

Agenda Item No 4

Planning and Development Board

14 January 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, 4 February 2019 at 6.30pm in the Council Chamber at the Council House.

6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at: www.northwarks.gov.uk/downloads/file/4037/.
- 6.2 If you wish to speak at a meeting of the Planning and Development Board, you may either:
- e-mail democraticservices@northwarks.gov.uk;
 - telephone (01827) 719222; or
 - write to the Democratic Services Section, The Council House, South Street, Atherstone, Warwickshire, CV9 1DE enclosing a completed form.

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General Development Applications

(1) Application No: 2018/0209

Land to the rear of 6 to 20, Spon Lane, Grendon,

Outline - residential development of 9 no: dwellings with access, for

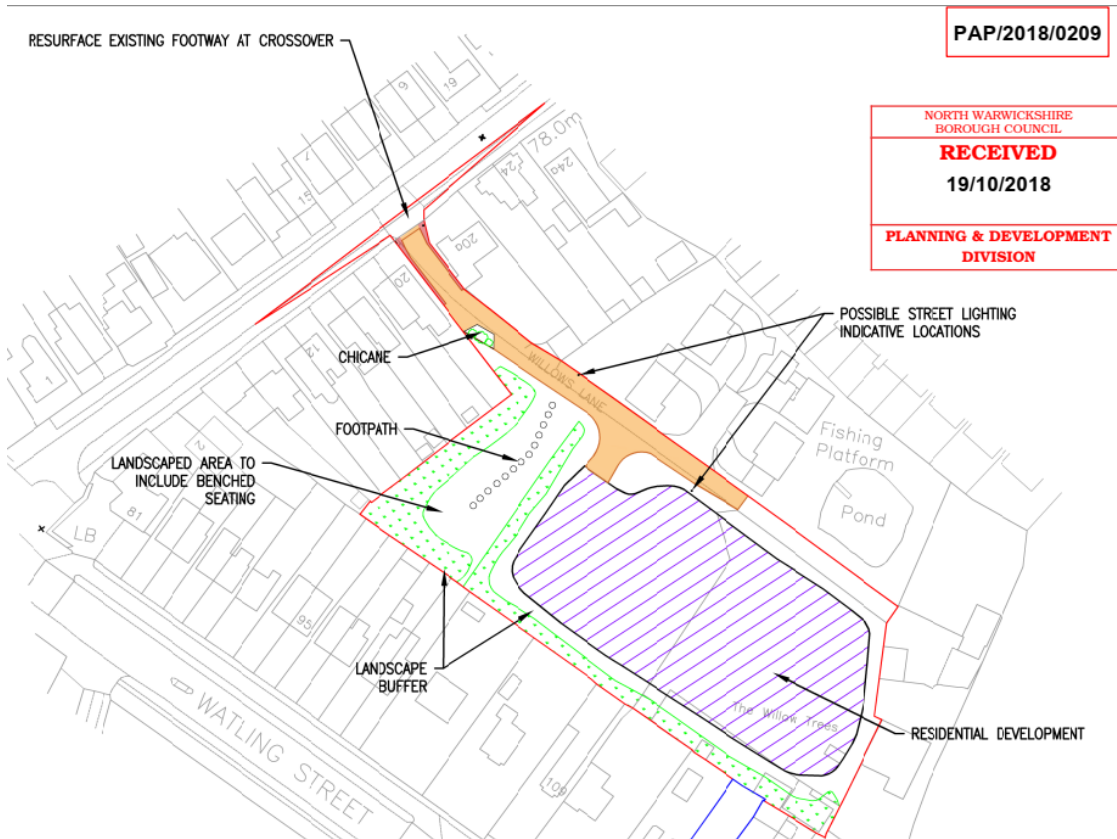
Mrs Helen Evans

Introduction

The application is reported to Board in light of the receipt of representations and given the history of the application site.

The Site

The site is bordered to the south by the rear gardens of properties on Watling Street and to the west by the rear gardens of properties on Spon Lane. Two newly constructed dwellings lie to the east on land that was formerly a builder's yard site. Agricultural land lies with the benefit of planning permission for large scale housing lies further to the east. Four newly constructed dwellings lie to the north on the opposite side of Willows Lane and a large housing development by Bellway Homes is on the land lying beyond, further to the north. The site boundary of the site is as shown below.



The site and its surrounds are shown in the aerial image below (extract from Google Earth - image date 4/5/2018)



The access position (viewed from Willows Lane looking back towards Spon Lane is shown below:



The Proposal

This is an outline application for residential development for nine dwellings, with the details of access to be approved, and the matters of scale, layout, appearance and landscaping to be matters reserved for later approval. An illustrative plan has been submitted showing a landscaped buffer and reduced extent of the site which is defined as the developable area.

The proposed access arrangements at the junction with Spon Lane are shown below:



The arrangement proposes the use of different coloured surfacing to delineate a central vehicle track from the entrance pedestrian visibility splays.

Background

Planning applications have been submitted at the application site on two previous occasions – 2014 and 2015. On both occasions the applications were withdrawn ahead of any decision being reached.

In July 2014 an outline application was made on this site proposing 21 dwellings and access improvements. Following concerns being raised about the access proposals and the loss of allotment land, the application was withdrawn in November. The applicant indicated that he would seek to address the concerns and re-present the application at a later date.

The application was resubmitted in October 2015. Initially it proposed 20 dwellings but was later revised to reduce the number to 14 and to introduce an area of open space. There were enduring concerns about the access arrangements and just before the Planning and Development Board was scheduled to consider a report on the application, it was again withdrawn.

In 2016 an outline application for 9 dwellings was refused permission for the following reason:

It has not been shown that safe access can be achieved within the limits of the application site and the public highway for all vehicles that will seek to enter and exit the site. The access arrangements would be likely to create conditions detrimental to vehicular and pedestrian safety, including mobility impaired road users, and would thus be contrary to Strategic Objective 6 and Policy NW10 of the North Warwickshire Core Strategy Adopted October 2014.

Development Plan

The North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment) and NW15 (Nature Conservation)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV6 (Land Resources); ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ECON1 (Industrial Estates) and TPT6 (Vehicle Parking)

Other Relevant Material Considerations

Government Advice: National Planning Policy Framework 2018 (the “NPPF”)

The National Planning Practice Guidance

The North Warwickshire Local Plan Submission Version, March 2018 – LP1 (Sustainable Development); LP (Settlement Hierarchy), LP6 (Amount of Development), LP7 (Housing Development), LP8 (Windfall), LP9 (Affordable Housing Provision), LP16 (Natural Environment), LP31 (Renewable Energy and Energy Efficiency) and LP39 (Housing Allocations)

Consultations

Warwickshire County Council Highways Authority – Objects to the application.

Environmental Health Officer - Given the history of the site he suggests that a site investigation is carried out in respect of land contamination; limited construction hours and that best practicable means shall be employed at all times to control noise and dust on the site, with a construction management plan agreed.

Planning Archaeologist, Warwickshire Museum - Prior to this site’s most recent use as allotments, it is probable that this site has been in agricultural use since at least the medieval period. The site lies approximately 60m to the north of the line of Watling Street Roman Road (Warwickshire Historic Environment Record MWA420). There is a potential for the proposed development to disturb archaeological features associated with the Roman period onward. He therefore recommends conditions requiring archaeological fieldwork.

Fire Authority - No objection subject to conditions

The Council's Waste and Transport Manager – Advises that the service has had to move away from the preferred, standard size of refuse vehicle for the collection of wastes from the six dwellings currently along Willows Lane. The large, standard vehicle was stopped from using the lane because of its condition. This is less than satisfactory because the smaller vehicle is not designed for the collection of recycling. It requires additional separation and is not cost effective or sustainable long term. The service advises that it needs to be able to access with a 26 tonne vehicle. The view of the transport manager is that the dropped kerb would be at risk of damage from use by refuse trucks of this size. Street lighting availability affects the safety of refuse collection (7am start in winter months).

Representations

Grendon Parish Council – Comments as follows:

- Originally opposed by highways due to the need for a bell mouth entrance to the proposed site.
- Highways have also stated in several documents that the A5 traffic island at Grendon has already reached its traffic volume maximum.

125 letters have also been received with the following format:

This does not form part of any petition nor should it be classed as "pro forma". It outlines my further points of objection to the above application *as an individual* and as such should be treated as an individual letter.

A: All previous applications for this same site have been proven unsupportable on various levels. This latest proposal offers no improvements to alleviate concerns previously expressed. Such as, pedestrian safety, lack of infrastructure and traffic problems. In fact opting to utilise the existing dropped kerb access instead of a bellmouth junction for the access actually now *increases* risks to safety. Officers and Councillors really should not recommend this for approval.

B: Whilst vehicle tracking information is submitted, refuse collection occurs only at the junction with Spon Lane. The Council will never send refuse vehicles into this private road for fear of damage. As the proposed road is unadoptable this will remain the case. Therefore further numbers of bins will clutter Spon Lane on collection days.

C. As there is a brick wall within the site along the boundary with 20a National guidance suggests that a 0.5 m gap should be added as drivers will be cautious whenever approaching close to a wall which questions suitable width of Willows Lane. Realistically there also needs to be a similar gap along the fenceline of number 20.

D: The application does not include pedestrian visibility splays for this shared access. They are out of the applicants control and no effort to negotiate these are apparent.

E. WCC Highways have objected numerous times with clear reasons as to why this access and the development would be *unsuitable*. These Highways issues are exacerbated by the latest proposal to use the existing dropped kerb. No More than the current 6 houses within Willows Lane should be accepted without a proper, safe access suitable for all users.

F. The applicant will argue against Highways on a point of severity of risks to pedestrians. Severity cannot be judged in advance. Meaning *when* an accident occurs it will be too late. The potential for conflict of vehicles and pedestrians exists already and will increase severely with further housing. *In wet/icy and snow conditions this will be even more dangerous.*

G: The council must consider equality issues in this application. The indicated shared access arrangement does not seem to be adequate. In particular, children, the elderly and disabled will have some difficulty navigating along Spon Lane. *There is potential for huge conflict between pedestrians and vehicles and an existing access for a disabled driver bordering the proposed access.*

H: The proposal will have a seriously *negative impact* on the character of the local area and *offers no benefit to the community being of such low density. Nor does it offer any affordable housing.*

I: Accessing the suggested open space from an inadequate private road is questionable. Such a space should have an adoptable standard access.

J: This site is not within the proposed future development sites as detailed within the Adopted Local Plan (Core Strategy) and the most recently submitted Local Plan 2018. Therefore is *not required to meet the needs of the area* moving forward. This Local Plan is adequate to meet the future housing needs in line with Government guidelines. There are also already many Brownfield sites available for extra housing within the local area. I believe these to be far more suitable than this Greenfield site.

24 further letters of objection have been received raising the following matters:

- The site is not an identified site in the allocations of any Local Plan (adopted or emerging).
- There is no difference between this and the previously refused application.
- There is more appropriate land for housing elsewhere in Grendon, with planning permission for a large number of dwellings having recently been granted.
- Concerns about highway safety in terms of traffic generation, pedestrian safety. The proposal increases concern over conflict between vehicles and pedestrians and other NMUs. A great number of pedestrians using Spon Lane are children.
- Concern about access for maintenance of shared boundaries.
- The placing of bins for collection will be a hazard and will be physical and visual clutter.
- The site is for outline permission only and if permission is granted can easily be altered to maximise the land potential.
- At present the application indicates just 9 houses. This is extremely low in density for the overall site.
- The development does not offer any benefit to the local community by way of affordable housing.
- Willows Lane has increased from 1 to 6 houses in the last 3 years. This has already had an impact of residential amenity for 20 & 20A Spon Lane. Further traffic will worsen amenity.
- The proposal indicates a public open space that will be accessed via a private road that cannot meet adoptable standard. This negates any positive contribution the applicant is trying to show for the local community. Such a space should only be accessed by proper infrastructure.
- The positioning of new street lighting will have negative impacts on adjacent property, including light disturbance to bedroom windows.
- The access road will not be sufficiently wide for two vehicles to pass with ease, particularly given the increasing size of vehicles.
- The construction of block paving on the access road will cause disruption and damage to the boundary wall of adjacent property and risk to the structural integrity.
- The construction of a corrugated strip directly outside of a bedroom window will increase the noise disruption cause by traffic.
- The applicant's traffic count figures are disputed and concern is expressed that the times of survey did not accurately match the real 'peak' movements of pedestrians and commuters.
- Large vehicles accessing the site would come perilously close to a wall on one side and concrete fencing on the other.
- You can see how damaged the carriageway is and the footway opposite the access where large vehicles constantly over run the footpath to be able to reverse into or leave Willows Lane.
- Reference to Watson Petroleum owning the site previously and pointing to the frequent usage of tankers" is misleading as not only was the site then a very small operation with limited visits but these "tankers" were very small tankers that are used to fill up domestic oil tanks and about the same size as a road sweeper vehicle.

- The development will not provide a safe and inclusive access for all potential users. There are a number of elderly and disabled people within Spon Lane, including a disabled driver who is an occupier of a property adjacent to the access.
- A regular visitor with mobility difficulties reports access difficulties because of parked vehicles and vehicular conflicts.
- Consent is not given by the occupier of adjacent property for works to construct the improved access if those works would involve encroachment of consequent instability of any part of the property.
- The green space seating area will also have a very negative effect from noise and disturbance on the residential amenity of surrounding properties.
- The application still refers to access as the only matter applied for at this stage. The 'new' housing area indicated along with the landscaped buffer are still technically indicative and appear to have been proposed again to placate residents' concerns and to satisfy the Highway Authority.
- The proposal amounts to a density of only some 13 dwellings per ha. (some 5 per acre), about half of the proper density even to begin to make efficient residential use of the land, which should be in the order of 30 dwellings per hectare. If the site were to be developed with a properly constructed junction with Spon Lane, logically utilising other available land, it could achieve a more efficient use of land and reduce pressure for development on greenfield sites.
- It is queried how foul sewage will be disposed of.
- The application does not acknowledge the existence of trees on the application site and 2 trees on the Spon Lane frontage within the visibility splays which are technically part of the application site.
- It is claimed that offers made by adjacent property owners to enable the provision of an appropriately improved access have consistently been rejected in favour of various 'contrived' attempts to access the site within existing parameters.
- Para. 103 of the NPPF emphasises that patterns of movement, streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places. The constant attempts to promote sub-standard access proposals in this and previous related applications implies no commitment to the making of "high quality places".
- Para. 110 of the NPPF, in the context of highway considerations, requires applications for development to address the needs of people with disabilities and reduced mobility and to create places that are safe, secure and attractive. The application proposals do not do this.
- There are no material benefits that can outweigh the many deficiencies of the proposal.

Specifically in respect of a near neighbour who has a health condition causing disability, the following comments are made:

- The health condition of the near neighbour is a material consideration in the determination of the application.
- The localised pollution from motor vehicles accessing the development will adversely impact on the health of a resident living in an adjacent property who has a health condition causing disability, not just during construction but for the lifetime of the development.
- The objector indicates that the Council has to consider the Equality Act here and states a belief that can mean treating the resident more favourably than people who do not share a protected characteristic under the act. Serious weight should be afforded to the health implications of this individual.

- Any suggestion that the person with the protected characteristic should take precautionary measures like wearing a mask mitigate the risks would not be in the spirit of inclusivity and goes against the equality act and its principles.
- The vulnerable person will have to adjust their lifestyle in and around their home to protect themselves. The close proximity of the proposed access road to the residents boundary fence will involve having to necessarily to adjust garden usage in due to regular traffic movements on the site.
- At the time of the development of the four new dwellings on Willows Lane and at the time of the construction of the Bellway Homes development, the affected resident suffered health detriment necessitating a short hospital stay. It is claimed that the effects of construction are therefore known to exacerbate the health problem.
- The Council's duty under public sector equality legislation is to discriminate positively in the residents favour in order to afford the necessary opportunities enjoyed by other residents. It is also the Council's duty to foster good relations between those advocating and promoting change and those affected by it, i.e. if necessary, modifying proposals to take account of the latter's interests.

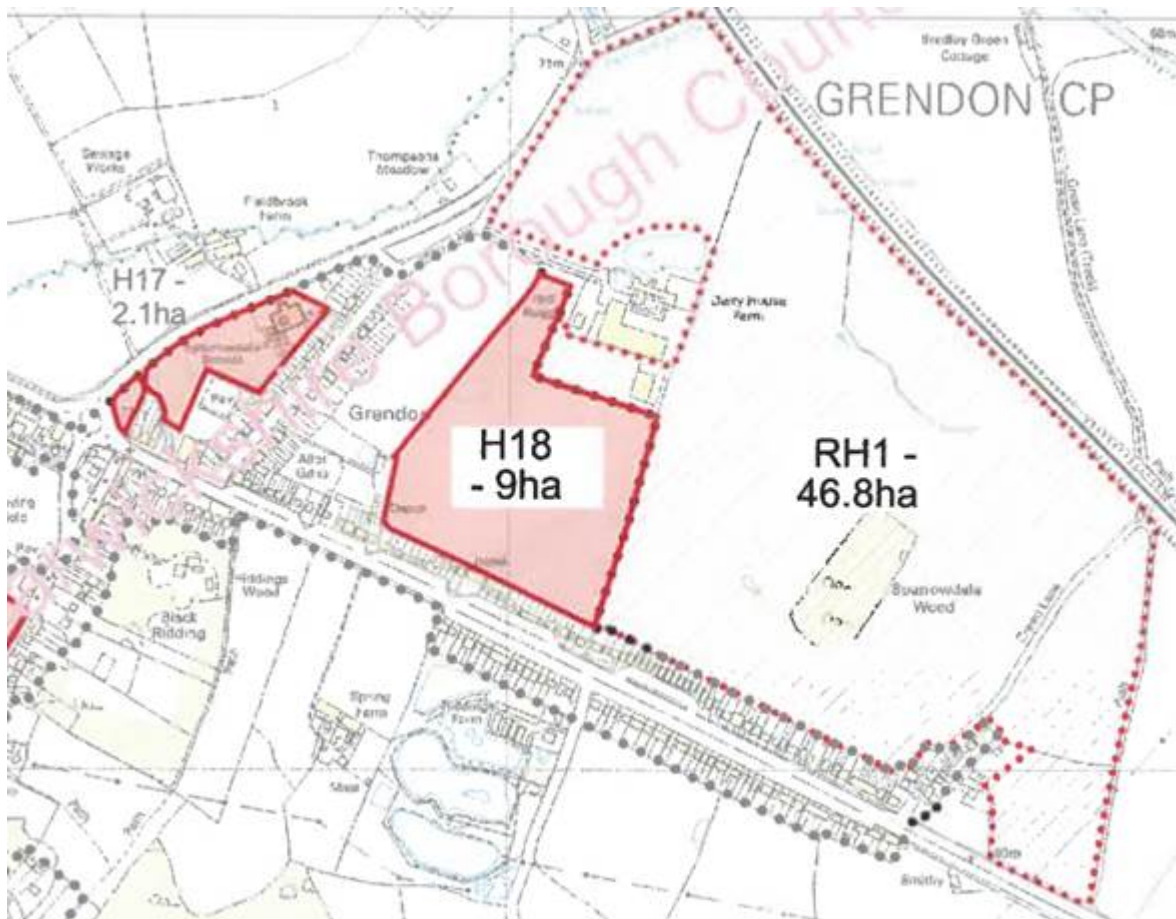
Observations

a) The Principle of Development

The site is beyond, but adjacent to, the development boundary identified for Baddesley and Grendon in the 2006 Saved Local Plan and the 2014 Core Strategy

Policy NW2 of the 2014 Core Strategy indicates that in Local Service Centres (outside of Green Belt) development will be permitted in or adjacent to development boundaries, which is considered to be appropriate to its place in the settlement hierarchy. The development here would be, not only immediately adjacent to the development boundary but is also now surrounded on all four sides by substantial quantities of other housing development (the other development on Willows Land and the Bellway Homes sites). The land therefore no longer serves any 'open countryside' function. The development of nine houses is considered to be appropriate to the place of Grendon in the settlement hierarchy.

The Emerging Local Plan (currently being examined by the Planning Inspectorate) proposes to substantially extend the development boundary on this side of Grendon to incorporate the land marked H18 and RH1 (below) into the development boundary. Indeed planning permission has now been granted for the development of the land with housing. This settlement expansion would leave this site very distinctly as an 'infill' development site.



Recent appeal decisions (Daw Mill and Ansley Phase 2) have established that Development Plan policy in respect of development boundaries, is currently out of date. In this context, and in the context of the presumption in favour of sustainable development, it would not be appropriate to resist the principle of the development based on locational factors.

b) Housing Land Supply

Though the Council can presently evidence a 5 year housing land supply (5.5 years at March 2018 using the Sedgefield approach taking into account both windfall and expired / lapsed rate allowances with a 5% buffer), because of the conclusion above, that the site would be a sustainable location for the development of new housing and given the out of date status of policy in relation to development boundaries, the NPPF guides that there should be a grant of planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The NPPF (paragraph 68), in consideration of identifying land for homes, recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. It indicates that local authorities should support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes. This site would fit with this objective.

The application will be assessed to establish whether there are any adverse impacts from the grant of planning permission that would significantly and demonstrably outweigh the benefits of the proposal, but it will not be resisted in principle because of the sites location beyond the former out of date development boundary or the current evidence of a five year supply of housing land.

It is necessary to assess the specifics of the proposal in term of impacts, such as highway, amenity, ecology impacts, to establish whether there are any adverse impacts of, or deficiencies in, the application proposals that outweigh the NPPF objective of “significantly boosting the supply of housing”.

c) Highway Safety

The application seeks to take access from Spon Lane via Willows Lane. Spon Lane is an adopted public highway and Willows Lane is an un-adopted private highway.

On a previous, relatively recent occasion, planning permission has been refused for outline planning permission of the same scale for reasons of highway safety. This application revises the detail of access design. It is necessary to consider whether the revised detail now achieves arrangements of a safe and appropriately accessible standard.

Development Plan policy seeks to ensure that development provides for proper vehicle access, parking and manoeuvring (Core Strategy Policy NW10) and in respect of back-land development such as this access arrangements should not cause adverse impacts to the character and appearance, safety or amenity of the existing frontage development - emerging Plan Policy LP32. Additionally, the 2006 Saved Local Plan Policy ENV14 indicates that development will only be permitted where vehicular access to the site is safe and the local road network is able to accommodate traffic to and from the development without problems of congestion, danger or intimidation caused by the size or number of vehicles, and without adversely affecting the character of the surrounding environment.

The NPPF also sets out that development should ensure that safe and suitable access to the site can be achieved for all users (Para 108), but it guards (Para 109) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. It indicates (Para 110) that development should give priority first to pedestrian and cycle movement, address the needs of people with disabilities and reduced mobility, create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards; and allow for the efficient delivery of goods, and access by service and emergency vehicles.

The access arrangements are of significant concern to those who object to the planning application. The route travels between two existing dwellings and the dimensions available for the creation of a two way carriageway with adequate visibility and safe arrangements for pedestrians are constrained. Furthermore, the properties which border the access route are situated close to the boundary of the application site and have boundary treatments and access arrangements which constrain the application site proposals.

The access arrangements are illustrated in the plans below. They include the creation of a single chicane to slow traffic speeds and indicative locations for four street lights.

Significantly, the proposals do not make provision for the creation of a bell-mouth junction as they rely upon use of the existing dropped kerb.



The Highway Authority objects to the proposed development because of concerns about the limitations of the access arrangements. It gives the following reasons for objection:

1. The Highway Authority maintains that a bell-mouth junction is a more suitable point of access to the site than a dropped kerb footway / verge crossing, for reasons of highway safety and highway maintenance.
2. The submitted swept path analyses show that the public highway footway is required for large vehicles to egress the site. The footway should not have large vehicles manoeuvring over it, and is not designed for large vehicles to manoeuvre over it.

The Highway Authority maintains that a suitably sized bell-mouth junction is necessary to allow separate safe pedestrian / NMU access to the site and to ensure that vehicles servicing the site do not have a detrimental impact on the public highway network or its users. Its considerations are as follows.

The latest application drawings have been reviewed by the Warwickshire County Council's Safety Team. In regard to the use of a bellmouth or dropped kerb access the Team indicated design principle concern at the prospect of a private access serving any more than around 6 No. dwellings. It is noted that the proposed development could result in around 15 No. dwellings being served of the single access. The currently proposed lane/footway interface gives no encouragement for vehicular traffic to give way to footway users. It notes that there are no restrictions on vehicle parking along Spon Lane, so a legitimately parked vehicle on Spon Lane could seriously interfere with movements of larger vehicles (Refuse Vehicles, delivery vehicles, furniture removal vehicles).

Swept path analyses have been submitted. No left turn out of the site is submitted, but if it is anything like the shown right turn, it is quite clear that the vehicle overrides the footway. Evidence shows this is occurring currently, but that does not mean it is acceptable. An argument has been made that service vehicles are already using the lane. Again, that does not mean it is acceptable if detriment to the public highway is occurring and with more houses the weight of the vehicle leaving the site could be significantly more, so could cause more damage. But, a smaller and lighter vehicle has been used to access the site. The smaller vehicle cannot provide the same recycling and refuse collections that the larger vehicles provide. However, the Highway Authority has also been told that the larger vehicles are accessing the site. In any case, damage to the highway is being caused, which could be stopped if a suitable bellmouth access was created.

Within the proposed access the Safety Team also had the following comment to make: "The potential street light column at the north-eastern corner of the development access interface with the Spon Lane footway has been drawn in the centre of the 'pedestrian area' of the shared use access road. Such poorly located lighting column would force access road pedestrian etc. users into the area indicated as being more in the way of a 'vehicular area' with the potential for vehicle/conflicts with vulnerable other road users. I would imagine that the lighting column could be located at the access boundary line. And would likely need to be moved. Lighting in a shared space is essential, not only because the access will be shared, but also because refuse vehicles will not service the site if the lighting is not suitable. As there is a traffic calming feature proposed within Willows Lane it would need to be suitably illuminated.

Regarding traffic calming, only one chicane feature is proposed. Traffic calming features should not be solitary and there is over 110 metres from the top of the lane to the proposed feature.

The final point of concern would be intervisibility. The Safety Team has not made any comment about the layout of the proposed contrasting coloured access arrangement to provide intervisibility, however, if drivers within Willows Lane stay within the marked 'carriageway' area then intervisibility will be provided. Doubt has been cast by local residents that the dimensions of the marked carriageway are so limited that it would be overrun.

The "corduroy" crossing that neighbours have expressed concern about has been removed from the proposal, thereby limiting the disturbance that might be caused by the noise of vehicles crossing it. Nevertheless, the roadway to serve up to sixteen properties (including the vehicular access to the garage at the rear of 20A Spon Lane) would run very close to the side elevations of both numbers 20 and 20A Spon Lane. The image below shows how the route is hard up against the property boundaries and in very close proximity to the properties themselves.



This proximity would likely create some loss of amenity from increased disturbance and comings and goings. This adds to the generalised concern about the constrained dimensions of the access and its juxtaposition with neighbouring uses.

The Highway Authority has supplied the photograph below to illustrate the nature of the highway/footway damage being caused by larger vehicles accessing the site. It points to the fact that large vehicles need to dry steer on the dropped kerb and this inevitably causes damage.



There is evidence that the long dropped kerb on the opposite side of Spon Lane is being driven along by vehicles seeking to achieve access to Willows lane.

The vehicle tracking shown does not contain much of a margin for error.

The access limitations have given rise to the Council having to service existing dwellings with a non-standard refuse and recycling vehicle. This is an unsustainable arrangement and it is undesirable to increase the number of dwellings that would need to be serviced in such a manner. The difficulty of access for large vehicles suggests that the reported problem of visual and physical clutter from the presentation of bins for collection would be likely to worsen.

There is no highway restriction to parking within 15m of a dropped kerb, whereas such a restriction would apply to the more suitable bell-mouth junction.

Policy LP29 of the Submission Version of the Emerging Local Plan requires that all developments should consider what improvements can be made to encourage safe and fully accessible walking and cycling. The access arrangements here, given the reliance on a shared surface, do not sufficiently encourage safe and fully accessible walking and cycling.

The Highway Authority view that the site requires a bell-mouth junction is supported and the highway safety concerns surrounding the proposed access arrangements are considered to be of such significant weight as to justify the refusal of the application.

In response to the point raised by the Parish Council concerning the need for an A5 pedestrian crossing, it should be noted that this is not identified by the Highway Authority as a development requirement.

d) Amenity and Density

The site is of an adequate extent to enable the provision of 9 new dwellings with good standards of residential amenity for occupiers of new dwellings. Surrounding dwellings have good sized rear gardens and development on the application site is unlikely to result in such levels of overlooking or loss of privacy that the refusal of planning permission would be justified. Indeed, the site is large and it is likely that the proposed new dwellings would themselves stand in good sized plots. Occupiers of property have no entitlement to views across the property of others. Concerns about loss of views cannot therefore be substantiated as a reason for the refusal of planning permission.

The site is surrounded on all sides by existing dwellings or new dwellings under construction and in the near vicinity of a major road. The loss of this site to development is unlikely to have any significant impact on the darkness of skies in the locality.

Concern is expressed that the development would not be an efficient use of land, achieving a density which is approximately half of the proper density to make efficient residential use of the land. It is recognised that the reduced density is a direct consequence of the constraints presented by the accessibility of the land. It is not considered that it would be reasonable to seek to resist the application on these grounds. Arguably, the lower density development of the land would be of more benefit than leaving the land as a 'trapped' area of land with residential development surrounding it on all sides.

Harm to amenity from the proximity of the roadway to the dwellings which flank it (20 and 20A Spon Lane) is discussed above, however, with the exception of increased disturbance from the proximity of the road to the two adjacent dwellings, there are no significant amenity based reasons that weigh against the proposal.

e) Drainage and Flooding

In consideration of the development of this land in recent years it has been established that Severn Trent Water offers no objection in principle to the development of this land. It would require the submission of detailed drainage plans for the disposal of surface water and foul sewage as a requirement of a condition of any planning permission.

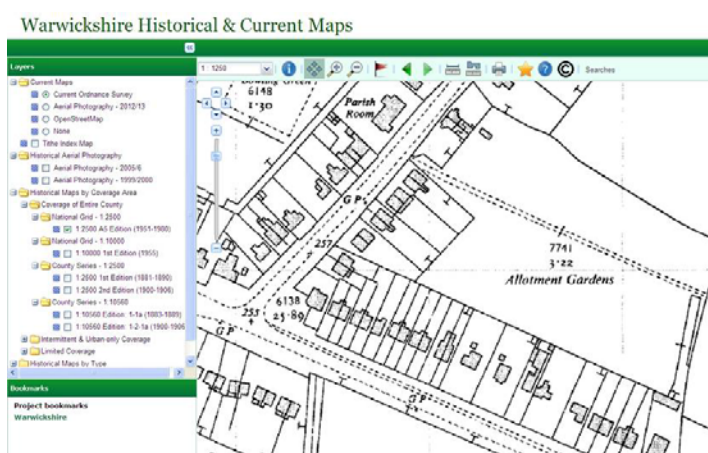
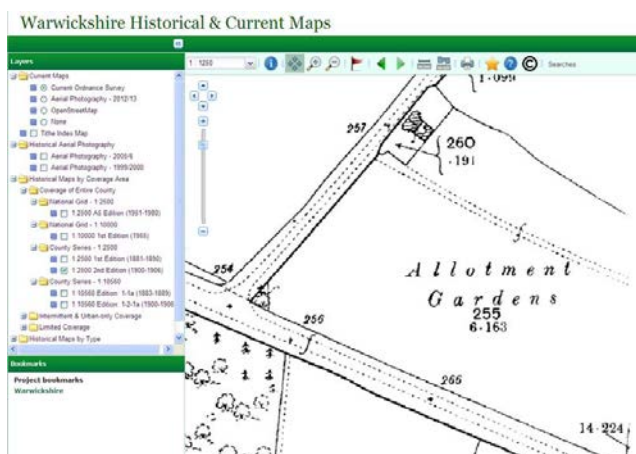
On the basis of the incorporation of a sustainable drainage scheme within the open space, including attenuation ponds, swales, etc. as well as permeable paving throughout the development and that French drains and water butts will be provided in the residential areas the LLFA has previously confirmed that the matter could be dealt with as a condition. There are no significant flooding or drainage based concerns that weigh against the proposal.

f) Affordable Housing

Policy NW6 of the North Warwickshire Core Strategy Adopted October 2014 sets out policy in respect of affordable housing. It indicates that for schemes of between 1 and 14 inclusive units 20% affordable housing provision will be provided. This will be achieved through on site provision or through a financial contribution in lieu of providing affordable housing on-site (calculated using the methodology outlined in the Affordable Housing Viability report or subsequent updated document and is broadly equivalent to on-site provision). However, since policy adoption, Government Guidance has identified that there are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale development. This follows the order of the Court of Appeal dated 13 May 2016, which give legal effect to the policy set out in the written ministerial statement of 28 November 2014. It sets out that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floor space of no more than 1,000 square metres. Though the application seeks only 9 dwellings, the site area is very large for the number of dwellings. There is a high probability that gross floor space will exceed 1,000 square metres. This however will not be apparent until the reserved matters stage of the application. If the application is supported it would be appropriate to attach a condition requiring the submission of a scheme for the provision of affordable housing in the eventuality that the scheme proposes gross floor space of 1,000 square metres or more.

g) Other Matters

The application site is, in part, an allotment garden. It has a very long history of such use. It is shown on the 1900-1906 map and 1951-1980 map as such – see map extracts below.



The Council has undertaken an audit of green spaces which included an audit of allotment land in each settlement. The Audit (dated 2008) established that the settlement of Baddesley Ensor and Grendon had an under supply of allotment land, although there are other allotment sites in the settlement.

The NPPF sets out the following:

96. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

97. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss of the current or former use.

Given the specific needs assessment that has been undertaken and the finding of an existing under provision, as well as the value attributed to the allotments by local people, the applicant was asked to show how the loss of allotments here would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location if the current allotments are to be built on.

The applicant has submitted evidence to show that the allotments are not statutory allotments. That issue has never been in contention. It is agreed that they are not statutory allotments.

The issue is that the development of this land would lead to a loss of allotments/allotment opportunity. The application has been revised in recognition of the loss of the allotment land to provide a fairly substantial area of open space, though not of an equivalent size to the allotment land, nevertheless are reasonably large area that can be accessed by occupiers of both the proposed dwellings and, potentially, others living in the area. Given the presence of other allotment opportunities in the settlement, the date of the Green Spaces Audit and the provision of compensatory open space, it is deemed unlikely that a reason for refusal based on the loss of allotment land could be sustained.

The Council's Environmental Health Officer advises that the proposed development is on land which comprises turn of the century (last century) allotment gardens. Allotment practices are known to have the potential for contamination of the land with regard to use of asbestos containing materials, heavy metals, PAH contamination and hydrocarbon contamination as a minimum. As a consequence there is a recommendation in the event that permission is granted for the development that a site investigation is carried out on the land. This matter can be addressed by conditions and there are no ground condition matters that would suggest against the grant of planning permission.

The County Archaeologist advises that it is probable that this site has been in agricultural use since at least the medieval period. Whilst there are no known pre-medieval features known from the immediate vicinity of the site (other than the Roman Watling Street which runs to the south), this may be due to a lack of previous archaeological investigations across this area, rather than an absence of activity during the pre-medieval periods. There is the potential for the proposed groundworks to disturb archaeological deposits, including structural remains, boundary features and rubbish pits, associated with the occupation of this area during the medieval and later periods. The archaeologist does not object to the principle of development, but considers that some archaeological work should be required if consent is forthcoming. This should take a phased approach, the first element of which would include a programme of trial trenching. There is no archaeological reason that the site could not be developed for housing.

There is a representation concerning the fact that the application refers to access as the only matter applied for at this stage, with the 'new' housing area, along with the landscaped buffer are still technically only "indicative", and if permission is granted, it is at least possible that subsequent proposals will be submitted to develop the whole site to maximise its potential. This is a matter which could be clarified by a condition of any outline consent. It would be appropriate to attach a condition defining the developable area and specifying the maximum number of dwellings. Similarly, for reasons relating to the loss of the allotments, it would be appropriate to condition the requirement for the area of open space and defining its extent.

In respect of the ecology of the site, the Warwickshire Wildlife Trust advises that the surveys are adequate to inform decision making for this site. As no Great Crested Newts or reptiles were found, there is a very low risk of an offence resulting from this development. She notes however that the ecologist has recommended some working practices which should be followed as a precaution and she suggests that it would be advisable to include that these be followed as a condition if planning permission is granted.

The presence of trees on the site is noted. It would be appropriate to retain and incorporate them within the development proposal. Given the low density proposed there is ample opportunity for this to be achieved.

No matters in respect of the use of the site as an allotment, ground conditions, archaeology or ecology present any issues that weigh against the proposal that could not be addressed by appropriate conditions.

h) Interim Conclusion

Notwithstanding the presumption in favour of sustainable development and the benefits derived from the provision of needed housing, for the highway safety concerns set out above, it is considered that the proposals on this site may not be supported.

i) Equality Duty Effect of the Proposed Development on the Health of the near neighbour

It is however further necessary to address whether the decision should carry an additional reason for refusal based around the health concerns identified in respect of the near neighbour.

The Council has once before considered the development of this site in the context of meeting its Equality Duty to the circumstances of the near neighbour. On that occasion the Council sought the opinion of Counsel.

The advice was that as a matter of principle, personal circumstances are always present in the background to the consideration of the character of land use, but may sometimes be given direct effect in development control as an exceptional or special circumstance, and that the health needs of the resident are capable of being a material consideration. The weight to be attached to any given material consideration is a matter for the decision maker. Being a relevant material consideration, however, does not necessarily make it a determinative matter. Even if the Council concludes that the construction period upon permission would cause material harm to health, it does not follow that the application should be refused. This is but one matter in the weighing scales and will have to be weighed against the various benefits of the proposal. There is no cause to differ from this approach.

Nor is there any cause to differ from the conclusions drawn on the previous occasion. There is clearly some evidence to support the risk to the residents' health and enjoyment of property from the proposed development, primarily in the short term whilst the permissions are implemented. However, advice from Counsel is that this needs to be weighed against the mitigation that may be possible and the benefits of the proposal.

There is plainly a very great public interest in providing much needed housing. Increasing the supply of housing has been at the forefront of the government's planning reforms in recent years. Many people in the borough are disabled and may be aggravated by building work; however, in the normal course of events one would not expect that their sensitivity would be a cogent and defensible ground to prevent development.

The characteristics of the resident's home remain largely unchanged (save that the dropped kerb vehicular access to the property has been regularised). The character of the proposed development remains the same and the character of the locality remains largely the same, being semi urban, the property fronts a reasonably busy 'D' road and is only 100m distant from the A5 trunk road. If anything the urban character has been reinforced by the development of new large scale housing in the near vicinity. The baseline of the locality is site not a quiet rural location.

It is recognised that the occupier may be obliged to alter patterns of behaviour by, for example, avoiding relaxing in the garden during busy days of construction work (when the wind is blowing in an unfavourable direction). However, the impact could be mitigated by a sympathetic construction management plan and good communication between the house builders on the ground and the occupier so that warnings can be given when particularly "dusty" activity is to be undertaken and planning undertaken so that this activity occurs. The Council's Environmental Health Officer recommends that a planning condition be attached to any planning permission to make this a formal requirement.

The Council's advice was that in order to give significant weight to this matter, there would have to be concrete and cogent evidence that the building work would give rise to unacceptable harm to the health of the resident after one has taken account of sympathetic management and good consultation. The fact that for a number of days, or indeed weeks, the occupier has to stay in doors with the windows shut to prevent the ingress of dust is unlikely to be sufficient to justify the refusal of permission. Mere inconvenience is not enough. The fact the claimant's convalescence could be aided by living in a peaceful ambience devoid of building work is again not enough.

The applicant has been asked to consider the equalities implications of the proposal and the mitigation that can be afforded. The applicant accepts the need for the construction to be suitably managed and will prepare a Construction Management Plan that will help minimise any negative impacts during construction. An Outline Construction Environmental Management Plan has been submitted. The CEMP would address the monitoring of noise and dust. The applicant accepts that a monitoring regime will be set up as part of the CEMP and that this regime may include penalties for non-compliance. The plan will ensure all existing residents and visitors can safely and conveniently maintain access to their dwellings throughout the construction period.

It is recognised that the ongoing access arrangements, being a relatively constrained vehicular and pedestrian route positioned close between existing dwellings, will create general disturbance amenity issues and this is reflected in the proposed reason for refusal concerning the unsatisfactory access arrangements.

In conclusion, whilst the health of the occupier is a material consideration, it is not a factor which should be afforded overriding weight in respect of the principle of development on the application site. The Equality Duty is deemed to have been addressed in that due regard is taken to the circumstances of the near resident in the approach to the construction phase and that, given the circumstances of the

development and characteristics of the locality of the resident with the protected characteristic is not deemed to be unduly disadvantaged such that the scheme should be resisted and its potential benefits outweighed.

Recommendation

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

“It has not been shown that the proposed access arrangements are safe and suitable for the scale of the proposed development and its associated traffic generation. The access arrangements are particularly unsuitable for the access and egress of large vehicles that would be required to service and visit the proposed dwellings. The reliance on use of a dropped kerb at the junction of Willows Lane and Spon Lane would be likely to create conditions detrimental to vehicular and pedestrian safety, including mobility impaired road users. The constrained access arrangements positioned between the side elevations of two existing dwellings would be likely to give rise to harm to amenity from disturbance. The development would thus be contrary to Strategic Objective 6 and Policy NW10 of the North Warwickshire Core Strategy 2014; Policy ENV14 of the Saved North Warwickshire Local Plan 2006, Policies LP29 and LP32 of the North Warwickshire Local Plan Submission Version, March 2018 and the provisions of Paragraphs 108 and 110 of the National Planning Policy Framework, 2018.”

Notes

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues and suggesting amendments to the proposal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed because of the inherent limitations of the site. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0209

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	Local residents/objectors	149 Representations	Various
3	Environmental Health Officer	Consultation Response	4/7/18
4	Planning Archaeologist, Warwickshire Museum	Consultation Response	13/7/18
5	Warwickshire County Council Highways Authority	Consultation Response	Various
6	Grendon Parish Council	Representation	16/11/18
7	Waste and Transport Manager	Consultation Response	1/9/18
8	Fire Authority	Consultation Response	17/7/18

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.

(2) Application No: PAP/2018/0216

5 Willows Lane, Grendon, CV9 2QG

Removal of pond and construction of 3 bed house with double garage and parking, for

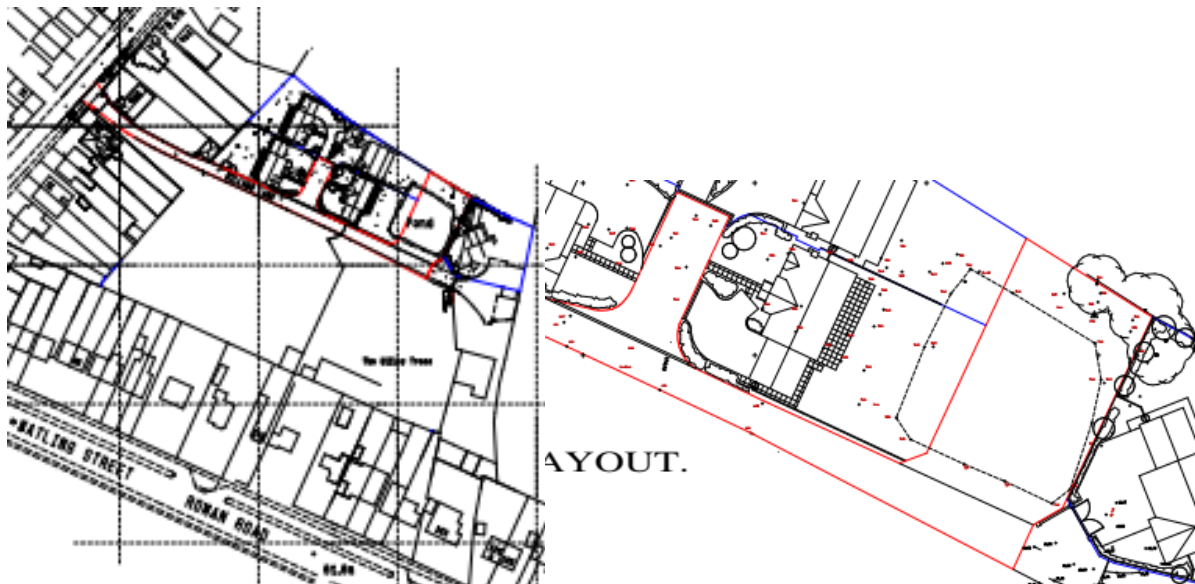
Daniel Swift

Introduction

The application is reported to Board in light of the receipt of representations, because of association and commonality with another application on the agenda (PAP/2018/0209) and given the planning history of application sites in the near vicinity.

The Site

The site forms part of the rear garden to a recently constructed dwelling. The garden contains a large pond. The scheme proposes the infill of the pond and the proposed dwelling would be constructed at the position of the pond.



The site is shown on the following photographs:



Looking in an easterly direction



Looking in a westerly direction



Looking in a northerly direction towards the homes on the newly built Bellway Estate

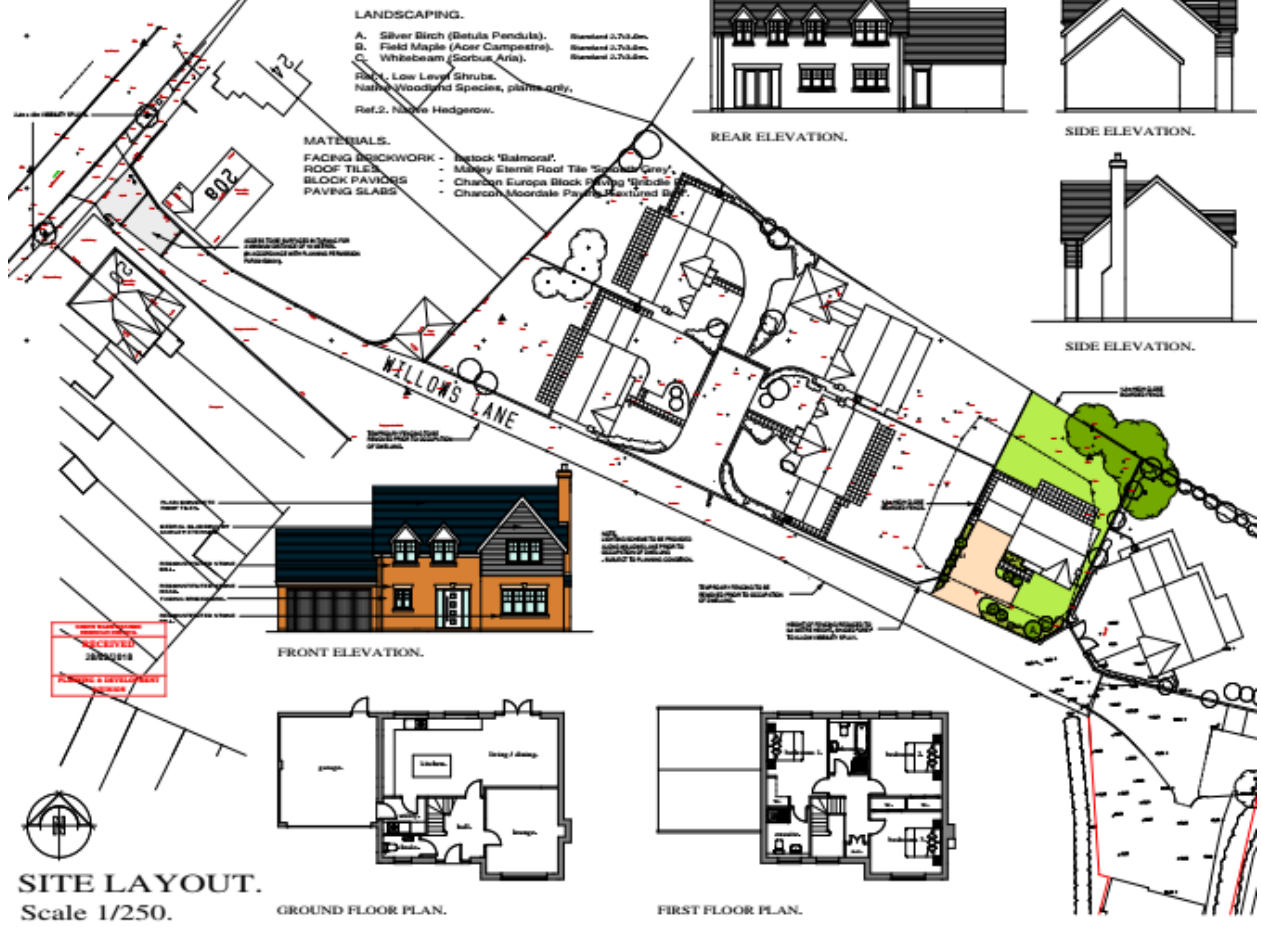


Looking towards the site on Willows Lane (site on left hand side of the image behind the house in the foreground)

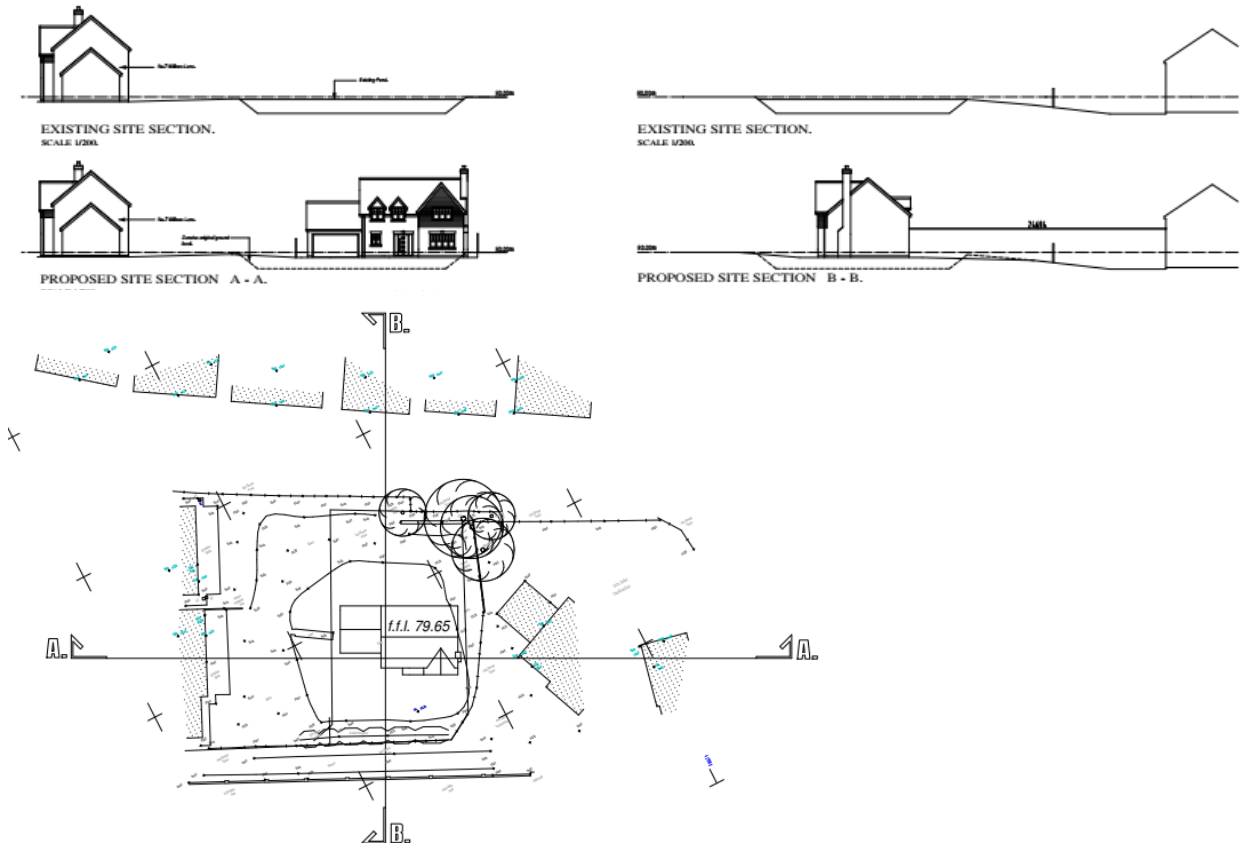
The Proposal

The development proposes the removal and infilling of the pond and the construction of a 3 bed house with double garage and parking, as shown below.

SPON LANE, GRENDON.



The existing and proposed cross-sections of the land are shown below



Development Plan

The North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment) and NW15 (Nature Conservation)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV6 (Land Resources); ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ECON1 (Industrial Estates) and TPT6 (Vehicle Parking)

Other Relevant Material Considerations

Government Advice: National Planning Policy Framework 2018 (the “NPPF”).

The National Planning Practice Guidance

The North Warwickshire Local Plan Submission Version, March 2018 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP6 (Amount of Development), LP7 (Housing Development), LP8 (Windfall), LP9 (Affordable Housing Provision), LP16 (Natural Environment), LP31 (Development Considerations), LP32 (Built Form), LP35 (Water Management), LP37 (Renewable Energy and Energy Efficiency) and LP39 (Housing Allocations)

Consultations

Warwickshire County Council Highways Authority – Objects to the application

Tree Officer - No objection.

Environmental Health Officer - Suggests limited construction hours and suggests best practicable means shall be employed at all times to control noise and dust on the site, with a construction management plan agreed.

Lead Local Flood Authority – No objections.

Representations

Grendon Parish Council expresses concerns regarding this application due to the flooding and drainage issues in the area such as those experienced with the Bellway site and that there will be an adverse impact on the road and traffic island on the nearby A5; volume capacity on the A5 and Spon Lane and the said traffic island are already over projected limits. Also there is no pedestrian access to the proposed development.

Eight letters of objection have raised the following concerns:

- Loss of light as a result of being on land which is elevated above neighbours.
- Property privacy will be compromised and to reduce loss of privacy existing trees should be left in place.

- The pond is natural drainage and there are drainage issues in the locality.
- Fears are expressed about the number of dwellings being proposed on the site and adjacent land.
- Willows Lane has gone from 1 to 6 houses in the space of 3 years yet the access is still poor and to add further housing will add to highway safety concerns for all users. Further incremental creep in the number of dwellings served by Willows Lane is a concern. You cannot keep adding 1 or 2 extra houses without a proper access that has good visibility and safety for all pedestrians and local people.
- The development would bring increased risk to a nearby resident who has ill health disability. If development is approved it should be subject to a construction management plan which addresses the particular limitations and requirements of the near neighbour.
- Bins already accumulate for the existing properties within the access and junction with Spon Lane. This will only increase further as more houses are added.
- Service and delivery vehicles reverse the full length of this lane to access properties. In doing so they cause damage to surrounding footways in Spon Lane and in many cases use the full width of opposite footways when turning. This is a wholly unacceptable practice that can only ever be relieved by having a proper adoptable standards road. A road we know applicants do not have the width for and means that no further applications should be supported in this location.
- The pond has been there a long time and as such is a wildlife habitat. Its loss is opposed.
- Amenity concerns - overlooking, loss of privacy, shading to neighbouring gardens, overbearing impact to current residents & nuisance from more occupiers.
- The bin lorries refuse to enter Willows Lane as it is not ideal for their vehicle. Therefore we already have a number of bins each week at the junction with Spon Lane and this will increase when houses 6 & 7 are added. A separate collection by a smaller vehicle is an unnecessary extra expense for NWBC.
- The site is not allocated for housing in the Development Plan.

Observations

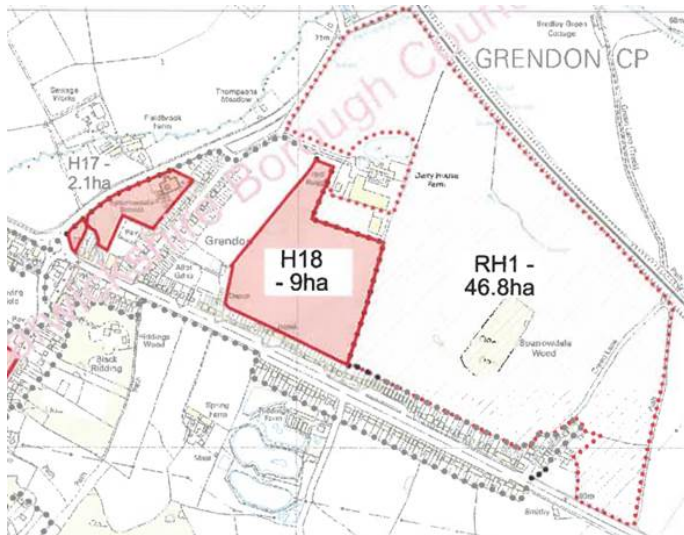
a) Principle of Development

The site is beyond, but adjacent to, the development boundary identified for Baddesley and Grendon in the 2006 Saved Local Plan and the 2014 Core Strategy

Policy NW2 of the 2014 Core Strategy indicates that in Local Service Centres (outside of Green Belt) development will be permitted in or adjacent to development boundaries that are considered to be appropriate to its place in the settlement hierarchy. The development here would be, not only be adjacent to the development boundary but is also now surrounded on all sides by substantial quantities of other housing development (the other development on Watling Street, Willows Lane and the Bellway Homes sites). The land therefore no longer serves any 'open countryside' function. It is garden land to an existing dwelling. The development of one house is considered to be appropriate to the place of Grendon in the settlement hierarchy.

The Emerging Local Plan (currently being examined by the Planning Inspectorate) proposes to substantially extend the development boundary on this side of Grendon to incorporate the land marked H18 and RH1 (below) into the development boundary, indeed planning permission has now been granted for the development of the land with

housing. This settlement expansion would leave this site more distinctly as an 'infill' development site.



Recent appeal decisions (Daw Mill and Ansley Phase 2) have established that Development Plan policy in respect of development boundaries, is currently out of date. In this context, and in the context of the presumption in favour of sustainable development, it would not be appropriate to resist the principle of the development based on locational factors.

b) Housing Land Supply

Though the Council can presently evidence a 5 year housing land supply (5.5 years at March 2018 using the Sedgefield approach taking into account both windfall and expired / lapsed rate allowances with a 5% buffer), because of the conclusion above, that the site would be a sustainable location for the development of new housing and given the out of date status of policy in relation to development boundaries, the NPPF guides that there should be a grant of planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The NPPF (paragraph 68), in consideration of identifying land for homes, recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. It indicates that local authorities should support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes. This site would fit with this objective.

The application will be assessed to establish whether there are any adverse impacts from the grant of planning permission that would significantly and demonstrably outweigh the benefits of the proposal, but it will not be resisted in principle because of the sites location beyond the former out of date development boundary or the current evidence of a five year supply of housing land.

It is necessary to assess the specifics of the proposal in term of impacts, such as highway, amenity, ecology impacts, to establish whether there are any adverse impacts of, or deficiencies in, the application proposals that outweigh the NPPF objective of boosting the supply of housing.

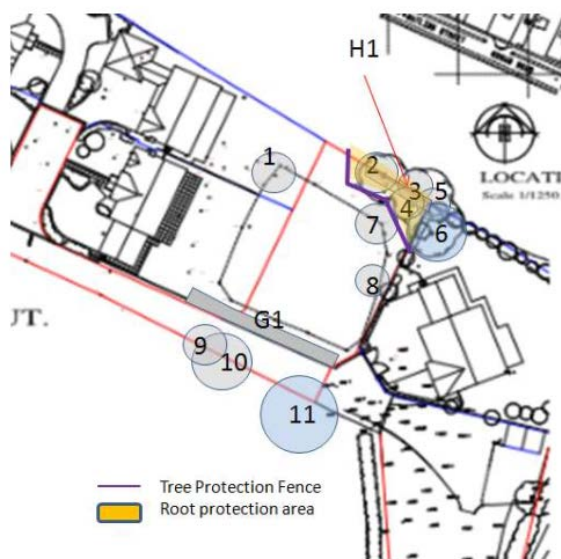
c) Amenity and Design

The design of the proposed dwelling would be in keeping with others recently built on adjoining land and would be generally in keeping with the locality. There would be reasonable separation distances between the application dwelling and adjacent neighbours such that overlooking and loss of privacy did not result to any significant degree.

The proposed new dwelling and the original dwelling would each retain adequate amounts of private amenity space and appropriate space standards in the accommodation.

The applicant declares an intention to retain existing on site tree which will continue to provide for privacy screening. The submitted tree protection plan is shown below. Additional landscaping could be a conditional requirement of planning permission.

4.2 Tree Protection & Ground Protection: The tree protection plan is shown below:



The provision of off road car parking will be adequate of the parking needs of new occupiers.

Though the pond is attractive, it is a man-made feature, not a natural formed pond. Its loss would not cause significant harm to biodiversity given the absence of protected species. The proposal could not be resisted on the basis of the loss of this feature.

d) Flooding and Drainage

The site is unusual in that it largely consists of a body of water. In the knowledge of recent drainage difficulties on the adjacent Bellway Homes site and given the need to establish how the displacement of the waters within the pond would be addressed, the applicant was requested to submit an assessment of surface water drainage implications. This was presented in the form of an Engineering Statement and the Lead Local Flood Authority was consulted. The Flood Authority has a good background knowledge of the drainage environment locally, given its involvement in remedying the difficulties experienced at the neighbouring site.

The Lead Local Flood Authority advises that based on the information in the submitted Engineering Statement, including specifically the topographic survey of the pond showing no inlet or outlet structures, it would be satisfied with the proposed development. The water currently within the pond is detailed to be bowsered away from

the site, and therefore would not increase flood risk in the area. However, if during construction any structure is discovered that would suggest the pond does have any inlet or outlet, this should be reported to the LPA immediately and a scheme to manage any flows put in place. This could be added to any construction management plan as a trigger for informing the LPA, to ensure the Engineering Statement proposals are complied with.

e) Highway Safety

The application site is proposed to be accessed from Spon Lane via Willows Lane. The application site provides for off road car parking within the application site in the form of garaging and a hard surfaced parking turning area. The on-site turning area is only suitable for cars, not for any visiting larger service vehicles. For service vehicles, including refuse/recycling vehicles, the application proposes the use of the turning area at the adjacent development of four dwellings (which remains in the ownership and control of the applicant). This is approximately 30 metres distant from the entrance to the proposed new dwelling. It is probable that vehicles may have to reverse this distance if delivering or collecting heavy goods. The applicant suggests that occupiers of the proposed dwelling would take their waste receptacles this distance for collection.

Development Plan policy seeks to ensure that development provides for proper vehicle access, parking and manoeuvring (Core Strategy Policy NW10) and in respect of back-land development such as this access arrangements should not cause adverse impacts to the character and appearance, safety or amenity of the existing frontage development Submitted Plan Policy LP32. Additionally, the 2006 Saved Local Plan Policy ENV14 indicates that development will only be permitted where vehicular access to the site is safe and the local road network is able to accommodate traffic to and from the development without problems of congestion, danger or intimidation caused by the size or number of vehicles, and without adversely affecting the character of the surrounding environment.

The NPPF also sets out that development should ensure that safe and suitable access to the site can be achieved for all users (Para 108) but it guards (Para 109) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. It indicates (Para 110) that development should give priority first to pedestrian and cycle movement, address the needs of people with disabilities and reduced mobility, create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards; and allow for the efficient delivery of goods, and access by service and emergency vehicles.

The Highway Authority objects to the application, giving the following reason:

The existing access arrangements are not considered suitable for the purpose intended. The increased use of the access could result in an increase in risk of conflict between vehicles (especially HGV's) and pedestrians, and could cause further damage to the fabric of the public highway.

Initially the Highway Authority objected to the application on the basis of a DfT guidance moratorium on the use of shared surfaces. However, the DfT has now provided further clarification on shared space, so the previous reason for objection is considered to have been overcome. However, since the last consultation further information and considerations have been made to the other current application in Willows Lane:

PAP/2018/0209. Warwickshire County Council's Safety Team was asked to look at the access arrangements it indicated an in principle concern at the prospect of a private access serving any more than around 6 No. dwellings and that the currently proposed lane/footway interface gives no encouragement for vehicular traffic to give way to footway users.

Based on advice from the Safety Officers the Highway Authority the existing dropped kerb access is not considered suitable. It points out that there still appears to be an on-going issue with servicing on site. There have been differing reports on the size of vehicles collecting refuse and recycling from the existing dwellings. What is clear is that large vehicles using the access are over-running the dropped kerb opposite the access significantly. The Highway Authority has provided photographic evidence of this. And the swept path analysis provided for planning application PAP/2018/0209 shows that large refuse / recycling vehicles have to drive over the footway opposite the access to the site.

The Council's Waste and Transport Manager advises that the service has had to move away from the preferred, standard size of refuse vehicle for the collection of wastes from the six dwellings currently along Willows Lane. The large, standard vehicle was stopped from using the lane because of its condition. This is less than satisfactory because the smaller vehicle is not designed for the collection of recycling. It requires additional separation and is not cost effective or sustainable long term. The service advises that it needs to be able to access with a 26 tonne vehicle. The view of the transport manager is that the dropped kerb would be at risk of damage from use by refuse trucks of this size. Street lighting availability affects the safety of refuse collection (7am start in winter months).

The Highway Authority has supplied the photograph below to illustrate the nature of the highway/footway damage being caused by larger vehicles accessing the site. It points to the fact that large vehicles need to dry steer on the dropped kerb and this inevitably causes damage.



In addition the Safety Team made the following comment:

“There are no restrictions on vehicle parking along Spon Lane, so a legitimately parked vehicle on Spon Lane could seriously interfere with movements of larger vehicles (Refuse Vehicles, delivery vehicles, furniture removal vehicles).” The number of refuse vehicle movements may not increase, but arguments can be made that currently or historically smaller refuse vehicles have serviced the site. However, other deliveries and collections to the site could increase. The only way to ensure large service vehicles can safely and correctly enter and exit the site is to provide a suitable bellmouth. But this cannot be provided due to restricted access width and an existing vehicular access to No.20 Spon Lane.

In short, the access arrangements are not of an adequate standard, such that further intensification of use of Willows Lane is inappropriate from a highway safety and pedestrian safety perspective.

f) Other Matters

A Phase One Ground conditions survey establishes that there is no evidence of significant contamination has been found at the site and there is no evidence to suggest migration of contamination from the adjoining former depot. The construction of the pond is uncertain but it is likely that some organic materials are present in the base of the pond. It would be considered appropriate to remove such materials prior to backfilling of the pond. This would remove any potential sources of ground gases. In removing the pond care should be taken to ensure any drainage into or out of the pond is maintained or re-routed.

The applicant's Engineering Statement evidences that the proposed dwelling can be constructed without adverse ground stability consequences.

The application is accompanied by a Great Crested Newts Survey which found that it is very unlikely to be a population of great crested newt in the pool, and only common amphibians were recorded. The presence of large numbers of coarse fish make these pools highly unsuitable for breeding great crested newts and few invertebrates were present.

The application, if granted, could be the subject of a Construction Management Plan to address the potential harm to occupiers of neighbouring dwellings, including the occupier of a nearby dwelling who has a health condition which is particularly susceptible to harm from dust particulates.

The development would be below the threshold for the provision of affordable housing or other tariff based contributions.

No matters in respect of the use of the ground conditions or ecology present any issues that weigh against the proposal that could not be addressed by appropriate conditions.

g) Conclusion

Notwithstanding the presumption in favour of sustainable development and the benefits derived from the provision of needed housing, for the highway safety concerns set out above, it is considered that the proposals on this site may not be supported.

Recommendation

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

“It has not been shown that the intensification of use of the existing access arrangements would be safe and suitable for the additional dwelling and its associated traffic generation. The access arrangements are particularly unsuitable for the access and egress of large vehicles that would be required to service and visit the proposed dwelling. The reliance on use of a dropped kerb at the junction of Willows Lane and Spon Lane for an increased number of dwellings would be likely to create conditions detrimental to vehicular and pedestrian safety, including mobility impaired road users. The development would thus be contrary to Strategic Objective 6 and Policy NW10 of the North Warwickshire Core Strategy Adopted October 2014, Policy ENV14 of the Saved North Warwickshire Local Plan 2006, Policies LP29 and LP32 of the North Warwickshire Local Plan Submission Version, March 2018 and the provisions of Paragraphs 108 and 110 of the National Planning Policy Framework, 2018.”

Notes

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues and suggesting amendments to the proposal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed because of the inherent limitations of the site. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0216

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	Grendon Parish Council	Representation	25/6/18 19/7/18
3	Warwickshire County Council Highways Authority	Consultation Response	3/7/18 21/12/18
4	Tree Officer	Consultation Response	3/9/18
5	Lead Local Flood Authority	Consultation Response	5/11/18
6	8 Local Residents	Representations	Various

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.

(3) Application No: PAP/2018/0239

Caldecote Hall Estate, Caldecote Hall Drive, Caldecote, CV10 0TW

Erection of 2 no: houses with 2 no: air source heat pumps, for

Mr Heaton

Introduction

This application was referred to the December Board meeting but determination was deferred in order to enable Members to visit the site. A note of this visit is at Appendix A.

The previous report is attached at Appendix B.

In order to assist those Members who did not attend the visit, the following plans were shown at that time:

- The layout of the former estate buildings – Appendix C
- The elevations of these buildings – Appendix D – particularly elevation B
- The first redevelopment scheme – Appendix E – showing the new houses and office conversion
- The approved elevations of the office conversion – Appendix F – particularly elevation B
- The subsequent approval for two houses in lieu of the offices – Appendix G – particularly the top elevation
- The current application – the layout and particularly the bottom elevation at Appendix H

Observations

Members at the December meeting expressed the view that the proposed unit on plot 7 should have a more traditional design in order to reflect the transition between the established buildings on site and the modern new houses. That view was reflected at the visit and officers were asked to follow this through with the applicant. A verbal update will be given at the meeting.

Recommendation

In the interim, the recommendation to the Board remains as set out in Appendix B

PAP/2018/0239

Caldecote – Site Visit - 22 December 2018 at 1030

Present: Councillors L and N Dirveiks; M and D Humphries, Phillips and Simpson together with J Brown

1. Members met at the end of Hawcutt Drive.
2. Here they were shown plans of the former estate works buildings and plans for the initial redevelopment proposals. These included the new detached houses as well as the first proposal to convert the buildings on the current application site to offices. They were then shown the second proposal which was to demolish and add two houses in lieu of the offices but to retain a continuous frontage between the two houses. The current proposals for two alternative detached houses were shown and comparisons with the approved were pointed out.
3. Members then walked down Hawcutt Drive and viewed the detached houses as well as the one that reflected some of the original buildings' features.
4. Members saw the buildings on the current application site and noted the single storey ranges and changes in ridge heights. They walked along the drive up to the main Hall access. Here they looked back at the site and also they viewed the collection of mews houses close by.
5. They then returned to Hawcutt Drive via Caldecote Lane and here they saw the row of terraced cottages
6. The visit ended at around 1100

General Development Applications**(#) Application No: PAP/2018/0239****Caldecote Hall Estate, Caldecote Hall Drive, Caldecote, CV10 0TW****Erection of 2 no: houses with 2 no: air source heat pumps, for****Mr Heaton****Introduction**

The proposal is presented before Members of the Planning and Development Board as a consequence of local Members concerned about the design of the scheme.

The Site

The application site relates to part of the former Caldecote Estate Works which are located immediately adjacent to Caldecote village accessed via a private track from Caldecote Road. Caldecote Road runs east to Weddington Lane, (A444) approx. 500m in distance.

In 2011 planning consent was granted for the redevelopment of the site, which other than the area subject to this application, has been implemented and built out. The whole area once comprised of a variety of light and general industrial, storage and distribution, and sui generis uses. The original scheme was amended in 2013 and a recent application in 2016 sought to further amend the approved proposal, but just for the area subject to this application.

There is a collection of mews and terraced properties to the west of the site. To the east is open space which can be viewed from Caldecote Lane which is characterised with residential terraced properties and semi-detached properties. A number of mature trees are located to the south of the site.

The application site lies within open countryside, as identified on the North Warwickshire Core Strategy 2014 together with the North Warwickshire Local Plan 2006, as saved and emerging Local Plan Submission, 2018.

Application site photographs can be viewed at Appendix A.

The Proposal and Amendments

The application seeks permission for the erection of two houses, both with air source heat pumps.

The application seeks for the amendment of a previously granted scheme for the erection of two detached dwelling houses, access and parking bays. The extant permission was granted in April 2017 under planning reference PAP/2016/0589 (see Appendix B). The major difference is that the dwellings are now proposed as two separate dwellings with the dwelling at Plot 6 to match in modern design with the dwellings at No.'s 2-5.

Plot 7 resides to the rear of the proposed dwelling at Plot 6, both dwellings would obtain access from Hawcutt Drive. The design of the proposed dwelling at Plot 6 has been redesigned to simplify the form and give connectivity to the surrounding area through a traditional coach-house style form and through the incorporation of reclaimed materials from the existing low long range barn that is present on the site See Appendix C.

The application is accompanied by a Design and Access Statement and a Phase 1 Ecology Survey.

Background

Relevant Site History

PAP/2011/0420 – Mixed use development to Caldecote Hall Estate Works, consisting of: 1. Extension & remodelling of existing offices, 2. Change of use from workshop to residential, 3. 3 no. new dwellings Granted 28 March 2012.

PAP/2013/0288 - Variation of condition no: 2 of planning permission PAP/2011/0420 relating to new plans, reduction in size of plots 1, 3 & 4, reduction in size of office block, 1 no: new dwelling; in respect of mixed use development to Caldecote Hall Estate Works, consisting of: 1. Extension & remodelling of existing offices, 2. Change of use from workshop to residential, 3. 3 no. new dwellings. Approved 14 October 2013.

DOC/2014/0065 - Approval of details required by conditions no. 4,5,7,8,9,11,12,14,16 and 17 of planning permission PAP/2013/0288 dated 14 October 2013 relating to Phase One ground conditions survey, measures under condition 4, facing materials, including bricks, tiles cladding and window frames, ground surfacing materials, woodland management scheme, bat detection survey, construction and drainage of surfaces, a-f of Condition 13, mechanical wheel wash foul and surface water and screen wall/fence. Granted 20 October 2014.

PAP/2016/0589 – Erection of two dwellings. Granted 10 April 2017.

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment) and NW15 (Nature Conservation)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV1 (Protection and Enhancement of the Natural Landscape); ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT 1 (Transport Considerations) and TPT6 (Vehicle Parking)

Other Relevant Material Considerations

National Planning Policy Framework, 2018 – (the 'NPPF')

The Submitted North Warwickshire Local Plan 2018 - LP1 (Sustainable Development); LP16 (Natural Environment), LP31 (Development Considerations), LP32 (Built Form) and LP36 (Parking)

Consultations

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

Environmental Health Officer – No objections

Warwick Museum – No comments received.

Natural England – A further bat survey will be needed which should recommend appropriate mitigation measures.

Representations

Amalgamated objection received from local community:

- The approved design (under planning reference PAP/2016/0589) is preferred, as the elevation that faces the village and the main drive is more "cottage" like and a better looking aspect.
- The facing aspect of the proposed design is made up of end elevations that are not favourable.
- The existing buildings had the rear entrances facing into the courtyard, any future design should maintain this orientation.
- The elevations facing the village and main drive to the hall should be using reclaimed tiles and bricks and be of similar design to the first house recently developed (No 1 Hawcutt Drive).
- Keeping the original footprint of the buildings would be preferred there has already been an increase in height from the existing properties and have concerns with resulting being imposing.
- Concerns with the loss of light on immediate neighbour.
- Confirmation of the boundary and planting scheme between the south facing elevation and Hall Drive should be confirmed to avoid future debate.
- Possible Title issues

Observations

a) Principle of development

It is noted the principle of the residential development has already been ascertained under the extant planning reference PAP/2016/0589. The key considerations therefore would be the alterations in the design approach to formulate two separate dwellings; impact on neighbouring amenity and impact within the street scene.

b) Design and scale

Pre-application engagement and consultation was undertaken by the agent prior to a submitted scheme. Of key concern was for the proposal to maintain views through to the paddock area, whereby the approved 2016 scheme restricts these views from adjacent residents. Furthermore the previous scheme allowed for traffic to travel through the application site from Hawcutt Drive to Caldecote Drive.

The design of the dwelling at Plot 6 is sympathetic to the new modern dwelling houses approved with the previous redevelopment of the site. The design and proposed materials match those properties that have now been constructed in Plots 2-5. The materials here comprise of red brick under plain tiles with cedar cladding detail and render to match the existing modern dwellings. The proposed dwelling would respect the building line of the property at Plot 5 and would be no taller in height. The overall design takes design cues from the modern buildings. As such it is not considered that Plot 6 would have any significant harm on the wider street scene.

It was considered that the bulk and mass of the proposed dwelling at Plot 7 by way of siting and design would not reflect the character of the area or have any connection with the neighbouring mews type properties to the immediate west or the modern development as approved. It is acknowledged that the application site here is problematic with regards to according to the design principle of connectivity with the wider site.

Plot 7 would be sited to the southern part of the application site and to the rear of Plot 6 sharing access with Plot 6 from Hawcutt Drive. It was considered that together with the proposed siting and design that the dwelling would not have been compatible with the wider context and disconnect with the adjacent properties at Caldecote Mews see Appendix A. It is to note, however that the Mews properties have traditionally been separated and inward facing away from Caldecote Estate Works given the functionality of the historic uses at the site (See Appendix E). Furthermore with the redevelopment of the site, the modern design of the dwellings now along Hawcutt Drive were designed to be separated from the Mews and have no connections or communicable pathways into the Mews or other parts of the wider Caldecote Estate.

Notwithstanding the design principles, an amended scheme was undertaken which sought to refine the resulting form of the proposed dwelling at Plot 6 and following discussion with the Agent sought to incorporate more traditional design elements. This amendment is welcome and it is considered that it responds to officer and local concerns. The revised design of the dwelling house at Plot 6 is simplified with a traditional form and would be constructed out of reclaimed materials from the existing buildings at the site. Concerns have been made that the heights of the proposal would exceed the previously approved. It can be confirmed that the proposed heights of each dwelling would not be taller than the previously approved extant permission see Appendix D.

Furthermore concerns had been made in regards to the impact of the proposal on views from the village and the main drive and sought a more traditional 'cottage-like' character.

In response to the objections received, the alterations to the design of Plot 7 that face on to Caldecote Drive and the east elevation vistas have been improved and are considered to have a negligible impact on the character of the wider area. The re-design of the dwelling at Plot 7 would be traditional in form and read as a coach house style property. The revised design of Plot 7 is set back from the track that leads to the unlisted Caldecote Hall outside of an area of special control and is considered to be sympathetic to the street scene. It is noted that properties within the surrounding area are a mix of semi-detached, detached, terraced and traditional cottage dwelling houses in red brick and render.

Overall the mass of the scheme reading along the eastern elevation of the application site has been reduced. This assists in the sense of spaciousness for the proposal and most importantly retains views to the paddocks as desired by residents.

Policy NW12 of the Core Strategy, 2014 seeks for development to improve the individual settlements character; appearance and environmental quality of an area. It is not considered that the resulting elevation and overall design of the small scale property at Plot 7 would result in detrimental harm to the character of the area to warrant refusal of the application. The proposal would enhance the vacated buildings that are in disrepair and would reduce the mass of built form approved under the previous 2016 application.

c) Impact on Amenity

Overall it is not considered that the deviation from the previous form approved to two detached dwellings would result in a detrimental impact on the character of the wider area.

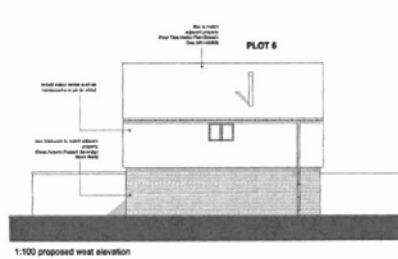
In regards to the impact on neighbouring amenity, the proposed dwelling in Plot 6 would be situated approx. 1.8m. This is a similar distance and spacing to the wider residential development at the site. The east elevation of Plot 5 (now No. 5) is a blank elevation. The proposed west elevation of the proposed dwelling proposes one opening to first floor which would serve a bathroom and as such would be subject to be obscure glazed to privacy level 3.

The proposed new dwelling at Plot 6 would not intercept the 45 degree angle for the purposes of Paragraph 2.22 within the Guide for the Design of Householder Developments, 2003, of any primary habitable rooms to the ground floor of the neighbouring property at No. 5 (See Appendix F).

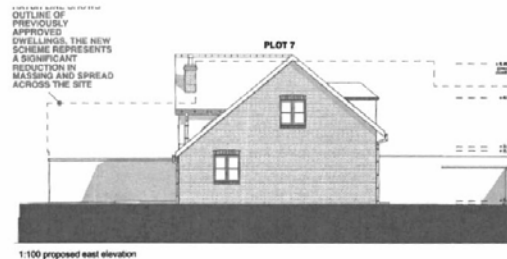
The proposed dwelling at No. 6 is not considered to have a detrimental impact on the neighbouring property to the north at No. 1 by way of overlooking, loss of privacy or overbearing impact. The proposed dwelling would be sited on a similar footprint to that of the extant consent. Furthermore no representations have been received.

Plot 7 would be positioned approx. 8.8m from the east elevation of No. 39 Caldecote Hall. The proposed dwelling has been set back from the boundary and would not have any increased harm to the neighbouring property by way overbearing impact or loss of light than the extant permission.

The west elevation of the proposed dwelling at Plot 7 proposes one opening to first floor which would serve and en-suite and as such would be subject to a condition to be obscure glazed to privacy level 3.



Proposed West Elevation of Plot 7



Proposed height of Plot 7 with outline of previously approved

d) Impact on Ecology

It is noted a bat licence has been granted for the period of 20 March 2015 to 17 March 2020 as a mitigation requirement under the originating redevelopment consents (planning references PAP/2011/0420 and Non Material Amendment MIA/2014/0021).

No Phase 1 or updated bat survey accompanied this proposal to determine the species and vulnerability that presently existing within the buildings proposed to be demolished. It is noted that the ecology surveys are out of date and bats were observed in both 2008 and 2014. A 'Bat Update Ecology' report has been prepared by a licensed ecologist and received 7 November 2018 by the Local Planning Authority.

It is noted in the report that the wider site has now been redeveloped with substantial exterior lighting which will impact both the front of the cottage and the flight path previously used by the brown long eared bats identified at the site. It is also noted that the archway over the roost entrance has now been demolished.

The report concludes that it appears that the brown long eared bats are no longer using the buildings as a maternity roost, although there is evidence that the bats are still using the buildings as day roosts. It is regrettable that the cumulative re-development of the wider site has contributed to these impacts on ecology.

A Habitats Regulations licence will be required before works can start at the site prior to disturbance of the cottage and barns since there is continued evidence of day roosts of bats. In *Morge v Hampshire County Council* [2011] UKSC 2 the Supreme Court considered how planning authorities should discharge this regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 (as amended). In his leading judgment, Lord Brown, at paragraph 29, stated that planning permission should be granted unless the planning committee concludes that the proposed development would both (a) be likely to offend Article 12(1) of the Habitats Directive; and (b) be unlikely to be licensed by Natural England pursuant to the derogation powers.

Natural England have been consulted on the application and updated ecology survey and considered the likelihood of granting an updated bat license is probable. It is not

considered that the presence of bats here present a legal obstacle to the recommendation of approval of this application.

Previous bat mitigation methods were required by way of a provision of a bat loft would therefore no longer be a requirement of a bat licence. Appropriate compensation for the loss of day roosts of common pipistrelle and brown long eared bats is the provision of cavity wall boxes in the new buildings as detailed in the report. Any recommendation for approval would seek a condition for these mitigation measures together with an informative advising the Applicant that a further license from Natural England will be required prior to the commencement of development at the site.

It is considered that the proposal would accord with Policies NW13 together with NW15 of the Core Strategy, 2014. These policies seek for the protection and enhancement of the ecological aspects of a development site.

e) Conclusion

Taken as a whole, this proposal would be sustainable development and as a consequence of amended plans, the issues that were raised previously have been overcome and the now lesser amount of development proposed has overall visual amenity benefits within the surrounding area than the previously approved scheme.

Recommendation

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

Standard 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 reference PAL.03A entitled 'Proposed Location Plan', PAL.02A entitled 'Proposed Site Plan', PAL.011A entitled 'Proposed Site Plan Plot 6 and 7', PAL.015A 'Proposed Elevations Plot 6', PAL.016A 'Proposed Elevations- Plot 7', PAL.018A 'Proposed Ground Floor Plot 7', PAL.019A 'Proposed First Floor – Plot 7' received 5 July 2018 together with Plans referenced PAL.012 entitled 'Proposed Ground Floor Plot 6' and PAL.013 'Proposed First Floor – Plot 6' both received 16 April 2018.

REASON

For the avoidance of doubt of what is permitted and to ensure the protection of designated trees.

Pre-commencement Conditions

3. No development shall be commenced before details of the facing materials comprising of brickwork and timber cladding, roofing tiles and surfacing materials used in the construction of the new dwelling hereby approved, have been submitted to and approved by the Local Planning Authority in writing. Development shall be carried out in accordance with the approved details.

REASON

In the interests of the character and appearance of the area.

4. Notwithstanding details contained in the application, detailed specifications and drawings of all external doors, windows (including cills and heads), eaves/verges, ridges and rainwater goods at a scale of not less than 1:20 including details of external finishes and colours shall be submitted to and approved in writing by the Local Planning Authority before development commences. The development shall be carried out in accordance with the approved details.

REASON

To ensure the architectural detailing of the buildings reflects the established character of the area.

5. The development shall be completed in accordance with the recommendations in the Section entitled 'Interpretation/evaluation of survey results' within the Bat Survey Update report dated October 2018 prepared by AMPA Associates Limited received by the Local Planning Authority dated 7 November 2018. All the recommendations and plans shall be implemented in full according to the specified timescales, as modified by a relevant European Protected Species Licence, unless otherwise agreed in writing by the Local Planning Authority, and thereafter permanently retained.

REASON

To ensure the necessary protection of Protected Species

6. No development shall be commenced on site until a turning area has been provided within the site so as to enable general site traffic and construction vehicles to leave and re-enter the public highway in a forward gear. The public highway shall not be used for the purposes of loading and unloading materials associated with the construction of the development.

REASON

In the interests of highway and traffic safety

7. No development shall commence until details of a hard and soft landscaping scheme has been submitted and approved in writing by the Local Planning Authority. The landscaping scheme shall detail species of plants and the materials to be used for any hardstanding at the site.

REASON

In the interests of the character and appearance of the area

Pre-Occupancy Conditions

8. No building shall be occupied until the parking and manoeuvring areas have been laid out. Such areas shall be permanently retained for the purpose of parking and manoeuvring of vehicles, as the case may be.

REASON

To ensure the provision of off-street parking in the interest of highway safety

On-going conditions relating to post-occupancy monitoring

9. In the event that contamination is found at any time when carrying out the approved development that was not previously known, it must be reported in writing immediately to the Local Planning Authority. Work should cease and an investigation and risk assessment must be undertaken and submitted to in writing to the Local Planning Authority for written approval before recommencement.

REASON

To protect future occupiers from sources of pollution

10. The development hereby permitted shall not commence or continue unless measures are in place to prevent/minimise the spread of extraneous material onto the public highway by the wheels of vehicles using the site and to clean the public highway of such material.

REASON

In the interests of Highway Safety

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

REASON

In the interests of the amenities of the area and to protect the character and appearance of the area.

12. No work relating to the construction of the development hereby approved, including works of demolition or preparation prior to operations, or internal fitting out, shall take place before the hours of 0800 nor after 1800 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays.

REASON

To protect the amenities of the occupiers of nearby properties during the construction period.

13. No floodlighting or other form of external lighting shall be installed except in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any lighting which is so installed shall not thereafter be altered without the prior consent in writing of the Local Planning Authority.

REASON

In order to protect the biodiversity of protected species noted at the site.

Notes

1. The applicant is advised that the site is located within a smoke control area, therefore only 'smokeless' fuels may be used or alternatively an exempt appliance must be installed. For further details see <https://www.gov.uk/smoke-control-area-rules>.
2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

3. Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from www.ukradon.org if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. If you are building a new property then you are unlikely to have a full postal address for it. A report can be obtained from the British Geological Survey at <http://shop.bgs.ac.uk/georeports/>, located using grid references or site plans, which will tell you whether you need to install radon protective measures when building the property.

For further information and advice on radon please contact the Health Protection Agency at www.hpa.org.uk. Also if a property is found to be affected you may wish to contact the North Warwickshire Building Control Partnership on (024) 7637 6328 for further advice on radon protective measures.

4. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal, meetings and negotiations. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0239

Background Paper No	Author	Nature of Background Paper	Date
1	The Agent	Application Forms, Plans and Statement(s)	16/04/2018
2	The Agent	Revised Plans	5/07/2018
3	AMPA Ecology	Bat Survey Update Report	7/11/2018
4	WCC Highways	Consultation Response	16/05/2018
5	Officer	Consultation and correspondence with Natural England	8/11/2018
7	Officer	Correspondence with issues with Agent	16 April - present

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

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

Appendix A – Site Visit Photographs



From application site towards No. 1 Hawcutt No.1 Existing building on east side of application site towards No.1



Fence boundary between No. 5 and proposed Plot 2 rear of No. 5 and garden.



Wall boundary between Mews and Application site



No. 5 Hawcutt Drive & No. 39 in distance

Views across paddock east to Caldecote Lane



Existing building at site

Vegetation and trees to rear of the site



View of development from south of site along Caldecote Hall Drive



Caldecote Mews to west of site

View south from Caldecote Hall Drive from south of site



Looking east towards village with application site on mid- left southern entrance to application site



Views into the site from Caldecote Drive



Building towards southern end of site and looking through to Caldecote Drive.



APPENDIX E

1. Proposed Development	2011	2012
2. Proposed Development	2011	2012
3. Proposed Development	2011	2012
4. Proposed Development	2011	2012
5. Proposed Development	2011	2012



NORTH WARWICKSHIRE
BOROUGH COUNCIL
APPROVED
28 MAR 2012
SUBJECT TO CONDITIONS
ON NOTICE

RECEIVED
- 9 DEC 2011
North Warwickshire
Borough Council

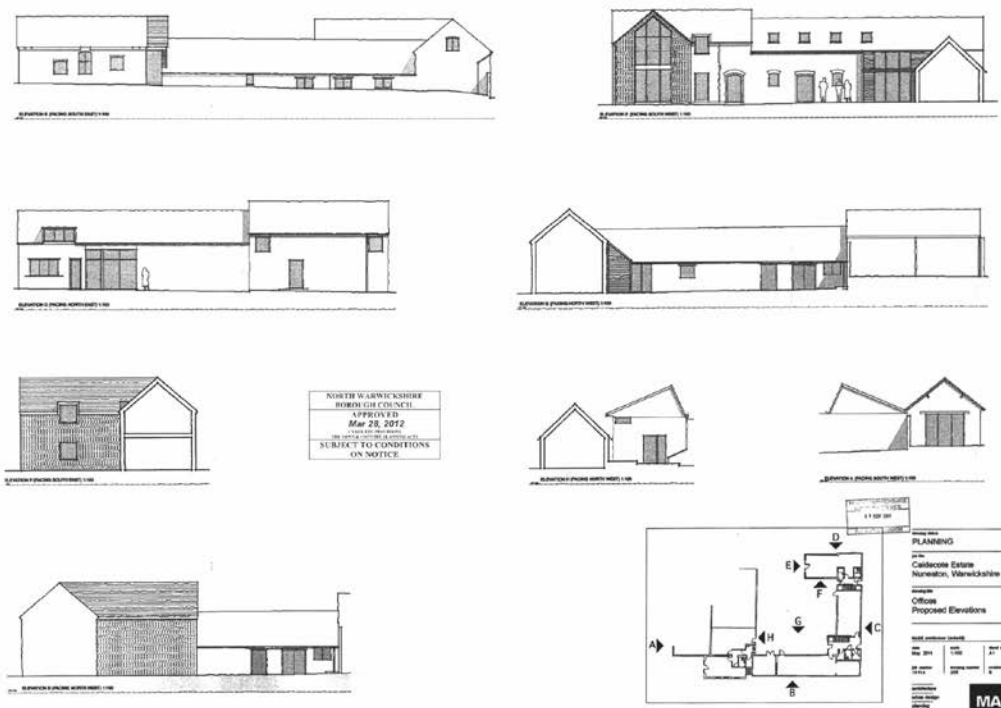
PLANNING
Caldecote Estate
Nuneaton, Warwickshire
Site Plan
Proposed Layout

MADE

RIBA

APPENDIX F
2011 / 0420

1. Proposed Development	2011	2012
2. Proposed Development	2011	2012
3. Proposed Development	2011	2012
4. Proposed Development	2011	2012
5. Proposed Development	2011	2012



NORTH WARWICKSHIRE
BOROUGH COUNCIL
APPROVED
Mar 28, 2012
SUBJECT TO CONDITIONS
ON NOTICE

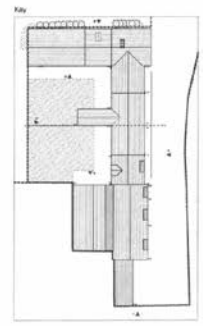
PLANNING
Caldecote Estate
Nuneaton, Warwickshire
Offices
Proposed Elevations

MADE

RIBA

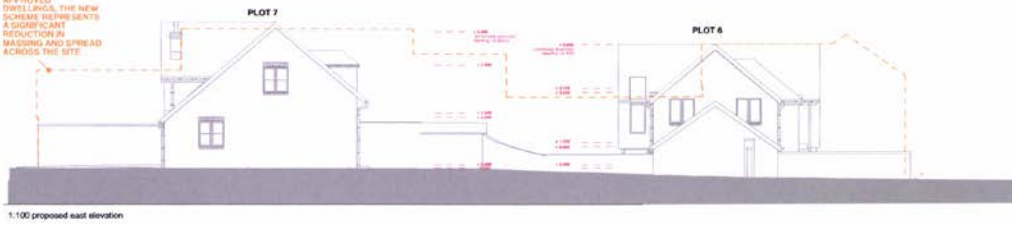


RECEIVED
 13/03/2017
 PLANNING & DEVELOPMENT SECTION



APPROVED
 10/4/2017
 RECEIVED
 13/03/2017
 PLANNING & DEVELOPMENT SECTION

RECEIVED
 13/03/2017
 PLANNING & DEVELOPMENT SECTION



MATCH LINE SHOWS
 OUTLINE OF
 PREVIOUSLY
 APPROVED
 DEVELOPMENT. THE NEW
 SCHEME REPRESENTS
 A SIGNIFICANT
 REDUCTION IN
 MASSING AND SPREAD
 ACROSS THE SITE.

RECEIVED
 05/07/2018
 PLANNING & DEVELOPMENT SECTION



MATERIAL SAMPLES FOR PLOT 6 - WHERE POSSIBLE THE REUSE OF THE MATERIALS FROM THE EXISTING BUILDING ARE TO BE USED ON PLOT 7

TO ENSURE CORRECT SCALE PRINT AT A2

pal
 pti
 City
 etc

(4) Application No: PAP/2018/0312

Dunton Wharf, Lichfield Road, Curdworth, B76 9EN

Demolition of existing buildings and erection of 3 buildings to provide offices, training/classrooms and industrial unit to facilitate the use of site for storage and ancillary digger driving school, for

P Flannery Plant Hire

Introduction

This application was reported to the November meeting but determination was deferred to enable Members to visit the site and for there to be further discussions with the applicant in order to clarify the nature of the proposal, given reference to the HS2 project.

A site meeting took place in late November and a note of that is attached at Appendix A.

The previous report is at Appendix B.

Additional Information

The visit enabled there to be a better understanding of the proposal in that it is to be a training site for users of heavy construction plant and equipment. There is an existing shortage of skilled employees for such work and given the scale of new construction projects to be commenced in the West Midlands over the next few years there was an increased and immediate need to provide a "local" training hub. HS2 would be just one of these projects. The funding for this training is in place and is to be sustained with the involvement of the West Midlands Combined Authority, the Local Enterprise Partnerships and local colleges.

The applicant has prepared a summary of these matters for the benefit of the Board. This is attached at Appendix C. As Members can see there is reference in here to partnership working with local Schools. Appendix D shows updated site plans.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW3 (Green Belt), NW10 (Development Considerations), NW12 (Quality of Development) and NW13 (Natural Environment)

North Warwickshire Local Plan 2006 (Saved Policies) - ECON9 (Re-use of Rural Buildings); ENV11 (Neighbour Amenities), ENV13 (Building Design), ENV14 (Access Design) and TPT6 (Vehicle Parking)

Other Material Planning Considerations

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

The Submitted Local Plan March 2018 – LP1 (Sustainable Development); LP3 (Green Belt), LP11 (Economic Regeneration), LP14 (Landscape), LP15 (Historic Environment),

LP16 (Natural Environment), LP31 (Development Considerations), LP32 (Built Form) and LP35 (Water Management)

Consultations

Warwickshire County Council as Highway Authority – It originally objected but on the receipt of amended plans proposing significant access improvements it now has no objection subject to conditions.

Environmental Health Officer – No objection

Canal and River Trust – No objections subject to condition to protect water discharges into the canal; a Construction Management Plan and measures to enhance and protect the bio-diversity of the canal corridor.

Warwickshire Fire Services – No objection

Severn Trent Water Ltd – No objection subject to a standard condition

Warwickshire Rights of Way – No objection

Highways England – No objection

HS2 Ltd – No objection

Inland Waterways Association – No objection

Representations

Curdworth Parish Council – Objection because it is an extension in the Green Belt

Observations

The meeting and visit has assisted significantly in achieving a better and fuller understanding of the proposal. It is in short to be a training centre and not a mixed use for this and as a “depot” or compound for the storage of HS2 plant and equipment.

The site is in the Green Belt. The site can be seen as having two parts – that benefitting from the lawful use and the remainder. However in dealing with the application, it will be necessary to handle the application as a whole extending over the full site. In these circumstances the proposal would be inappropriate development, unless it has no greater impact on openness than the existing situation and that it does not conflict with the purposes of including land within it. In terms of the buildings then the new buildings would represent a 15% increase in volume but over a 22% reduction in footprint. They would be re-located to be sited parallel to the A446 embankment rather than running across the site. In these circumstances the overall impact on openness would be neutral or limited. However the site would be fully used either for the storage of civil engineering plant, or for training purposes. As a consequence there would be an increase in activity and operations over the present position. This would affect openness by fact and by degree. Therefore taken together there would be a greater impact on openness than the present position. Openness would not be preserved. In respect of the conflict with the five purposes of including land within it then there would be some degree of conflict with the purpose of safeguarding the countryside from encroachment as a currently open

area would be infilled. In all of these respects it is considered that the proposal is not appropriate development and would therefore carry a presumption of refusal.

It is also necessary to look at the actual harm to the Green Belt as opposed to the definitional harm found above. Here the setting of the site has a distinct influence. The site is wholly self-contained and it is at a much lower level because of the enclosing embankments. In this respect it plays no role in contributing to the character of the landscape hereabouts, which is largely defined by urban characteristics. Additionally, visibility into the site is limited to views into it from the north. However the canal here is at a much lower level and there are no viewpoints. In all of these circumstances it is considered that the site could “absorb” the proposed use without a perceptible change in landscape character or in adversely affecting the openness of the wider setting. As such the actual Green Belt harm is concluded to be limited.

In terms of other harms then it can be seen from the consultation section that there are no outstanding objections. A number of matters can be dealt with by conditions. Importantly, the Highway Authority has agreed a series of access improvements which will substantially improve the adequacy and safety of the access into and out of the site. In all of these respects it is considered that there are no other harms that cannot be mitigated through planning conditions.

As a consequence the harm side of the final planning balance here consists of the significant definitional harm to the Green Belt together with the limited actual harm to the Green Belt.

On the other side of the balance the applicant identifies the following considerations: the shortage of skilled workers to undertake the significant infrastructure projects to be undertaken in the region, the need to have a regional hub or training centre, the sustainable location in terms of direct access onto the strategic highway network and then direct access to many of the sites for these projects and the sustainability of the training operations at the site given the commitment and full engagement of a number of other stakeholders (the WMCA, the LEP’s and colleges).

In assessing this balance, Members will have to be satisfied that if there is to be support for the proposal, that the matters put forward by the applicant “clearly” outweigh the cumulative level of harm that is likely to be caused. It is only then that they can say that there are “very special circumstances” to warrant that support. It is considered that such a case has been made. The substantial level of new infrastructure that is to be implemented in the region is focused onto the M42 Motorway and it is acknowledged that there is a skills shortage in almost all of the construction trades. Of significant weight here too is the full engagement of other stakeholders which will give Members confidence in the sustainability of this training hub. As an aside, Members will see from Appendix C the scope of this commitment, including involvement with North Warwickshire schools.

Conditions

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

Recommendation

That the application be **GRANTED** subject to 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 PAL: FLAB769EN.01 received by the Local Planning Authority on 17 May 2018, to the plan numbered T18540- 002 REV A received by the Local Planning Authority on 21 August 2018, to the plans numbered PAL: FLAB769EN.04; PAL.049; PAL.048 (proposed part site plan), and PAL: FLAB769EN.03 D received by the Local Planning Authority on 10 September 2018, to the plans numbered PAL: 053 and PAL.045 received by the Local Planning Authority on 7 December 2018 and to the Training Hub Proposal received by the Local Planning Authority on 12 December 2018.

REASON

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

3. The use hereby approved shall enure solely for the benefit of P Flannery Plant Hire and for no other company or bodies. Upon vacation of the site, the buildings shall be removed with 3 months, and the land use of the site shall revert to a null planning use.

REASON

Planning permission is granted solely in recognition of the particular circumstances of the beneficiaries.

4. No development whatsoever within Class H of Part 7 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 in writing by, the Local Planning Authority.

REASON

In order to prevent the over-intensive development of the site.

5. Prior to the commencement of development a scheme that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved in writing by the Local Planning Authority:

i. A site investigation scheme (including surveying the existing surface water drainage system) based on a detailed assessment of the risk to all receptors that may be affected, including those off site.

ii. The results of the site investigation and detailed risk assessment shall be used to inform an options appraisal and remediation strategy giving full details of the remediation measures required and how they will be undertaken.

iii. A validation plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented in full as approved.

REASON

To ensure the protection of human health, ecology and avoidance of polluting controlled waters, including the Birmingham & Fazeley Canal. The site lies upon an old canal wharf and it is unclear if the lining was removed, or what it was filled with. Strong linkages may remain between the old canal basin and the canal which should be fully investigated and appropriately mitigated by the proposed scheme. This is in accordance with part 15 of the National Planning Policy Framework 2018 and the National Planning Practice Guidance. It is necessary to agree the site investigation and detailed risk assessment before development commences in order to secure an appropriate approach to all site demolition and site clearance, and agree and complete remediation methods prior to the commencement of construction works to ensure a safe environment is provided.

6. No works shall commence, other than any detailed survey work, until a site specific Construction Environmental Management Plan (CEMP), including consideration of the demolition of the existing buildings, has been submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The approved CEMP shall be implemented in accordance with the approved details at all times during all demolition and construction of the approved development. The CEMP shall include, but not be limited to:

i. Procedures for maintaining good public relations including complaint management, public consultation and liaison

ii. Arrangements for liaison with the Council's Pollution Control Team

iii. A Noise Mitigation Strategy to deal with emissions with particular cognisance of the noise sensitive Birmingham & Fazeley Canal and nearby residential property.

iv. All works and ancillary operations shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays unless otherwise agreed in writing with the Local Planning Authority in advance of any such deviations from the agreed hours.

v. Deliveries to, and removal of plant, equipment, machinery and waste from the site shall only take place within the permitted hours detailed above.

vi. Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.

vii. Procedures for emergency deviation of the agreed working hours.

viii. Details of measures to be adopted for all contractors to be 'Considerate Contractors' when working by being aware of the needs of neighbours and the environment.

ix. Air Quality Impact Assessment throughout the construction phases, inclusive of the demolition elements of the development. This must consider the neighbouring Birmingham & Fazeley Canal.

x. A dust mitigation strategy with control measures for dust and other air-borne pollutants. This shall fully consider impacts to the neighbouring Birmingham & Fazeley Canal and take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.

xi. Measures for controlling the use of site lighting during the construction period, whether required for safe working or for security purposes to prevent light spill onto the Birmingham & Fazeley Canal.

xii. Details of the storage of waste and materials for/from the demolition and construction process, where they are to be located on site, how they are to be protected from entering the canal environment, the regime for the safe removal and appropriate disposal of the waste from the from site.

xiii. Measures for preventing surface water run-off during demolition and construction works from the site into the canal environment.

xiv. Measures to prevent blown spray from the wash-down of demolition/construction vehicles entering the canal environment.

REASON

In the interests of preventing airborne/waterborne/light pollution of the canal waters to preserve and enhance the ecology and water quality of the Birmingham & Fazeley Canal and protect the canal users from noise detrimental to the quiet enjoyment of the waterway. This is in accordance with part 15 of the National Planning Policy Framework 2018 and the National Planning Practice Guidance. It is necessary to agree the CEMP before development commences in order to secure an appropriate approach to all site demolition, clearance, development and construction operations from the outset.

7. No works shall commence, other than any detailed survey work, until a detailed surface water drainage scheme for the site has been submitted to, and approved in writing by, the Local Planning Authority (in consultation with the Canal & River Trust). The drainage strategy shall include:

- i. Restriction in run-off and surface water storage on site as outlined in the FRA.
- ii. Use of appropriate interceptors to deal with pollutants from the roadways, carparks, wash-down area and re-fuelling area.
- iii. Details of the long-term maintenance and management of the SUDs and interceptors.

The scheme shall be implemented in accordance with the agreed details before the development is completed.

REASON

To prevent the increased risk of flooding, to improve and protect water quality, and improve habitat and amenity in accordance with part 15 of the National Planning Policy Framework 2018 and in the National Planning Practice Guidance.

8. No works of construction shall be carried out until measures to prevent the pollution of the water environment in the event of a fuel spill (in excess of that which would be dealt with by the interceptor) have been submitted to, and approved in writing by, the Local Planning Authority. Such details may include, but are not limited to, the provision of bunding and pollution prevention equipment. The scheme shall be implemented in accordance with the agreed details before the development is completed.

REASON

To protect the water environment including the Birmingham & Fazeley Canal and groundwater from pollution and/or further deterioration in accordance with part 15 of the National Planning Policy Framework 2018 and the National Planning Practice Guidance.

9. No works shall commence, other than any detailed survey work, until full details of all external lighting to be used within the site, along its boundaries and accesses has been submitted to, and approved in writing by, the Local Planning Authority (in consultation with the Canal & River Trust). Such details shall include full details of the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any direct illumination, glare or light spillage outside of the site boundary. The scheme shall be implemented in accordance with the agreed details and retained as such.

REASON

In the interests of the amenities of the area.

10. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

REASON

To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

11. The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the Local Planning Authority

REASON

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

12. Before the completion of the site, a Landscape Management Plan (LMP) shall be submitted to the Local Planning Authority for approval, setting out the future land use and landscaping areas within the site. for the avoidance of doubt the site is defined as the red line location plan / site plan. The plan shall be submitted to the Local Planning Authority for approval and shall be implemented in accordance with the LMP unless agreed in writing by the Local Planning Authority.

REASON

In the interests of the amenities of the area.

13. The development hereby approved shall not be occupied until details of the grey colour used on the site buildings has been provided and approved in writing by the Local Planning Authority, and thereafter maintained to such an approved colour at all times.

REASON

In the interests of the amenities of the area.

14. No occupation of the development shall take place until a verification report for the site demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longerterm monitoring of pollution linkages, a maintenance timetable and arrangements for contingency action arising from monitoring, as identified in the verification report. The longterm monitoring and maintenance plan shall be implemented in full as approved.

REASON

To protect the water environment including the Birmingham & Fazeley Canal and groundwater from pollution and/or further deterioration in accordance with part 15 of the National Planning Policy Framework 2018 and the National Planning Practice Guidance. Verification works should be completed prior to the use commencing on the site to ensure a safe environment.

15. The development shall not be occupied until the improvements to the existing vehicular access have been implemented, in general accordance with Drawing Number T18540.002.A (Proposed Site Access Improvements and Swept Paths).

REASON

In the interests of the amenities of the area and safety on the public highway.

16. The development shall not be occupied until visibility splays have been provided to the vehicular access to the site passing through the limits of the site fronting the public highway with an 'x' distance of 2.4 metres and 'y' distance of 215 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeds, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

REASON

In the interests of the amenities of the area and safety on the public highway.

17. If during the demolition or construction works, contamination not previously identified is found to be present then work shall cease (unless otherwise agreed in writing with the Local Planning Authority) until a remediation strategy to deal with the contamination has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

REASON

To protect the water environment including the Birmingham & Fazeley Canal and groundwater from pollution and/or further deterioration in accordance with part 15 of the National Planning Policy Framework 2018 and the National Planning Practice Guidance. Verification works should be completed prior to the use commencing on the site to ensure a safe environment.

18. For the avoidance of doubt the uses of the three buildings as per the drawing PAL.049 (layout and elevations), shall not be changed from site offices, storage (use class B8) and training rooms. The site shall be used for training of digger drivers.

REASON

19. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON

In the interests of the amenities of the area.

20. No vehicle shall leave or enter the site, or engine or other machinery started up before 06:00 hours or after 19:00 hours on any day. No other on site works shall take place outside of these hours including loading or unloading. There shall be no servicing or repair of vehicles on the site.

REASON

To protect the amenities of nearby residential property.

21. There shall be no more than 100 plant machinery vehicles stored on the site.

REASON

In the interests of the amenities of the area and safety on the public highway.

Notes

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.

2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>

3. The applicant/developer is advised to contact the Canal & River Trust in order to ensure that any necessary consents are obtained and the works are compliant with the Trust's current "Code of Practice for Works Affecting the Canal & River Trust". Please contact Shomsur Khan (Senior Works Engineer) in the first instance on 07714 412759 for further advice.

3. The applicant/developer is advised that any surface water discharge into waterspace belonging to the Canal & River Trust will require written consent. Please contact Joanna Bryan (Senior Utilities Surveyor) in the first instance for further information (Joanna.Bryan@canalrivertrust.org.uk).
4. The applicant is advised that to comply with the condition relating to the protection of trees, the measures should be in accordance with British Standard BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations".
5. Advertisement Consent is required under a separate procedure of the Town and Country Planning Act 1990. Should any advertisements, signs, name boards, or other devices to attract attention, be intended in respect of this development, the Local Planning Authority will be pleased to advise you on all associated aspects prior to the erection of any such advertisements, and provide you with application forms.
6. There may be bats present at the property that would be disturbed by the proposed development. You are advised that bats are deemed to be European Protected species. Should bats be found during the carrying out of the approved works, you should stop work immediately and seek further advice from the Ecology Section of Museum Field Services, The Butts, Warwick, CV34 4SS (Contact Ecological Services on 01926 418060).
7. Before carrying out any work, you are advised to contact Cadent Gas about the potential proximity of the works to gas infrastructure. It is a developer's responsibility to contact Cadent Gas prior to works commencing. Applicants and developers can contact Cadent at plantprotection@cadentgas.com prior to carrying out work, or call 0800 688 588
8. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building. Should you require any further information please contact us on the telephone number or email below. Asset Protection Waste Water East, Wholesale Operations, Severn Trent Water Ltd Tel: 024 7771 6843 email: Planning.APEast@severntrent.co.uk)
9. Condition number 15 requires works to be carried out within the limits of the public highway. The applicant / developer must enter into a Minor Highway Works Agreement made under the provisions of Section 278 of the Highways Act 1980 for the purposes of completing the works. The applicant / developer should note that feasibility drawings of works to be carried out within the limits of the public highway which may be approved by the grant of this planning permission should not be construed as drawings approved by the Highway Authority, but they should be considered as drawings indicating the principles of the works on which more detailed drawings shall be based for the purposes of completing an agreement under Section 278.
10. An application to enter into a Section 278 Highway Works Agreement should be made to the Planning & Development Group, Communities Group, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX.

11. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution

12. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues, and by suggesting amendments to improve the quality of the proposal. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

13. It is understood that the existing buildings on the site may contain asbestos, and therefore the applicant / developer is advised to determine the building materials and if Asbestos, it should be handled in the correct manner and disposed of at Licenced premises.

14. With regards to condition 19, the Inland Waterways Association (IWA) has suggested a reinstated towpath hedge of native species, perhaps planted on a low earth bund to increase its visual and noise screening properties, and incorporation of the historic canal arm side bridge as a landscaped feature. Also, any security fencing should be set behind this landscaping strip. The landscaping proposal should consider the IWA comments and be set out on the a plan.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0312

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	17/05/2018
2	Inland Waterways	Consultation response	30/05/2018
3	WCC Fire and Rescue	Consultation response	05/06/2018
4	WCC Footpaths	Consultation response	05/06/2018
5	Highways Agency	Consultation response	15/06/2018
6	WCC Highways	Consultation response	15/06/2018
7	HS2	Consultation response	18/06/2018
8	Canal and River Trust	Consultation response	20/06/2018
9	Severn Trent	Consultation response	25/06/2018
10	NWBC Environmental Health	Consultation response	25/06/2018
11	Highways Agency	Consultation response	27/06/2018
12	Curdworth PC	Consultation response	09/07/2018
13	Inland Waterways Association	Consultation response	08/10/2018
14	WCC Highways	Consultation response	15/08/2018
15	Inland Waterways Association	Consultation response	29/08/2018
16	Highways Agency	Consultation response	29/08/2018
17	WCC Rights of Way	Consultation response	29/08/2018
18	Inland Waterways Association	Consultation response	06/09/2018
19	WCC highways	Consultation response	11/09/2018
20	Inland Waterways Association	Consultation response	12/09/2018
21	Canal and River Trust	Consultation response	01/10/2018
22	Curdworth PC	Consultation response	12/10/2018
23	Inland Waterways Association	Consultation response	08/10/2018
24	Agent	Email to Case officer	18/09/2018
25	Case officer	Councillor consultation emails	10/10/10 – 17/10/18
26	Case officer	Email to Inland Waterways Association	30/05/2018
27	Case officer and agent	Exchange of emails	31/05/2018 – 04/06/2018
28	Case officer and WCC Fire	Exchange of emails	05/06/2018
29	Case officer and agent	Exchange of emails	05/06/2018 – 15/06/2018

30	Case officer and WCC Highways	Exchange of emails	15/06/2018 – 27/06/2018
31	Highways Agency and Case officer	Exchange of emails	27/06/2018
32	Case officer	Email to Curdworth PC	03/08/2018
33	Case officer and agent	Exchange of emails	09/07/2018 – 15/08/2018
34	Case officer	Email to IWA	15/08/2018
35	Case officer and WCC Highways	Exchange of emails	15/08/2018 – 29/08/2018
36	Case officer and agent	Exchange of emails	21/08/2018 – 10/09/2018
37	Cllr Reilly	Email to Planning	10/09/2018
38	Case officer and Councillors	Exchange of emails	11/09/2018 – 17/09/2018
39	Case officer and Curdworth PC officer	Exchange of emails	10/09/2018 – 12/09/2018
40	Case officer and agent	Exchange of emails	12/09/2018 – 22/10/2018
41	Case officer and agent, with site owner	Exchange of emails	23/10/2018 – 16/11/2018
42	Case officer and agent, with site owner	Exchange of emails	20/11/2018 – 23/11/2018
43	Case officer and agent	Exchange of emails	29/11/2018 – 13/12/2018
44	Case office and agent	Exchange of emails, including agreement over the planning conditions.	18/12/2018 – 19/12/2018

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

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

PAP/2018/0312

Dunton Wharf – Site Visit 1230 on 29th November 2018

Present: Councillors Bell, Humphries, Phillips, Simpson, Sweet and Waters together with I Griffin and J Brown from NWBC; two representatives of Flannery Plant Hire and S Hall from the WMCA

1. Members met within the car parking area in the centre of the site.
2. Members were given a presentation setting out the history of the applicant company; the type of machinery they operate and their current apprenticeship scheme. The background to the application was then set out with particular emphasis on the content of the training programme. An outline of current provision was explained together with an overview of forthcoming large scale construction projects in the Midlands and the evidence showing a lack of skilled workers. The sustainability and funding for the training programme was explained in detail together with the focus on local employment opportunities.
3. The Members were then shown around the site. In particular they were able to see the location of the former buildings on the site and the sites of the proposed. Attention was paid to the heights of these. The general layout of the site was explained. Reference was made throughout to the setting with the adjoining motorway and the A446. Members were able to assess ground levels too in respect of the surrounding roads.
4. Members saw the line of the canal and the nature of the site boundary along its length.
5. Some time was spent at the access from the A446 and the amended access layout was explained with its features being illustrated on site.
6. The visit concluded at around 1340 hours.

() Application No: PAP/2018/0312

Dunton Wharf, Lichfield Road, Curdworth, B76 9EN

Demolition of existing buildings and erection of 3 buildings to provide offices, training/classrooms and industrial unit to facilitate the use of site for storage and ancillary digger driving school, for

P Flannery Plant Hire

Introduction

The receipt of this application is reported to Board at the discretion of the Head of Development Control in view of its potential link with the HS2 project.

The Site

This is a roughly rectangular shaped piece of land located immediately in the north-west quadrant of Junction 9 of the M42 Motorway with the A4097 and A446 and between the M42 and the M6 Toll Road. It is thus bound on three sides by substantial road infrastructure. Immediately to the north is the Birmingham/Fazeley canal. The whole site is set well down below the road levels on the junction, with a difference of some 7 to 8 metres at its southern end. The surrounding embankments are heavily landscaped with well-established tree and hedgerow cover. There is open countryside further to the west and on the other side of the canal is Dunton Lodge, a large detached house.

Curdworth is some 800 metres to the west.

The application site is illustrated at Appendix A.

Background

The present use of part of the site is a depot for road haulage and for a grain merchant. This is the lawful use following a grant of planning permission on 1985.

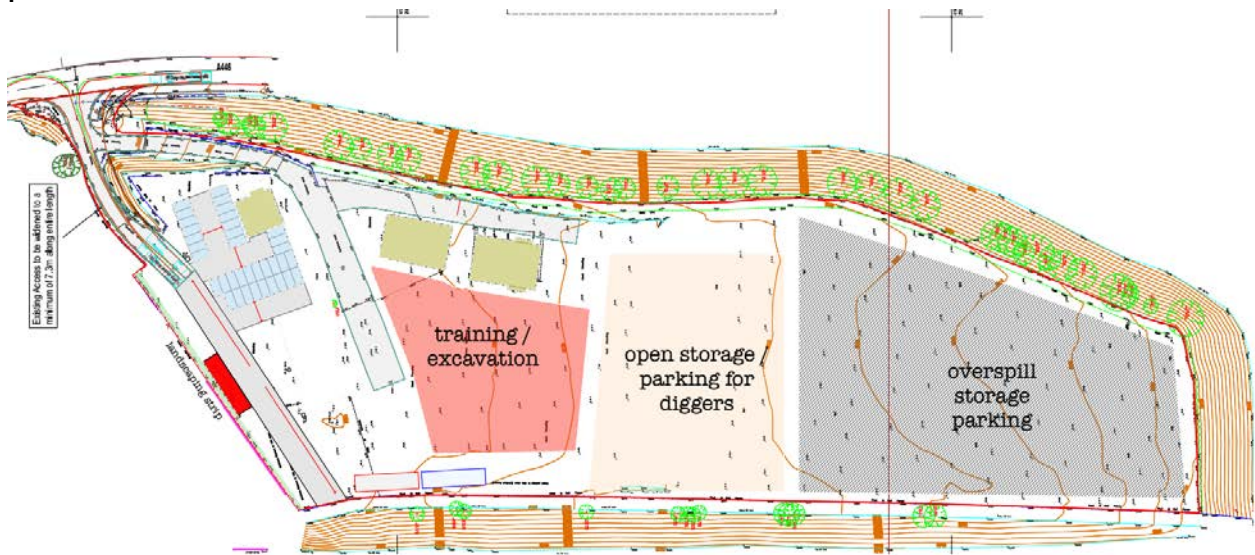
This use operates from a group of four conjoined buildings amounting to some 3360 cubic metres with a total footprint of some 690 square metres. These are all two storey in height. They are located towards the northern end of the site close to the single vehicular access rising up to the A446. Around these buildings is a hard surfaced service yard used for the parking and turning of HGV's and other light vehicles. In total the operational area of the site amounts to some 33% of the whole site – the remainder being open rough pasture land.

This operational area is shown on Appendix B but this existing arrangement is best illustrated with an aerial photograph at Appendix C.

The Proposals

It is proposed to demolish all of the existing buildings and to erect three new two storey buildings. One would be as a unit for the maintenance, repair and storage of the plant used on the site in connection with its use as a "digger" driving school. The other two

buildings would be used for offices and as a classroom/training area. Below is a land use plan for the site which shows that other parts of the site would be used for practical training purposes as well as an additional storage facility for construction plant understood to be partially used in connection with the HS2 project. The training programme would be focused to training sufficient numbers of operatives for use on this national infrastructure work.



It is estimated that the use would generate approximately ten full time jobs, with operating hours of 0600 to 1800 on Mondays to Saturdays only. 28 car parking spaces are proposed on the site for staff and for students arriving for training purposes. It is anticipated that up to 100 vehicles might be kept on site.

The new buildings on site would amount to 3851 cubic metres – a 15% increase in volume - but with a reduction of 22% in footprint.

The following documents have been submitted with the application.

A Flood Risk Assessment shows that the site is in flood zone 1. The conclusion of the document is that the site is at low risk of flooding and that a sustainable surface water drainage scheme can be designed.

An Ecological Assessment concludes that there would be no overall bio-diversity adverse impact but the boundary with the canal should be protected because of its value as a wildlife corridor.

A Transport Assessment advises that the traffic generation is likely to increase but by only a marginal number – two movements an hour – and that movements are more likely to be staggered through out the day than presently.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW3 (Green Belt), NW10 (Development Considerations), NW12 (Quality of Development) and NW13 (Natural Environment)

North Warwickshire Local Plan 2006 (Saved Policies) - ECON9 (Re-use of Rural Buildings); ENV11 (Neighbour Amenities), ENV13 (Building Design), ENV14 (Access Design) and TPT6 (Vehicle Parking)

Other Material Planning Considerations

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

The Submitted Local Plan March 2018 – LP1 (Sustainable Development); LP3 (Green Belt), LP11 (Economic Regeneration), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP31 (Development Considerations), LP32 (Built Form) and LP35 (Water Management)

Observations

The site is in the Green Belt. Members will be aware that the redevelopment of previously developed land here may not necessarily amount to inappropriate development and thus carry a presumption of refusal. An assessment will need to be made of the impact of the proposal on the openness of the Green Belt and on the reasons for including land within it. In this case however, the proposal also involves a change of use of land which is not appropriate in the Green Belt and the extension of that development, beyond the area of the lawful previously developed land. The assessment is therefore not straight forward.

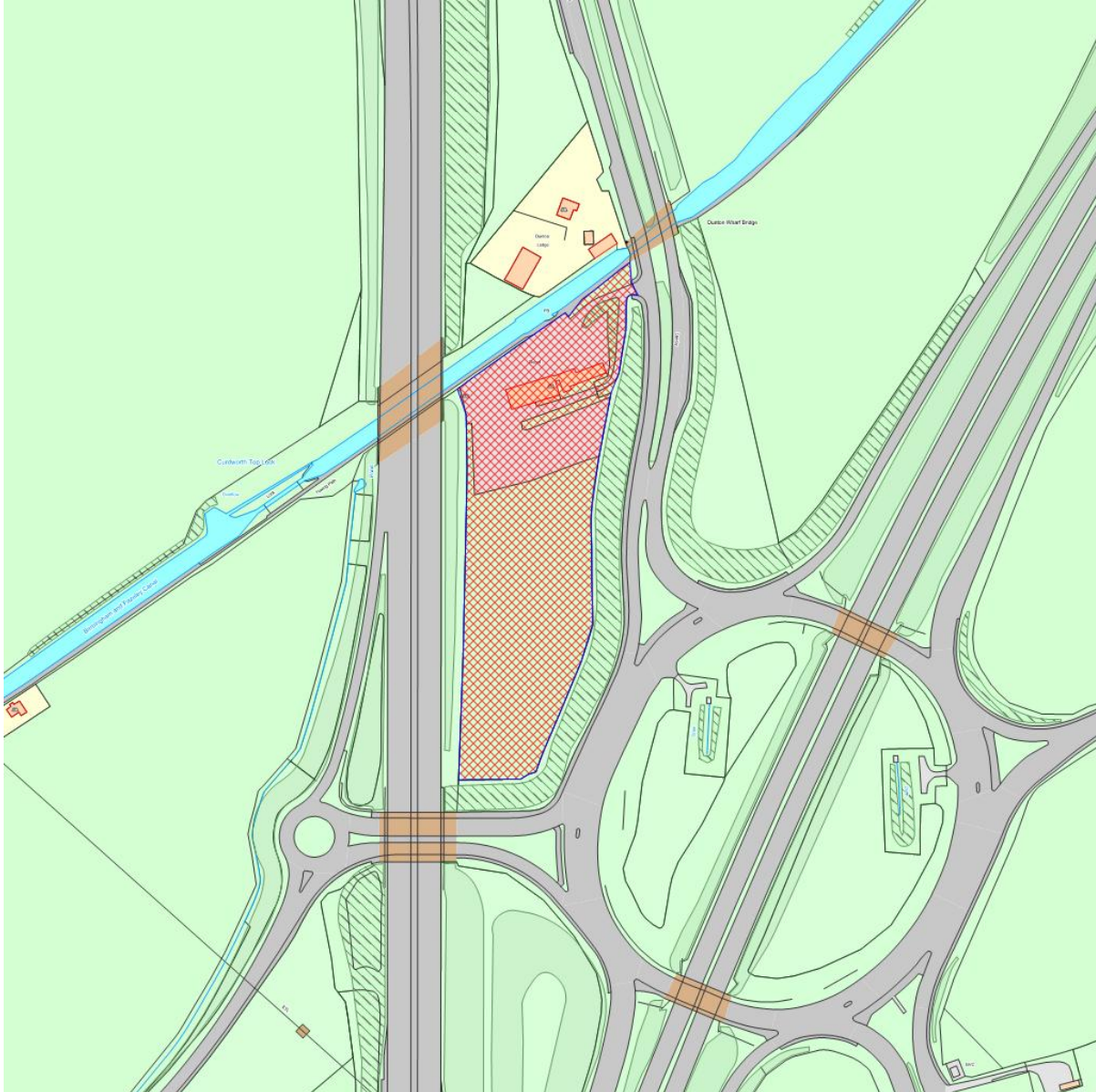
Additionally in this case the applicant has made reference to the HS2 project, but it is uncertain in planning terms as to what that connection is - either as an area for the storage of plant connected with its construction, or just as a facility to train personnel to work on that project as well as other construction sites. The variety of plant and equipment that might be present on site is thus unclear.

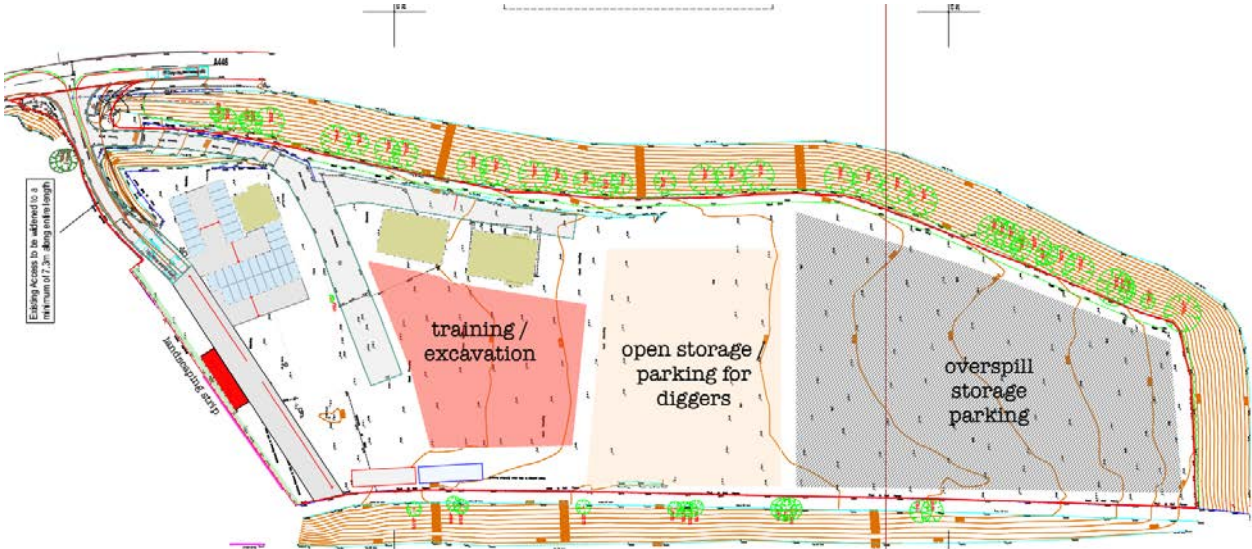
As a consequence it is recommended that Members visit the site in view of its setting in order to gain a better understanding of the likely impacts – particularly on the openness of the Green Belt. It is also suggested that a representative group of Members meet with officers and the applicant so as to get greater clarity on the scope of the proposal. In this way a determination can then be made with a better understanding of the planning implications of the proposal.

Recommendation

That the receipt of the application is noted and that:

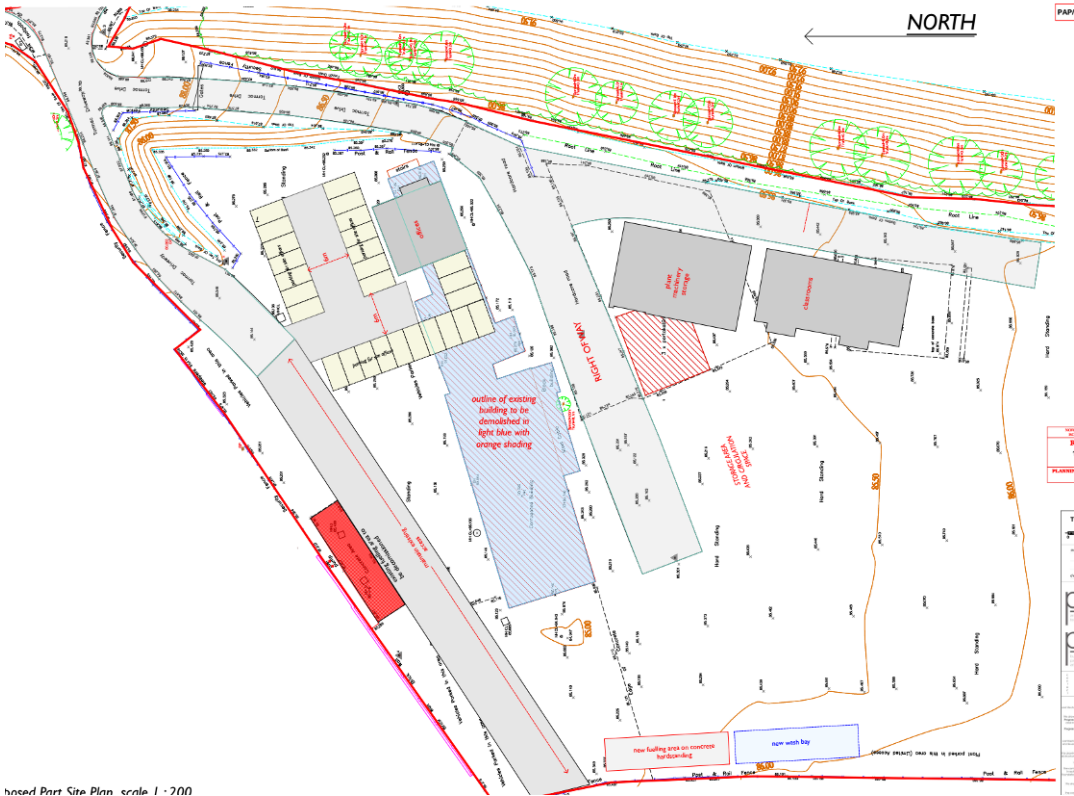
- Members undertake a site visit and
- That a meeting be held with the applicant, officers and appropriate Board Members in order to seek greater clarity on the scope of the application
- The matter be reported back to the Board at a later date for determination.

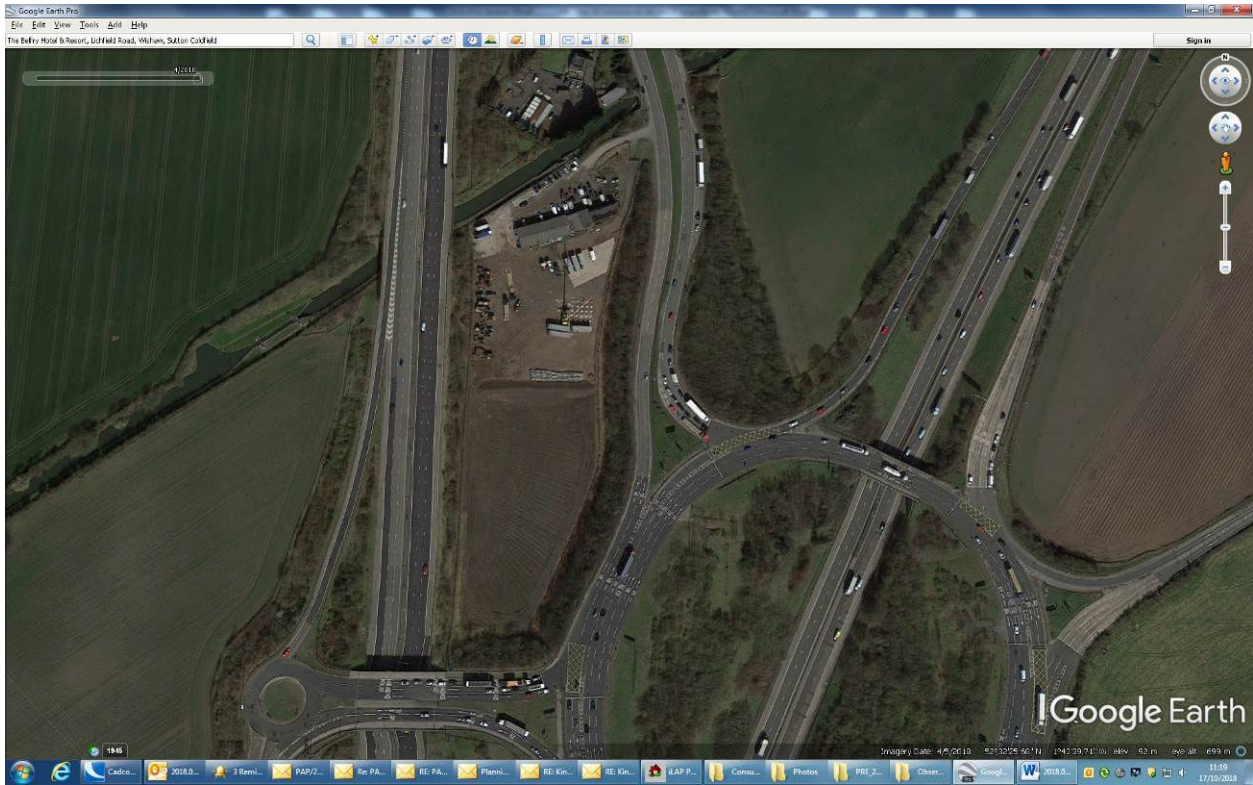




Key

	car parking area
	buildings: offices/plant storage/training
	training / excavation
	open storage / parking for diggers
	overspill storage parking
	landscaping strip





Above is the aerial photography from 2018 (www.google.co.uk (google earth pro))



Training Hub Proposal - Dunton Wharf, Lichfield Road

Background

Flannery are leading advocates of training, skills and development, including the support of apprentices and the training and development of their staff to support their business and the wider industry.

The establishment of a training hub at Dunton Wharf will aim to address the nationwide shortage of plant operators and train local people to enhance their future employment opportunities.

The site at Dunton Wharf is excellently located to support training for HS2 and other major infrastructure and development projects.

Overview of Training Hub

The training hub's primary purpose will be to train plant operators through the CPCS system and apprenticeships.

The hub will aim to be an elite 'finishing school', to support other regional plant training centres and will focus on larger plant machinery for example 360 excavators and dump trucks.

We also plan for the hub to have state of the art simulation facilities and specialist GPS training on Trimble through our partnership with Sitech.

Regional Training & Skills Collaboration

The agreement, in principle, is to establish a Skills and Training Joint Venture (JV) with Regional Colleges, Private Training Providers (PTP's) and Flannery which ensures a collaborative and holistic approach to training and development.

Please see table below which outlines the proposed training portfolio for the JV.

Training type	Training Provider	Training Location
Pre-Employment	College	College
CPCS	College/PTP's	College/PTP's/Training Hub
Health & Safety	College/PTP's	College/PTP's/Training Hub
Pre-Apprenticeships	College	College/Employer site/Training Hub
Apprenticeships	College/PTP's	College/PTP's/Training Hub

Attraction campaigns

The Skills JV will work together with the wider clients/contractor group to attract more people into the Plant industry and will look to do this in the following ways:

- Careers events at Schools, Colleges and Careers Shows – including 'have a go' activities on



interactive plant machines and simulators

- Targeted recruitment events with JCP groups
- Targeted recruitment events with General Construction students
- Delivery of industry seminars to Schools and Colleges
- Digital campaign to attract young people into the industry

Outputs

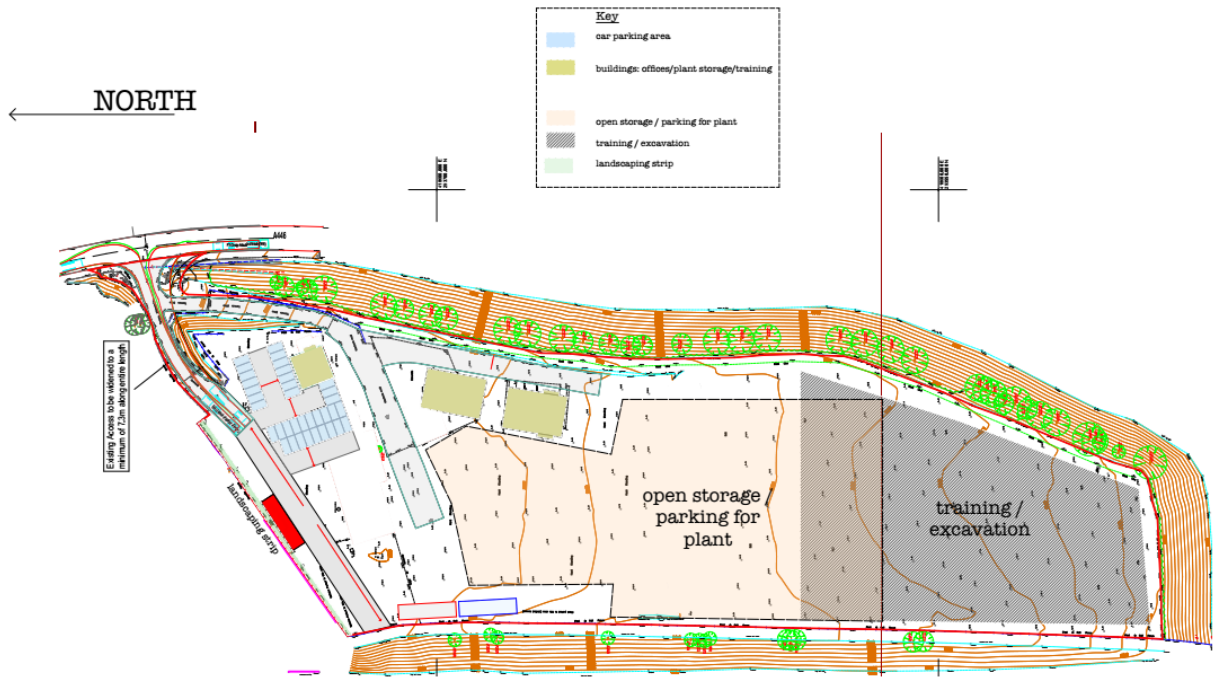
Training type	Year 1 (2019/20)	Year 2 (2020/21)	Year 3 (2021/22)	Total
Pre-Employment (including CPCS)	60	120	120	300
CPCS (Adults re-training)	50	75	85	210
Health & Safety	100	100	100	300
Pre-Apprenticeships	10	20	30	60
Apprenticeships	15	25	30	70
Total	235	340	365	940

Key Outcomes

The Training hub and Skills JV will work collaboratively to deliver the following key outcomes:

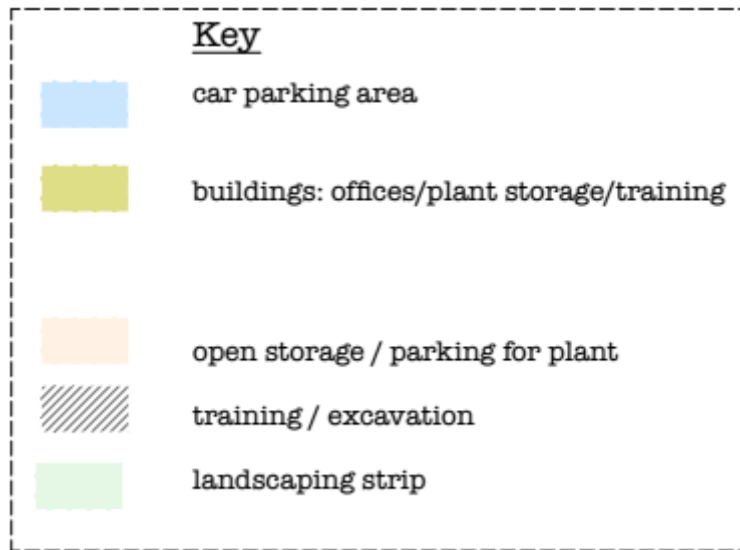
- Support the training and development of young people and adults, including those in North Warwickshire, into sustainable employment
- Create a regional training hub of plant excellence
- Support the development of the regional economy
- Provide solution to the Plant operator shortages

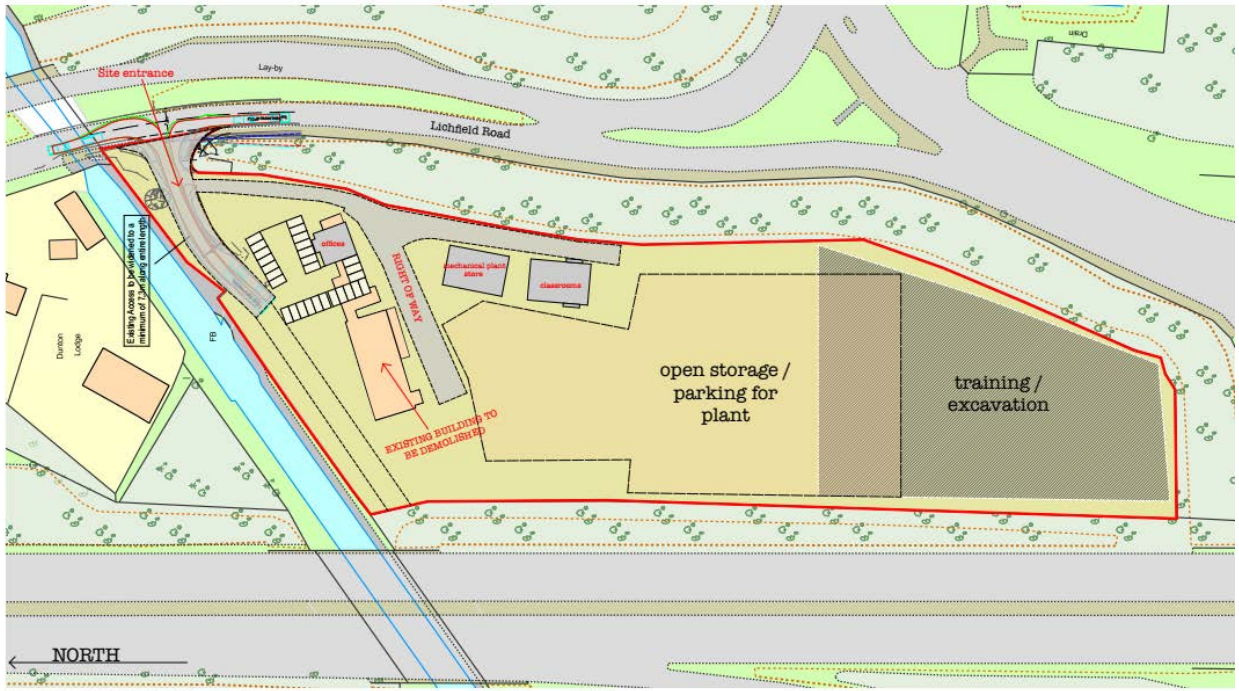
Appendix D – Revised Site plans



Land Use Plan scale 1:500

REVISION E





Block Plan scale 1:500

REVISION E

(5) Application No: PAP/2018/0538

1 Yew Tree Cottages, Coton Road, Whitacre Heath, B46 2HD

Change of use of building from garages/storage to business use for refrigeration and air (Renewal), for

Mr Maurice Kenna

Introduction

This application was reported to the December meeting when the Board resolved that it was minded to refuse the planning application with the subsequent service of an Enforcement Notice. Final determination was deferred in order that Members meet with the applicant so as to better understand the potential consequences of this resolution.

That meeting took place on 22 December. A note of that meeting is at Appendix A.

The previous report is at Appendix B.

Observations

As Members can see from Appendix A, there is a very clear difference between the objector's description of the site and its use and that outlined by the applicant. The suggestion that Members visit the site is one that the Board may wish to take up in view of this difference.

Recommendation

That determination is deferred in order that Members can undertake a site visit.

PAP/2018/0538

Meeting – 22 December 2018 at 1100.

Present: Councillor Simpson; Messrs D and M Kenna, I Griffin and J Brown

1. JB outlined the Board's resolution and its invitation to hear from Mr Kenna in respect of the application and the potential consequences of a refusal.
2. Mr Kenna considered that the objections as reported to the Board were unfounded.
3. He denied any burning of cables suggesting that this might be from a different site.
4. There was no 24/7 working. There may be use of the office and updating paper work in the evenings, but the building concerned had no windows and the doors were kept shut.
5. He suggested that the photographs were "snap shots" and should not be treated as being representative.
6. For instance the site was also used for domestic purposes too – e.g. DIY work - and thus there may be some misunderstandings as to the use of the site.
7. Deliveries to the site might obstruct access but deliveries and vehicles to neighbouring property also obstructed access to his site.
8. In response to questions asking for a description of the use, it was explained that there is no longer any repair work undertaken on site. Employees collect parts and paper work before 0830 and then they go to customers' premises to work on site. They return and are generally off site by 1700. There are no weekend operations. Deliveries run to around three a week from larger white vans.
9. Mr Kenna agreed that the use as described would fall within a B8 Use Class – namely distribution.
10. There were nine employees including Mr Kenna himself – all were local people.
11. There had been searches for alternative premises but the costs to taking these on, was presently prohibitive to the viability of the business.
12. There was then a discussion on the potential inclusion of conditions should the Board agree to grant a planning permission.
13. The meeting was very aware that the description of the use of the site differed quite materially to that which the Board had heard from the objectors.
14. As a consequence, it was suggested that the Board might like to undertake a site visit and that at the next meeting, Mr Kenna or a representative on his behalf should attend the meeting and address the Board.

(9) Application No: PAP/2018/0538**1 Yew Tree Cottages, Coton Road, Whitacre Heath, B46 2HD****Change of use of building from garages/storage to business use for refrigeration and air (renewal), for****Mr Maurice Kenna****Introduction**

The application is brought before the Board in view of the recommendation which will need consideration of the service of an Enforcement Notice which would cease the business use on the site.

The Site

The site lies within the Green Belt as identified within the 2014 Core Strategy. The existing building lies within a group of other buildings including three residential properties – one of which is the applicants. There is a yard area for the business to the west of the building. The access to the site is from existing arrangements off Coton Road.

Plans for the site can be viewed at Appendix 1 and photographs of the site are at Appendix 2

The Proposal

The proposal is to retain the use of a garage/storage building and yard in connection with a refrigeration and air conditioning business. This use was approved in 2013 under planning reference PAP/2013/0440 and a temporary consent was given – expiring on 11 November 2018. A copy is attached at Appendix 3

The building contains an office and a storage area. It is understood that no manufacturing takes place but that parts are kept here for subsequent assembly on a client's site. There is some degree of servicing and repair here but the material use of the site is essentially a B8 storage and distribution use. Since 2013 the business has grown and the applicant now has 8 employees, who normally work in teams of two and who are mostly on site around the country, such that the site is not used as a base.

Deliveries are made to the site and then subsequently transferred to a client's site.

Some local work is also done. Staff will come to the site to pick up a work sheet and then go and do the job but not always returning at night. The worker's vans are kept at their own homes.

An overview of the use of the site is given by the applicant at Appendix 4.

Development Plan

North Warwickshire Core Strategy – NW1 (Sustainable Development); NW3 (Green Belt), NW10 (Development Considerations), NW12 (Quality of Development) and NW17 (Economic Regeneration)

Saved policies of the within the Core Strategy 2014 - ENV12 (Urban Design); ENV13 (Building Design), ENV14 (Access Design), ECON9 (Re-use of rural buildings), TPT2 (Traffic Management and Travel Safety) and TPT3 (Access and sustainable travel and transport)

Other Material Planning Considerations

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

The Submitted Local Plan for North Warwickshire 2018 - LP1 (Sustainable Development); LP3 (Green Belt), LP13 (Rural Employment) and LP31 (Development Considerations)

Consultations

Environmental Health Officer – No objection subject to conditions

Representations

Two local residents have raised the following points:

- Site contamination – gases; possible hazardous substances and burning on site.
- Vehicles – The right of way can be blocked on occasions, delivery vehicles (arrive different times of the day), number of employees, blocking rights of way for other users of the lane.
- Hours – Can be 24 hours. Work weekends and bank holidays, along with evenings.
- Industry/commercial – The website indicates that more activity actually takes place on site than is admitted in the application
- Impact on residential amenity – noise, disturbance, overlooking/privacy.

Photographs have been supplied with the objections which are said to illustrate these matters.

Nether Whitacre Parish Council – It objects supporting the matters raised by the local residents. It considers that the use has intensified since the 2013 grant of the planning permission and that conditions attached have been breached. It has also suggested that a public footpath here may have been illegally diverted.

Observations

a) Introduction

The Council did consider that this site was an appropriate one for a business use to operate through the grant of the 2013 permission. This however was conditioned in order to mitigate possible adverse impacts. Importantly it was time limited as it was considered at the time that it was necessary to monitor the terms of the permission.

Members will thus need to assess whether there have been any changes in material planning considerations that are of such weight as to either lead them not to renew that planning permission, or to renew it, but with another set of conditions. Those material planning considerations here will be whether there has been any change to relevant

planning policy and secondly to assess how the permitted use has “performed” using the conditions as the appropriate criteria. However that appraisal can only be used as a relevant consideration in the final planning balance, as the Notice and thus the conditions are no longer extant – the 2013 permission having expired.

b) Planning Policy Changes

The site remains in the Green Belt and whilst the NPPF was reviewed in July 2018 there has been no overall material change in how the control of development within the Green Belt is approached. The re-use of existing buildings can still be considered to be appropriate development, provided that there is no worse impact on the openness of the Green Belt or the five purposes of including land within it than presently exists. This use was found to satisfy these conditions in 2013. In respect of the impact on the purposes of including land within the Green Belt then the same situation applies now. There has been no change in circumstance. In respect of the impact on openness then it is suggested that there may be an intensification of use with more activity particularly in respect of vehicle use. However given the setting, it is considered that the only impact on openness here is very localised and because the site is very self-contained visually by other development, there is no overall adverse impact on the Green Belt – either in spatial terms or in restricting the visual perception of open space. The continuation of the proposed use would thus still be an appropriate development in the Green Belt.

The Core Strategy was adopted after the 2013 permission, but it too does enable the reuse of buildings for commercial use in general terms. Members are aware of a number of commercial uses particularly in former agricultural buildings throughout the Borough and indeed also within residential planning units. The NPPF encourages such uses in general and the Submitted Local Plan does not alter this approach.

In conclusion therefore there has been no material change in planning policy to seriously re-consider a refusal in principle here solely in planning policy terms. The proposal can therefore still be supported in principle.

c) Other Impacts

The 2013 permission contained a number of controlling conditions in order to mitigate adverse impacts. The objections received suggest that these have been breached on a regular basis. The concerns are working hours; the numbers of vehicles at the site, the overall level of activity, noise, general amenity and possibly health and safety matters.

In terms of working hours the condition on the 2013 permission restricts use to between 0800 and 1700 hours on weekdays and between 0800 and 1200 hours on Saturdays with no Sunday or Bank Holiday working. The applicant states that these hours are maintained. The evidence from the representations received contradicts this. Weight is attached to that evidence as the representations are made by actual observations of the operations on the site and the evidence is similar from different sources. Additionally complaints by residents have been followed through by enforcement officers who have concluded that there may well have been breaches.

There is no condition controlling the number of vehicles attending the site. As such there is no present control over this. However the photographic evidence from those making representations is significant. They show numbers of light vehicles both in the yard and on the adjoining access track. Some show HGV and a larger delivery van. These lead to the conclusion that the site is too small in which to accommodate the

present use. Due to the nature and location of the site then its current use would appear to be causing inconvenience and disturbance for neighbouring residents.

Another condition requires doors and windows to be closed except for access and egress. The photographic evidence from the representations doesn't suggest that this condition is being breached on a regular basis, although access for deliveries given the number of vehicles witnessed on the photographs, could suggest that the main doors will be open, but this could be argued to fall under "access" to the building.

The Environmental Health Officers have been called to the site to investigate potential noise but this has not resulted in any formal action.

A further condition states that there should be no outside storage – the photographs suggest compliance with this condition.

On the basis of these conclusions there would appear to be some evidence to suggest that perhaps only the working hours' condition may have been breached, but this should be given moderate weight as it has led to representations claiming adverse impacts.

d) The Final Balance

As the 2013 permission no longer applies, the central issue for the Board is to consider whether the current use operating on the site can be supported with appropriate conditions particularly as the use could accord with planning policy in principle. The current use would appear to be more akin to a B8 storage and distribution use with ancillary assembly and repair and servicing. The operation of this use however has "outgrown" the confined size of the site permitted in 2013; there are substantially more vehicle movements generated, a larger number of employees and there is very likely activity on the site outside of the 2013 permitted hours. These factors have led to objections describing adverse impacts on neighbouring residential amenity. This would lead to the conclusion that the use cannot be supported. However before reaching a final conclusion, it is necessary to consider whether new conditions could mitigate those impacts. A new suite of conditions would be needed to control operating and delivery hours; the actual use of the building confining it to a storage use and a restriction on the number of vehicles accessing the site. Because of the small size of the site and its setting close to private residential property, it is considered that such conditions would need to be quite restrictive.

Members will be aware that a refusal here would need to be followed by consideration of whether it would be expedient to issue an Enforcement Notice. That Notice would require cessation of the current use because that use is presently unauthorised. This will have a direct and substantial impact on the business. It would need to find alternative premises and that would carry a cost. It might also lead to cessation of the use and the associated loss of employment for eight people. On the other hand the further grant of permission would need to be subject to conditions that might render the continuing use unviable. Because of the possible substantial impacts of such a Notice, it is considered that the expediency of such action needs further assessment.

In conclusion therefore it is suggested that the Board should invite the applicant to meet appropriate Members in order to better understand the consequences of the service of a Notice on his business whether requiring its cessation and the impacts of the imposition of conditions should a new permission be considered.

Recommendation

That prior to determination of this application, the applicant be invited to meet appropriate Members of the Board with a view to understanding more fully, the potential consequences here of a refusal of planning permission and the subsequent service of an Enforcement Notice.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0538

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	6/9/2018
2	NWBC Environmental Health	Consultation Response	2/10/2018
3	NWBC Environmental Health	Further comments	10/10/2018
4	Parish Council	Consultation response	18/10/2018
5	Neighbour	Objection	1/10/2018
6	Neighbour	Objection	2/10/2018
7	Applicant	Extension of time agreement	21/10/2018
8	Case officer and agent	Exchange of emails	14/09/2018
9	Parish Council and Case officer	Exchange of emails	27/09/2018
10	Case officer	Email to agent	3/10/2018
11	Case officer and NWBC Environmental Health	Exchange of emails	2/10/2018 – 10/10/2018
12	Agent	Email to case officer	11/10/2018
13	Case officer and owner	Exchange of emails	18/10/2018 – 24/10/2018
14	WCC Footpaths and Case officer	Exchange of emails	24/10/2018
15	Case officer	Email to Councillor Simpson to provide details on the application	12/11/2018
16	Case officer	Email to owner	12/11/2018

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

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

Appendix 1 - Plan



Appendix 2 – Photos



5/80

4/92

Appendix 3 – PAP/2013/0440 Decision Notice



North Warwickshire
Borough Council

Mr Maurice Kenna
1 Yew Tree Farm Cottages
Coton Road
Nether Whitacre
Coleshill
B462HD

Jeff Brown BA Dip TP MRTPI
Head of Development Control Service
The Council House
South Street
Atherstone
Warwickshire
CV9 1DE

Telephone: (01827) 715341
Fax: (01827) 719225
E Mail: PlanningControl@NorthWarks.gov.uk
Website: www.northwarks.gov.uk

Date: 11 November 2013

The Town & Country Planning Acts
The Town and Country Planning (Listed Buildings and
Conservation Areas) Act 1990
The Town & Country Planning (General Development)
Orders
The Town and Country Planning (Control of
Advertisements) Regulations 1992 (as amended)

DECISION NOTICE

Full Planning Application

Application Ref: PAP/2013/0440

Site Address

1 Yew Tree Cottages, Coton Road, Whitacre Heath, Coleshill,
B46 2HD

Grid Ref: Easting 421441.10
Northing 293768.92

Description of Development

Change of use of building from garages / storage to business use for refrigeration and air conditioning business

Applicant

Mr Maurice Kenna

Your planning application was valid on 16 September 2013. It has now been considered by the Council. I can inform you that:

Planning permission is **GRANTED** subject to the following conditions:

1. The development hereby approved shall not be carried out otherwise than in accordance with the site location plan received by the Local Planning Authority on 12 September 2013

REASON

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

2. This permission shall ensure solely for the benefit of Mr Kenna and for no other person or Company whatsoever, and shall cease when Mr Kenna vacates the premises, or the use shall be discontinued after 5 years from the date of this permission.

REASON

In order to control the scale and scope of the use so as to control its impacts.

Authorised Officer: 

Date: 11 November 2013



3. The use hereby permitted shall only be for the building and land contained within the hereby approved red line plan and this use shall only be for the for the re Fridgeration and air conditioning business, and for no other purposes whatsoever within Use Class B2 as defined by the Town and Country Planning (Use Classes Order) 1987 as amended.

REASON

In order to control the scope and scale of the development and thus to limit its impacts.

4. The use of the application site for the re Fridgeration and air conditioning business shall only be used between 08:00 hours and 17:00 hours each day Monday through to Friday and between 08:00 hours and 12:00 hours on Saturday. There shall be no opening whatsoever on Sundays, Public Holidays and Bank Holidays.

REASON

To prevent disturbance to the occupiers of nearby properties.

5. During the opening hours of the business the doors and windows shall be kept closed except for access and egress.

REASON

To protect the amenities of nearby residential properties and the area.

6. There should be no external storage whatsoever.

REASON

In the interests of the amenities of the area.

7. No additional opening shall be made other than shown on the plan hereby approved, nor any approved opening altered or modified in any manner.

REASON

To protect the privacy of the occupiers of adjoining properties.

8. There shall be no sales from the site or trade counter operated. Any deliveries related to the re Fridgeration and air conditioning business shall be for the benefit of Mr Kenna.

REASON

To protect the amenities of nearby residential property.

INFORMATIVES

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.

Authorised Officer: 

Date: 11 November 2013

2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at www.communities.gov.uk/publications/planningandbuilding/partywall.
3. Public footpath number T32 passes close to the site. Care should be taken, particularly during construction works, to ensure that this route is kept open at all times.
4. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through discussions to resolve planning objections and issues and negotiations. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

APPEALS TO THE SECRETARY OF STATE

1. If you are aggrieved by the decision of the Local Planning Authority to grant permission subject to conditions, you can appeal to the Department for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990.
2. If you want to appeal against your local planning authority's decision, then you must do so within 6 months of the date of this notice.
3. Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, or online at www.planning-inspectorate.gov.uk and www.planningportal.gov.uk/pca.
4. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
5. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
6. The Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

PURCHASE NOTICES

1. If either the Local Planning Authority or the Department for Communities and Local Government grants permission to develop land subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
2. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Authorised Officer: _____

Date:

11 November 2013

Page 3 of 4

NOTES

1. This decision is for the purposes of the Town and Country Planning Act only. It is not a decision under Building Regulations or any other statutory provision. Separate applications may be required.
2. A report has been prepared that details more fully the matters that have been taken into account when reaching this decision. You can view a copy on the Council's web site via the Planning Application Search pages <http://www.northwarks.gov.uk/planning>. It will be described as 'Decision Notice and Application File'. Alternatively, you can view it by calling into the Council's Reception during normal opening hours (up to date details of the Council's opening hours can be found on our web site <http://www.northwarks.gov.uk/contact>).
3. Plans and information accompanying this decision notice can be viewed online at our website <http://www.northwarks.gov.uk/planning>. Please refer to the conditions on this decision notice for details of those plans and information approved.

Authorised Officer: _____

Date:

11 November 2013

Page 4 of 4

Appendix 4 – Business Case for the proposal from the applicant

The Business, use of building and yard area:

The business is a small company that provides the service, installation and repair of refrigeration and air conditioning equipment.

Commercial & industrial refrigeration and air conditioning repairs and service:

Most of our work on relating to the repair of commercial refrigeration equipment is done on customers sites, such as schools, colleges, universities, hotels, restaurants and catering facilities in lager plants and factories. From time to time it becomes necessary to bring refrigeration equipment back to the workshop if we cannot make the repair on site, however this is becoming very rare. The types of products we work on are mainly stainless-steel fridges, freezers, salad / pizza preparation stations and vending machine coolers.

All commercial refrigeration and air conditioning services, which are normally scheduled are carried out on customers premises, due to the size and nature, all industrial refrigeration repairs and service are also performed on our customers sites.

The three engineers and their vehicles used for the commercial & industrial refrigeration and air conditioning repairs and service side of the business are based from the business address.

Air Conditioning Installation:

The air conditioning installation side of the business is all undertaken on site, the vehicles for this are not operated or stored at the premises. The majority of the installation work is out of town, with the engineers arriving on site on a Monday morning, staying away for the week and returning home on a Friday afternoon.

Deliveries:

Although we do receive deliveries from suppliers, the majority of our spare parts are collected by us from local refrigeration wholesalers, such as Kooltech in Coleshill and Wolseley (Climate Centre) in Minworth. All the capital equipment and the majority of materials for the air conditioning installation teams are delivered to site, however our install engineers do collect from wholesalers should the need arise.

Use of the building:

The windowless building / shed consists of a small office at the rear with the rest of the floor space given to racking (for tool storage and spare parts) and 3 steel work benches, there is another bench for the engineers paperwork with associated job details.

Use of the yard area

The yard area is used for vehicle storage, this area is fairly secure as the gates are kept closed except for access and egress and are locked overnight or when there is nobody at the address during the day.

(6) Application No: PAP/2018/0626

Crida House, Kingsbury Road, Curdworth, B76 9DS

Variation of condition no: 2 of planning permission PAP/2016/0301 - Appeal reference APP/R3705/W/17/3170136 relating to approved plans; in respect of erection of detached building to carry out car tyre & exhaust fitting, for

Mr C Humpherston

Introduction

The application is brought to the Board following a Local Member request concerned about the impact on the local area.

The Site

The site lies on the edge of Curdworth and is accessed along the main Kingsbury Road, which goes from the M42/M6Toll/A446 junction towards Minworth and Birmingham. The site is generally flat. To the south east is Glebefields, a residential street.

The site contains an existing lawful vehicle wash which is open from 0800 to 1800 on Mondays to Saturdays and from 0930 to 1600 on Sundays. Vehicles washed include cars, tankers, vans and HGV's. It used to be a petrol filling station. It has an "in" and an "out" access arrangement.

Background

On 2016 a planning appeal decision granted planning permission for a building on this site to be used for car tyre and exhaust fitting. That decision is copied at Appendix 3.

The Proposal

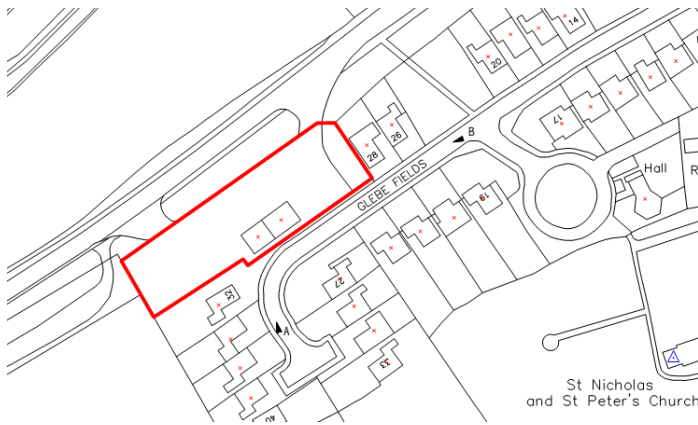
The application is to vary the approved scheme. In particular it relates to the dimensions of the approved building. The changes to the proposal as as follows:

	<u>Height</u>	<u>Length</u>	<u>Width</u>
2018/0626 (proposed)	5.4m	16m	7.6m
2016/0301 (approved)	6.0	14m	9.6m

The proposal variation would thus lead to a footprint reduction by 12.8 square metres and a slight reduction in height. The location of the building would remain as approved and the seperation distance to the nearest residential boundary would remain at 1.0 metre. The plans can be viewed at Appendix 1. Site photos can be viewed at Appendix 2. The approved plans are also at Appendix 1.

The use of the building would remain the same as the approved scheme and it would remain as a single storey structure with a pitched/hipped roof and located to the right (the west) of the existing car wash buildings as the plan below shows.

Below are the proposed plans and further below are the approved plans.



Development Plan

The Core Strategy 2014 – NW10 (Development Considerations)

Saved policies of the North Warwickshire Local Plan 2006 - ENV13 (Building Design)

Other Relevant Material Considerations

The National Planning Policy Framework 2018

The Submitted Local Plan 2018 - LP31 – Development Considerations) and LP 32 (Built Form)

Consultations

Environmental Health Officer – no objection

Warwickshire County Council as Highway Authority – no objection

Representations

Curdworth Parish Council –It objects raising the following matters:

- It does not agree with the concept of the proposal.
- There will be an adverse impact from noise and pollution, leading to a detrimental impact on health and well-being.
- The minor amendments will not improve the situation. Any attempt to increase the capacity will attract more HGVs to the site, bringing with them an increase in pollution, both noise and atmospheric; this in addition to noise created in the workshop itself.
- Safety of ingress and egress will also be further compromised.

An objection has been received from a nearby resident referring to:

- It's unsuitable to Curdworth Village
- Add to existing noise and disruption.
- Water sprays from the site into nearby gardens.
- Planning Appeal process did not consider local views.

- Increase in traffic along Kingsbury Road.
- One neighbour requested extension of time to submit and representations.

Observations

It is of substantial weight that an extant planning permission exists for this building and its use. This application seeks only vary the dimensions of that building. As such the relevant planning considerations here are solely to do with the potential impacts of this variation. Whilst the local concerns are recognised about the principle of this development, they carry no weight because of the appeal decision. The matters relevant here should not be treated as a re-run of the appeal decision. The local community made its comments known to the Inspector at that time. The Inspector whilst accepting these comments did not give them substantial weight.

The proposed variation cannot change the appeal decision.

The impact on the residential amenity of the surrounding properties was the foremost matter looked at by the Inspector and that too remains the case now.

The nearest neighbour is 32 Glebefields with the proposed building 1 metre off the common boundary. This property has a side bedroom at first floor level nearest to the application site. It has three windows in a type of dormer construction as shown below.



The revision to the scheme will make the building wider, but it will also lower the height. Number 32 already borders the application site and its occupiers have said that they are already affected by spray, noise and general amenity impacts. However no rear facing windows or doors are proposed in the new building with the main roller shutters and entrance door being to the opposite side (front). Additionally the site of the building is currently a car parking area and this would thus be removed. The building would assist too in obstructing the spread of water spray reaching the property from the lawful vehicle wash facility.

It is considered that the proposal will have no material adverse impacts over and above those that might occur under the fall-back position of the approved extant consent. The Environmental Health Officer agrees. The conditions set out below reflect those imposed by the Inspector in his appeal decision.

Recommendation

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

1. The development hereby permitted shall begin not later than 27 September 2020.

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 permitted shall be carried out in accordance with the following approved plans: Location Plan, Proposed Site Layout Plan 479-03 REV A (received by the Local Planning Authority on 16 October 2018), Proposed Floor Plans and Elevations 479-04 REV B (plan received by the Local Planning Authority on 7 November 2018).

REASON

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

3. No development shall take place until details of the facing bricks and roofing tiles, along with any other facing materials to be used in the proposed building have been submitted to and approved in writing by the Local Planning Authority. The development shall be built in accordance with the approved details.

REASON

In the interests of the amenities of the area.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, doors or any other form of opening other than those expressly authorised by this permission shall be constructed on any of the elevations of the building hereby permitted.

REASON

To protect the privacy of the occupiers of adjoining properties.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Class H of Part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 shall be carried out without planning permission granted by the Local Planning Authority.

REASON

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

6. The premises shall be used for car tyre and exhaust fitting and for no other purpose (including any other purpose in Use Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

REASON

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

7. No development shall take place until a scheme for the provision of adequate water supplies and fire hydrants necessary for fire fighting purposes at the site have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the occupation of the building hereby permitted and retained as such thereafter.

REASON

In the interests of the amenities of the area.

8. No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development commences. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within an agreed timescale following the report's completion and approval in writing by the local planning authority.

REASON

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

9. No development shall take place until full details of the surfacing, drainage and levels of the car parking, turning and manoeuvring areas as shown on the approved plan have been submitted to and approved in writing by the Local Planning Authority.

The building hereby permitted shall not be occupied until the areas have been laid out in accordance with the approved details and such areas shall be permanently retained for the parking and manoeuvring of vehicles thereafter.

REASON

In the interests of the amenities of the area and safety on the public highway.

10. All doors and windows at the building hereby permitted shall be kept closed except for access and egress during periods when noisy machinery or equipment is used. All tyre and exhaust works (including associated works) shall only take place within the building hereby permitted.

REASON

In the interests of the amenities of the area.

11. The use hereby permitted shall only take place between the following hours: 0800 - 1800 Mondays – Fridays and 0800 - 1200 Saturdays and not at any time on Sundays or on Bank or Public Holidays.

REASON

In the interests of the amenities of the area.

12. Demolition or construction works shall take place only between 0800 - 1800 hours on Mondays to Fridays and 0800 - 1300 hours Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays. Deliveries and collections associated with the construction of the proposed development shall not occur during 0800 - 0900 and 1700- 1800 on Mondays to Fridays.

REASON

To prevent disturbance to the occupiers of nearby properties.

Notes

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

2. It is recommended that in relation to the existing vehicle wash facility that the site owners should display signs on each gate stating that parking is not permitted at any time on the tarmac verge crossings in front of the gates.

3. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of

any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.

4. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>

5. Section 163 of the Highways Act 1980 requires that water will not be permitted to fall from the roof or any other part of premises adjoining the public highway upon persons using the highway, or surface water to flow - so far as is reasonably practicable - from premises onto or over the highway footway. The developer should, therefore, take all steps as may be reasonable to prevent water so falling or flowing.

6. Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

7. Before carrying out any work, you are advised to contact Cadent Gas about the potential proximity of the works to gas infrastructure. It is a developer's responsibility to contact Cadent Gas prior to works commencing. Applicants and developers can contact Cadent at plantprotection@cadentgas.com prior to carrying out work, or call 0800 688 588

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0626

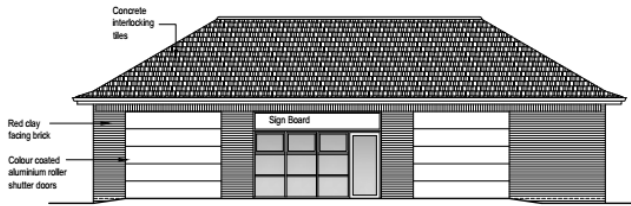
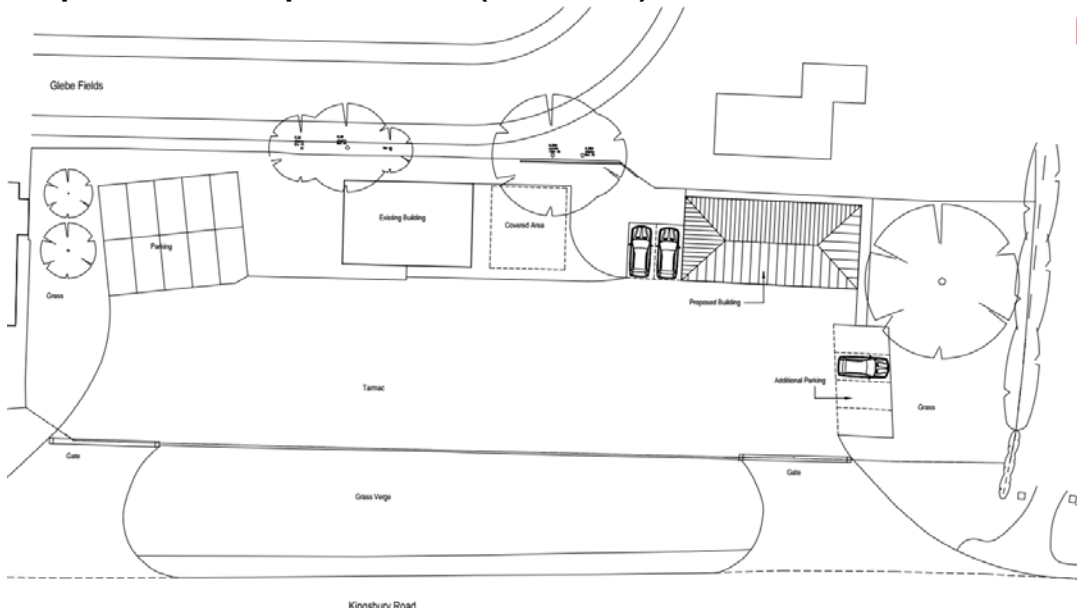
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	7/11/2018
2	Parish Council	Consultation response	18/12/2018
3	NWBC Environmental Health	Consultation response	20/11/2018
4	WCC highways	Consultation response	11/12/2018
5	Case officer	Consultation with Councillors	12/12/18 – 18/12/18
6	Case officer	Email to Councillors and responses	07/11/2018 – 12/11/2018
7	Case officer and agent	Exchange of emails and agree extension of time and conditions	21/12/2018
8	Case officer and agent	Exchange of emails	7/12/18 – 12/12/18
9	Case officer / agent / applicant	Exchange of emails	18/12/18 – 21/12/18

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.

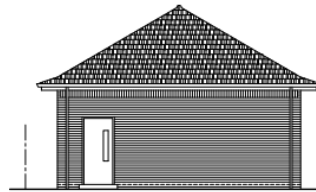
A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

Appendix 1 – Plans – Proposed and Approved

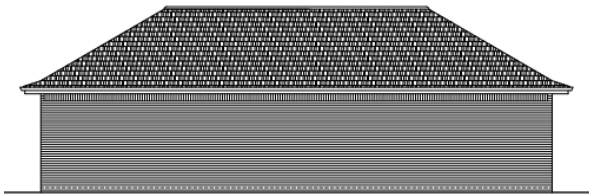
Proposed revised plans below (2018/0626)



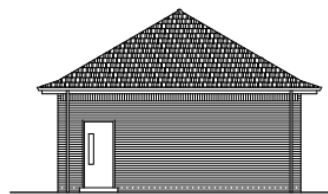
Front [north]



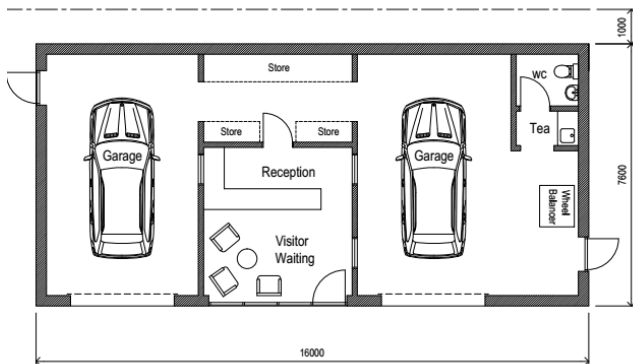
Side [east]



Rear [south]

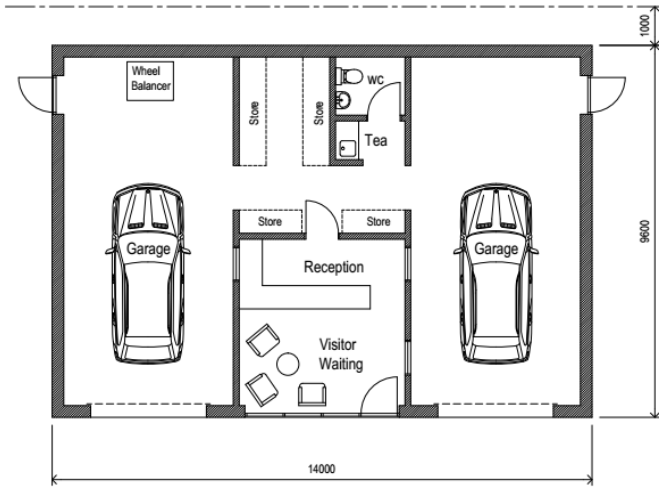


Side [west]

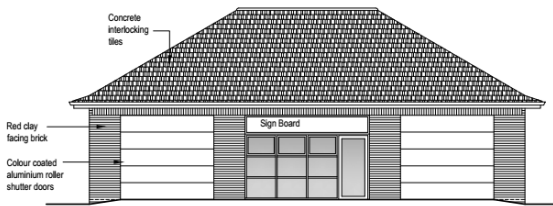


Ground Floor Plan

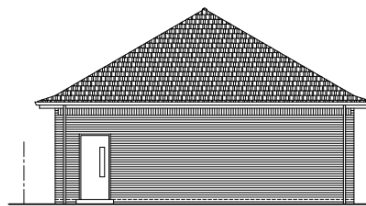
Approved plans below (2016/0301);



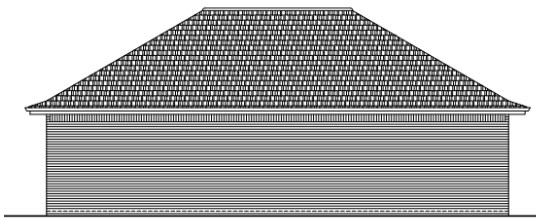
Ground Floor Plan



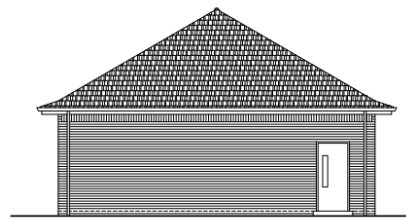
Front [north]



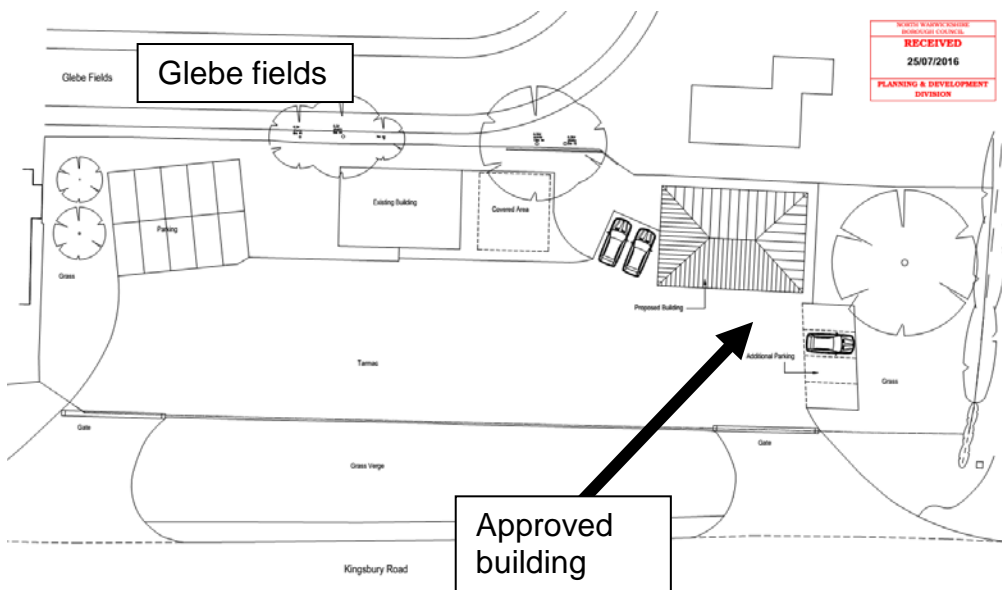
Side [east]



Rear [south]



Side [west]



Appendix 2 – site photos



Appeal Decision

Site visit made on 7 September 2017

by **B Bowker Mplan MRTPI**

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

Decision date: 27th September 2017

Appeal Ref: APP/R3705/W/17/3170136

Cirda House, Kingsbury Road, Curdworth B76 9DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Humpherston against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2016/0301, dated 20 May 2016, was refused by notice dated 8 November 2016.
 - The development proposed is erection of detached building to carry out car tyre and exhaust fitting.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of detached building to carry out car tyre and exhaust fitting, at Cirda House, Kingsbury Road, Curdworth B76 9DS, in accordance with the terms of the application Ref PAP/2016/0301, dated 20 May 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development used above is agreed between the parties and is taken from the decision notice which more accurately reflects the permission sought.
3. Based on the evidence before me, it is not clear whether part of the site is located within a Green Belt. In any event, the Council raise no concern in this respect and I note that the reason for refusal relates to neighbouring living conditions and character and appearance.
4. Based on all I have seen and read, I have no reason to disagree with the Council's stance in relation to the Green Belt. Accordingly, my determination of the appeal focusses on the main issues below.

Application for costs

5. An application for costs was made by the appellant against North Warwickshire Borough Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are the effect of the proposal on:
 - the living conditions of neighbours residing at Glebe Fields and Kingsbury Road, with particular reference to noise and disturbance; and,

<https://www.gov.uk/planning-inspectorate>

- the character and appearance of the surrounding area.

Reasons

Neighbours

7. The appeal site is located on the western edge of Curdworth and comprises a vehicle valet use with associated building and service yard. Vehicles cleansed at the site include larger vehicles such as tankers and Heavy Goods Vehicles (HGV). Residential use is to the rear and eastern side of the site.
8. The Council and neighbours consider that the proposal would increase operations undertaken at the site and consequently increase noise and disturbance for neighbours residing at Kingsbury Road and Glebe Fields, particularly at No 32. No 32 Glebe Fields is located close to the boundary of the appeal site and would be adjacent to the proposed single storey building. The facing elevation of No 32 contains three windows serving a habitable room.
9. During my site visit I saw a HGV being cleaned adjacent to the facing habitable windows serving No 32. The noise from this process (including staff communicating with one another) and associated cleaning spray would be particularly disruptive and harmful to the living conditions of neighbours residing at No 32. Although to a lesser extent, this noise would also cause disturbance to other adjoining neighbours, as indicated by the submitted letters of objection.
10. No opening would be contained within the proposed rear elevation facing No 32 whilst two small doors would be contained within the proposed side elevations. The front elevation of the building would contain the principle openings and points of access for vehicles and customers. Suitably worded planning conditions would ensure that the proposed use is carried out within the proposed building. A condition could also be imposed to ensure that windows and doors are kept closed when noise generating equipment is in use.
11. Taking into account the existing use at the site and associated noise and spray, subject to the above noted conditions, the proposal would result in a reduced effect on the living conditions of surrounding neighbours. Furthermore, I understand that the opening hours proposed would be less than the existing use at the site. Moreover, I note that the Council's Environmental Health Officer has raised no objection to the proposal subject to the imposition of planning conditions.
12. Therefore the proposal would not have a harmful effect on the living conditions of neighbours residing at Glebe Fields and Kingsbury Road, with particular reference to noise and disturbance. Consequently the proposal would meet the requirements of Core Strategy (CS) Policy NW10 (9) and paragraph 17 bullet point 4 of the National Planning Policy Framework. Combined these policies seek to ensure that development secures a good standard of amenity for existing occupants and avoids unacceptable impacts through noise.

Character and Appearance

13. During my site visit I saw that despite being surrounded by residential properties to its south and east, the appeal site has a distinct and separate commercial character. A wider commercial character is also evident when approaching Curdworth from the east along Kingsbury Road. The proposed

building would be seen in the context of the commercial character evident at the appeal site and in the wider area along Kingsbury Road.

14. The single storey height of the building would sit below residential properties to the south and its siting towards the rear of the site would complement the existing building at the site. In this respect the proposal would be a modest and discrete addition that would be in keeping with the commercial character of the appeal site. Red brick walls are proposed to match surrounding buildings and a condition would ensure appropriate roof materials.
15. Therefore the proposal would not have a harmful effect on the character and appearance of the surrounding area. Consequently the proposal would meet the requirements of CS Policy NW12 which seeks to ensure development demonstrates a high quality of sustainable design that positively improves the individual settlement's character and appearance.

Other Matters

16. Concerns and photographs have been submitted in relation to highway safety. However, taking into account the comments of the Highway Authority, dismissing the appeal on highway safety grounds would be unjustified.
17. Concerns have also been raised regarding fire risk and pollution. However as the Fire and Rescue Service and the Council's Environmental Health Officer do not object to the proposal (subject to appropriate planning conditions), dismissing the appeal on these grounds would also be unjustified.
18. Nor would the availability of other sites or the provision of similar services in the surrounding area be a sufficient basis on which to dismiss the appeal. Based on the single storey height of the proposed building, the proposal would not have a harmful effect on the outlook, light or privacy of neighbours.

Conditions

19. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording in the interests of precision and clarity in order to comply with advice given in the Framework and the Planning Practice Guidance.
20. A prior to commencement of development condition relating to construction materials is necessary to ensure a satisfactory appearance. Conditions removing permitted development rights to create additional openings, to extend the building and to prevent change from the specified permitted use are necessary in the interests of neighbouring living conditions. Similarly, conditions relating to the hours of use and the closure of doors and windows during operation of machinery are necessary to preserve neighbouring living conditions.
21. A condition relating to construction times is included and altered to a reduced time period in order to protect the living conditions of neighbours. To preserve highway safety, a condition requiring approval and completion of the vehicular access, parking and turning areas prior to the occupation of the building is necessary. A condition relating to contamination is necessary based on the comments of the Council's Pollution Control Officer.

22. A condition requiring the removal of the mobile catering unit would not be relevant to the development to be permitted and thus its imposition would be contrary to paragraph 206 of the Framework. Consequently this condition is not included. As separate regulations control matters relating to extraneous material on the highway, this conditions is not necessary.

Conclusion

23. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed subject to the attached schedule of conditions.

B Bowker

INSPECTOR

Attached – schedule of conditions

(7) Application No: PAP/2018/0645

Holmfield, Bennetts Road North, Corley, CV7 8BG

Demolition of existing house and erection of 3 bedroom dormer bungalow and detached double garage, for

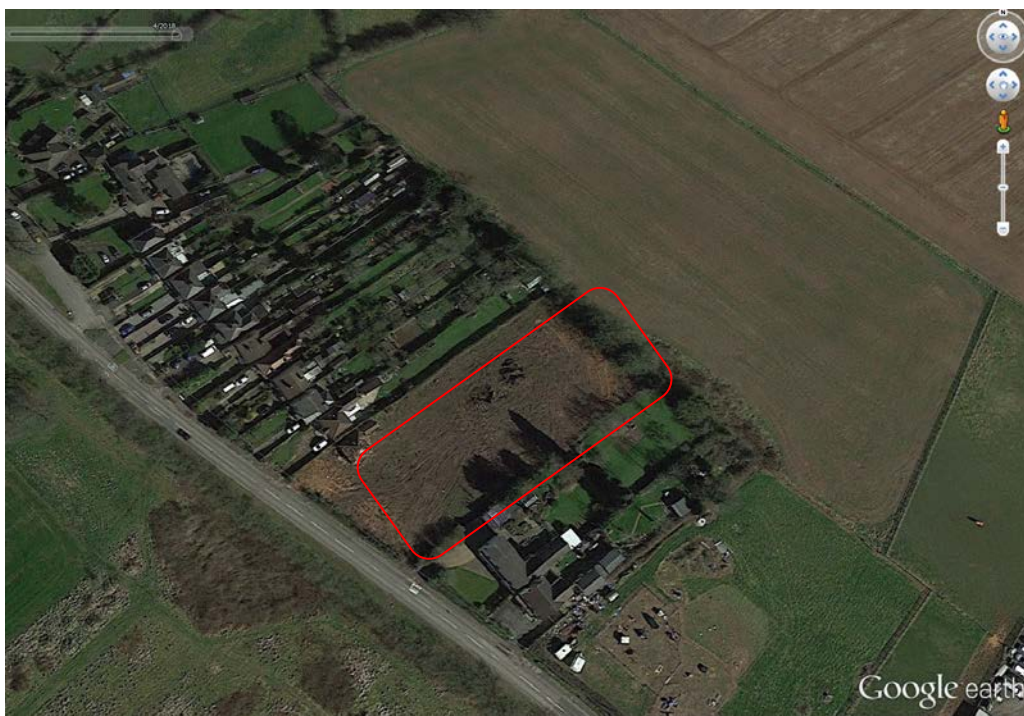
Mr D Beverley

Introduction

The application is brought before the board at the request of a local Member who considers that the weight to be given to the applicant's case should be re-considered

The Site

The application site comprises a vacant, derelict detached bungalow situated within a rectangular 0.4ha plot to the north of Bennetts Road North, Corley. To the northwest are a range of some 15 properties within narrow, long curtilages, with a further two properties present to the southeast. Beyond these properties the built form loosens and leads onto open land and the Holly Farm complex. The site lies wholly within the West Midlands Green Belt.



Background

Planning permission was sought for the demolition of Holmfield and the erection of two replacement detached dwellings last year - application reference number PAP/2018/0234. The application was refused and a subsequent planning appeal was dismissed. An application was submitted late last year for a larger householder extension (PAP/2018/0739) but this remains undetermined.

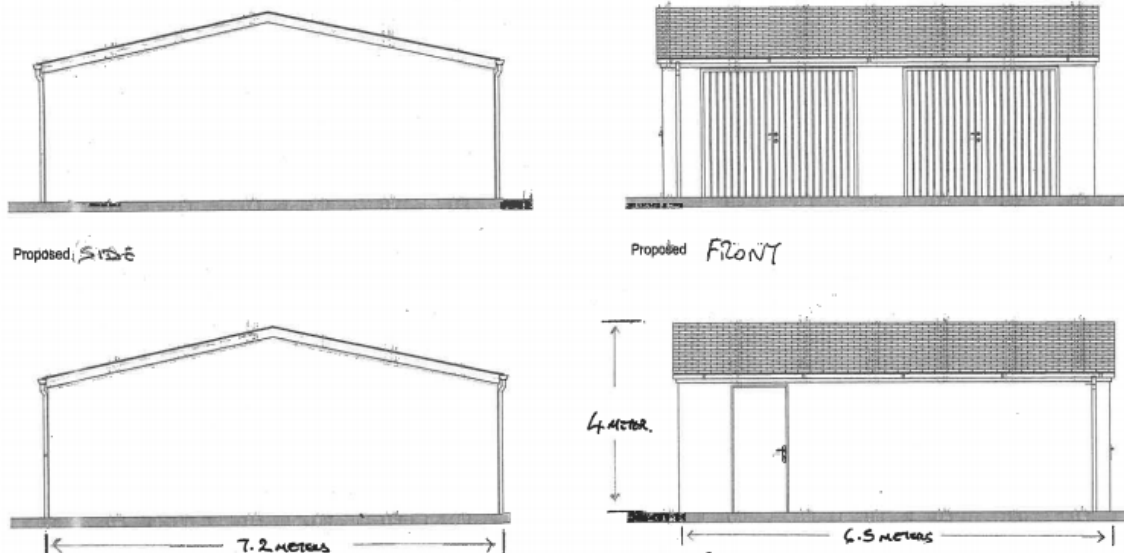
Historical mapping indicates that a further dwelling was present on the plot however it appears to have been demolished over 30 years ago.

The Proposal

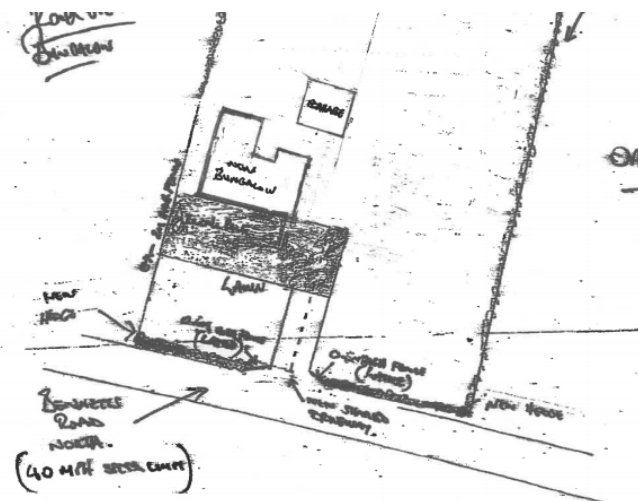
Planning permission is sought for the demolition of the existing property known as Holmfield and the construction of a new three bedroom dormer bungalow with a detached double garage/store. The present vehicular access will also be closed and a new centralised access created.



Main House - Elevation and Floor plans



Garage – Elevation plans



Proposed Site Plan

The property will be positioned to north-west of the plot, with the principal elevation of the replacement dwelling approximately 20.5 metres from Bennetts Road North. The replacement building will be 14.28 metres wide and 8.10 metre long, measuring 2.53 metres to the eaves and 6.65 metres to the apex of a gabled roof.

The two single storey elements at the rear are 5.05 metres long and 1.7 metres long respectively. Two dormer windows are to be inserted within the front facing roof slope, with roof lights proposed at the rear. To the principal elevation, the living room will be slightly expressed from the main house and contains corbelled brick work detailing at eaves level. The gabled detached double garage and store will be 7.2 metres wide, 6.5 metres long, 4 metres high, and constructed using facing brickwork and concrete roof tiles.

A low 0.6 metre high fence is to be erected along the properties frontage with the main road – no additional landscaping details have been supplied. Fronting the new dwelling will be a large c. 200m² area of block paved hardstanding.

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW10 (Development Considerations) and NW12 (Quality of Development)

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

Other Relevant Material Considerations

The National Planning Policy Framework 2018 - (the "NPPF")

The North Warwickshire Local Plan Submission Version (March 2018) - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP3 (Green Belt), LP31 (Development Considerations) and LP36 (Parking)

Previous appeal at Holmfield - Reference APP/R3705/W/18/320513

Consultations

Warwickshire County Council (Highways) - No objection, subject to conditions

Representations

Corley Parish Council has no objection, however it suggests that a more traditional rural design would be better.

Two letters of support have been received referring to:

- Disappointed that planning permission was recently refused for two dwellings
- Current property is an eyesore
- Unsure how development can be inappropriate within the Greenbelt
- Coventry building hundreds of new homes
- Questions the discrepancies within decision making process, different rules for large companies than those for individuals

Observations

a) Principle of Development

North Warwickshire Borough Council is considered to have a five year housing land supply – 5.5 years as of 31 March 2018. In spite of the identified five year housing land supply, policies NW2, NW3 and NW10 of the 2014 North Warwickshire Core Strategy are considered to be out of date and the 'tilted balance' within paragraph 11 of the NPPF is engaged. This states that where important, relevant policies are out of date

consent should be granted unless policies within the NPPF e.g. Green Belt policies, provide a clear reasoning for refusal of the application.

The site lies within the West Midlands Green Belt. Resultantly any form of development is considered to be inappropriate in principle, apart from a number of exceptions defined within relevant development plan policies and paragraphs 145 and 146 of the NPPF.

Paragraph 145 (d) of the framework deems the replacement of a building, provided the new building is in the same use and is not *materially larger* than the existing structure, as appropriate Green Belt development. In line with saved policy ENV13 (ii) and policy LP3 of the emerging Local Plan, a building is considered to be materially larger if its volume is 30% greater than the building it replaces.

The volume and footprint of the original property is considered to be 240.80m³ and 56m² respectively. There is a small single storey extension at the rear of the property, 5 metres long and 2.5 metres wide, although it is now physically detached from the main building. The replacement dwelling, alongside the detached double garage, are considered to have a total volume and footprint of 915m³ and 205m², which represents an increase in volume and footprint of 280% and 266% respectively over the original build. Though the term materially larger is not defined within the NPPF, such an increase is considered to be clearly ‘materially larger’ by fact and by degree and thus represents inappropriate development within the Green Belt.

The site does comprise previously developed land therefore the redevelopment green belt exception within paragraph 145 (f) of the NPPF can also be applied. Nevertheless this exception is subject to the caveat that the development would pose no greater harm to the openness of the Green Belt than the existing development, which is not considered to be the case here for the reasons provided within section (b) of this report.

Pursuant to paragraphs 143 and 144 of the NPPF, inappropriate development is by definition harmful to the Green Belt and consent should not be forthcoming except in situations where the harm by reason of inappropriateness, and any other harm, is “clearly” outweighed by other considerations.

b) Green Belt harm



Existing and proposed principal elevation (width of existing building shown by red line)



Proposed ground floor plan, original building shown edged blue

Pursuant to paragraph 144 of the NPPF, substantial weight is afforded to green belt harm within the overall planning balance. An essential characteristic of Green Belt land is openness which is broadly defined as the absence of built form; consequently determining the effect of a development proposal on openness is integral to assessing Green Belt harm.

Spatially the development would noticeably and materially diminish the openness of the site and the Green Belt given the volume and footprint increases resulting from the replacement dwelling and detached double garage. The visual harm arising would also be significant. Although not significantly higher than the existing building, the new dwellings gabled roof, increased width and greater bulk would result in the building appearing noticeably more apparent than the present dwelling within the wholly open site, notwithstanding the additional harm to openness emanating from the detached garage.

Additionally the associated residential paraphernalia, such hardstanding, imparts further Green Belt harm. The development is not considered to be in conflict with the five purposes of including land within the Greenbelt.

c) Fall-back position and abandonment

Table 1 Volume and footprint comparison

	Volume	Footprint
Original building	241m ³	56m ²
Dormer bungalow and detached double garage (PAP/2018/0645)	915m ³	205m ²
“Fall back” position as shown on submitted plan (side extension, rear extension and double garage)	719m ³	189m ²

8 metre rear extension (shown on PAP/2018/0739), side extension and double garage	840m ³	215m ²
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The applicant has asserted that potential development under the limitations of Classes A and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 is a ‘fall back’ position that could be resorted to if consent is not forthcoming, and constitutes a very special circumstance of substantial weighting in the overall planning balance.

A submitted plan depicts a single storey side extension, an 8 metre rear extension, and a detached double garage that could be constructed without the requirement for planning permission. Moreover a prior notification of a larger householder extension has been received; although the consultation period has not been completed. Owing to the condition of the building and its 25 years of non-use, the authority needs to consider whether the residential usage of the premises and the site has been abandoned. Case law has held that four factors are relevant in the concept of abandonment of planning uses;

- (1) the physical condition of the building;
- (2) the length of time for which the building had not been used for residential purposes;
- (3) whether it had been used for any other purposes; and
- (4) the owner's intentions

Firstly, the property is in an extremely poor state of repair with the roof partially collapsed, rafters exposed and windows either damaged, absent or boarded up. Secondly, evidence provided by the council’s revenue department indicates that the dwelling has been empty since at least the 1 April 1993 (over 25 years), with the properties council tax band ‘deleted’¹ in November 2017. No evidence indicates that there have been any other intervening uses. Finally, pre-application advice submitted to the council on behalf of the previous occupant states that the intent was to abandon the premises.

If, theoretically, the fall-back position could be implemented, the 8 metre rear extension, 4 metre side extension and detached garage would increase the volume of the dwelling by approximately 322m³, with the detached double garage adding an additional 156m³. The total volume and footprint of built form would be 719m³ and 188m², some 21% and 8% less than the proposed development. Visually the harm to openness would also be lesser through the permitted development extensions. The fall back therefore cannot be seen to be a very special circumstance of weight within the overall planning balance.

Design

Saved policy ENV12 of the 2006 Local Plan requires proposals to harmonise with the immediate and wider setting while respecting natural features, and NW12 of the 2014 Core Strategy seeks for development to enhance local character and appearance.

Policy ENV13 (i) relates to the physical characteristics of built form. The development is not considered to be compliant with saved policy ENV12, as well as paragraph 127 c) of the NPPF which, although not discouraging appropriate invocation, seeks for developments to be sympathetic to local character, built environment and setting.

To the northwest of Holmfield are 15 properties, mostly 1930's/40's semi-detached dwellings with hipped or gabled roofs, sited within narrow, long curtilages, with a further two properties present to the southeast. The immediate neighbouring property is a small pyramidal roofed bungalow. The development as proposed would introduce a very large, wide replacement dwelling which would correspond poorly with the immediate and wider setting through its sheer scale and the inclusion of uncharacteristic features and detailing. The width of the building is significantly greater than the semi-detached pairs, 14.3 metres as opposed to a range of between 8-10 metres. No objection is offered to the height of the dwelling which is a moderate increase on the existing building, or the main, gabled roof form. Overall the development is considered to harm the character and appearance of the immediate and wider surroundings.

e) Amenity

Policy NW10 (9) of the 2014 Core Strategy requires all development proposals to 'avoid and address' unacceptable neighbouring impacts, such as but not limited to overshadowing, loss of daylight, loss of sunlight and loss of privacy (emphasis added). The development is not considered to result in adverse overlooking, with views from the gabled dormer windows directed towards the adjacent open countryside. As the replacement dwelling will be set back further into the site, the amenity implications for the neighbouring property, Rock View Bungalow, must be considered. The total length of the property along its north-west facing elevation will be 13.15 metres and the rear extent of the dwelling would be approximately 34 metres from the highway.



Aerial image of application site, Google Maps 2018 – a 34 metre line from the highway to the proposed rear elevation is shown on the image

Notwithstanding the 2.5 metre set back from the boundary, the development is considered to have an overbearing impact on the neighbouring property, and would materially diminish the passage of light into rear facing windows. No other properties are considered to be adversely affected.

f) Highways

Policy NW10 (6) stipulates that development should provide appropriate vehicular access, parking and turning areas in accordance within adopted council standards. Policy TPT6 of the 2006 Local Plan, and LP36 of the emerging Local Plan, both require two parking spaces for a dwelling of this size. The proposed parking arrangement provides off road parking far in excess of the policy requirements. Centralising the access is considered to be suitable and results in betterment. The Highways Authority has raised no objection to the proposals.

g) Other information

The applicant has submitted a design and access statement, as well as made references to a number of other previous planning applications, which will be commented on below.

<u>Information supplied by applicant</u>	<u>Officer response</u>
PAP/2015/0080 – Cheshire Farm, Corley; new dwelling	No material increase in the scale of built form; site was previously developed land and contained two buildings.
PAP/2018/0097 – Pound Lane, Over Whitacre; redevelopment of builders yard, 100% greater volume than existing buildings	The officers report indicates that the dwellings volumes would be similar to the existing buildings and levels of outside storage
PAP/2017/0118 and PAP/2018/0991 – Stormways, Corley: Partial demolition of original house and extensions, 226% above original volume	Property had been subject to a number of large extensions, the more recent applications reduced the volume and footprint of built form on the site.
PAP/2015/0661/PAP/2018/0449 – Springfield, Corley; Replacement dwelling	The replacement dwelling is only 1.4% greater in volume than the existing property
PAP/2018/0382 – Wayside Cottage, Wishaw; Replacement dwelling	Planning permission granted for an extension to the property. Volume of new dwelling would be less.
The site is previously developed land	See section B of this report
Proposal re-uses a redundant building which would lead to the enhancement of the immediate setting and is thus the special circumstance (p79 of the NPPF)	The Greenbelt harm is substantial and the proposals do not re-use the building.
Development would improve the local environment and amenity for the neighbours. It would stop the anti-social behaviour of the local kids playing in the building, and causing a nuisance.	Limited weight in support here in the overall planning balance.
Dormer bungalow has less volume than existing property plus permitted development allowances	This is not considered to be a correct representation of the application or its circumstances, see section B of the report for more detail.
Development would be self-built.	Limited weight in support here in the overall planning balance.

h) Conclusion

Having reviewed all the available evidence, it is considered here that the development would substantially harm the openness of the Green Belt. The development also fails to positively integrate with the existing built environment, harms the character and appearance of the area and unacceptably impacts upon neighbouring amenity. Accordingly the harm to the Green belt, and other harm, is not clearly outweighed by very special circumstances to warrant the granting of planning permission.

RECOMMENDATION

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

1. The site lies within the West Midlands Green Belt and the proposals are considered to be an inappropriate form of development. The actual harm to the openness of the Green Belt, both spatially and visually, would be significant in view of the scale and footprint of the proposed replacement building and detached garage. The considerations advanced by the applicant are not considered to outweigh the totality of harm arising from the development to constitute very special circumstances that warrant granting planning permission. Resultantly, the proposals are discordant to policy NW3 of the 2014 North Warwickshire Core Strategy and section 13 of the National Planning Policy Framework.
2. The development introduces a large, incongruous replacement dwelling which, through its scale and the inclusion of overtly modern features and detailing, fails to harmonise with the immediate and wider surroundings. The development therefore does not comply with policy NW12 of the North Warwickshire Core Strategy 2014
3. The proposals unacceptably harm the amenity of the neighbouring property at Rock View Bungalow, by virtue of overbearing, overshadowing and loss of both daylight and sunlight. Resultantly, the proposals are discordant to policy NW10 of the 2014 North Warwickshire Core Strategy.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0645

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	24/10/18, 14/11/18, 19/11/18
2	NWBC Council Tax	Council Tax Statement	5/11/18
3	Resident	Representation	7/11/18
4	Resident	Representation	9/11/18
5	Corley Parish Council	Representation	23/11/18
6	WCC Highways	Consultation response	23/11/18
7	Case Office and Applicant	E-mail exchanges	1/11/18- 19/11/18

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.

(8) Application No: PAP/2018/0681

61, School Hill, Hartshill, CV10 0NF

Retention of existing garage/store, for

Mr A Singh

Introduction

This application is reported to the Planning and Development Board because of the possibility of enforcement action in light of the recommendation.

The Site

The site comprises a semi-detached post-war dwelling, located within a row of similar dwellings that step up School Hill incrementally, and sits above a later development of detached and semi-detached houses in Bluebell Close to the rear. A dropped kerb to the front of the property provides vehicular access to the site from School Hill.

The Proposal

The proposal is for the retention of an existing garage/store building located within the rear garden of the dwelling. It measures 7.6 by 9 metres extending across the whole of the rear width of the garden and to its rear. It therefore leaves no open space. It is 3.5 metres tall having a flat polycarbonate sheet roof

Background

A complaint was received in 2015 regarding the erection of this block built structure. A site investigation resulted in the submission of the planning application PAP/2015/0079. This was for a smaller extension. Notwithstanding repeated efforts to secure the removal of the larger extension and its replacement with the smaller one approved, this has not occurred. The permission has expired and thus the existing structure remains unauthorised. The current application seeks to retain this building.

Development Plan

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

Saved policies of the North Warwickshire Local Plan 2006 – ENV12 (Urban Design) and ENV13 (Building Design)

Hartshill Neighbourhood Plan - H4 (Good Quality Design in Hartshill)

Other Relevant Material Considerations

The National Planning Policy Framework 2018

The Submitted Local Plan for North Warwickshire - LP31 (Development Considerations) and LP32 (Built Form)

Representations

No representations have been received.

Observations

a) Principle of Development

The dwelling lies within the development boundary of Hartshill in which extensions and alterations to existing residential properties, such as the provision of incidental and ancillary buildings are, in principle, acceptable, subject to adherence with the relevant development plan policies.

The property benefits from the provision of permitted development rights that allow a range of lawful alterations, extensions and improvements. The applicant could lawfully erect a single storey, incidental outbuilding here provided that its height is limited to 2.5 metres, sited within 2 metres from the curtilage boundary, without the requirement for a planning application under the provisions of Class E, Part 1 to Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. This is a material consideration and forms a fall-back position to be considered against the current proposals.

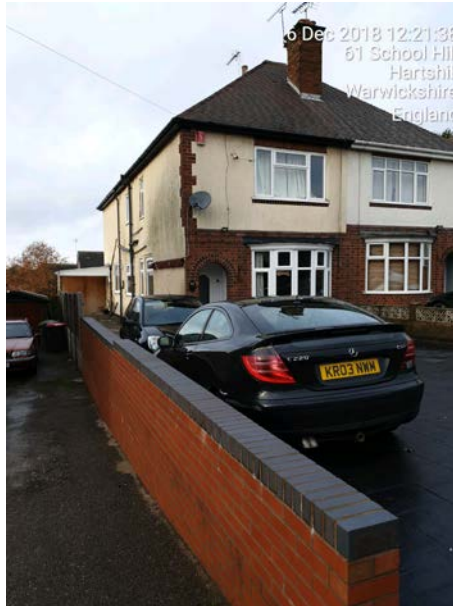
b) Design

Saved policy ENV12 requires development proposals to harmonise with the prevailing characteristics of the immediate and wider surroundings; present an attractive environment and respect existing natural features. Policy H4 of the Hartshill Neighbourhood Plan seeks to ensure that new development respects existing built form.

The proposal is not considered to accord with these policies. The immediate built form along the western side of School Hill consists mainly of post-war detached and semi-detached dwellings with hipped roofs. The outbuilding here has a flat roof and is constructed in materials that are inconsistent with the traditional construction of the dwellings prevalent in the surrounding area.

Whilst not dominating the host dwelling, a key facet of policy ENV13, the building, through its sheer scale, massing and height, forms a dominant and incongruous feature which fails to positively integrate with the existing built form or respect its immediate surroundings.

The building is of a poor standard of construction, with the below floor level being formed in porous blockwork, and is considered unsuitable for the construction of a retaining wall. There is clear evidence of damp and cracking in the blockwork.



View from the front of 61 School Hill

The application at Hartshill sits, topographically, at an elevated position to the wider landscape and therefore the building appears readily visible from the surrounding street scene, between the newer dwellings to the rear in Bluebell Close. The development's scale does not respect the surrounding dwellings to the south and west of the site that are set at a much lower level, nor safeguard the amenity of neighbouring occupiers.



View of structure from Bluebell Close to the rear of the site.

c) Amenity

Policy NW10 (9) requires all development proposals to avoid and address unacceptable impacts upon neighbouring properties, such as but not limited to overlooking, overshadowing and privacy. The neighbours considered to be most affected by the building are 59 School Hill and 16B Bluebell Close, sited to the south and west of the application site respectively. 61 School Hill is significantly elevated above the floor levels of both of the affected neighbours, and the properties share a common boundary, a boundary close to which the structure has been erected. The building is sited on the shared boundary with 59 School Hill and 4 metres from the boundary with 16B Bluebell Close.



View from the rear of 61 School Hill



Site Location Plan

Whilst the role of the planning system is not to protect private views, where proposals would adversely affect the outlook from a habitable window or private amenity space to such an extent that the development appears intrusive and oppressive to the detriment of amenity, the resultant impact can be considered to form a material planning consideration.

The substantial 3.5 metre high building on the application site, and with the height differences with adjoining property has an overbearing and unacceptable impact on the occupants of 59 School Hill by virtue of dominating the outlook from the immediate garden area.



Views from 59 School Hill



The falls to the rear of the site result in a level difference of a full storey height, such that the rear facing window to the structure faces directly into the bedroom windows of the dwelling of 16B Bluebell Close. A separation distance between rear facing windows of approximately 14 metres falls substantially short of the minimum of 21 metres generally accepted to be acceptable. It is therefore considered that the rear window directly impact on the privacy of the neighbouring dwellinghouse. The elevated height of the structure over the dwelling to the rear appears incongruous to the character of the area and of poor appearance.



View looking towards 16B Bluebell Close

d) Equality

With reference to the Public Sector Equality Duty, it is considered that the processing of this applications and the resultant recommendation does not have an adverse impact on any person with a protected characteristic that would differ from the impact on others.

e) The Fall-Back Position

The preceding observations now need to be balanced against the fall-back position as described earlier. A building could be erected in this location under permitted development rights. If it is closer to the boundary than 2 metres then it can have a height of 2.5 metres, otherwise it has to be 4 metres. The building presently is a maximum of 0.3 metres away from the boundary and thus should have a height of 2.5 metres if it is to be “permitted development”. As a consequence the building would have to be reduced in height to 2.5 metres from its existing 3.5 metres in order to be “permitted development”.

The Board will need to consider whether the difference between 2.5 and 3.5 metres has an influence on the planning policies referred to above, with particular consideration to the falls in level and the height difference between the neighbouring sites. If it considers that the height difference is immaterial, then clearly that reduces the weight to be given to the adverse impacts as described above.

Officers consider that the height difference is material here by fact and by degree and that the adverse impacts arise because of the additional height. In other words the weight to be given to those impacts and their respective policies remains as significant.

Often at appeal, Planning Inspectors will consider whether the “fall-back” position is theoretical or whether it has weight because there is a reasonable prospect of it occurring. Here of course it has been constructed and thus the Board can look at the differences between the existing and the “fall-back”. However as concluded above this does not alter the position, particularly given the applicants failure to undertake the previously approved reduction of the size of the building to minimise the impact on adjacent neighbours.

f) Access and parking

There are no overwhelming concerns here. Whilst the access to the rear of the site is narrow, is considered to be suitable for the passage of domestic vehicles. Moreover the provision parking is adequate, with space provided to the front of the property.

g) Conclusion

The building is considered by virtue of its scale, height and massing to form a dominant and incongruous feature which fails to positively integrate with the existing built form or respect immediate surroundings, conflicting with saved policies ENV12 and ENV13, H4 of the Hartshill Neighbourhood Plan and NW10 of the Core Strategy.

In these respects the recommendation below is one of refusal.

h) Enforcement Action

As the application is retrospective and effectively seeks to retain the building on site, the Board will need to consider the expediency of enforcement action if the recommendation below is agreed.

Firstly, from a planning policy perspective there are clear grounds for following up the recommendation with enforcement action. There is a significant breach of Development Plan policies by fact and by degree.

Secondly, enforcement action here would not necessarily lead to the removal of the building. Lesser measures could be considered here given the previous approval PAP/2015/0079, but consideration should also be given to the fact that this reduction was not previously undertaken.

Thirdly, there will be an adverse impact on the owner. That impact will be financial, being cost of undertaking the building works to reduce the length or to demolish the development completely.

Fourthly, the building is not considered to be substantially complete – see the photographs - and thus the four year period in which it could become lawful does not apply.

As a consequence, given the identified conflict with the Development Plan, the poor quality of design and the impact on neighbour amenity; it is considered that enforcement action is expedient here and that the requirements of such a Notice should be to demolish the structure completely and reinstate the garden. A compliance period of six months is considered to be proportionate to this requirement

Recommendation

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

“The building, by virtue of its scale; height and massing forms a dominant and incongruous feature which fails to positively integrate with the existing built form or respect its immediate surroundings. Moreover it has an overbearing and unacceptable impact on the residential amenity of neighbouring occupiers thus conflicting with saved policies ENV12 and ENV13 of the 2006 North Warwickshire Local Plan; policy H4 of the Hartshill Neighbourhood Plan and Policy NW10 (9) of the North Warwickshire Core Strategy 2014.”

B) That authority be granted to the Corporate Director – Environment to issue an Enforcement Notice requiring the unauthorised building to be completely demolished and that all resultant materials are removed from the site with a compliance period of 6 months, for the reasons set out in this report.

Note to be attached to the planning refusal:

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions in the application PAP/2015/0079 and enforcement advice providing the opportunity to overcome reasons for refusal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed. As such it is considered that the Council has implemented the requirement set out in the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0681

Background Paper No	Author	Nature of Background Paper	Date
1	The Agent	Application Forms, and Plans	16/11/2018
2	Previous Agent (PAP/2015/0079)	Application Forms, and Plans	08/04/2015

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