

**To: The Deputy Leader and Members of the
Planning and Development Board**

**(Councillors Simpson, Reilly, Bell, L Dirveiks,
Hayfield, Henney, D Humphreys, Jarvis, Lewis,
Morson, Phillips, Smitten, Sweet, Symonds and
A Wright)**

For the information of other Members of the Council

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

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

PLANNING AND DEVELOPMENT BOARD AGENDA

8 OCTOBER 2018

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Monday 8 October 2018 at 6.30 pm.

AGENDA

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

- 4 **Minutes of the meetings of the Board held on 9 July, 6 August and 3 September 2018** – copies herewith, to be approved as a correct record and signed by the Chairman.

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

- 5 **Budgetary Control Report 2018/2019 - Period Ended 21 September 2018** - Report of the Corporate Director - Resources

Summary

The report covers revenue expenditure and income for the period from 1 April 2018 to 21 September 2018. The 2018/2019 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Board.

The Contact Officer for this report is Nigel Lane (719371).

- 6 **Planning Applications** – Report of the Head of Development Control.

Summary

Town and Country Planning Act 1990 – applications presented for determination

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

- 7 **Tree Preservation Orders** - Report of the Head of Development Control.

Summary

This report seeks confirmation of the making of two Tree Preservation Orders following expiry of their respective consultation periods.

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

- 8 **Appeals Update** – Report of the Head of Development Control.

Summary

This report brings Members up to date with recent appeal decisions.

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

- 9 **Land South of Dairy House Farm, Grendon** – Report of the Head of Development Control.

Summary

The report seeks approval for a variation to the affordable housing provision at this site to the east of Spon Lane in Grendon.

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

- 10 **Exclusion of the Public and Press**

Recommendation:

That under Section 110A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

**EXEMPT INFORMATION
(GOLD PAPERS)**

- 11 **Planning Division** - Report of the Corporate Director - Environment.

The Contact Officer for this report is Steve Maxey (719438).

JERRY HUTCHINSON
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

9 July 2018

Present: Councillor Simpson in the Chair.

Councillors L Dirveiks, Hayfield, Henney, Jarvis, Lewis, Morson, Phillips, Reilly, Smith, Smitten, Sweet, Symonds, A Wright and D Wright

An apology for absence was received from Councillor Bell (substitute Councillor D Wright)

Councillor Clews was also in attendance.

12 **Disclosable Pecuniary and Non-Pecuniary Interests**

Councillors Hayfield and Reilly declared non-pecuniary interest in Minute No 15 c – Planning Applications (Application No 2016/0280 Land Opposite 84 to 104 Orton Road, Warton) and took no part in the discussion or decision on this item.

Councillors Sweet and A Wright declared non-pecuniary interests in Minute No 15 g and h – Planning Applications (Application No 2018/0123 and Application No 2018/0215 both relating to The Vicarage, Newlands Road, Baddesley Ensor).

13 **Minutes**

The minutes of the meetings of the Board held on 5 March, 9 April, 14 May and 11 June 2018, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

14 **Budgetary Control Report 2018/2019 - Period Ended 26 June 2018**

The Assistant Chief Executive (Finance and Human Resources) reported on the revenue expenditure and income for the period from 1 April 2018 to 26 June 2018. The 2018/2019 budget and the actual position for the period, compared with the estimate at that date were detailed, together with an estimate of the out-turn position for services reporting to the Board.

Resolved:

That the report be noted.

15 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board. Details of correspondence received since the publication of the agenda is attached as a schedule to these minutes.

Resolved:

- a **That in respect of Application No 2018/0016 (Unit 6, Netherwood Industrial Estate, Ratcliffe Road, Atherstone, Warwickshire, CV9 1PL) the County Council be informed that there is no objection in principle to the proposal and that the County Council should satisfy itself that the appropriate environmental controls (particularly noise and that the site be kept in a tidy state) are in place prior to the grant of any planning permission;**
- b **That in respect of Applications No 2018/0017, 2018/0018 and 2018/0019 (Packington Lane Landfill Site, Packington Lane, Little Packington, Coleshill, Warwickshire, CV7 7HN) the County Council be informed that there is no objection;**
- c **That Application No 2016/0280 (Land opposite 84 to 104 Orton Road, Warton, B79 0HU) be deferred to further consider the highways issues and the tree assessment identified in the report;**

Speakers Andy Newton and David Williams

- d **That in respect of Application No 2017/0551 (Land south of Warton Recreation Ground, Orton Road/Barn End Road, Warton)**
 - 1. **outline planning permission be granted subject to a Section 106 Agreement as set out in the report of the Head of Development Control with the addition of contributions to bus stop enhancements and travel packs, and the conditions as recorded in Appendix B of that report; and**
 - 2. **notes be added to the Notice strongly recommending that the Council will be looking for the possibility of a secondary access onto Orton Road within the layout to be submitted under the subsequent application for the approval of reserved matters.**

Speakers Wayne Barker, Lee Clinton and Ben Cook

- e That the issue of traffic speed limits in the village of Warton be raised at the forthcoming meeting between leading Planning Board Members and the County Council to discuss local highway issues and the responses received from that Authority in respect of planning applications;
- f That Application No 2017/0539 (Angel Ale House, Church Street, Atherstone, CV9 1HA) be deferred for a further meeting of Members and the applicant;

Speaker Andrew Taylor

- g That Application No 2018/0123 (The Vicarage, Newlands Road, Baddesley Ensor, CV9 2BY) be deferred for a site visit;
- h That Application No 2018/0215 (The Vicarage, Newlands Road, Baddesley Ensor, CV9 2BY) be deferred for a site visit;
- i That in respect of Application No 2018/0235 (Labri, Ansley Lane, Arley, Coventry, Warwickshire, CV7 8FU) planning permission be granted for the following reasons:

The building is not out of keeping with the area and there is no impact on residential amenity and subject to the following conditions:

- a) The building hereby permitted shall solely be used for purposes incidental to the main residential use of the building known as L'Abri and for no other use whatsoever.
 - b) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, or as be amended, no roof light or velux light, nor other opening, including any dormer window, shall be made in the roof slope of the building facing towards the west.
 - c) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, or as may be amended, there shall be no alterations or amendments made to the building hereby approved.
- j That Application No 2018/0272 (Over Coppice Farm, Boulters Lane, Wood End, Atherstone, CV9 2QD) be deferred for a site visit and further discussion with the applicant;

Speaker John Wren

- k That Application No 2018/0300 (Land Opposite Thompsons Meadow, Spon Lane, Grendon) be deferred for a site visit;**

Speakers John Hill and Andy Dodson

- l That in accordance with Schedule 2 Part 16, Class A of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended), it is considered that the proposed telecommunications equipment in respect of Application No 2018/0357 (Recreation Ground, Johnson Street, Wood End) constitutes permitted development and that no objection is raised regarding its siting and appearance.**

Speaker Matthew Pearson

16 Exclusion of the Public and Press

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

17 Land adjacent to The Cedars, Coton Road, Nether Whitacre (the former Buchan's site)

The Head of Development Control reported on the latest position in respect of the site in Nether Whitacre and Members were asked to agree a suggested course of action.

Resolved:

That in light of the issues involved, the Assistant Chief Executive and Solicitor to the Council be authorised to issue an Enforcement Notice, the terms to be determined by the Assistant Chief Executive and Solicitor to the Council in consultation with the Chairman and Vice-Chairman of the Board together with the Opposition Spokesperson and local Ward Members.

18 Tree Preservation Order - Pound Lane Over Whitacre

The Board was invited to consider the making of a Tree Preservation Order in respect of an oak tree in Pound Lane, Over Whitacre.

Resolved:

- a That having considered the issues and observations received, the Council makes a Tree Preservation Order in respect of an oak tree in Pound Lane, Over Whitacre as identified in the report of the Head of Development Control; and**
- b That any representations duly made be referred back to the Board in due course for consideration as to whether to confirm the Order or not.**

Mark Simpson
Chairman

**Planning and Development Board
9 July 2018
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
6/12	PAP/2017/0551	Agent	Consultation	2/7/18
		Agent	E-mail	4/7/18
6/60	PAP/2017/0539	Assistant Director Streetscape	Consultation	6/7/18
		Civic Society	Representation	9/7/18
6/91	PAP/2018/0235	Note	Site Visit	29/6/18
6/100	PAP/2018/0272	Agent	Note	6/7/18
		Head of Development Control	E-mail	6/7/18
6/127	PAP/2018/0357	Probert	Objection	6/7/18
		Applicant	E-mail	9/7/18

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

6 August 2018

Present: Councillor Simpson in the Chair.

Councillors Bell, Chambers, L Dirveiks, N Dirveiks, Henney, Humphreys, Jarvis, Morson, Phillips, Smith, Smitten, Waters, A Wright and D Wright

Apologies for absence were received from Councillors Hayfield (substitute Councillor Humphreys), Lewis (substitute Councillor N Dirveiks), Sweet (substitute Councillor Chambers), Reilly (substitute Councillor D Wright) and Symonds (substitute Councillor Waters)

Councillors Davis and Moss were also in attendance.

19 **Disclosable Pecuniary and Non-Pecuniary Interests**

Councillor Bell declared a non-pecuniary interest in Minute No 20 – Planning Applications (Application No 2018/0023 - The Coleshill School, Coventry Road, Coleshill, B46 3EX, Application No 2018/0025 - Michael Drayton School, The Woodlands, Hartshill, Nuneaton, Warwickshire, CV10 0SW and Application No 2016/0280 - Land opposite 84 to 104 Orton Road, Warton, B79 0HU) left the meeting and took no part in the discussion or voting thereon.

Jeff Brown, Head of Development Control, declared a non-pecuniary interest in Minute No 20 – Planning Applications (Application No 2018/0025 - Michael Drayton School, The Woodlands, Hartshill, Nuneaton, Warwickshire, CV10 0SW) by virtue of being the Chair of Governors for the Michael Drayton School. He took no part in the consideration of that item.

Councillor D Wright declared a pecuniary interest in Minute No 20 – Planning Applications (Application No 2017/0425 and 2017/0424 (Polesworth Learning Centre, High Street, Polesworth, B78 1DU) left the meeting and took no part in the discussion or voting thereon.

Councillor Morson declared a non-pecuniary interest in Minute No 20 – Planning Applications (Application No 2017/0660 (Cuckoo's Rest, Whitehouse Road, Dordon) and took no part in the discussion or voting thereon.

Councillor A Wright declared a non-pecuniary interest in Minute No 20 - Planning Applications (Application No 2018/0123 and Application No

2018/0215 both relating to The Vicarage, Newlands Road, Baddesley Ensor) and took no part in the discussion or voting thereon.

Councillors Smitten declared a non-pecuniary interest in Minute No 20 – Planning Applications (Application No 2018/0138 (Applegarth and The Croft, Norton Hill, Austrey, CV9 3ED) and took no part in the discussion or voting thereon.

20 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board. Details of correspondence received since the publication of the agenda is attached as a schedule to these minutes.

Resolved:

- a **That in respect of Application No 2018/0023 (The Coleshill School, Coventry Road, Coleshill, B46 3EX) the Borough Council does not raise an objection, but requests that the County Council has to explore the potential harms caused here by the loss of open space on the campus and the impact on traffic generation and parking before it assesses the final planning balance. The advice from Sport England and the Highway Authority is thus needed;**
- b **That in respect of Application No 2018/0025 (Michael Drayton School, The Woodlands, Hartshill, Nuneaton, Warwickshire, CV10 0SW) the Council raises a holding objection. Whilst not objecting in principle, the Council draws attention to the increased pressure that the development will place on parking consequences and it is considered that these should be explicitly addressed by the County Council;**
- c **That consideration of Application No 2016/0280 (Land opposite 84 to 104 Orton Road, Warton, B79 0HU) be deferred;**

Speakers Andy Newton, David Williams and Ian Ritchie

- d **That subject to completion of a Section 106 Agreement as set out in the report of the Head of Development Control, Application No 2017/0108 (24-26, Atherstone Road, Hartshill, CV10 0SP) planning permission be granted subject to the conditions set out in the said report;**

Speaker John Randle

- e **That Application No 2017/0162 and 2017/0163 (The Old Post Office, Main Road, Newton Regis, B79 0NA) be approved**

subject to the conditions specified in the report of the Head of Development Control;

- f That consideration of Application No 2017/0219 (Black Swan Inn, Watling Street, Grendon, CV9 2PY) be deferred;

Speaker Graham Wrightson

- g That Applications No 2017/0425 and 2017/0424 (Polesworth Learning Centre, High Street, Polesworth, B78 1DU) be approved in principle and the Head of Development Control, in consultation with the Design Champions and the Local Ward Members, be authorised to approve the Applications;

Speaker Father Philip Wells

- h That consideration of Application No 2017/0660 (Cuckoo's Rest, Whitehouse Road, Dordon and Application No 2017/0659 - Land to the raer of the Co-Op, New Street, Dordon) be deferred;

Speakers Bob Kind and Mark Doggett

- i That Application No 2018/0123 (The Vicarage, Newlands Road, Baddesley Ensor, CV9 2BY) be approved subject to the conditions specified in the report of the Head of Development Control;

Speaker Andrew Taylor

- j That Application No 2018/0215 (The Vicarage, Newlands Road, Baddesley Ensor, CV9 2BY) be approved subject to the conditions specified in the report of the Head of Development Control and to an additional condition relating to landscaping;

Speaker Andrew Taylor

- k That subject to a satisfactory Deed of Variation of the Section 106 Agreement relating to changes to the provisions for affordable housing, Application No 2018/0138 (Applegarth and The Croft, Norton Hill, Austrey, CV9 3ED) be approved subject to the conditions specified in the report of the Head of Development Control;

Speaker Dominic Cooney

- l That consideration of Application No 2018/0231 (Heart of England Conference and Events Centre, Meriden Road, Fillongley, CV7 8DX) be deferred for a site visit;

Speaker Adrian White

- m That consideration of Application No 2018/0272 (Over Coppice Farm, Boulters Lane, Wood End, Atherstone, CV9 2QD) be deferred;**

Speaker John Wren

- n That Application No 2018/0300 (Land Opposite Thompsons Meadow, Spon Lane, Grendon) be refused for the following reason**

“The proposal would not positively improve the character and appearance of this part of Grendon as required by Policy NW12 of the North Warwickshire Core Strategy 2014 by virtue of the loss of open space and countryside.”

Speaker James Hill

- o That consideration of Application No 2018/0377 (Ashleigh, Coventry Road, Fillongley, CV7 8BZ) be deferred;**

Speakers Adrian White and James Cassidy

- p That in respect of Application No 2018/0422 (Land Rear of 1 To 6, St Benedicts Close, Atherstone) the works may proceed regarding the ash tree and that a suitable alternative replacement is planted but that the works to the cherry tree be refused;**
- q That in respect of Application No 2018/0423 (The Council House, South Street, Atherstone, CV9 1DE) the works may proceed and that a suitable alternative tree is replanted.**
- r That in respect of Application No 2018/0427 (Land to the West of, Laurel Drive, Hartshill, CV10 0XP) the works may proceed; and**
- s That in respect of Application No 2018/0430 (Footpath Church Hill Flats, Church Hill, Coleshill, B46 3AJ) the works may proceed but that that suitable alternative replacement trees are planted.**

21 Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April - June 2018

The Chief Executive reported on the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April to June 2018.

Resolved:

That the report be noted.

22 Exclusion of the Public and Press

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

23 Tree Preservation Order - Polesworth

The Board was invited to consider the making of a Tree Preservation Order on land at The Old School and Polesworth Learning Centre, High Street, Polesworth.

Resolved:

That a Tree Preservation Order be made with immediate effect, in respect of seven individual trees and one group of trees located at The Old School and Polesworth Learning Centre, High Street Polesworth for the reasons given in the report of the Head of Development Control, and that any representations received be referred to the Board for it to consider whether to make the Order permanent.

24 Tree Preservation Order - Pound Lane Austrey

The Board was invited to consider the making of a Tree Preservation Order on land at Applegarth and The Croft, Norton Hill, Austrey.

Resolved:

That a Tree Preservation Order be made with immediate effect, in respect of the Copper Beech and Spruce located at Applegarth, Norton Hill, Austrey, for the reasons given in the report of the Head of Development Control, and that any representations received be referred to the Board for it to consider whether to make the Order permanent.

Mark Simpson
Chairman

**Planning and Development Board
6 August 2018
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
4/12	CON/2018/0025	WCC Highways	Objection	20/7/18
4/17	PAP/2016/0280	Residents of Orton Road	Objection	2/8/18
		S Machin	Objection	6/8/18
4/102	PAP/2017/0219	Grendon Parish Council	Objection	24/7/18
		Atherstone Civic Society	Objection	6/8/18
		Tamworth Civic Society	Objection	2/8/18
		L Lindsey	Objection	3/8/18
4/133	PAP/2017/0660	M Doggett	Objection	1/8/18
4/233	PAP/2018/0215	C Pegg	Objection	4/8/18
4/250	PAP/2018/0272	J Wren	Representation	5/8/18
4/281	PAP/2018/0377	S McIndoe	Objection	3/8/18
		D & S Lees	Objection	5/8/18

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

3 September 2018

Present: Councillor Simpson in the Chair.

Councillors Bell, Clews, L Dirveiks, Henney, D Humphreys, Jarvis, Lewis, Morson, Phillips, Smith, Smitten, Sweet, Symonds and D Wright

Apologies for absence were received from Councillors Reilly (substitute Councillor D Humphreys), Hayfield (substitute Councillor Clews) and A Wright (substitute Councillor D Wright)

25 **Disclosable Pecuniary and Non-Pecuniary Interests**

Councillor Morson declared a non-pecuniary interest in Minute No 26 – Planning Applications (Application No 2018/0660 – Cuckoo’s Rest, Whitehouse Road, Dordon) left the meeting and took no part in the discussion or voting thereon.

Councillor D Humphreys declared a non-pecuniary interest in Minute No 26 – Planning Applications (Application No 2017/0539 – Angel Ale House, Church Street, Atherstone) left the meeting and took no part in the discussion or voting thereon.

In respect of Minute No 26 Planning Applications Application No 2018/0477 (Copperfields, Dog Lane, Nether Whitacre, B46 2DT) the Monitoring Officer had granted Members a dispensation to consider and determine the Application.

Councillors Simpson and D Humphreys declared non-pecuniary interests in Minute No 33 (High House Farm, Broad Lane, Fillongley), left the meeting and took no part in the discussion or voting thereon. The Board elected Councillor Bell as Chairman for this item.

26 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board. Details of correspondence received since the publication of the agenda is attached as a schedule to these minutes.

Resolved:

- a **That in respect of Application No 2018/0026 (Land at M42, Junction 11, Stretton-en-le-Field)**

- i) North West Leicestershire District Council be informed of this Council's initial objections and concerns as expressed in the report of the Head of Development Control; and
 - ii) Representatives of the Council meet the applicant together with representatives of the North West Leicestershire District Council in order to further discuss these concerns.
- b That in respect of Application No 2017/0219 (Black Swan Inn, Watling Street, Grendon, CV9 2PY) the Council refused for the following reasons:

"It is not considered that the proposal accords with Policy NW12 of the North Warwickshire Core Strategy 2014. This is because the development proposed does not positively improve the character and appearance of Grendon and the environmental quality of the area. In particular the design of the building does not reflect the built appearance of the area; the design and operation of the development is likely to impact on the environmental quality of life of adjoining residents and there is likely to be increased traffic movements in and around the area. This reason is given added weight due to Section 12 of the National Planning Policy Framework 2018 – particularly paragraphs 124 and 127."

Speakers David Cox and Graham Wrightson

- c That Application No 2017/0539 (Angel Ale House, Church Street, Atherstone, CV9 1HA) be approved and that the conditions to be included are delegated to the Head of Development Control;
- d That in respect of Application No 2017/0561 (Charity Farm, Main Road, Baxterley, CV9 2LN)
 - i) That planning permission be refused for the reason set out in Appendix A to the report of the Head of Development Control; and
 - ii) That, for the reasons given in the report, the Corporate Director (Environment) and Solicitor to the Council, be authorised to serve an Enforcement Notice requiring the removal of the caravans stored outside of the restricted area as given express consent under appeal

reference APP/R3705/C/02/1096610 subject to a compliance period of 6 months.

- e That in respect of Application No 2017/0602 (Land 160m South Of North Warwicks Sports Ground, Tamworth Road, Polesworth)
 - i) That the Council is minded to refuse planning permission on the grounds that the proposal does not accord with Policy NW19 of the North Warwickshire Core Strategy 2014 as supplemented by Policy LP5 of the Submitted North Warwickshire Local Plan 2018, to the extent that the harm caused is significant such that it outweighs any potential benefits; and
 - ii) That until such time as agreement is reached between Warwickshire and Staffordshire County Councils as education and highway authorities, the Council's position is that additional harm will be caused and that this should be added into the final planning balance as required by the NPPF.

Speakers Stephen Doyle and Mark Hopkins

- f That having considered the report (including the supplementary report) of the Head of Development Control, Application No 2017/0660 (Land to the rear of the Co-op, New Street, Dordon) be approved as set out in the supplementary report;
- g That having considered the report (including the supplementary report) of the Head of Development Control, Application No 2017/0659 (Cuckoo's Rest, Whitehouse Road, Dordon) be approved as set out in the supplementary report;
- h That in respect of Application No 2018/0065 (The Boot Inn Public House, Watling Street, Grendon, CV9 2PG) the application be refused for the following reasons:

"The proposal is not considered to accord with Policy NW10 (6) supplemented by saved Policy ENV14 of the North Warwickshire Local Plan 2006 and paragraph 109 of Section 9 of the National Planning Policy Framework 2018. This is because of the objection from Highways England in respect in particular of pedestrian safety at this site vis-à-vis its setting and relationship with the A5 Trunk Road."

Speaker Rachel Sweet

i That consideration of Application No 2018/0321 (Land to the Rear of The Elms, Austrey Road, Warton, B79 0HG) be deferred for further information to be provided with regard to the construction management plan;

j That consideration of Application No 2018/0051 (Ashleigh, Coventry Road, Fillongley, CV7 8BZ) be deferred;

Speakers Adrian White, David Lees and James Cassidy

k That Application No 2018/0377 (Ashleigh, Coventry Road, Fillongley, CV7 8BZ) be refused to the following reason;

“The proposal is not considered to accord with Policy NW10 (9) of the North Warwickshire Core Strategy 2014, because of the cumulative adverse impact arising from the approved amendments and the residential amenity of the occupiers of adjoining property. In particular this relates to the increased number of windows; the increase in height at plot 3, the increased size in the number of bedrooms, the increased car parking provision and general activity at the rear of the neighbouring property.”

Speakers Adrian White, David Lees and James Cassidy

l That Application No 2018/0477 (Copperfields, Dog Lane, Nether Whitacre, B46 2DT) be approved subject to the conditions specified in the report of the Head of Development Control.

27 Land on the North Side of Church Lane, Corley

The Head of Development Control sought approval for a variation to the affordable housing provision at a site in Corley.

Resolved:

That the revisions to the provision of affordable housing be varied as set out in the report of the Head of Development Control.

28 The National Planning Policy Framework 2018

The Head of Development Control reported that the Government had reviewed the existing National Planning Policy Framework and following consultation during the last few months, it had now published a new version. It replaced the existing 2012 Framework with immediate effect.

Resolved:

That the report be noted.

29 **Appeals Update**

The Head of Development Control brought Members up to date with recent appeal decisions.

Resolved:

That the report be noted.

30 **Confirmation of Tree Preservation Order - Caldecote**

The Board was invited to confirm the making of a Tree Preservation Order at Caldecote.

Resolved:

That having considered the representations received, the Tree Preservation Order for the trees at Caldecote as described in the report be confirmed.

31 **Submission of Fillongley Neighbourhood Plan for public consultation**

The Board was informed of the progress of the submitted Fillongley Neighbourhood Plan and the Corporate Director - Environment sought approval to go out for a formal consultation in accordance with section 16 of the Neighbourhood Planning (General) Regulations 2012.

Resolved:

That the Fillongley Neighbourhood Plan be circulated for a 6 week public consultation.

32 **Exclusion of the Public and Press**

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

33 **High House Farm, Broad Lane, Fillongley – Change of Use from Residential to a Business Use as an Events Centre**

The Head of Development Control reported on an unauthorised change of use at High House Farm, Broad Lane, Fillongley and the Board was invited to consider the commencement of enforcement action.

Resolved:

That the Solicitor to the Council be authorised to issue an enforcement notice in relation to the unauthorised change of use of a residential house (C3) to a business use as an events venue (sui generis) at High House Farm, Broad Lane, Fillongley requiring the cessation of the use for an events venue and a compliance period of one month for the reasons outlined in the report.

34 The Funky Bear Public House, Cliff House, Tamworth Road, Tamworth

The Head of Development Control reported on a breach of Listed Building Control at the Funky Bear Public, House Cliff House, Tamworth Road, Tamworth and the Board was invited to consider the commencement of enforcement action

Resolved:

That the Solicitor to the Council be authorised to issue a Listed Building Enforcement Notice in respect of the unauthorised painting and change of colour to this public house for the reasons given in the report and that the requirements of the Notice be the removal of the existing paintwork and its replacement with a “breathable” masonry paint in a colour to be agreed with the Authority. That the compliance period be three months.

Mark Simpson
Chairman

**Planning and Development Board
3 September 2018
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
4/173	PAP/2018/0321	WCC Flooding	Consultation	20/8/18
4/194	PAP/2018/0377	Fillongley Parish Council	Objection	24/8/18
4/245	PAP/2018/0477	Nether Whitacre Parish Council	Objection	1/9/18

Agenda Item No 5

Planning and Development Board

8 October 2018

Report of the Corporate Director - Resources

Budgetary Control Report 2018/2019 Period Ended 21 September 2018

1 Summary

- 1.1 The report covers revenue expenditure and income for the period from 1 April 2018 to 21 September 2018. The 2018/2019 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Board.

Recommendation to the Board

That the report be noted and that the Board requests any further information it feels would assist it in monitoring the budgets under the Board's control.

2 Introduction

- 2.1 Under the Service Reporting Code of Practice (SeRCOP), services should be charged with the total cost of providing the service, which not only includes costs and income directly incurred, but, also support costs relating to such areas as finance, office accommodation, telephone costs and IT services. The figures contained within this report are calculated on this basis.

3 Overall Position

- 3.1 Net expenditure for those services that report to the Planning and Development Board as at 21 September 2018 is £174,920 compared with a profiled budgetary position of £88,115; an overspend of £86,805 for the period. Appendix A to this report provides details of the profiled and actual position for each service reporting to this Board, together with the variance for the period. Where possible, the year-to-date budget figures have been calculated with some allowance for seasonal variations in order to give a better comparison with actual figures. Reasons for the variations are given, where appropriate, in more detail below.

3.2 Planning Control

- 3.2.1 Income is currently behind the forecast budget by £95,470 which is due to the lower number and smaller size of applications received to date. There are however a number of known larger applications which are expected. This has

been partly offset by underspends on professional fees and advertising budgets.

4 Performance Indicators

4.1 In addition to the financial information provided to this Board when the budgets were set in February, performance indicators were included as a means of putting the financial position into context. These are shown at Appendix B.

4.2 *Planning Control* - The gross and net cost of planning applications has increased due to the reduction in number and size of the applications received.

4.3 The gross and net cost per Land Charge is greater than expected due to the lower number and mix of searches between full searches and Official Register searches undertaken.

5 Risks to the Budget

5.1 The key risks to the budgetary position of the Council from services under the control of this Board are:

- The need to hold Public Inquiries into Planning Developments. Inquiries can cost the council around £50,000 each.
- A change in the level of planning applications received. A fall in applications would lead to a reduction in planning income, whilst an increase in applications increases the pressure on staff to deal with applications in the required timescales.
- The Government requires all planning applications to be dealt with within 26 weeks. If this is not achieved, the costs of the application must be borne by the authority. Whilst the Planning team deal with almost 100% of current applications within this time, there is a potential that some may slip, leading to a decline in the Planning income level.

5.2 A risk analysis of the likelihood and impact of the risks identified above are included in Appendix B.

6 Estimated Out-turn

6.1 If planning income continues at the current level, the anticipated out turn for this board for 2018/19 is £214,810 as detailed in the table below:-

	£
Approved budget 2018/19	114,810
Reduction in Planning Fee Income	100,000
Expected Out-turn 2018-19	214,810

6.2 The figures provided above are based on information available at this time of the year and are the best available estimates for this board, and may change as the financial year progresses. Members will be updated in future reports of any changes to the forecast out turn.

7 **Building Control**

7.1 The approved budget provision for Building Control is £20,000, which will be more than sufficient to cover the full year costs currently estimated by the Partnership of £7,951. We will continue to liaise with Nuneaton and Bedworth Borough Council to monitor this over the course of the year.

8 **Report Implications**

8.1 **Finance and Value for Money Implications**

8.1.1 Income and Expenditure will continue to be closely managed and any issues that arise will be reported to this Board at future meetings.

8.2 **Environment and Sustainability Implications**

8.2.1 The Council has to ensure that it adopts and implements robust and comprehensive budgetary monitoring and control, to ensure not only the availability of services within the current financial year, but in future years.

The Contact Officer for this report is Nadeem Afzal (719444).

APPENDIX A

Planning and Development Board

Budgetary Control Report 2018/2019 as at 21 September 2018

Cost Centre	Description	Approved Budget 2018/2019	Profiled Budget September 2018	Actual September 2018	Variance	Comments
4009	Planning Control	22,250	45,907	131,558	85,651	Comment 3.2
4010	Building Control Non fee-earning	35,440	15,680	15,671	(9)	
4012	Conservation and Built Heritage	47,140	23,545	23,545	0	
4014	Local Land Charges	360	(1,827)	(1,078)	749	
4018	Street Naming & Numbering	9,620	4,810	5,224	414	
	TOTALS	114,810	88,115	174,920	86,805	

Performance Indicators for Budgets Reporting to the Planning and Development Board

	Budgeted Performance	Profiled Budgeted Performance	Actual Performance to Date
Planning Control			
No of Planning Applications	1,000	483	399
Gross cost per Application	£759.16	£841.00	£981.69
Net cost per Application	£22.25	£94.98	£329.72
Caseload per Planning Officer			
All applications	185	83.3	81.2
Local Land Charges			
No of Searches	550	229	214
Gross cost per Search	£97.49	£103.30	£107.81
Net cost per Search	£0.65	-£7.97	-£5.04

Risk Analysis

	Likelihood	Potential impact on Budget
Need for public enquiries into planning developments	Medium	Medium
Decline in planning applications leading to a reduction in Planning Income.	Low	Medium
Applications not dealt with within 26 weeks, resulting in full refund to applicant.	Low	Medium

Agenda Item No 7

Planning and Development Board

8 October 2018

**Report of the
Head of Development Control**

Tree Preservation Orders

1 Summary

- 1.1 This report seeks confirmation of the making of two Tree Preservation Orders following expiry of their respective consultation periods.

Recommendation to the Board

That having considered the representations received, the following Tree Preservation Orders are confirmed:

- a) St Mary's Church, No Mans Heath**
- b) Oakdene, Pound Lane, Over Whitacre**

2 Background

a) St. Mary's Church

- 2.1 The report dealing with this case was referred to the May Board and described a number of trees including yew, cedars and an oak tree within the churchyard. The report is attached at Appendix A.

- 2.2 No representations have been received in the consultation undertaken following the making of the Order. As a consequence, the Board is now asked to confirm the Order.

b) Oakdene

- 2.3 The report dealing with this case was referred to the July Board and described a single oak tree fronting Pound Lane. The report is attached at Appendix B.

- 2.4 A single representation has been received in the consultation undertaken following the making of the Order. This was from the Over Whitacre Parish Council supporting the making of the Order. As a consequence the Board is now asked to confirm the Order.

3 Report Implications

3.1 Financial and Value for Money Implications

3.1.1 There are no implications for confirming the Order, but under certain circumstances there are possible compensation claims that could follow the refusal of works to protected trees.

3.2 Links to Council Priorities

3.2.1 Confirmation of these Orders would accord with the Council's priorities of preserving and enhancing its rural character.

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date

APPENDIX A

Agenda Item No 9

Planning and Development Board

14 May 2018

Report of the
Head of Development Control

Tree Preservation Order
No Man's Heath

1 Summary

- 1.1 The report recommends that a Tree Preservation Order be made in respect of trees in No Man's Heath.

Recommendation to the Board

That an Order is made for the reasons set out in this report in respect of trees at St Mary's Church in No Man's Heath and that any representations duly made be referred back to the Board in due course for consideration as to whether to confirm the Order or not.

2 Consultation

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

3 Introduction

- 3.1 Officers received information that a number of trees within the curtilage of St Mary's Church in No Man's Heath might be at risk of felling. The suggestion was that some of the trees overhang a neighbour's property and that the trees might prejudice the future development of that land. The neighbour might therefore contact the Church seeking their removal. The trees include a yew tree; two western cedars, four holly trees an oak and a lime.

- 3.2 The Council's tree officer has visited the site and inspected the trees. A plan at Appendix A illustrates their location and the officer's written assessment is attached at Appendix B. The trees are recommended to be protected by way of an Order.

4 Observations

- 4.1 Members are aware that Orders can be made when "it is expedient in the interests of amenity" to protect trees. These trees are very prominent and are visible from many public viewpoints. There is no other collection of trees or these species close by. They provide a substantial canopy alongside the Church. As can be seen from the assessment the trees are in good condition and have a significant retention span. They are large, readily visible to the

public and form a collective group of trees enhancing the setting of the Church as a heritage asset.

- 4.2 Given the assessment and the potential for felling, it is considered in this case that an Order should be made.

5 Report Implications

5.1 Finance and Value for Money Implications

- 5.1.1 There are no implications to the making of an Order, but Members should be aware that in certain circumstances, claims for compensation can be made when tree works to protected trees are refused consent.

5.2 Legal, Data Protection and Human Rights Implications

- 5.2.1 There is an opportunity for land owners and others on whom the Order is served, to make representations to the Council and thus for these to be taken into account in consideration of the decision to confirm the Order.

5.3 Environment, Sustainability and Health Implications

- 5.3.1 The protection of trees, where appropriate, accords with the Council's Development Plan and Corporate Plan in seeking to protect and retain the rural character of the Borough.

Contact Officer for this report is Jeff Brown (719310)

APPENDIX B

Agenda Item No 9

Planning and Development Board

9 July 2018

Report of the
Head of Development Control

Tree Preservation Order
Pound Lane Over Whitacre

1 Summary

- 1.1 The report considers the making of a Tree Preservation Order in respect of an oak tree in Pound Lane, Over Whitacre

Recommendation to the Board

That the Board does not make an Order in this case for the reasons outlined in this report.

2 Background

- 2.1 The Council was asked to inspect a number of trees in Pound Lane by the Over Whitacre Parish Council with a view to making a Tree Preservation Order. An assessment was undertaken by the Council's Tree Officer and it was agreed with the Parish Council that they were not under immediate threat and thus the proposal was not to continue. However the Parish Council drew attention to one particular oak tree, outside of Oakdene in Pound Lane. This was singled out as the property is known to be on the market and it was considered opportune to look at the matter now, prior to any sale taking place, as the tree is quite close to the house could be considered to be under threat.
- 2.2 The tree's location is shown at Appendix A and a photograph of the tree is at Appendix B.
- 2.3 The Council's Tree Officer therefore undertook a separate assessment, but does not consider that an Order should be made. The assessment is attached at Appendix C.
- 2.4 The Parish Council commissioned its own assessment of the tree which scores the amenity value and retention span of the tree at a higher level - see Appendix D.
- 2.5 The Tree Officer in light of this alternative report, has reconsidered his assessment but remains of the view that an Order should not be made.

3 Observations

- 3.1 The making of an Order is governed by the Tree Regulations which state that an Order should be considered where “it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”.
- 3.2 Both reports indicate that the tree is good health with no major structural defects or noticeable damage or that it is under stress. There is clearly however, a divergence of opinion on its possible retention span and its amenity value. The Tree Officer is concerned about the alterations that have been made to the ground around the base of the tree and thus the longevity of its root plate. Additionally several branches have been removed in the past on the house side of the tree. He considers that these works have shortened the life of the tree. The base of the tree can clearly be seen in the photograph. In terms of amenity value then the Tree Officer says that this is only one of a number of roadside trees along this stretch of Pound Lane. As such the amenity value of this single tree is limited. The other trees referred to above are not under threat and thus the overall canopy cover along Pound Lane will remain.
- 3.3 Members are therefore recommended to prefer the assessment of its own Officer in this case

4 Report Implications

4.1 Finance and Value for Money Implications

- 4.1.1 If an Order is confirmed then in certain circumstances claims for compensation can be made if works to a protected tree is refused consent.

4.2 Legal, Data Protection and Human Rights Implications

- 4.2.1 There would be local consultation prior to confirmation of the Order.

4.3 Environment, Sustainability and Health Implications

- 4.3.1 The making of Orders in the interests of public amenity accords with the Council's priorities and objectives in preserving the rural character of the Borough.

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

Agenda Item No 8

Planning and Development Board

8 October 2018

Report of the Head of Development Control

Appeals Update

1 Summary

1.1 The report updates Members on two recent appeal decisions.

Recommendation to the Board

That the report be noted.

2 Appeal Decisions

a) St Andrews House

2.1 Members will recall this case involving the refurbishment of this Grade 2 building as a single house together with eight bungalows at the rear. The appeal related to one of the attached conditions which linked the occupation of the bungalows to completion of the refurbishment.

... 2.2 The decision is attached at Appendix A with the Inspector agreeing to the removal of the condition.

2.3 As can be seen in the letter, the basis of the case was Government guidance on the use of conditions. He considered that the condition met all of the guidance apart from whether or not it was "reasonable". Whilst disappointing, the decision does indicate the need for conditions to satisfy all of the Government's guidance on conditions and not just some.

b) Pooley Lane, Polesworth

2.4 Members will recall this second planning application here. Notwithstanding the first being refused and an appeal dismissed, Members accepted that the reasons for the dismissal were not in principle. The second application sought to address the issues raised and the Board resolved that it was minded to support. However the applicant lodged an appeal against non-determination. Given the minded to support resolution this new appeal decision is not a surprise. The letter is at Appendix B

... 2.5 An application for costs against the Council was not allowed. This is at Appendix C.

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



Appeal Decision

Site visit made on 30 August 2018

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

an Inspector appointed by the Secretary of State

Decision date: 20th September 2018

Appeal Ref: APP/R3705/W/18/3201106

St Andrews Home, 37 Blythe Road, Coleshill B46 1AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Father Hudson's Society against North Warwickshire Borough Council.
 - The application Ref PAP/2018/0094 is dated 11 February 2018.
 - The application sought planning permission to reinstate St Andrews to a single dwelling with residential annex, and construct 10 no: 2 bed dwellings, comprised of a building replacing the original coach house as two dwellings, and 8 dormer bungalows without complying with a condition attached to planning permission Ref PAP/2017/0267, dated 11 July 2017.
 - The condition in dispute is No 3 which states that: "*There shall be no occupation of any of the eight bungalows hereby approved until such time as the whole of the proposed refurbishment works to St Andrews House hereby approved, have been fully completed to the satisfaction of the Local Planning Authority.*"
 - The reason given for the condition is: "*In order to ensure that the works to the heritage asset are prioritised.*"
-

Decision

1. The appeal is allowed and planning permission is granted to reinstate St Andrews to a single dwelling with residential annex, and construct 10 no: 2 bed dwellings, comprised of a building replacing the original coach house as two dwellings, and 8 dormer bungalows at St Andrews Home, 37 Blythe Road, Coleshill B46 1AF in accordance with the application Ref PAP/2018/0094 dated 11 February 2018, without compliance with condition number 3 previously imposed on planning permission Ref PAP/2017/0267 dated 11 July 2017 and subject to the conditions in the attached Schedule.

Preliminary matter

2. Since the appeal was lodged, the government have published a revised National Planning Policy Framework (the 'Framework'). Both parties have had the opportunity to comment on the implications of the new Framework on the proposal and I have taken their comments into account.

Main Issue

3. The main issue is whether the disputed condition is necessary and reasonable with regard to the effect of the development on the listed building.

Reasons

4. St Andrews is a Grade II listed building. I did not enter the site during my visit, but observed the building from public roads. From here the building appeared in reasonable condition. Indeed the Council's committee report states the house is structurally sound and in a good state of repair and accepts the proposed refurbishment works are not essential repairs or maintenance, and are merely those works required to facilitate the building's conversion to a single dwellinghouse, which they consider is its optimum viable use.
5. The Council consider the 8 bungalows would cause harm to the setting of the listed building, but that this would be less than substantial and would be outweighed by the public benefits of the contribution of 8 units to the Council's supply of housing and the reinstatement of St Andrews as a single dwelling. However they accept the conversion of St Andrews can still be achieved without the condition and that the bungalows are not enabling works.
6. Consequently, it is largely the benefit of 8 additional units that outweighs the less than substantial harm to the setting of the listed building. I consider the removal of condition 3, would not materially affect this balance. Moreover, the officer's report confirms that without this condition the house will still be in good repair, and therefore I consider there is no evidence to demonstrate that a failure to refurbish the listed building would amount to substantial harm to the heritage asset.
7. Paragraphs 192 and 193 of the Framework advise that great weight should be given to the conservation of heritage assets, and that account should be taken of putting such assets to viable uses. I consider the extant planning permission for St Andrews' conversion to a single dwelling does this and there is no evidence to suggest this part of the planning permission will not be enacted.
8. I understand that the bungalows are included within the same site, are part of the same planning permission, and have been designed to respect the outlook from St Andrews. Nonetheless, whilst this illustrates the relationship between these parts of the development, this has little influence on whether condition 3 is necessary. I do not disagree the condition is precise, enforceable, and relevant to planning and the development.
9. In summary, it is not necessary to prevent the occupation of the bungalows before the works to St Andrews are complete as I do not consider that without this condition in place the listed building and its setting would be unacceptably harmed. Therefore the development without condition 3 would accord with policy NW14 of the Core Strategy which seeks the conservation of the historic environment.

Conditions

10. The guidance in the Planning Practice Guidance (PPG) makes it clear that decision notices for the grant of planning permissions under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

11. The conditions relating to landscaping, materials and tree protection are necessary in the interests of protecting the character and appearance of the area. Conditions are also imposed to prevent the subdivision of St Andrews so as to preserve the significance of the heritage asset, to ensure the site is satisfactorily drained, and to protect the living conditions of nearby residents by securing the submission of a Construction Management Plan.
12. I have altered the standard condition relating to the commencement of the development as the PPG states that a planning permission granted under section 73 cannot extend the time limit within which a development must be started. The development therefore must be commenced within three years of the date of the original planning permission.

Conclusions

13. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed.

Andrew Owen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin before 11 July 2020.
- 2) The development hereby approved shall not be carried out otherwise than in accordance with the Location Plan, plan numbers 686/04E, 06, 07 received by the local planning authority on 23 May 2017, plan number 686/05Q received by the local planning authority on 22 June 2017, and plan numbers 686/11E,14B and 15B received by the local planning authority on 16 March 2017.
- 3) There shall be no internal subdivision of St Andrews House once the refurbishment works hereby approved have been fully completed and neither shall there be any subdivision of the whole of its curtilage.
- 4) No development shall commence on site until a full landscaping scheme for the whole site has first been submitted to and approved in writing by the local planning authority. Only the approved scheme shall then be implemented.
- 5) No development shall commence on site until full details of all facing, roofing and surface materials to be used throughout the site and details of all boundary treatments including the dividing retaining wall between St Andrews and the bungalows have first been submitted to and approved in writing by the local planning authority. Only the approved materials shall then be used on site.
- 6) No development shall commence on site until full details of the surface water and foul water disposal from the site have first been submitted to and approved in writing by the local planning authority. Only the approved measures shall then be implemented on site.
- 7) No development shall commence on site until full details of the measures to be implemented on site to protect trees to be retained have first been submitted to and approved in writing by the local planning authority. Only the approved measures shall be implemented on site and these shall remain on site until construction is completed.
- 8) No development shall commence on site until a Construction Management Plan has first been submitted to and approved in writing by the local planning authority. This Plan shall remain in force throughout the construction period. It shall include details of:
 - a) The parking of vehicles for site operatives and visitors
 - b) Loading and unloading of plant and materials
 - c) Storage of plant and materials
 - d) The erection of security hoarding/fencing
 - e) Wheel washing facilities
 - f) Dust emission measures
 - g) A waste recycling scheme
 - h) Working and delivery hours
 - i) Contact details for the site manager.



Appeal Decision

Site visit made on 30 August 2018

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 25th September 2018

Appeal Ref: APP/R3705/W/18/3203467

Land east of Pooley Lane, Polesworth B78 1JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr K Holloway against North Warwickshire Borough Council.
 - The application Ref PAP/2018/0053, is dated 23 January 2018.
 - The development proposed is residential development of up to 40 dwellings.
-

Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 40 dwellings at Land east of Pooley Lane, Polesworth B78 1JB in accordance with the terms of the application, Ref PAP/2018/0053, dated 23 January 2018, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr K Holloway against North Warwickshire Borough Council. This application is the subject of a separate Decision.

Procedural matters

3. The application was submitted in outline form with all matters except access reserved for later consideration. I have determined the appeal on the same basis.
4. Since the appeal was lodged, the government have published a revised National Planning Policy Framework (the 'Framework'). Both parties have had the opportunity to comment on the implications of the new Framework on the proposal and I have taken their comments into account.

Main Issue

5. The main issue is whether it is necessary for the development to provide affordable housing and contributions towards healthcare facilities, public rights of way and community facilities, and if so whether an appropriate mechanism for securing these has been provided.

Reasons

6. The Council state that they have no objection to the proposal subject to appropriate planning conditions and contributions being secured comprising:

- The provision of not less than 40% of the dwellings to be affordable housing;
- £23,059 for the cost of providing health care services at The George Eliot Hospital NHS Trust;
- £2,048.15 for the cost of improving public highways, footpaths, bridleways or cycle routes within 3 miles of the site;
- £52,000 for on-site open space and enhancing the open space, built sports facilities and playing pitches at Abbey Green; and
- £876 towards improvements to public libraries within 3 miles of the site.

The appellant has submitted a unilateral undertaking which includes obligations which aims to secure all these contributions.

7. The affordable housing obligation includes the provision of 10 social rented units and 6 shared ownership dwellings which must be constructed before the occupation of half of the open market houses. I consider this obligation meets the tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and paragraph 56 of the Framework, and I am able to take it into account. The proposal in this respect would accord with policies NW6 and NW22 of the Core Strategy which seeks to secure appropriate levels of affordable housing in development.
8. With respect to the other obligations, I am satisfied that the contribution to the George Eliot Hospital NHS Trust is necessary, is directly related to the development and is reasonably related in kind and scale to the development. Regulation 123 states that, where a CIL charging schedule is not in place, only 5 contributions to each project can be collected. In this case, as the contribution would relate to the running costs of the Trust, not an infrastructure project, it is not limited by this pooling restriction.
9. The contribution for improvements to public footpaths locally is necessary, directly related to the development and the value and nature is reasonably related to the development. The Council have confirmed no other contributions have been made for such improvements. Likewise, I have evidence to demonstrate that mitigation would be required by the way of enhancements to the nearby Abbey Green park. The scale and nature of the intended contribution is reasonably related to the development and has been fairly calculated, but does not seem to account for any on-site open space provision. Nonetheless, I am able to take these obligations into account.
10. These obligations would accord with policy NW10 of the Core Strategy which aims to maintain local services, promote sustainable forms of transport and enhance recreation facilities, and policy NW22 of the Core Strategy which seeks to secure appropriate contributions to mitigate for the effect of development on this infrastructure.
11. With respect to the contribution to libraries however I have little information by which to assess if the £876 required is fairly related in scale to the development or if there is a library close to the site such that it could be considered directly related to the development. I cannot therefore take this obligation into account in my decision.

Other Matters

12. I understand there is a Grade II listed building north of the site at Pooley Hall. However due to the area of dense woodland around the north boundary of the site, there is no visual relationship between the site and this building such that its setting would be affected by the dwellings. Also I have no evidence of any historical connection. As such I consider the setting of this listed building would be preserved by the development.
13. Issues relating to a loss of privacy to, or outlook from, neighbouring properties can only be fully considered at the reserved matters stage when details of the layout and appearance of the houses would be given. The Inspector of the previous appeal¹ considered that the development would cause no harm to the character and appearance of the area, including the 'meaningful gap' and I have no grounds on which to arrive at a different view. I understand the Local Plan is still emerging, but as advised by the Planning Practice Guidance (PPG), prematurity is unlikely to justify a refusal of planning permission and I see no reason to depart from this guidance.

Conditions

14. I have considered the Council's suggested conditions against the advice in the PPG and the Framework. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect this guidance.
15. I have imposed the standard conditions relating to the commencement of development, submission of reserved matters and specifying the relevant plan in order to provide certainty.
16. It is not necessary to limit the development to 40 dwellings, as that is inherent in the terms of the planning permission, nor the number of storeys, as that would be considered at the reserved matters stage. I also have not imposed the condition relating to the provision of an on-site play area as contributions are to be made for off-site provision, and there seems no justification for both.
17. As this planning permission includes matters of access, I have amended the Council's suggested conditions relating to the access onto Pooley Lane, in the interests of highway safety. Whilst it is necessary to require further details of its dimensions, particularly to ensure HGVs can access the site, and the visibility splays, its position is part of the proposal I have considered and it would be inappropriate to facilitate its possible relocation by a condition. The access from Pooley Lane to Tamworth Road is an established junction serving many houses and businesses and I see no reason why its ability to accommodate HGV movements needs to be demonstrated.
18. I have considered the condition relating to passing places. From my site visit I saw at least two passing places between the position of the proposed site access and Tamworth Road. I do not consider therefore that it is necessary for this to be secured by a planning condition.
19. I have not included the conditions relating to a Construction and Environmental Management Plan or Ecological Management Plan. This is because the layout and landscaping of the site are reserved matters and so the impact on biodiversity, and the biodiversity impact score of the development, cannot be

¹ APP/R3705/W/17/3179922

accurately calculated. The site is deemed to be of low ecological value, and I consider the effects on biodiversity would be more appropriately addressed within the landscaping details to be submitted at the reserved matters stage.

20. I have included conditions relating to the floor levels of the dwellings as this would be necessary in the interests of protecting the character and appearance of this sloping site.
21. Improvements to the right of way which crosses the site are necessary to encourage its use and in the interests of highway safety.
22. The conditions relating to the submission of a Construction Management Plan, a lighting strategy, archaeological investigation, surface and foul water drainage and fire hydrants are necessary to protect the living conditions of nearby residents, ecological protection, archaeological protection, minimising flood risk and fire safety, respectively.
23. Some conditions require compliance prior to the commencement of development so that the effects of the proposal are properly mitigated in order to make it acceptable.

Conclusion

24. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed and planning permission granted.

Andrew Owen

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan:9323.20 revision B, but only in respect of those matters not reserved for later approval.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 6) No development shall commence on site until such time as the dimensions of the access into the site and its appropriate vision splays have first been submitted to and approved in writing by the local planning authority. The details to be submitted shall be informed by a HGV vehicle swept path diagram and a speed survey in Pooley Lane that has first been undertaken and completed in accordance with a written brief that itself shall first have been agreed in writing by the local planning authority.
- 7) The development shall not be occupied until the public right of way AE16 has been improved so as to provide for surfacing in a bound material and street lighting for its length between the proposed development and the footway of the public highway of the B5000 Tamworth Road in accordance with a scheme that shall first have been approved in writing by the local planning authority.
- 8) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) storage of plant and materials used in constructing the development;
 - iii) delivery, demolition and construction working hours;
 - iv) wheel washing facilities;
 - v) measures to control the emission of dust during construction;
 - vi) noise control during construction;
 - vii) site lighting details; and
 - viii) details of the contact for any local concerns with the construction activities on the site.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

- 9) Prior to the installation of any external lighting a 'lighting design strategy for bats' shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- i) identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance; and
 - ii) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the bats using the woodland habitats.

All external lighting shall be installed in accordance with the strategy, and these shall be maintained thereafter in accordance with the strategy.

- 10) No development shall take place until a Written Scheme of Archaeological Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment and analysis;
 - iii) the provision to be made for publication and dissemination of the analysis;
 - iv) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - v) the submission of an Archaeological Mitigation Strategy to be submitted to and approved in writing by the local planning authority.

The Strategy shall then be implemented as approved.

- 11) Development shall not commence until detailed surface and foul water drainage schemes for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved in writing by the local planning authority. The schemes shall be implemented in accordance with the approved details before the development is occupied.
- 12) The development hereby permitted shall not commence 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 be occupied until the scheme has been implemented as approved.



Costs Decision

Site visit made on 30 August 2018

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

an Inspector appointed by the Secretary of State

Decision date: 25th September 2018

Costs application in relation to Appeal Ref: APP/R3705/W/18/3203467 Land east of Pooley Lane, Polesworth B78 1JB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr K Holloway for a full award of costs against North Warwickshire Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for residential development of up to 40 dwellings.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. It goes onto state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The application was first presented to the planning board on 14 May 2018. It was recommended for approval subject to conditions, the completion of a planning obligation and the resolution of an outstanding objection from the lead local flood authority. It appears that from their personal experience of the highway and having listened to concerns from third parties, Members deferred the determination of the application so that the comments of the Highway Authority could be reviewed. The fact that Pooley Lane is a private road beyond the responsibility of the Highway Authority may have also influenced their request for a review. It was not unreasonable for the Members to seek this, even accounting for the implications of the Inspector's decision on the appeal at Daw Mill as that decision has little relevance to issues of highway safety at this site.
5. I note that issues of highway safety were not raised as a concern by Members when the previous application was determined on 4 April 2017. However at no point during their consideration of the current proposal did the Members

suggest the development would be unacceptable. Therefore there is little to indicate a conflict with their previous stance.

6. Notwithstanding this, at the time the Members considered the application, the objections from the lead local flood authority remained, and only an incomplete planning obligation was provided. Therefore, even if they had not challenged the Highways Authority's comments, there were still some issue to be resolved.
7. The appeal was submitted on 24 May, whilst these issues were still unresolved. From the minutes of the planning board meeting on 11 June the Members were minded to approve the application, delegating the final decision to officers, subject to conditions and finalising the planning obligation, suggesting a final planning obligation was still outstanding at that time. Indeed the obligation before me is dated 14 August 2018. Without the obligation being completed the proposal would be contrary to policy and it was on this ground alone on which the Council contested the appeal.
8. In summary, I do not consider the delays to the development were caused by unreasonable actions on behalf of the Council. Therefore I find that unreasonable behaviour resulting in unnecessary or wasted expense on behalf of the applicant, as described in the PPG, has not been demonstrated. Consequently the application for an award of costs is refused.

Andrew Owen

INSPECTOR

Agenda Item No 9

Planning and Development Board

8 October 2018

**Report of the
Head of Development Control**

**Land South of Dairy House Farm,
Grendon**

1 Summary

- 1.1 The report seeks approval for a variation to the affordable housing provision at this site to the east of Spon Lane in Grendon.

Recommendation to the Board

- a) That the Board is minded to support the principle of the variation;**
- b) That provided there are no objections received to the application to vary the condition, it be approved under delegated powers; and**
- c) That the variation be completed in those circumstances.**

2 Background

- 2.1 An outline planning permission was granted earlier this year for the erection of up to 120 dwellings to the east of a recently completed residential estate off Spon Lane in Grendon.
- 2.2 As part of the Section 106 Agreement accompanying the permission, there was a clause relating to the provision of affordable housing on the site. This required not less than 40% of the total number of dwellings to be delivered on site through a Registered Provider. The prospective developer who is looking to acquire the site with the benefit of the permission is looking to vary this arrangement.

3 The Proposal

- 3.1 The prospective developer of this land wishes to increase the amount of affordable provision on the site. However to enable this to be viable, grant funding from Homes England would also be required. That funding is not available where a Section 106 is involved. As a consequence the prospective developer is recommending that the existing 106 be altered such that it just refers to 30% on site provision, and then secondly that a variation of condition application be submitted in order to vary the existing planning condition –

number 6 – so as to say that on-site provision will be at 50%. In this way 30% would be funded by the developer and 20% from Homes England. The Council would also benefit from an increased proportion of affordable housing on-site - 50 rather 40%.

- 3.2 Although it seems “perverse” that by reducing the percentage of affordable housing in a 106, that that would enable a greater provision on site, this is product of the current funding arrangements.
- 3.3 The Housing Division fully supports this proposed arrangement, particularly as the preferred Provider is one that already operates in the Borough. The application to vary the condition has recently been submitted

4 **Report Implications**

4.1 **Financial and Value for Money Implications**

- 4.1.1 There are no implications in making the variation

4.2 **Environment and Sustainability Implications**

- 4.2.1 The combination proposed here will increase the number of affordable homes provided on this site.

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
1	Galliford Try	Letter	13/9/2018

Agenda Item No 10

Planning and Development Board

8 October 2018

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

Agenda Item No 11

Planning Division – Report of the Corporate Director - Environment

Paragraph 6 – by reason of the need to consider staffing matters contained within the report

The Contact Officer for this report is David Harris (719222)