

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

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

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

PLANNING AND DEVELOPMENT BOARD AGENDA

10 June 2019

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Monday 10 June 2019 at 6.30 pm.

AGENDA

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

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

4 Planning Applications - Report of the Head of Development Control

Summary

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

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

5 Caldecote – Tree Management Plan - Report of the Head of Development Control

Summary

The report suggests a way forward in dealing with the future management of protected trees on this estate.

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

6 Former Mancetter Primary School - Report of the Head of Development Control

Summary

Members are asked to consider whether or not an Article Four Direction in respect of this former School is to be confirmed.

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

STEVE MAXEY
Acting Chief Executive

Agenda Item No 5

Planning and Development Board

10 June 2019

**Report of the Head of
Development Control**

**Caldecote – Tree Management
Plan**

1 Summary

- 1.1 The report suggests a way forward in dealing with the future management of protected trees on this estate.

Recommendation to the Board

That the Tree Management Plan be adopted for the purposes of dealing with tree management on the Caldecote Hall estate.

2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

3 Background

- 3.1 Members will recall that a little while ago a Tree Preservation Order was confirmed for a large area of woodland in and around Caldecote Hall and its parkland setting. In doing so it was understood that one of the consequences would be the submission of applications to undertake routine maintenance work as well as responding to damage as a consequence of the weather. It would be highly likely that the works covered by such "routine" applications would be consented.

- 3.2 As there is a Resident's Management Company here looking after general building and grounds maintenance, it was suggested that a Tree Management Plan could perhaps be agreed such that if proposed works fell into certain prescribed categories, then applications would not be necessary – in effect a Local Development Order. This has received support from the Resident's Company and from local Members as well as the Council's Tree Officer.

- 3.3 As a consequence a draft Plan has been submitted which has been agreed with the Tree Officer. This is attached at Appendix A.

...

4 **Observations**

- 4.1 This approach is welcome as it will benefit both the Estate and the Council. As the Plan has been prepared by the Resident's representative body it is not considered that a wider consultation is required.

5 **Report Implications**

5.1 **Finance and Value for Money Implications**

- 5.1.1 Members will be aware that applications for works to trees do not require the submission of any application fee and so there would be no loss of income to the Council. There would be a very minor saving in staff time in not having to process applications that would normally have been submitted.

5.2 **Links to Council's Priorities**

- 5.2.1 The protection of the Borough's rural heritage is one of the Council's priorities and this is reflected in its current Development Plan as well as its new Submitted Local Plan.

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date

Tree Management Plan (TMP)

The following abbreviations / terms will be used in this document :

TPO Tree preservation order *LPA* local planning authority

NWBC north Warwickshire borough council *TMP* tree management plan

CRML Caldecote Residents Management Limited *CHL* Caldecote Hall Limited

INTRODUCTION

Caldecote Estate trees are of an immense environmental and aesthetic value to the community. CRML seeks to preserve healthy trees and encourages the planting of new trees where possible. Whilst the majority live and grow without incident, a number of trees pose challenges and risks that need to be managed.

This policy outlines how we will manage the tree stock effectively, using good Arboriculturist practice, to reduce the risk that certain trees pose to property, residents, visitors and workers and also retain the quality and wellbeing of the Estate's unique tree collection.

On 16th March 2018, NWBC made a TPO, reference TPO/Caldecote/713,020/2 in respect of trees situated on land at and adjacent to Caldecote Hall, Caldecote North Warwickshire.

This TMP only relates to trees within the Caldecote Estate owned by CHL.

The TPO covers trees in the following Genera* : Oak, Holly, Yew, Maple, Cedar, Willow, Lime, Fir, Ash, Chestnut, Pine, Birch, Sycamore, Acer, Sorbus, Beech, Hornbeam, Spruce, Cypress, Wellingtonia and Redwood.

Work may be performed without application on any other Genus*, including Prunus, Malus, Alder (Alnus), Populus (Popular), Hawthorn, Morus and other fruit trees.

CRML is responsible for trees on land owned by CHL, (except for trees that may come within the safe working distance of overhead powerlines - see notes later in this document). **Residents of Caldecote Hall Estate living on land maintained by CRML must not plant, cut down, top, lop, uproot, wilfully damage or wilfully destroy any trees.**

CRML are **not** responsible for any cost or obligations for trees on adjacent land or privately owned land. It is the responsibility of any owners to meet the cost and obligations set by the TPO on land they may own.

AIM OF THE TREE MANAGEMENT PLAN (TMP)

The overall aim of the TMP is to ensure that the Caldecote Estate's stock is retained, enhanced and increased in the most proactive manner, while ensuring the Health and Safety of the residents and property, all within a set and well managed budget.

ARBOCULTURIST INSPECTION

CRML will undertake an asset survey to inspect each tree and then follow a rolling 5 year inspection programme of its trees by a qualified Arboriculturist. The survey will form the basis of a programme of works in line with the site risk assessment. Trees will be assessed for condition and health and potential hazard and also highlight any work that may be required to ensure the trees are retained in the best possible condition. A risk assessment of the site will also quantify the different areas and assign each area a risk level i.e high, medium or low.

The inspection will then highlight three levels of priority.

- The first level of priority is to identify trees that are dying, diseased or dangerous and so pose an unacceptable hazard to people and property due to their proximity to footpaths, drives, carparks and buildings.
- The next level of priority are those trees that are dying, diseased or dangerous but which pose a lesser threat due to location away from footfall, access and property.
- Our third priority highlights those trees of low quality that are suppressing adjacent trees of superior quality.

The inspection may also highlight the need for formative pruning such as

- the removal of crossing, weak or competitive branches.
- crown lifting and thinning
- crown balancing

Following the inspection an action plan will be written. The plan will be based on the levels of priority, the welfare of the trees and the need to keep costs within the budget. It will also determine whether Authority applications are required and whether the work needs to be completed by Tree Surgeons or the Grounds Maintenance Company.

All work completed by Tree Surgeons must comply to British Standard BS3998:2010 Tree Works Recommendations (or its successor). Building work next to any tree (protected or not) may only continue once a Tree Survey to BS5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations, has been completed and that report and its findings accepted by the committee.

Before completion of any work an Environmental Risk Assessment by the Arboriculturist will be done to ensure the site meets the necessary Environmental Legislation regarding protected species i.e bats, birds.

All information in regards to the inspection will be compliant to the General Data Protection Regulations.

FELLING OF TREES

If the inspection highlights a tree that is dead, dying, diseased or dangerous and posing an unacceptable risk it will be identified for felling and, if necessary, an application will be made seeking consent from the Local Authority.

Felling of trees is a last resort and will only be carried out if it is when deemed necessary following the Arboriculturist's inspection. It will not be undertaken for the following reasons:

- blocking light
- residents " do not like the tree"
- the view looks better
- leaf and fruit fall or bird droppings
- tree size " it's too big

TRADITIONAL MAINTENANCE WORK

CRML will maintain a rolling maintenance programme of cyclical work. This will continue work that has been traditionally carried out by the Ground Maintenance company contracted by CRML and will involve

- removal of basal and epicormic growth
- removal or adjustment of stakes on young trees,
- the shaping of topiary trees that were so managed prior to the placement of the TPO.

- crown lifting to clear footpaths and driveways

Waste from tree work will be used and recycled as mulch for shrub beds, firewood and habitat piles.

Spoil and woodchip from trees/ vegetation that may be known/ thought to contain pathogens will be diverted to a control area and removed from the site.

DEADWOODING

The removal of deadwood in our trees is an important task to ensure the safety of residents and their property, visitors and workers. Every 2 years a visual tree assessment will be carried out to identify particularly dangerous deadwood over paths, driveways and buildings. Identified deadwood up to a height of 4 metres will be removed by the Grounds Maintenance contractor, identified deadwood above this height will be removed by a professional Tree Surgeon.

TREES NEAR POWERLINES

Caldecote Estate does have Overhead Powerlines of both Low Voltage and High Voltage. CRML will work with Western Power Distribution to ensure compliance to the Utilities Act 2000 and ENA Technical Specifications 43-8 . Issue 4 2015 regarding specific safe working distances that tree works may be undertaken.

PLANTING OF NEW TREES

It is CRML's policy that every tree felled should be replaced to ensure the Estate retains its tree stock for future generations, although it is recognised that it is not always practical or prudent to replace a tree in the same location or with the same species as previously planted.

To ensure trees introduced on site are disease free, all trees sourced must be from reputable companies or suppliers.

TPO RELATED QUERIES AND APPLICATION PROCESS

Andy Watkins, Green Space Officer (Trees) , NWBC may be contacted for pre -planning advice on 0182771921 or andywatkins@northwarks.gov.uk. If it is required that a protected tree/trees be removed or made safe (any works that would not be seen as Permitted Development) it is required that the LPA be informed as soon as possible (next working day i.e tree felled on Saturday, email sent on Monday) .

The following web site may be used to submit works to protected trees that are not seen as Permitted Development : <https://www.planningportal.co.uk/>

Hard copy forms may also be used (scan the hard copy of the document and email to Andy Watkins).

Tree works that are seen to be required before the Statutory 8 Week Application process completion and considered urgent/ dangerous can be reported to the LPA for consideration under a " 5 Day Notice ". The LPA has 5 working days to respond to the notifier to either agree with the works or to request that full application is submitted.

The following link can be used to better understand the requirements regarding protected trees ; <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

** Genus/genera - Taxonomic category ranking used in biological classification that is below a family and above a species and includes group(s) of species that are structurally similar or phylogenetically related.*

February 2019 (Amended April 2019)

Caldecote Residents Management Limited registered in England number 05322476. Registered office: 8 East Wing Caldecote Hall, Caldecote Hall Drive, Nuneaton, CV10 0UN.

Agenda Item No 6

Planning and Development Board

10 June 2019

**Report of the Head of
Development Control**

Former Mancetter Primary School

1 Summary

- 1.1 Members are asked to consider whether or not an Article Four Direction in respect of this former School is to be confirmed.

Recommendation to the Board

That the report be noted and that the Board be appraised of the current position at the meeting.

2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting. The Chairman has agreed that in the circumstances outlined below, a further updated report will be needed and that this should be circulated when it is available before the meeting.

3 Background

- 3.1 This is the former primary school located at the junction of Church Walk and Manor Road in Mancetter. It has been used for other education use since it closed.
- 3.2 At the end of 2018, the Council received an application asking whether it required further details in connection with the proposed demolition of this former primary school. This was not determined, as the matter was referred to the Board in view of the local interest in seeking to retain the building, because of its local community and heritage value. The Board resolved to make an Article Four Direction, which in effect prevented demolition from proceeding for a period of six months. There was a period of consultation locally on the Direction, but no objections have been received.
- 3.3 The matter is thus referred back to the Board in order to see if it wishes to make the Direction permanent.
- 3.4 In making the Direction, the Board requested that contact be made with the prospective developer in order to discuss possible solutions in respect of his wish to re-develop the site for residential purposes.

3.5 Local Members, the Chairman and Planning Opposition Spokesperson have recently met the agent dealing with the site and a site visit went ahead on the 23 May.

... 3.6 A copy of the previous report is attached for convenience at Appendix A.

4 **Current Position**

4.1 There are several relevant matters here – summarised from Appendix A:

- The building is not a Listed Building and both the Council's Heritage Officer and Historic England agree that it would not be added to the Statutory List.
- It is not located in or near to the Mancetter Conservation Area.
- It is of local interest and would be likely to be added to any local list of heritage assets in Mancetter.
- Residential development on this site would be appropriate in principle.
- There would be a claim for compensation if the Direction is made permanent.
- The level of that claim would be related to any alternative development that might be appropriate for the site.

4.2 The meeting and the visit have made progress:

- The agent has confirmed that the developer would submit a Unilateral Undertaking to survey and record both the internal and external features, characteristics and appearance of the building and to submit that record to the Council.
- The visit has enabled a range of preferences to be sent to the agent for the site's future development, including part demolition, conversion and extension, as well as demolition and rebuilding, but retaining particular architectural features within any new scheme.

4.3 At the time of preparing this report there had been no feedback from the agent due to the Bank Holiday break. As a consequence a supplementary report will be circulated as soon as possible.

5 Report Implications

5.1 Finance and Value for Money Implications

- 5.1.1 As already indicated in the previous report and again here, a decision to make the Direction permanent would give rise to a claim for compensation. Given that residential redevelopment of the site is an appropriate alternative development, that claim could be substantial.

5.2 Links to Council's Priorities

- 5.2.1 The preservation, enhancement and conservation of the Borough's rural and built heritage is one of its priorities and this is reflected in the Development Plan as well as in the Submitted Local Plan.

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date

Agenda Item No 7

Planning and Development Board

14 January 2019

Report of the Head of Development Control

**Article 4 Direction
Wathen Grange Special School
Mancetter**

1 Summary

- 1.1 The report seeks confirmation taken by the Chief Executive in consultation with the Chairman of the Board, in the issue of an Article Four Direction in respect of this property.

Recommendation to the Board

- a That the action be confirmed; and**
- b The applicant be invited to meet Members to discuss the future of the site**

2 Consultation

- 2.1 The Chairman has agreed that this report should follow the action already taken

3 The Site

- 3.1 This is the site of the former Mancetter C of E primary school at the junction of Manor Road with Convent Lane. The newly completed extra care home known as The Laurels is at its rear along with a number of bungalows.

4 Background

- 4.1 Under Part 11 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the demolition of buildings is generally treated as permitted development not requiring the submission of a planning application. Most demolitions take place as a consequence of the grant of a planning permission for the redevelopment of a site. Some however, do not. In these cases, an application is to be made to the Council for confirmation or not as to whether the prior approval of the Council is needed in respect of the method of demolition and how the land is to be restored. This in fact, would not be a normal planning application and thus the remit of the Council is tightly drawn. Moreover there is a strict time period for determination – 28 days. If no decision is reached in that period, the demolition can proceed by default. The exceptions to this “prior approval” approach, are if the building is

a Listed Building or it is in a designated Conservation Area. In these cases a Listed Building application or a Conservation Area Consent application is required.

5 Wathen Grange School

5.1 The Council recently received such a "Prior Approval" application to demolish the Wathen Grange Special School at the junction of Manor Road and Convent Walk in Mancetter. This school is probably better known as the former Mancetter C of E Primary School. Its location and some photographs are at Appendices A and B. The application was accompanied by sufficient detail in respect of the method of demolition and thus there was no reason to withhold a determination leading to its demolition.

5.2 Officers however considered that demolition here would be an adverse move. The reasons for retention are:

- a) The site was recently the subject of the grant of planning permission for its conversion to a single residential dwelling under reference PAP/2018/0378 in August this year. This would be the preferred re-use of the building and the permission still has several months to be taken up.
- b) The building itself is identified in the Mancetter Neighbourhood Plan within an aspiration to identify local non-designated heritage assets. This Plan is part of the Development Plan and thus carries full weight. The text reads, "Additional work carried out during May and June 2016 has enabled a number of local (non-designated) heritage assets to be identified. This underpins a policy aimed at protecting and enhancing heritage assets. Non-designated heritage assets may be buildings, monuments, sites, places, areas or landscapes identified as having a degree of significance meriting consideration in planning decisions but which are not formerly designated. Wathen Grange School building is a Victorian School. It is all that is left of the attractive and local historically/cultural significant school, following development of the school grounds for The Laurels extra care housing scheme. It is currently used as an independent special school, but may be subject to future change of use and development pressure."
- c) The building has local heritage significance. It was included on the 1880 Ordnance Survey mapping showing as one of the very few buildings in the settlement at that time, when the Church, the alms-houses and the Manor collectively formed the nucleus of Mancetter. Though north of the designated Conservation Area the school is historic in its existence since it pre-dates immediate surrounding development and forms a landmark building in the streetscape making a contribution to the character and visual amenity of this part of Mancetter. It is also highly visible in the public realm. The surviving building is attractive and positively contributes to the street scene and history of the area. It has a strong communal value both for pupils who attended there and the teaching staff having had a strong presence for over 125 years. The building although altered retains its original scale, appearance and attractive features, typical of the

vernacular in Warwickshire with the bricks likely to have been sourced locally. Three tall chimney stacks and terracotta pots finish the elevated proportions. In all it is a subdued style of architecture in the ecclesiastical gothic style, favoured by church schools of this period.

- d) Core Strategy Policy NW14 carries full weight. It states that “quality, diversity and local distinctiveness of the historic environment will be conserved and enhanced”. It continues “Wherever possible, a sustainable reuse of redundant historic buildings will be sought seeking opportunities to address these heritage assets identified as most at risk”. Demolition here would not in principle accord with this policy.
- e) The National Planning Policy Framework gives weight too to non designated heritage assets. In para 185, it states that, “Plans should set out a positive strategy for the conservation of heritage assets and outing them to viable uses consistent with their conservation”. In respect of non-designated assets it says “that a balanced judgement will be required to the scale of any harm and the significance of the asset”.
- f) The Parish Council and local Members support retention.

5.3 Given this situation officers reviewed the options for retaining the building. These are described below. However, in view of the proximity of the time period in which to make a decision on the Prior Approval application, it was necessary to act quickly on the preferred option and thus report on the reasons for selecting that option after the event. The preferred option has been discussed with the Chairman, local Members and Opposition planning members. They all supported that option.

6 The Options

- 6.1 The building could be protected by being included in an extension to the Mancetter Conservation Area. The problem with this option is that the area surrounding the building is not of Conservation Area standing or status and neither could it be said that it plays a positive contribution to the setting of the existing Area. It would not therefore preserve or enhance the overall character and appearance of the established Area. Moreover any extension would have to be the subject of formal assessment and consultation which could not be achieved quickly.
- 6.2 The Council could serve a Building Preservation Notice on the building which would effectively “list” the building for six months. It would then be for the Secretary of State to decide whether to add the building to the List or not. There are two issues here. Firstly the building has been altered at the rear with some quite significant modern extensions and upvc windows have been added. From an objective viewpoint, it is not considered that the building would be added to the List. This view is agreed by the Council’s own Heritage Officer and by its outside consultant. The second issue is that if the building is not subsequently “listed”, the Council could be the subject of a claim for

compensation. Given the conclusion above, it is considered that this approach carries a high risk of not succeeding.

- 6.3 The third option is to make a Direction under Article Four of the General Permitted Development Order 2015. A Direction enables a Local Planning Authority to withdraw permitted development rights from an area defined by a plan attached to the Direction. The Direction would need to identify which rights are withdrawn. Here that would be withdrawal of Part 11 rights – i.e. demolition. A Direction does not prevent development, all it does is to require a full planning application to be submitted if the applicant wishes to carry out works covered by the Direction. Here the applicant could still seek demolition, but with need to submit a full planning application, rather than a prior approval. The Council then would determine that application taking into account all material planning considerations and planning policy – in other words those matters referred to in section 5 above.
- 6.4 This option is worth explaining further. There are defined exceptions – such as where it would prevent or restrict work by Statutory Undertakers; in emergency situations or if the building is an asset of community value. The defined exceptions do not apply here and thus a Direction can be made.
- 6.5 The Council too has the option of making an immediate or a non-immediate Direction. A non-immediate Direction can only withdraw rights upon confirmation by the Local Planning Authority after local consultation. The Authority however can make an immediate Direction, but it must be confirmed after local consultation within six months of its making. Immediate Directions are thus intended to cover urgent matters, but in view of their “severity”, they are not universally to be made and thus can be used only in defined circumstances. Demolition under Part 11 is included. As such the Council can serve a Direction here. The Secretary of State has to be notified on the Direction.
- 6.6 There is a consequence however in serving an immediate Direction. This is that the Council could be liable to a compensation claim. However the parameters for making a claim are defined. A claim has to be made within twelve months of the making of the Direction and:
- a) the Council has to have refused planning permission for development which would otherwise have been permitted, or
 - b) it grants planning permission subject to planning conditions more limiting than the General Permitted Development Order.

The grounds on which a claim can be made do need to be considered as option (a) above is a possible outcome. That claim could refer to abortive expenditure, loss or damage directly attributable to the withdrawal of the permitted development rights and the depreciation in the value of the land.

7 Other Information

- 7.1 Members should be aware that officers have received a pre-application enquiry about the future of the site. That proposes demolition and the

erection of a two/three storey residential block facing Convent Walk and comprising up to nineteen units. It would appear that the redevelopment of a cleared site is a real possibility here. The possibility of a compensation claim is thus a possibility.

8 Observations

8.1 Officers have taken legal advice on this matter and all are agreed that the option of an Article Four Direction is the one to follow should the Board wish to “protect” this building until its future is resolved. The pre-conditions for making an immediate Order are all present and the reasons for making the Direction, as set out in Section 5 above, are considered to carry weight. This is because of the earlier grant of permission for the conversion and the fact that the Development Plan policy actually identifies this building. In other words the Direction would be a logical and reasonable consequence of that earlier planning decision. The issue is thus whether the compensation provisions would outweigh that conclusion.

8.2 This is a serious consideration of substantial weight. However Members have taken comfort from the grounds for making such a claim. In particular there is an opportunity here for Members to invite the applicant to meet them to discuss the future of the site before the Direction is confirmed or not. Hopefully that discussion could result in an agreed scheme. The Chairman and Members were agreed that this was a preferred way forward.

8.3 In view of the time periods involved, the Chief Executive has used his emergency powers in this respect. This report therefore seeks the Board’s confirmation of that action.

9 Report Implications

9.1 Finance and Value for Money Implications

9.1.1 There is a possibility here that a compensation may be sought from the Council. The grounds for such a claim are set out in the report. The invitation to review the future of the site may avert such a claim

9.1.2 Environment, Sustainability and Health Implications

The conservation, protection and enhancement of the Borough’s heritage is a significant objective in the Council’s Development Plan as well as in its priorities.

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