained in the officer report.

I would respectfully suggest that the policy position has evolved in a different context to that now presented when a planning application for residential development is being considered. Appraisal of the application should reflect this position.

Whilst there is reference within the body of the report to comment from the Minerals Planning Authority, it is worthy of note that the MPA is noted as a consultee.

The case to support the condition that the development is sustainable development in the context of the NPPF definition is not wholly supported as a result of the omission of reference to the wider implications for the impact of the development on the adjoining quarrying operation.

Submissions made with the application explain the background to the planning permission for the extraction of minerals from the site, the delay in review agreed with the Minerals Planning Authority and address the potential impact of the quarry on the new development.

It is noted within the MPA that the site provides potential for the extraction of 20 million tonnes of material on the site. The policies of the MPA in this regard are not referenced in the officer report.

With the exception of reference to blasting and noise, the impacts explained in a 175 page report, prepared before operation of the quarry recommenced are not fully represented in the report. To some extent it would appear that there was expectation

Groves Town Planning Ltd

that operations would focus on the removal of existing stockpiles of previously quarried material rather than new excavation. That report accepts that the quarry is subject to controls, but controls which apply to the relationship with existing residential property not 400 new households. The proposal creates 400 new receptors to the inevitable issues arising from a quarrying operation. Compliance with conditions will not prevent complaint from residents or the potential use of powers beyond the Town & Country Planning Acts in attempts to remedy or manage such complaints.

This is evidenced through discussion with MPA representatives over blast controls where assertions of damage to property as a result of vibration from blasting were tabled. Whilst there is no evidence to suggest that this assertion has any basis, the creation of a large increase in the number of residents experiencing blasting and creating a demand on time and resource of the quarry operator. In a similar vein it has been suggested that additional controls to limit the size of blasts might be a measure used to reduce impacts. It is recognised that this decreases efficiency and effectiveness of the extraction process, to the detriment of the viability of the operation of the site.

It is worth noting the provisions of paragraph 182 of the NPPF 2019.

“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses..... Existing business and facilities should not have unreasonable restrictions placed upon them as result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development in its vicinity, the applicant should be required to provide suitable mitigation before the development has been completed”.

The correct interpretation of this part of the paragraph is self explanatory; planning decisions should not cause existing businesses to have unreasonable restrictions placed on them by later land use changes.

Clearly the Officer's view is that the conditions on the already granted permission for the use of the quarry could be used to restrict the implementation of that permission to prevent it from having the Proposed Development. That is to consider matters the wrong way round. The NPPF Para 182 is clear that it is the existing business that should not have unreasonable restrictions placed on it. By seeking to control the quarry development to a different standard than that imposed when it was approved is such a restriction. By

Groves Town Planning Ltd

following this approach the LPA would either misinterpret Para 182 or have unlawfully applied it.

In these circumstances it would seem imperative to seek resolution to my client's concerns and our reservations over the veracity of a decision made on the basis of the report currently tabled and the information it places before members. It would seem that deferral of the application to enable further discussion on these matters is the best way forward. My client would be happy to enter into dialogue to explore possible such resolution.

A handwritten signature in black ink, appearing to be 'John Groves', with a small dot at the end.

John Groves

Director

Brown, Jeff

From: Matthew Williams <matthewwilliams@warwickshire.gov.uk>
Sent: 08 April 2019 16:07
To: Brown, Jeff
Cc: Margaret Bell
Subject: Hartshill Quarry (Formerly known as Jeas & Boons Quarry)

Jeff

Mineral extraction has taken place at Hartshill Quarry (formerly known as Jeas & Boons Quarry) for many years. Hartshill Quarry contains a hard rock which requires the use of blasting in order to extract the mineral reserve. The quarry formerly operated under a number of planning permissions granted over a period of years. The quarry was mothballed in 1996. The then owners of the site, Midland Quarry Products, always indicated that it was their intention to reopen the site at some point, with around 20 million tonnes of permitted reserves of rock remaining to be extracted.

In 2001 a formal review of the existing/old planning permissions was carried out under the provisions of the Environment Act 1995 - known as a Review of Old Mineral Permissions (ROMP). This drew together these old consents into one set of planning conditions (planning reference: NW126/01CM013) covering working and restoration of the site. Conditions imposed on the Environment Act Review permission cover: hours of operation, noise, blasting, dust, access, general operations, restoration, etc. Condition 2 of the ROMP permission allows the winning and working of mineral and the deposit of mineral waste and colliery spoil at the site to continue until the 21st February 2042 (this is a standard end date set down within the Environment Act).

The site changed ownership in around 2016 with the new operator (Crown Aggregates) recommencing operations at Hartshill Quarry in early 2017. Operations undertaken on the site since this time include the extraction and processing of mineral. In order to extract rock within Hartshill Quarry Crown Aggregates recommenced blasting in early 2018, with blasts taking place on a generally monthly basis since this time. Crown Aggregates have made a significant financial investment into reestablishing mineral extraction operations at Hartshill Quarry with the indication being that it is a long term commitment.

The recommencement of mineral extraction at Hartshill Quarry, and in particular blasting, has generated significant local interest and at times complaints.

ROMP permission NW126/01CM013 sets parameters within which the quarry must operate. This includes limits on noise emissions and the impact of blasting. In respect of blasting the relevant condition (10) reads:

Blasting operations shall be carried out in such a manner that vibration, noise and air overpressure are minimised. The peak particle velocity attributable at any blast, measured at a point immediately adjacent to any occupied dwelling outside the boundary of the site shall not exceed 6mm/sec in 95% of all blasts and no blast should exceed 12mm/sec (Peak particle velocity shall be measured as the maximum of mutually perpendicular directions taken at ground surface).

Crown Aggregates undertake blast monitoring (carried out by a consultancy, Vibrock, who specialise in this area) in agreed locations in the locality during each blast. Blast monitoring data supplied to date demonstrates that the blasts have been carried out within the limits set by the condition. Hartshill Parish Council have also commissioned their own independent consultants (Wardell Armstrong) who have monitored two recent blasts. This monitoring concurs with that

undertaken on behalf of Crown Aggregates that the blasts are below the limits set within the planning consent. Thus there has been no identified breach of planning control in this respect.

The above condition would apply equally to any future residential development that may be undertaken in the vicinity, including that now proposed by planning application PAP/2018/0140, as it does to existing dwellings. Blast monitoring undertaken to date has demonstrated that Hartshill Quarry can be operated within the parameters and limits set by the planning consent. No evidence has been presented to suggest that this would not remain the case with the introduction of additional residential dwellings to the locality.

I hope this is of assistance. If you have any queries or wish to discuss the matter further please do not hesitate to contact me.

Regards

Matthew Williams
Senior Planner
Planning and Development Group
Transport and Economy
Communities
Warwickshire County Council

Tel: 01926 412822
Minicom: 01926 412277
Email: matthewwilliams@warwickshire.gov.uk
Web: www.warwickshire.gov.uk

This transmission is intended for the named addressee(s) only and may contain confidential, sensitive or personal information and should be handled accordingly. Unless you are the named addressee (or authorised to receive it for the addressee) you may not copy or use it, or disclose it to anyone else. If you have received this transmission in error please notify the sender immediately. All email traffic sent to or from us may be subject to recording and/or monitoring in accordance with relevant legislation.



**PERMISSION WITH
CONDITIONS**

REF: NW126/01CM013

**TOWN AND COUNTRY PLANNING ACT 1990
Town and Country Planning (General Development Procedure) Order 1995
NOTICE OF DECISION OF COUNTY PLANNING AUTHORITY**

To: SLR Consulting Limited, Wheeley Ridge, Wheeley Road Alvechurch Worcestershire B48 7DD

The **WARWICKSHIRE COUNTY COUNCIL**, having considered the application for permission Environment Act 1995 – Review of Mineral Planning Permission of 152 Hectares of land at Jees & Boons Quarries, Nuneaton Road Hartshill Nuneaton Warwickshire, [Grid ref: 335.943] made by you on behalf of Midland Quarry Products, Leicester Road Whitwick Leicestershire LE67 5GR and deposited with the County Council on 31st May 2001.

HEREBY GIVE YOU NOTICE that **PERMISSION** is **GRANTED** for the review pursuant to Environmental Act 1995 of mineral planning permissions dated, 1949, 1969, 1975 and 1985 respectively, subject to the following conditions:-

APPROVED PLANS

1. Unless otherwise approved in writing by the Mineral Planning Authority, the development hereby permitted shall not be carried out other than in accordance with the submitted application, environmental statement, plans ref. JBQ 2/1, JBQ 2/2, JBQ 2/3, JBQ 3/1, JBQ 4/1, JBQ 4/2, JBQ 4/3, JBQ 4/4 & JBQ 5/1.

DURATION OF PERMISSION

2. The winning and working of mineral and the deposit of mineral waste and colliery spoil at the site shall cease on or before the 21st February 2042.

PRE RE-COMMENCEMENT CONDITIONS

3. Mineral extraction shall not be re-commenced until a scheme of blast monitoring by the operator has been submitted to the MPA for approval. The scheme shall include the frequency and location of monitoring and the equipment to be used. Following written approval the scheme shall be implemented in accordance with the approved details.
4. Prior to the re-commencement of mineral extraction, signs will be erected at the entrance to the site advising hauliers to leave the site in a westerly direction, and to follow the route to the A5(T) via Nuneaton Road and Woodford Lane, except where deliveries are being made in the Nuneaton area. The signs will also request hauliers to follow the same route when approaching the quarry.

HOURS OF OPERATION

5. Except in emergencies to maintain safe quarry working (which shall be notified to the MPA on the next working day), or with the prior written consent of the MPA, no operations or uses permitted or required, shall be carried out except during the following times:

Mineral extraction, processing, servicing, maintenance or testing of plant and restoration works:-

0700 – 1800 Mondays to Fridays
0700 – 1300 Saturdays

Construction of overburden mounds and stockpiles and during the excavation of overburden:-

0800 – 1800 Mondays to Fridays
0800 – 1300 Saturdays

Blasting operations:-

1130 – 1230 & 1400 - 1500 Mondays to Fridays

and normally at, or as near as practicable to, a fixed time which shall be made known locally.

None of these operations shall be carried out on Sundays, Bank or Public Holidays.

NOISE

6. At the receptor sites listed below the noise levels arising from the development, shall not exceed the specified levels, when measured at or recalculated at a height of 1.2 metres above ground level and 3.6 metres from the façade of any residential property or occupied building. Notwithstanding the above, these levels may be exceeded, for a maximum of 8 weeks per annum during the construction of overburden mounds and stockpiles and during the excavation of overburden from the peripheral parts of the site (Such periods shall be notified to the MPA prior to work commencing). During such periods noise levels shall not exceed 70 dB $L_{eq,1h}$.

Receptor	Maximum Noise Level/ $L_{eq,1h}$
149 Nuneaton Road	55
Berrington Road	52
Church Close	51
Farragh	52
Anchor Inn	55
Castle View	51

7. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times, and shall be fitted with and use effective silencers.

8. Reversing alarms shall not be used unless they are of a bell tone type or are of the directional type or capable of adjusting their noise level automatically to 5dB(A) above the ambient noise level or are of a type otherwise approved in writing by the MPA.

BLASTING

9. No blasting operations shall be undertaken unless an audible warning has been sounded.
10. Blasting operations shall be carried out in such a manner that vibration, noise and air overpressure are minimised. The peak particle velocity attributable at any blast, measured at a point immediately adjacent to any occupied dwelling outside the boundary of the site shall not exceed 6mm/sec in 95% of all blasts and no blast should exceed 12mm/sec (Peak particle velocity shall be measured as the maximum of mutually perpendicular directions taken at ground surface).

DUST

11. In order to minimise the raising of dust, the following steps shall be taken:
 - i) the use of water bowsers on haul roads and other operational areas of the site.
 - ii) the use of water sprays or other methods of controlling dust from mineral extraction.
 - iii) the suspension of overburden removal operations during dry and windy conditions which could give rise to wind borne dust being carried beyond the site boundary; and
 - iv) the compaction, profiling and damping of stored materials.
12. Drilling rigs used on the site shall be fitted, and operated, with dust containment bags.

POLLUTION CONTROL

13. ~~There shall be no discharge of foul or contaminated drainage (including trade effluent) from the site into either groundwater or any surface waters, whether direct or via soakaways unless subject to a discharge consent.~~
14. Any facilities for the storage of oils, fuels or chemicals shall be located on an impervious base surrounded by oil and fuel tight bunded walls. The bunded volume shall be capable of containing 110% of the tank's volume and shall enclose all filling points, vents, gauges, sight glasses and drain pipes. The drainage system of the bund shall be sealed with no discharge of any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund. If there is multiple tankage the volume of the bunded area shall be capable of containing the volume of the largest tank plus 10%.
15. No extraction, tipping or temporary storage of materials shall take place within 5 metres of any watercourse.

ACCESS

16. The site access road shall be maintained in macadam or other suitable hard bound material to the reasonable satisfaction of the MPA.
17. Before any vehicle leaves the site it shall be sufficiently clean to prevent it from depositing deleterious material on the public highway. If necessary to comply with this requirement, wheel cleaning facilities of a type approved in writing by the MPA shall be installed at the site and used as required.
18. When necessary, a mechanical brush shall be used to keep the hard surfaced internal roads and access areas clean to ensure that no mud or other debris is deposited on the public highway.
19. No loaded lorries shall enter or leave the site unless sheeted, or their loads are otherwise appropriately secured.
20. Prior to the commencement of operations to the east of the B4111, a detailed scheme for the transfer of quarry waste and quarry traffic across the B4111 shall be submitted to the MPA for approval. Following approval in writing by the MPA the scheme shall be implemented accordingly.
21. Prior to the construction of the silt lagoons to the east of the Coventry Canal, a detailed scheme of access arrangements for quarry waste and quarry traffic shall be submitted to the MPA for approval. Following approval in writing by the MPA the scheme shall be implemented accordingly.

Note

The Regulatory Committee expressed that, best endeavours should be used to transfer quarry waste across the B4111 by means of an overhead conveyor or a conveyor below the ground.

CONSTRUCTION OF SILT LAGOONS

22. Prior to the construction of the silt lagoons to the east of the Coventry Canal, a detailed scheme of construction and operational details (including amongst other things method of keying into the existing ground profile, proximity of the lagoon to the railway, provision for surface run-off, overflow discharge to adequate watercourse, undisturbed margins and the route of the silt pipe to the lagoons) shall be submitted to the MPA for approval. Following approval in writing by the MPA the scheme shall be implemented accordingly.
23. Unless otherwise agreed in writing by the MPA, the outer slopes of the silt lagoons shall not have gradients in excess of 1 in 3, and the elevation of the crest of the of the bunds shall not exceed 100 metres above Ordnance Datum.

GENERAL OPERATIONS

24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending, replacing or re-enacting that Order) no buildings, fixed plant or machinery shall be erected or otherwise brought onto the site unless permission has been obtained in writing from the MPA.
25. Throughout the duration of operations at the site the operator will facilitate the operation of a Liaison Committee through attendance at regular meetings.

SOIL STRIPPING, HANDLING AND STORAGE

26. Before the construction of the silt lagoons and prior to the deposit of quarry waste, topsoil and subsoil shall be stripped handled and stockpiled in accordance with a scheme to be agreed in writing with the MPA. Following approval the scheme shall be implemented accordingly.
27. All topsoil and subsoil shall be permanently retained on site and stored in such a manner as to preserve its texture so that it is available, if necessary, to be used for restoration at a future date.
28. No plant or vehicles shall cross any area of unstripped topsoil or subsoil except where such trafficking is essential and unavoidable for purposes of undertaking permitted operations.
29. No movement of soils shall take place accept when the full depth of soil to be stripped or otherwise transported is in a suitable dry and friable condition. Conditions shall be sufficiently dry for the top soil to be separated from the subsoil without difficulty.
30. All areas of the site left undisturbed and all topsoil, subsoil and overburden mounds shall be kept free from notifiable weeds. Any steps deemed necessary to destroy notifiable weeds should be taken only after consultation with an ecologist.

ECOLOGY

31. Mineral extraction shall not proceed beyond Phase 1 until a phased scheme which identifies notable habitat areas and notable and protected species on site, (namely plants, bats, badgers, water voles, birds, reptiles, amphibians and notable invertebrates – including White-clawed Crayfish), has been drawn up by suitably qualified Ecological Consultants. The scheme to be based on comprehensive survey data, to include adequate mitigation measures shall be submitted to the MPA for approval. Following approval in writing the scheme shall be implemented accordingly.

ARCHAEOLOGY

32. Prior to the construction of the silt lagoons to the east of the Coventry Canal, a programme of archaeological work, in accordance with a written scheme of investigation, which has first been submitted to and approved in writing by the MPA, shall be secured.

Following approval by the MPA the scheme shall be implemented accordingly.

40. Unless otherwise agreed in writing by the MPA, restoration of the site shall be completed within 24 months of the permanent cessation of working in accordance with the approved restoration scheme.
41. At the cessation of mineral workings or sooner as may be agreed with the MPA, all buildings, fixed plant and machinery associated with the development, shall be removed from the site and all concrete and other hard standings which would impede the restoration of the site shall be broken out and similarly removed from the site, or used in the restoration of the site.

AFTERCARE

42. Unless otherwise agreed in writing by the MPA, 3 months prior to completion of the restoration of the site, an aftercare scheme for the site requiring such steps as may be required to bring the land to the required standard in accordance with the scheme of restoration shall be submitted to the MPA for approval. The scheme shall specify the steps to be taken over a five year period and detail arrangements for aftercare meetings. Following approval in writing by the MPA the scheme shall be implemented accordingly.
43. Before the 31st January and every subsequent anniversary the MPA shall be provided with the following:
 - a) a record of aftercare operations carried out on the land during the previous 12 months.
 - b) proposals for managing the land for the forthcoming 12 months.

Following approval by the MPA the proposals shall be carried out accordingly.


Reasons

1. To comply with Section 91 of the Town and Country Planning Act 1990.
2. To afford the Mineral Planning Authority proper control over operations on site.
2. To protect the amenity of the area and local residents, including visual impact, noise and dust.
3. To protect the environment from pollution.
4. To ensure the satisfactory and early restoration and aftercare of the site.
5. To protect highway safety and prevent the deposit of waste and mud and other material on the carriageway.
6. To protect and record features of archaeological importance.
7. To protect and record features of geological importance.

Development Plan Policies Relevant to this Decision

- a) Warwickshire Structure Plan – Alterations 1989 – 2001 – Policies G5, G7, E4.1, E6, IC23 and IC27
- b) Warwickshire Structure Plan – Deposit Draft (as proposed to be modified) – Policies GD1, GD.2, GD4, ER.1, ER.2, ER.4 and ER.5
- c) North Warwickshire Local Plan adopted May 1995 – Policies ENV4, ENV6, ENV14, ENV24 and IMP4
- d) Minerals Local Plan for Warwickshire adopted February 1995 – Policies M5, M6, M7 and M9

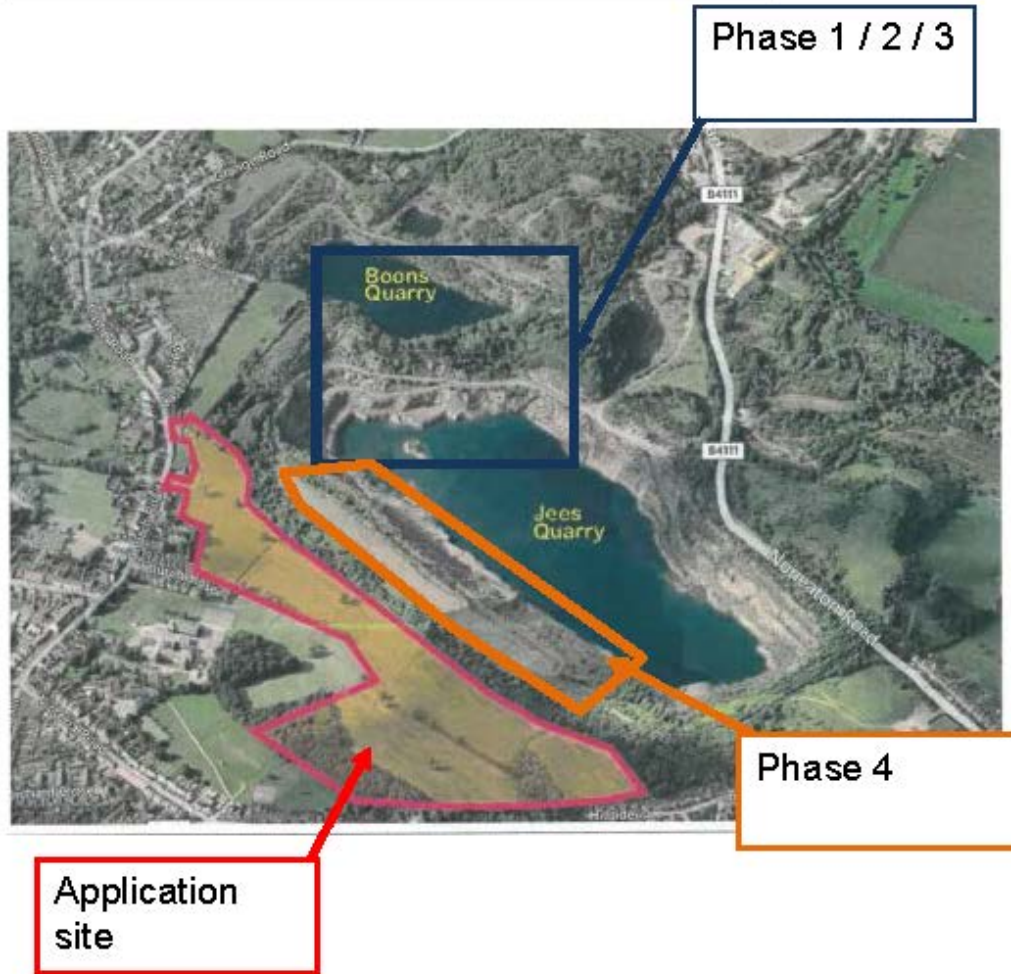
DATED 19th September 2001


W
Clerk of the Council

Shire Hall
Warwick
CV34 4RR

IT IS IMPORTANT THAT YOU READ THE NOTES AT THE END OF THIS NOTICE

Indicative Plan of Works – Hartshill Quarry



Application site

Phase 4

Phase 1 / 2 / 3

(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

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.

Resident's 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 causing 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 BUILT) JUNE 21ST - 12:00



(AS APPROVED) DECEMBER 22 AT 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

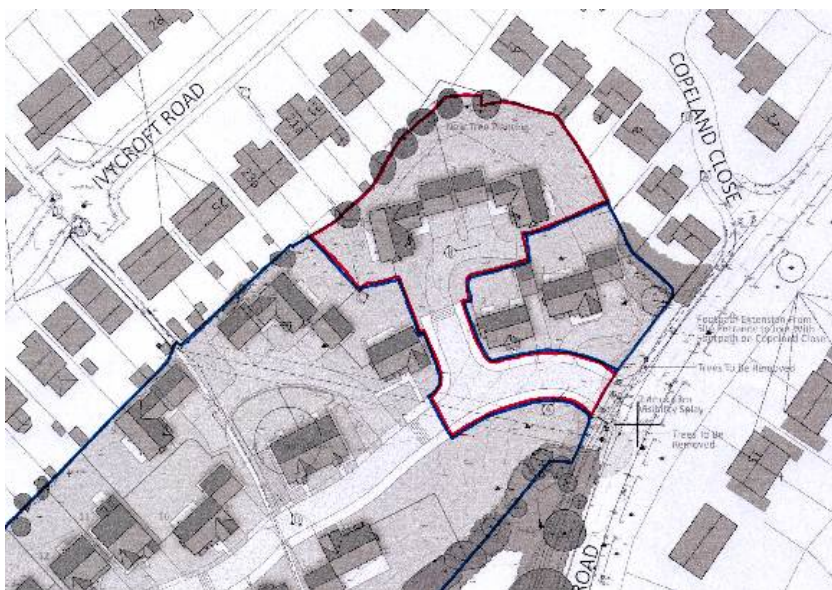
Mr Lee Ellis - Cameron Homes

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.

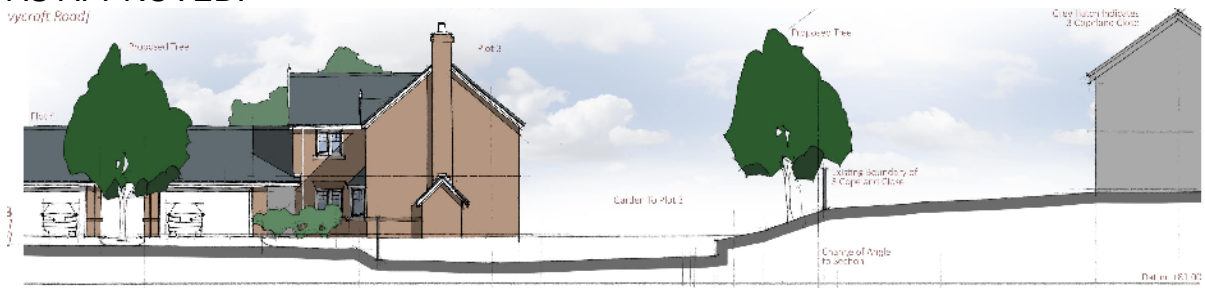
The differences are as follows:

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.

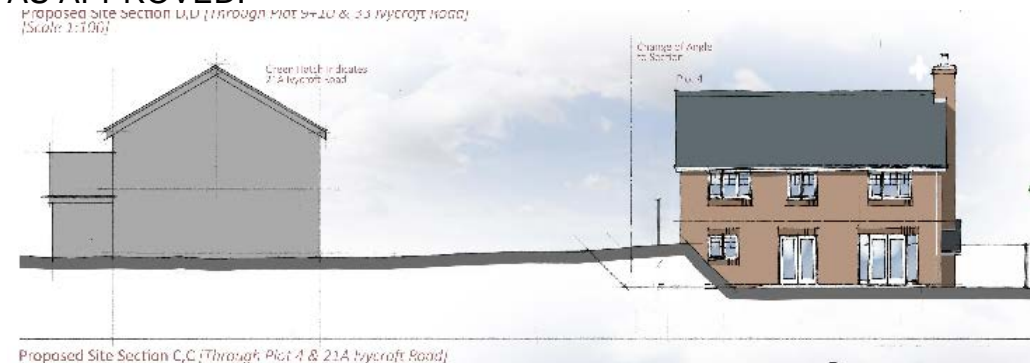
AS APPROVED:



AS BUILT:

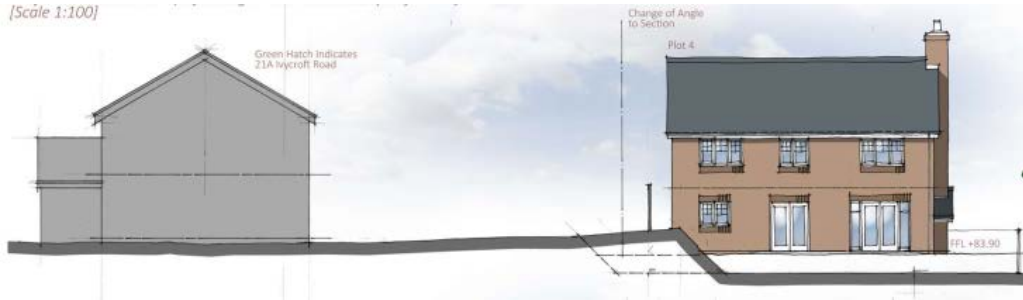


AS APPROVED:

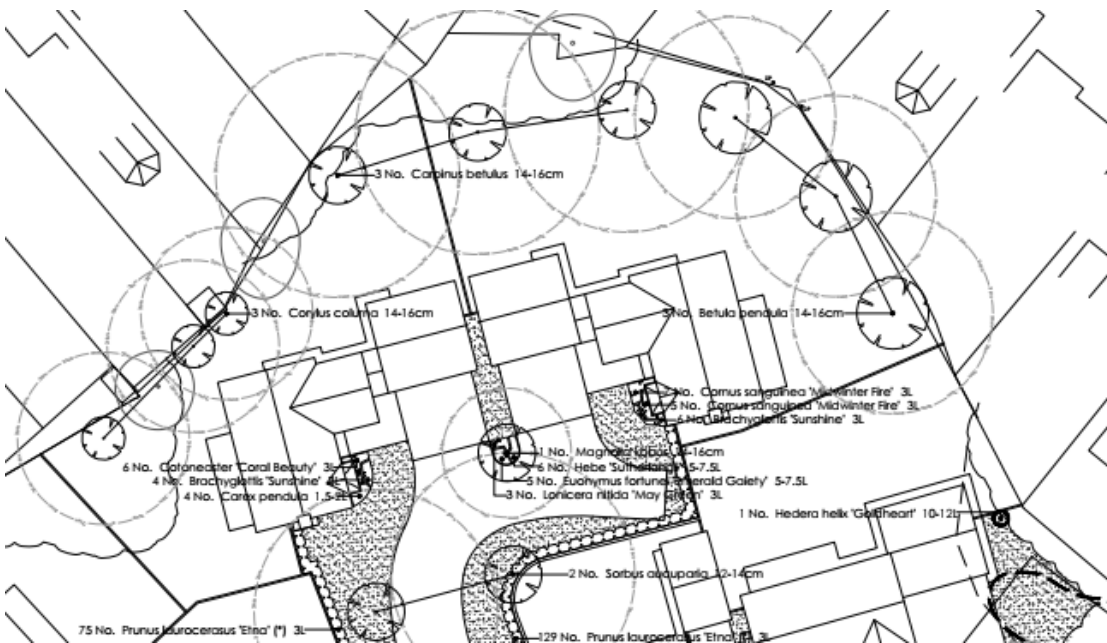


AS BUILT:

[Scale 1:100]



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.



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.



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

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.

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.

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)

- 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,

APPENDIX C

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 – 15:30



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



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



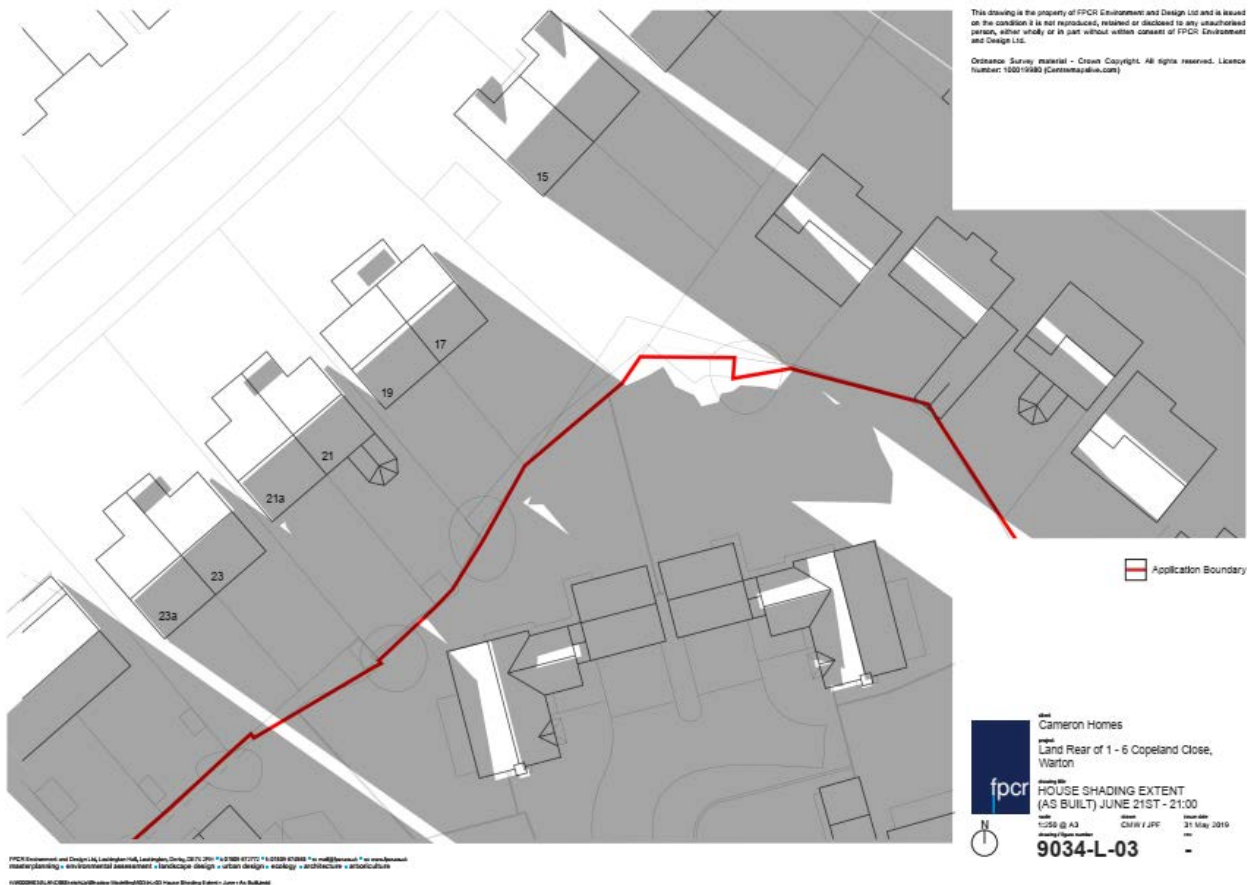
HOUSE SHADING EXTENT (AS BUILT) JUNE 21ST – 18:00



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

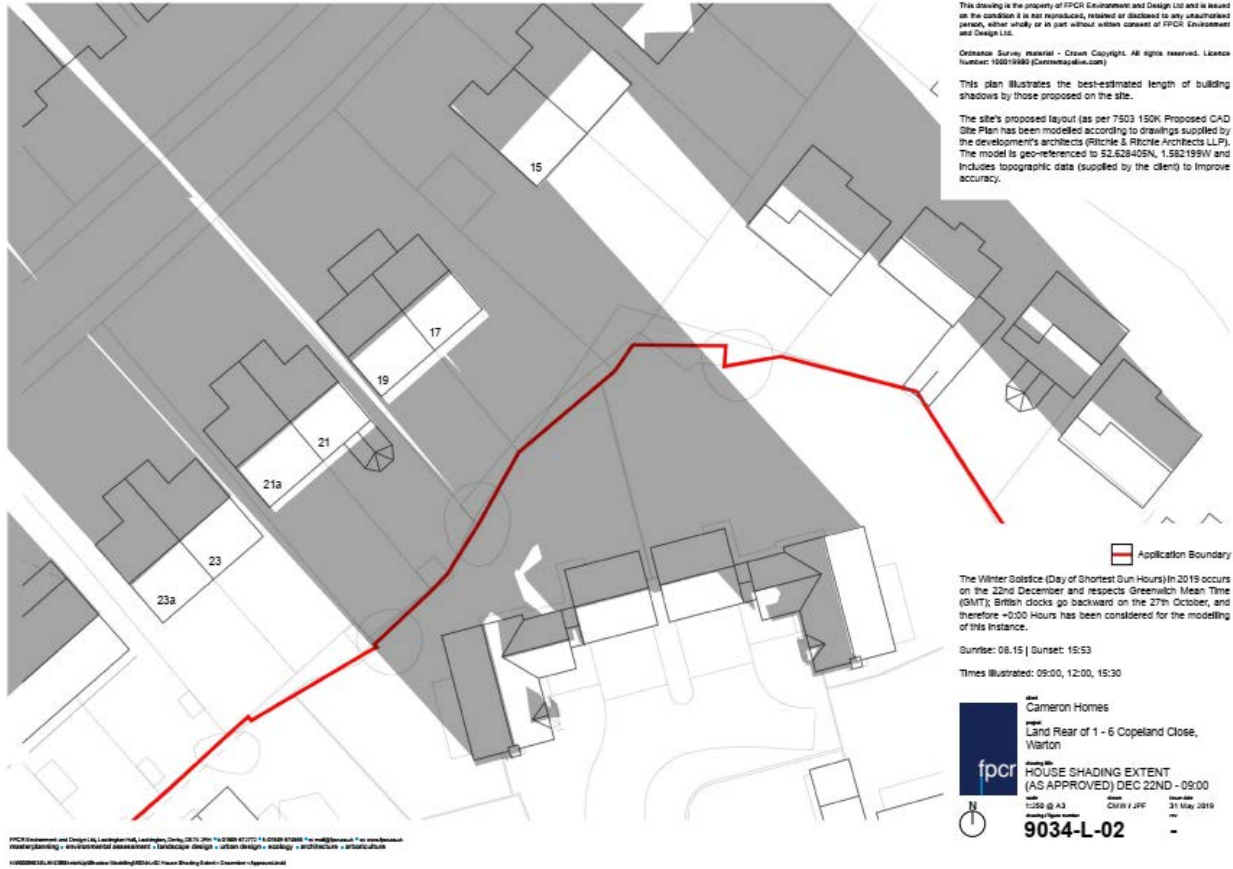


HOUSE SHADING EXTENT (AS BUILT) JUNE 21ST – 18:00

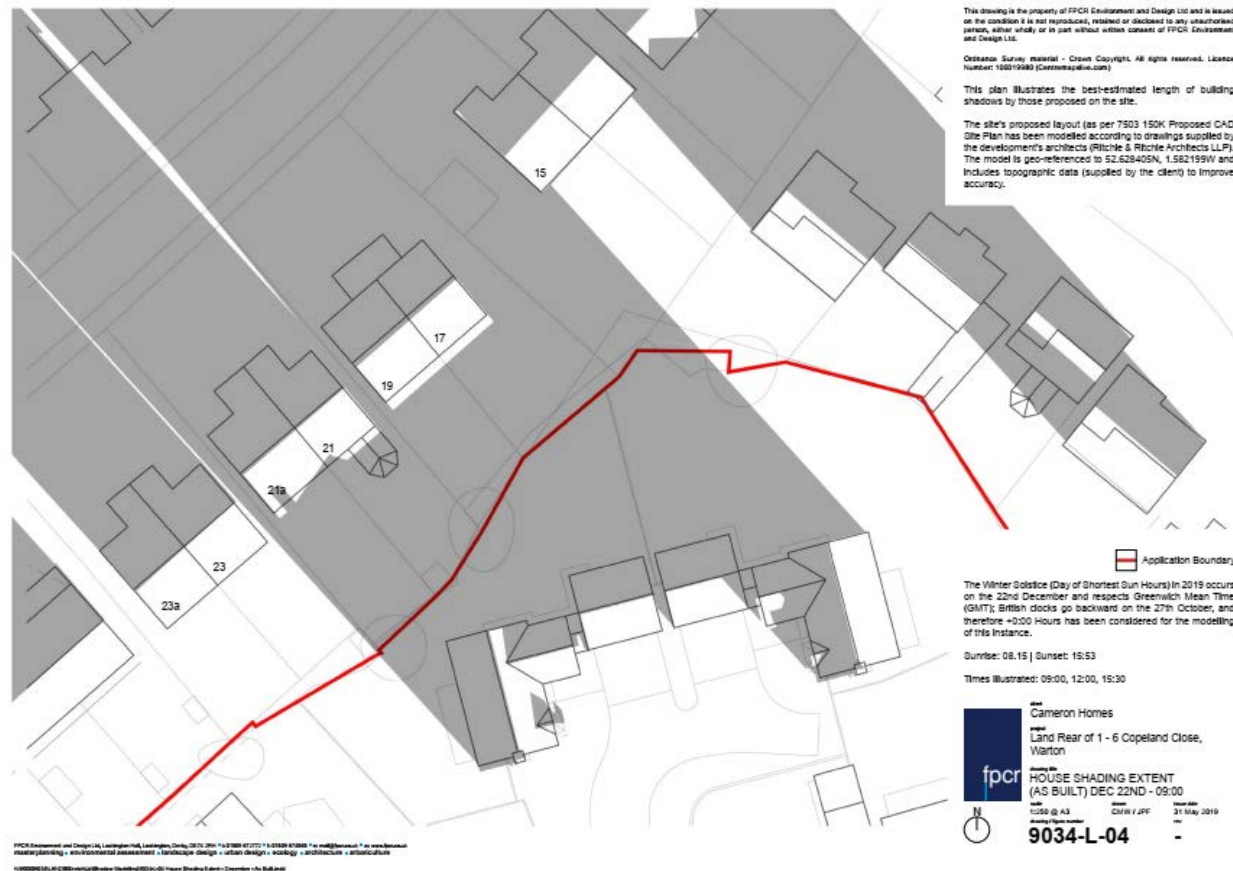


DECEMBER

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 APPROVED) DECEMBER 22 AT 15:30



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

