

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

**(Councillors Simpson, Reilly, Bell, L Dirveiks,
Hayfield, Henney, Jarvis, Lewis, Morson,
Phillips, Smith, 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.

For general enquiries please contact David Harris, Democratic Services Manager, on 01827 719222 or via e-mail - davidharris@northwarks.gov.uk.

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

PLANNING AND DEVELOPMENT BOARD AGENDA

11 JUNE 2018

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Monday 11 June 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**

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

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

Summary

Town and Country Planning Act 1990 – applications presented for determination

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

- 5 **Appeal Update** – Report of the Head of Development Control.

Summary

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

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

JERRY HUTCHINSON
Chief Executive

**Report of the
Head of Development Control**

1 Subject

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

2 Purpose of Report

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

3 Implications

- 3.1 Should there be any implications in respect of:

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

4 Site Visits

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

5 **Availability**

5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.

5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 9 July 2018 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.

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
1	CON/2018/0012	4	Horiba Mira Ltd, Watling Street, Caldecote, Nuneaton, Construction of a connected and autonomous vehicle testing track, a control tower and storage building, landscaping and associated infrastructure	General
2	CON/2018/0014	8	Judkins Recycling Centre, Tuttle Hill, Nuneaton, Mixed use development consisting of a new local centre	General
3	DOC/2013/0020	11	Plot 1 Ocado, Phase 2, Danny Morson Way, Birch Coppice Business Park, Dordon, Approval of details required by condition 13 of permission PAP/2010/051, dated 4 March 2011, relating to a noise impact assessment of external activities at the premises.	General
4	PAP/2017/0413	78	Land north of, Grendon Road, Polesworth, Erection of 44 dwellings with landscaping, access and associated works	General
5	PAP/2018/0133	89	St Georges House, Gerards Way, Coleshill, Work to tree protected by a tree preservation order	General
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7	PAP/2018/0235	113	Labri, Ansley Lane, Arley, Coventry, Warwickshire, Erection of garage to rear	General
8	PAP/2018/0282	121	Alder Court and Heather Court, Friary Road, Atherstone, To carry out a flat to pitched roof conversion and external wall insulation covering to block 1 to 20	General
9	PAP/2018/0287	126	Former Sparrowdale School & Recycling Centre, Spon Lane, Grendon, Construction of 56 residential dwellings (class C3) including; construction of new vehicular access to Spon Lane, formalisation of existing vehicular access to Spon Lane, pedestrian accesses to Spon Lane and A5 (Watling Street), drainage infrastructure, landscaping, public open space and other works	General
10	PRE/2018/0023	133	Land South East Of M42 Junction 10, Trinity Road, Dordon, Warwickshire, Diversion Order application to implement diversion to Public Footpath AE55, granted under planning permission PAP/2017/0339	General

General Development Applications

(1) Application No: CON/2018/0012

Horiba Mira Ltd, Watling Street, Caldecote, Nuneaton,

Construction of a connected and autonomous vehicle testing track, a control tower and storage building, landscaping and associated infrastructure, for

Horiba Mira Ltd

Introduction

This is an application submitted to the Hinckley and Bosworth Borough Council for determination and this Borough has been invited to make representations to assist in that process.

The Site

The Mira site is on the north side of the A5 Trunk Road between the A444 roundabout and the Higham Land access into Nuneaton. The whole of the premises are within the Hinckley and Bosworth Borough Council area and extend somewhat to the north including many buildings and a significant testing track. The present application site is arable land and has an area of 33.6 hectares being located to the far north-west of their premises, running right up to Fenn Lane which runs between Fenny Drayton and Stoke Golding. It is shown on the plan at Appendix A.

The Proposals

This essentially is for a new test track for connected and autonomous vehicles together with associated buildings, telecommunication masts, landscaping and connections into the existing Mira premises. This will enable up to 25 vehicles being able to use the facility each day, but with no operations during weekends. Some night time operations will be expected.

The proposal is a direct response to the demand for testing this type of vehicle at high speeds which is currently not possible within the existing proving grounds.

It is considered that an additional 250 high skilled direct jobs would be created as well as a further 200 indirectly.

Background

Except for 5 hectares (15%), the site is wholly within the designated MIRA Enterprise Zone and is shown as an allocated employment site within the Hinckley and Bosworth Council's adopted Site Allocations Plan.

A wider MIRA technology park extending beyond the existing site area was granted planning permission in 2012 and this larger area was integrated into the Enterprise Zone. The improvements to the A5 here were a direct result of this permission and this designation.

The land on the other side of the A5 within North Warwickshire is allocated for employment purposes in the Submitted Version of the North Warwickshire Local Plan.

Observations

There is no objection in principle here given the Borough Council's past and current involvement with MIRA in enhancing and promoting this site and the substantial economic opportunities that it is and will create.

The main issues for the Borough are to establish whether there would be any adverse impact on North Warwickshire's interests. The site is some distance from the Borough boundary and would not be visible from the A5 or from the Borough's northern villages because to the distances; intervening hedgerows and trees together with changes in levels. There would be very limited glimpses from the higher ground to the south. The perimeter landscaping and additional bunding around the site would again significantly mitigate any adverse impacts. Similarly there would be negligible noise and air quality impacts directly affecting North Warwickshire residents.

Recommendation

That No Objection be raised.

BACKGROUND PAPERS

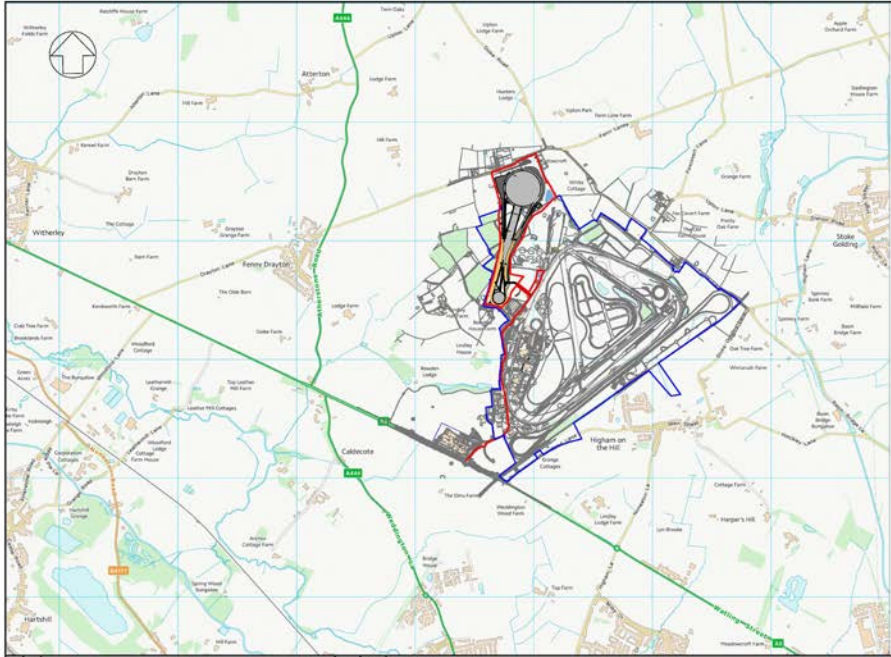
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: CON/2018/0012

Background Paper No	Author	Nature of Background Paper	Date
1	Hinckley & Bosworth BC	Letter	9/5/18

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.



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Note:
1. Do not scale.

Legend:

- TIC - IT Site boundary and access
- HORIBA MIRA Site boundary

Rev	By	Revision	Chkd	Date

Drawing Title: **TIC - IT Location Plan**



Welling Street, Nuneaton
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Drawn	Chk'd	Appd	Status	Date	Project No	Scale @ A3
IA	JS	IL	Information	12/04/2018	4501613	1 : 25000

Drawing No:	4501613/SK/016	Rev	-
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Drawing last updated by: imran anjad on April 13, 2018

(2) Application No: CON/2018/0014

Judkins Recycling Centre, Tuttle Hill, Nuneaton, CV10 0HU

Mixed use development consisting of a new local centre, for

FCC Environmental Ltd

Introduction

Applications have been submitted to the Nuneaton and Bedworth Borough Council and it has invited this Council to submit representations on the proposed developments as part of its determination of the cases.

The Site

The site is at the bottom of Tuttle Hill and it extends north either side of the canal. The western half extends up to the present landfill site and the eastern up to Stoney Road and the rail link between the Birmingham line and the West Coast Main line. It forms part of the far wider Judkins Quarry site.

The site is illustrated at Appendix A.

The Proposals

This is an outline application for up to 400 dwellings split over the site by the canal with all access off Tuttle Hill. A smaller area towards the Hill would be used as a community centre comprising a retail unit; a hotel, coffee shops, a public house and a doctor's surgery.

Background

Half of this site – that to the east side of the canal - is an allocated housing site within the submitted Nuneaton Local Plan despite it being previously allocated as employment land in the older 2006 Local Plan.

Observations

Clearly the planning policy issues here rest with the Nuneaton and Bedworth Borough Council which will also need to assess other harms that might result – highway and traffic issues being amongst the foremost. The potential loss of employment land will also need to be addressed.

From North Warwickshire's perspective the development is some distance from the common boundary with the Borough and the proposal is unlikely to have a prejudicial impact on the Council's own Submitted Plan. Traffic impacts are more likely to be focused on the highway network into Nuneaton's town centre. However there may be limited impacts of the Hartshill's services such as the local Schools – particularly the High School.

Recommendation

That this Council raises no objection in principle but recommends that the Nuneaton and Bedworth Borough Council should assess the need for any infrastructure improvements within Hartshill as a consequence of any approval.

BACKGROUND PAPERS

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

Planning Application No: CON/2018/0014

Background Paper No	Author	Nature of Background Paper	Date
1	Nuneaton and Bedworth BC	Consultation Letter	15/5/18

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.

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(3) Application No: DOC/2013/0020

Plot 1 Ocado, Phase 2, Danny Morson Way, Birch Coppice Business Park, Dordon, B78 1SE

Approval of details required by condition 13 of planning permission PAP/2010/0051 dated 4/3/11, relating to a noise impact assessment of external activities at the premises for

Ocado Ltd

Introduction

Members will recall that this application was referred to the February Board meeting but determination was deferred to enable Members to visit both the Ocado premises and the locations around the site from where objections had been lodged by local residents.

A copy of the previous report is at Appendix A together with the supplementary report at Appendix B.

The on-site meeting had to be re-arranged because of the very bad weather following that meeting. It did take place on the evening of the 1st March. A note of that visit is at Appendix C. The second visit took place more recently on 20th May. This took place without notice being given to Ocado, but the day and time were recommended by a representative of the objectors. A note of that visit is at Appendix D.

As it happened, the weather conditions were very similar for both visits as recorded in the two notes.

Further Information

Following the first on-site visit, Members asked officers to draw Ocado's attention to three matters: the use of the northern car park as a "waiting" area for trailers where the air conditioning units were operational; that baffles be constructed to the exhaust louvres on the air conditioning unit at the plant room, and that consideration be once again given to either the erection of an acoustic fence or the planting of poplar trees along the top of the rail embankment. Ocado has confirmed the first two of these measures. Ocado's response in respect of the third is attached at Appendix E.

Observations

Confirmation of the two actions following the first site visit is welcomed.

In respect of the third, then Members will be aware of the content of the Noise Assessment report that was included in the initial report – now included within Appendix A. This is effectively reproduced in Appendix E in respect of this outstanding issue. As outlined on page 2 of Appendix E, three potential acoustic barrier locations were considered – along the southwest edge of the service yard; along the top of the railway embankment and along the northern boundary of Stone Cottage. The Board, following its first visit was interested in the second of these possibilities. As can be seen from the Table on that page, the noise reductions for this possibility were all less than 3dBa. The Council's own Environmental Health Officer has confirmed that such a reduction would not be material. Moreover the acoustic fence here between 4 and 6 metres on the railway embankment would have a significant visual impact. Whilst there is existing tall vegetation along this length of track, the erection of the fence and its maintenance would require clearance of some of this. Additionally the embankment is in different ownership. The land owner has been approached informally and is not comfortable with such a solution in view of his obligations under an existing 106 Agreement and the potential damage to the stability of the embankment.

The above paragraph relates to an acoustic fence of between 4 and 6 metres in height along the embankment. Members did suggest an alternative – the planting of tall poplar trees. Again given the extent of existing vegetation on the rail track embankment there would need to be some clearance and then the poplars would take some time to establish themselves given the extent of any retained vegetation. Again the land owner has indicated informally that this would cause issues in respect of the extant 106 Obligation to retain the embankment for potential rail use; the additional structural damage that might be done to the embankment and best practice in respect of DEFRA guidelines on tree planting.

Members will be fully aware from recent appeal decisions, that it is essential to have robust technical evidence at hand if it is considered that there are significant adverse impacts arising from a development that could warrant a refusal. Given the full engagement of the Council's own Environmental Health Officers throughout the whole period of assessing noise emissions here, and their conclusions as reported previously, it is considered that that robust evidence base is not available. Members have now visited the site and as a consequence they can better understand the issues involved. That understanding has also been enhanced through the visit outside of the site.

On the evidence that is now available it is considered that the recommendation as set out in Appendix A can be supported.

Members will be very aware of the concerns expressed locally about these issues. It is therefore recommended that officers be asked to report back as appropriate to the Board on any future complaints made to the Environmental Health Officer and the conclusions or actions agreed, so as to retain a monitoring brief.

Recommendation

- a) That the recommendation set out in Appendix A be agreed
- b) That the Board receive reports as appropriate, from officers in order to monitor noise emissions from the site

BACKGROUND PAPERS

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

Planning Application No: DOC/2013/0020

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	3/5/13
2	Head of DC	Letter	22/4/18
3	Resound Acoustics	Letter	20/4/18
4	Agent	E-mail	8/5/18

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.

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(4) Application No: DOC/2013/0020

Plot 1 Ocado, Phase 2, Danny Morson Way, Birch Coppice Business Park, Dordon, B78 1SE

Approval of details required by condition 13 of permission PAP/2010/051, dated 4 March 2011, relating to a noise impact assessment of external activities at the premises, for

Ocado Ltd

Introduction

This application is referred to the Board at the request of local Members in light of the impact of noise emissions experienced from the site.

Background

Outline planning permission was granted in 2010 to extend the then existing Birch Coppice Business Park to the south-east towards Lower House Lane. Subsequent reserved matters permissions followed for the construction of the buildings on this extended land. One of the buildings erected was occupied then by Ocado Ltd.

A condition attached to the 2010 consent – condition 13 – requires the submission of a Noise Impact Assessment for the external activities undertaken within the development. This is a requirement for each of the new buildings within the extended site. Because noise impacts are bespoke to each occupier depending on their operational arrangements, the condition requires the scope for that Assessment to be agreed with the Council and for recommendations to be made for measures to mitigate any adverse noise impacts identified by the Assessment. The condition also requires that there is no occupation of the buildings until mitigation measures are first agreed by the Council; that they are installed on site and that they are adhered to.

This application therefore deals with the discharge of this condition as it affects the building occupied by Ocado Ltd. A location plan is attached at Appendix A such that the site can be seen in the wider context not only of the Birch Coppice Business Park but also in the wider locality. In this regard, attention is drawn to the location of Manor Close at Baddesley Ensor and to Stone Cottage towards the south of the extended Birch Coppice Park. For the benefit of Members, the residential properties in Manor Close are some 850 metres from the Ocado site boundary and Stone Cottage is some 240 metres from the site boundary. The Ocado premises are at a much lower level than the properties at Manor Close and also in regard to Stone Cottage by some 22 metres.

Members should be aware that not only are all of the buildings permitted under the 2010 consent now constructed and occupied, but a third phase of the Park is also now built and operational. The noise "climate" is thus different to that which existed in 2012 when Ocado first began operating.

The Proposals

The building constructed under the 2010 permission for Ocado's occupation was completed in 2012 and came into use in that same year. A Noise Impact Assessment was submitted with an application to discharge condition in respect of the Ocado building in May 2013. It concluded that overall there was unlikely to be noise impacts above ambient noise levels. It set out that the dominant noise source was associated with larger HGV's and that noise from fixed plant was not noticeable. Nevertheless the report did recommend reduced HGV speed limits; engines to be turned off rather than left to idle, refrigerated vehicles to be parked on the northern part of the site, doors on the building not to be left open and radios to be turned off.

The Council's Environmental Health Officer raised concerns about this Assessment particularly in respect of Stone Cottage and it became apparent too, that other local residents were lodging complaints about noise emissions with the Council – notably from Manor Close.

As a consequence a local Noise Action Group was instigated and there followed a series of meetings with ongoing review of noise sources on the site; new mitigation measures introduced, trialled and monitored, as well as alternative measures being investigated. This resulted in a series of further updated Noise Assessment Reports.

That Group has not met for over twelve months and Ocado now has submitted a Noise Report which summarises the history and requests that the measures now installed be agreed in order to discharge the condition.

A copy of this report is attached in full at Appendix B.

Whilst this details the noise issues since 2013, it is worthwhile summarising Ocado's account of the measures installed on site as consequence:

- The plant room – see Appendix D - has been modified to include sound-attenuating louvres on its front façade.
- Idling refrigerated trailers are parked in the north yard – see Appendix D - with the spaces closest to the building prioritised to maximise the degree of acoustic screening from the trailers themselves
- Vans use thermostatically controlled chiller units and are no longer pre-chilled.
- Building compressors rotational speed is reduced at night from 1200 rpm to 1000rpm
- Ocado vehicles do not use reversing alarms at night time and
- Ad hoc vehicle maintenance takes place to the north of the building – see Appendix D.
- Ocado will introduce electric hook up points on every goods-in dock leveller from early 2018

The report says that the measures to the plant room in 2015 have reduced noise from that room by as much as 16dB and that the noise emitted is now indistinguishable from the general noise levels experienced over the whole of the Birch Coppice site.

This change together with the others set out above are said to have led the noise situation at the site to satisfy the relevant British Standard BS4142: 2014, and evidence was submitted to the Council to evidence this conclusion.

The final point of the above measures is considered to be significant too. This installation would mitigate the need for refrigerated trailers docked in the goods-in area to run off their own diesel engines thus further reducing noise emissions from this source. The alternative was the construction of very tall noise barriers.

The report points out that a variety of acoustic barrier designs and locations around the south-west portion of the site closest to Stone Cottage and within the service yard itself were considered throughout the last few years. However in order to have any significant impact they would need to be "impractically tall". The point is made that in respect of site boundary barriers, then both Stone Cottage and Manor Close are elevated above the ground levels of the Ocado premises, and thus for barriers to be effective they need to break the line of sight between the noise source and the receptor – the house. As Stone Cottage is some 22 metres higher than Ocado any boundary fence would need to be at least this tall. Other barriers within the site would also need to be tall – perhaps up to 13 metres. However as indicated above, the prospect of electric hook up points together with the change to the plant room and the parking at the rear are cumulatively considered to be a provide more effective mitigation .

The report also addresses other matters that have been raised since occupation. In respect of wind direction then the technical notes and assessments have looked at worst case scenarios and in terms of "probity" then the Councils officers have themselves been able to verify all of the survey result and the assumptions involved.

The report therefore sets out in one document, a summary of all of the acoustic survey and mitigation work investigated and undertaken by Ocado in order to discharge the condition. It concludes that the installed measures represent the best practical means of reducing noise emissions and have minimised the likelihood of adverse impacts.

Representations

At the time of preparing this report two objections have been received - one from a resident of Manor Close and the other from the occupier of Stone Cottage. Both are copied in full at Appendix C. Any others received will be reported verbally.

In summary one says that:

- The HGV's are still not solely using the north car park;
- An alternative to a tall barrier could be tall tree planting
- The noise assessments should be done at different seasons and by an independent acoustician
- The noise from the compressors can still be heard.
- Other occupiers are on site with no noise assessments undertaken

The second refers to:

- Reductions in noise levels are "barely noticeable"
- The main issue is the compressors and the wind direction has a material effect on impacts
- The acoustic barrier is considered to be impractical because of "financial" reasons and not for other matters
- Because of the noise impacts, other action may have to be considered if this condition is discharged.

Consultations

Environmental Health Officer - A substantial amount of work has been undertaken over several years. He has been fully involved with the applicant and with the Action Group in monitoring noise emissions and discussing mitigation measures. He agrees with the conclusions of the report and would support the discharge of condition 13. The division has received no complaints about the site for over twelve months. Actionable noise emissions can always be dealt with under the appropriate legislation.

In respect of the matters raised in the objections he responds by saying that noise levels that are heard do not amount to statutory nuisance and that a large number of site visits and monitoring have taken place in the summer months both during the day and particularly at night. This substantial evidence base has led him to conclude that there is no demonstrable evidence to refuse the discharge of this condition. He reiterates that the Council will investigate future noise complaints whether arising from this site or any other at Birch Coppice.

Development Plan

The Core Strategy 2014 – NW10 (Development Considerations)

Other Material Planning Considerations

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

The relevant British Standards

World Health Organisation Guidance

Observations

a) Introduction

Members are reminded that this is an application to discharge a planning condition and thus has to be determined by reference to the Development Plan. The relevant policy here is NW10 (9) of the Core Strategy 2014. This says that new development should avoid and address unacceptable impacts on neighbouring amenities including amongst other matters – noise. The central issue here therefore is whether the measures introduced "avoid and address unacceptable impacts". Officers would point out that this does not mean that all outdoor activity should be inaudible, but that unacceptable noise impacts are appropriately mitigated.

The NPPF states that planning decisions should "avoid noise from giving rise to significant adverse impacts on health and quality of life" and "mitigate and reduce to a minimum, adverse impacts arising from noise through the use of conditions". Again the emphasis is on mitigation.

As it happens there is a significant catalogue of technical guidance on noise impacts and these provide a set of national standards against which to assess "unacceptable" and "significant" impacts. Applicants, Environmental Health Officers and indeed Planning Inspectors use these standards as objective guidance in their recommendations and thus by which to assess the impact of mitigation measures.

b) The Evidence

Whilst it is understood that noise impacts are subjective, the technical background referred to above becomes essential in providing common and objective ground between different parties. It was considered that the applicant's initial assessment required additional analysis. Indeed as local residents experience of site operations on the premises became apparent, it was clear that the scope of additional work had to be widened particularly to look at individual noise sources. The resultant record of the subsequent technical studies involved and the substantial amount of monitoring undertaken by officers in association with the residents is fully outlined in the applicant's summary report. It is considered that substantial weight should be afforded to that summary report as it is based on nationally accepted standards and has been revised and reviewed over time using direct on-site experience. It is also material that the Environmental Health Division has not received a complaint for over twelve months. The weight of evidence, when assessed against the wording of the relevant planning policy and guidance, clearly in the view of officers, leads to the discharge of this condition.

c) Other Matters

Should there be evidence of a statutory noise nuisance arising from this site or any other at Birch Coppice, then the Council will follow that matter through. Similarly it is considered that communication channels should remain open between residents and Ocado in order to investigate noise issues that might occur, especially if they are not sufficient to give rise to more formal action.

Recommendation

That the report dated January 2018 prepared by Resound Acoustics Ltd be Approved in Full Discharge of condition 13 of PAP/2010/0102 dated 19/8/10

BACKGROUND PAPERS

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

Planning Application No: DOC/2013/0020

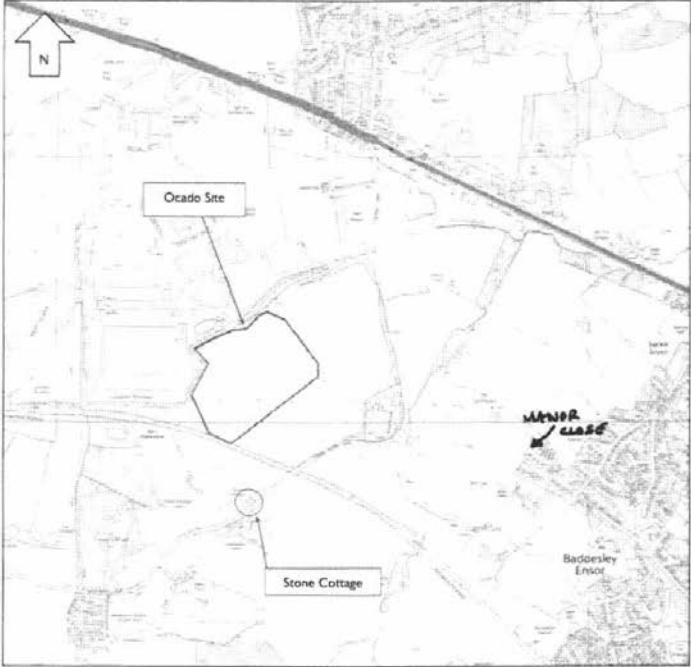
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	3/5/13
2	Applicant	Noise Report	3/1/18
3	Environmental Health Officer	Consultation	8/1/18
4	Mr McCabe	Objection	18/1/18
5	Mr Cole	Objection	22/1/18

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 B Site Plans

Figure B.1: Site location Plan



APPENDIX B

A Noise Report
for Ocado, Dordon

On behalf of Ocado Operating Limited

January 2018



A Noise Report for Ocado, Dordon

On behalf of
Ocado Operating Limited

Report Reference: RA00327 – Rep 4



Resound Acoustics Limited is a
Member of the Association of Noise Consultants

This report has been prepared by Resound Acoustics Limited with all reasonable skill, care and diligence, and taking account of the manpower and resources devoted to it by agreement with the client. Information reported herein is based on the interpretation of data collected and has been accepted in good faith as being accurate and valid.

This report is for the exclusive use of Ocado Operating Limited; no warranties or guarantees are expressed or should be inferred by any third parties. This report may not be relied upon by other parties without written consent from Resound Acoustics Limited.

Resound Acoustics Limited disclaims any responsibility to the client and others in respect of any matters outside the agreed scope of the work.

Document Issue Record

Issue	Description	Date	Approved
Rev0	Final for issue	8 th December 2017	MB
Rev1	Minor amendment	2 nd January 2018	MB

Resound Acoustics Limited

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Appendix C	Assessment Figures

I INTRODUCTION

- 1.1 Ocado Operating Limited has appointed Resound Acoustics Limited to produce a summary noise report setting out an overview of the noise assessments undertaken at its distribution facility at Birch Coppice Business Park, Dordon, Warwickshire.
- 1.2 The report is to set out in one place, a summary of all of the acoustic assessment work undertaken at the site, to assist North Warwickshire Borough Council (NWBC) in determining whether to discharge Condition 13 of the planning permission for the site.
- 1.3 This report sets out a summary of all mitigation measures considered at the site, identifying those measures that have been installed, and those that have been considered but not implemented, with reasoning provided.
- 1.4 Whilst reasonable efforts have been made to produce a report that is easy to understand, it is technical in nature; to assist the reader, an introduction to noise and an explanation of the terminology used in this report is contained in Appendix A.
- 1.5 Further information contained in the appendices includes a site location plan in Appendix B, and figures relevant to the various assessments undertaken in Appendix C.

2 SITE DESCRIPTION

Existing Site Conditions

- 2.1 Birch Coppice Business Park is located off the A5 Watling Street, a short distance from Junction 10 of the M42 motorway, in North Warwickshire.
- 2.2 Ocado is located within Phase 2 of the business park, immediately to the south of Phase 1. It is bordered by two distribution centre buildings to the south-east and by a dismantled railway line to the south-west. A new development plot that will form part of Birch Coppice Business Park is currently under construction to the immediate east.
- 2.3 The closest noise-sensitive receptors to the south of the site are residential properties on Lower House Lane, the nearest of which is Stone Cottage, approximately 240 metres from the Ocado site boundary. There are further residential properties approximately 850 metres to the east of the site at Baddesley Ensor.
- 2.4 A site location plan and a site layout plan are provided in Appendix B.

Planning Permission

- 2.5 Planning permission for the development was granted under Reserved Matters consent PAP/2010/0514, dated 4th March 2011. The permission was subject to a number of conditions, one of which, Condition 13, related to noise, stating:
"13 The development hereby approved shall not be occupied for business purposes until the scope of an impact assessment of the noise associated with external activities to be undertaken at the premises, including noise associated with vehicle reversing manoeuvres, has first been submitted to the Local Planning Authority. This report shall make recommendations for measures to mitigate any adverse noise impacts identified by that report. The premises shall not be brought into business use until such time as these or other appropriate mitigation measures have been approved in writing and installed on site. All such measures shall be complied with at all times."
- 2.6 This report has been prepared to assist NWBC in determining whether to discharge Condition 13.

3 OVERARCHING SUMMARY

3.1 This report sets out a summary of all mitigation measures considered at the site, identifying those measures that have been installed, and those that have been considered but not implemented, with reasoning provided.

Installed Mitigation

3.2 The following mitigation measures have been installed by Ocado to reduce noise emissions from their site:

- the plant room has been modified to include sound-attenuating louvres on its front façade;
- idling refrigerated trailers are now parked in the north yard, with the spaces close to the building prioritised to maximise the amount of acoustic screening from the trailers themselves;
- vans utilise thermostatically controlled chiller units and are no longer pre-chilled;
- reduced the rotational speed of the building compressors at night from 1,200 rpm to 1,000 rpm;
- Ocado vehicles do not use tonal reversing alarms during the night-time; and
- ad-hoc vehicle maintenance, such as changing tyres, now takes place to the north of the building.

3.3 In addition, Ocado has committed to installing electric hook-up points on every goods-in dock leveller. It is understood that these will be operational by the middle of February 2018.

3.4 The mitigation measures for the plant room were installed at the site in February 2015. The March 2015 technical note set out the results of measurements made to determine the effect of the installed mitigation. The measurements suggested that the mitigation measures had reduced noise from the plant room by approximately 16dB. A subjective assessment at Stone Cottage determined that noise from the plant room was subjectively indistinguishable from general noise from Birch Coppice and the wider area. It was understood that this is a noticeable improvement on the situation prior to the mitigation measures being installed.

3.5 The effect of the plant room mitigation and the other installed mitigation measures outlined above were set out in the June 2015 noise report. An assessment in accordance with British Standard 4142: 2014 determined that the rating levels due to the operation of the Ocado facility were calculated to be equal to the background level during the daytime and +3dB above the background sound level during the night-time. BS4142: 2014 states that a rating level of equal to or below background is indicative of a low impact. The rating level during the night-time is below the +5dB threshold that BS4142: 2014 states is likely to indicate an adverse impact.

3.6 The February 2017 and April 2017 technical notes suggested noise barriers in the goods-in area were likely to be ineffective in reducing noise emissions, unless they were impractically tall. Subsequent to the production of these technical notes, and in discussion with NWBC, Ocado agreed that as an alternative strategy they could install electrical hook-up points to all goods-in dock levellers. This would mitigate the need for

refrigerated trailers docked in the goods-in area to run off their own diesel engines, reducing noise emissions from these sources.

Mitigation Considered But Not Installed

- 3.7 The effects of a variety of acoustic barriers at the site were considered in the August 2014 draft noise report, the September 2014 draft letter, the February 2017 technical note and the April 2017 technical note.
- 3.8 The August 2014 draft noise report considered acoustic barriers along the south-western edge of the service yard adjacent to the lorry parking area, to the south-west of the site, and along the northern boundary of Stone Cottage. However, it was found that these barriers would need to be impractically tall to have any significant effect.
- 3.9 The September 2014 draft letter also considered a number of barrier options, including in and around the van parking area and around the southern trailer parking area. Although these barriers provided some reduction for individual sources, the effect on overall noise emissions from the site was minimal.
- 3.10 The February 2017 technical note and the April 2017 technical note considered barriers in the goods-in yard. However, it was found that barriers of significant height would be required to give meaningful reduction in noise from the goods-in yard at Stone Cottage. When considering the overall noise levels from the site, these barriers would provide a minimal effect.
- 3.11 The key limitation to barriers at the Ocado Dordon site is the elevated position of Stone Cottage, and of other receptors in and around Baddesley Ensor. For noise barriers to be effective, they need to break the line of sight between source and receiver.
- 3.12 The ground level at Stone Cottage is approximately 22 metres higher than the ground level at the site, so any barriers located on or near the site boundary would need to be impractically tall to break the line of sight to an upper floor window.
- 3.13 It is also understood that barriers in and around certain parts of the site, for example, around the van parking area, are impractical for other non-noise reasons, for example security.

4 SUMMARIES OF PREVIOUS ASSESSMENTS

Acoustic Associates Noise Report

- 4.1 A noise assessment was prepared in June 2012 by Acoustic Associates to discharge Condition 13 of a Reserved Matters application for the site (planning reference PAP/2010/0514). The report, titled *Noise Impact Assessment of Proposed Ocado Distribution Centre in Dordon*, and referred to in this assessment as 'the Acoustic Associates noise report', contained predicted operational noise levels at the noise-sensitive receptors closest to the site, and assessed the impact of these noise levels against national guidelines and standards.
- 4.2 The Acoustic Associates noise report set out calculated sound levels at four receptors around the site, which were:
- nearest residence to the south, on Lower House Lane, known as Stone Cottage;
 - in front of the residences on Boulters Lane;
 - The Beanstalk, off Gypsy Lane; and
 - in front of residences on Watling Street.
- 4.3 The Acoustic Associates noise report concluded that:
- 2.1 The dominant noise source is associated with the oversized goods vehicle (OGV) traffic. The noise contribution of the fixed plant is negligible.*
- 2.2 The existing background noise includes industrial noise from the Birch Coppice Business Park, e.g. vehicle movements, plant hum, cranes moving containers, etc. The activities on the proposed new site are of the same nature. The introduction of new activities on the Ocado site will not cause an increase in the ambient noise levels.*
- 2.3 The predicted daytime noise levels are below the WHO guidance threshold of 'moderate annoyance' in external amenity areas (gardens).*
- 2.4 Assuming the windows are partially open, the estimated night time noise levels inside the nearest residences are considered 'reasonable' in accordance with the BS 6233 guidance. The noise levels will be significantly lower when the windows are closed."*
- 4.4 Section 3 of the Acoustic Associates noise report set out the following recommendations to control noise from the Ocado site:
- "Best practical means of minimising the noise impact from the site should be adopted by the employees and managers, including but not limited to:*
- *Reducing the speed when approaching the site. It is recommended that a 10 mph speed limit is established on site.*
 - *Engines should not be left idling when vehicle has stopped*
 - *Any refrigerated lorries should park on the trailer parking on the northern part of the site. Doors to the distribution centre building should not be left open unnecessarily*
 - *Radios should be turned off on site.*
- 4.5 No physical mitigation measures, for example acoustic barriers, were recommended.

- 4.6 The Acoustic Associates noise report notes that its findings were predicated on the following:

"The oversized goods vehicle traffic is likely to be the dominant noise source related to the proposed site. The noise emissions were based on a traffic model. It should be noted that this assessment is based on the predicted maximum hourly traffic. Therefore this model considers a worst case scenario."

- 4.7 Of particular note for this report were the operational noise levels predicted at Stone Cottage in the Acoustic Associates noise report. These are shown in Table 3.1, which is a reproduction of the relevant parts of Table 5 of the Acoustic Associates noise report. The Acoustic Associates noise report states that the noise levels were predicted at 1.5 metres above ground level, i.e. at ground floor level.

Table 3.1: Predicted noise levels in the Acoustic Associates report for Stone Cottage

Predicted daytime noise level $L_{Aeq,T}$ dB	Predicted night time level $L_{Aeq,T}$ dB
49.3	47.7

- 4.8 It is understood that NWBC did not discharge Condition 13 as a result of the Acoustic Associates noise report.

August 2014 Draft Noise Report

- 4.9 Resound Acoustics undertook a noise assessment of Ocado's Dordon facility in August 2014. The assessment was set out in a report titled *A Noise Assessment for Ocado, Dordon* (reference RA00327 – Rep 1, dated 1st August 2014). This report, which was issued in draft, is referred to in this report as the *'August 2014 draft noise report'*.

- 4.10 The August 2014 draft noise report was prepared to assess whether noise barriers could form an effective mitigation strategy to reduce noise emissions from the site, with particular emphasis on reducing noise at Stone Cottage.

- 4.11 As part of the assessment, Resound Acoustics undertook operational noise measurements at Ocado's Dordon facility to establish typical sound levels for their activities. This included measurements of vehicle movements, refrigerated trailers, and noise emissions from the plant room.

- 4.12 The sound levels from each individual source at the site were used as input data into noise modelling software to calculate the overall sound emissions from Ocado's Dordon facility at Stone Cottage, which is the closest noise-sensitive receptor to the site. The predicted noise levels are shown below in Table 3.2, which is a reproduction of Table 5.4 of the August 2014 draft noise report.

Table 3.2: Predicted noise levels, free-field $L_{Aeq,T}$ dB

Receptor	Period	Predicted Noise Levels, $L_{Aeq,T}$	
		Ground Floor	First Floor
Stone Cottage	Daytime (07:00-19:00)	47.3	51.9
	Evening (19:00-23:00)	47.2	51.7
	Night-time (23:00-07:00)	48.0	52.6

- 4.13 Comparing the ground floor noise levels in Table 3.2 with the values predicted by Acoustic Associates, as shown in Table 3.1, it can be seen that the two sets of values correlate well. The calculation methodology and noise emission predictions used in the August 2014 draft noise report, and subsequent assessments, were therefore considered to be robust.
- 4.14 The August 2014 draft noise report considered a number of noise barrier options to reduce noise emissions at Stone Cottage:
- Option 1: along the south-western edge of the service yard adjacent to the lorry parking area;
 - Option 2: to the south-west of the site, along the top of the northern edge of the dismantled railway; and
 - Option 3: along the northern boundary of Stone Cottage.
- 4.15 The noise barrier locations are shown in Figures C.1, C.2 and C.3 in Appendix C respectively.
- 4.16 For each barrier tested, noise levels were calculated for three operational scenarios:
- total noise emissions;
 - noise emissions from vehicles only; and
 - noise emissions from fixed plant only.
- 4.17 This approach was adopted so that the potential noise reductions were tested for the geographical spread of noise sources. For example, noise from vehicles is spread over a wide area, but is close to ground level, whereas noise from the plant room is contained in a smaller area, but has elements at an elevated position.
- 4.18 A particular barrier may therefore be particularly effective at reducing vehicle noise, but less effective at reducing plant noise. By breaking the calculations down into these three elements, it was clear where the strengths and weaknesses are for a particular barrier. It was important to understand how each barrier affected each source when determining their efficacy.
- 4.19 The August 2014 draft noise report set out the predicted changes in noise emissions at Stone Cottage for each barrier option, for barrier heights of 4, 5 and 6 metres above local ground level.
- 4.20 The predicted changes in noise levels due to barrier Option 1 are shown in Table 3.3, which is a reproduction of Table 5.5 of the August 2014 draft noise report.

Table 3.3: Predicted changes on noise levels at Stone Cottage, Option 1, dB

Barrier Height	Predicted Change		
	All Emissions	Vehicles Only Emissions	Fixed Plant Only Emissions
4 metres	-1.0	-1.0	-0.9
5 metres	-1.0	-1.0	-0.9
6 metres	-1.0	-1.3	-0.9

- 4.21 The predicted changes in noise level due to barrier Option 2 are shown in Table 3.4, which is a reproduction of Table 5.6 of the August 2014 draft noise report.

Table 3.4: Predicted changes in noise level at Stone Cottage, Option 2, dB

Barrier Height	Predicted Change		
	All Emissions	Vehicles Only Emissions	Fixed Plant Only Emissions
4 metres	-1.6	-1.5	-1.6
5 metres	-2.1	-2.3	-2.0
6 metres	-2.8	-3.2	-2.6

4.22 The predicted changes in noise level due to barrier Option 3 are shown in Table 3.5, which is a reproduction of Table 5.7 of the August 2014 draft noise report.

Table 3.5: Predicted changes in noise level at Stone Cottage, Option 3, dB

Barrier Height	Predicted Change		
	All Emissions	Vehicles Only Emissions	Fixed Plant Only Emissions
4 metres	-5.4	-5.1	-5.5
5 metres	-5.8	-5.7	-5.7
6 metres	-6.8	-7.3	-6.5

4.23 The August 2014 draft noise report noted that barrier Option 3, along the northern edge of Stone Cottage, would be the most effective in terms of noise reduction. However, a barrier in this location could affect the occupants' views and light, and as a large structure in an elevated position, there were likely to be significant wind loading issues, which would need to be taken into account in the barrier design.

4.24 The August 2014 draft noise report concluded that a key limitation to the use of noise barriers at the Dordon site is the elevated position of Stone Cottage, and of other receptors in and around Baddesley Ensor. For noise barriers to be effective, they need to break the line of sight between source and receiver, and the topography makes this difficult to achieve without utilising substantial structures.

4.25 The ground level at Stone Cottage is approximately 22 metres higher than the ground level at the site, so any barriers located on or near the site boundary would need to be impractically high to break the line of sight to an upper floor window. For example, to provide a similar reduction as Option 3, Option 1 would need to be approximately 16 to 20 metres high, and Option 2 would need to be approximately 10 to 15 metres high.

4.26 The August 2014 draft noise report stated that reducing noise at source would be a more practical mitigation solution, for example reducing noise from the plant room using acoustic louvres, installation of electrical hook-up points to avoid the need to use engines on refrigerated vans or trailers, and localised screening close to individual noise sources, for example around the trailer parking areas.

4.27 Paragraph 5.58 of the August 2014 draft noise report made the following recommendations in terms of noise control at the site:

To reduce noise emissions from the site, it is suggested that the following options be considered:

- reduce noise from the plant room using either acoustic louvres, or a barrier placed close to it, or a combination of the two;*

- *install electric hook-up points to avoid the need to use the engines on refrigerated trailers or vans;*
- *barriers in and around the service yard close to individual noise sources, for example around trailer parking areas.*"

September 2014 Draft Letter

- 4.28 Resound Acoustics undertook calculations of further mitigation options for Ocado's Dordon facility in September 2014. The calculations were set out in a letter dated 22nd September 2014 (reference RA00327 – Let 1). This letter, which was issued in draft, is referred to in this report as the 'September 2014 draft letter'.
- 4.29 The potential noise reduction from various mitigation options were calculated, these included:
- relocating the loaded refrigerated trailers to western yard;
 - not running trailer refrigeration units when trailers are docked;
 - noise barriers in the van dispatch area;
 - noise barriers around the southern trailer parking area;
 - acoustic enclosure for the plant room.
- 4.30 Indicative target levels of reduction of 5dB for plant noise and 7dB for vehicle noise were adopted, based on a request from an Environmental Health Officer at North Warwickshire Borough Council (NWBC).
- 4.31 Relocating loaded refrigerated trailers, with their diesel engines idling, from the southern yard to the western yard was found to achieve a 6.9dB reduction in noise level from refrigerated trailers at Stone Cottage. By also amending operating procedures so that trailers did not need to be pre-chilled prior to loading, this would increase the reduction to 7.8dB.
- 4.32 The effect of installing barriers between the van dispatch parking bays was also assessed, with the assessed barrier alignments shown in Figure C.4 in Appendix C. It was found that barriers 2 metres in height would provide a reduction in van noise at Stone Cottage of 1.7dB, and barriers of 3 metres in height would provide a reduction in van noise of 1.9dB.
- 4.33 The effect of installing barriers around the southern trailer parking area was also tested, to determine the effect they may have on shunter and HGV movements in that area. The assessed barrier alignments are shown in Figure C.5. It was found that barriers of 2 metres in height would provide a reduction in shunter and HGV noise at Stone Cottage of 1.5dB, and 3 metre high barriers would provide a reduction of 1.7dB.
- 4.34 It was found that although the above measures could provide noticeable reductions for each individual source, the overall reduction in vehicle emissions with all measures in place would be 3.2dB. However, other sources at the site, such as plant noise, would offset this reduction.
- 4.35 The September 2014 draft letter also considered noise emissions from the plant room. The effect of an acoustic enclosure around the lower level of the plant room was tested, and it was found that this would reduce noise levels from the plant room by 7.4dB at Stone Cottage.

- 4.36 The analysis in the September 2014 draft letter initially considered vehicle noise and plant room noise separately. However, in practice, the overall effect of each mitigation measure on the overall noise emissions is likely to be lower than the individual calculations suggest. Therefore, the total noise reductions were calculated, taking account of all of the noise at the site, as shown in Table 3.6.

Table 3.6: Predicted change in total noise levels, dB

Yard Mitigation	Plant Room Mitigation	
	None	Lower Plant Room Enclosure
None	0	-2.3
Loaded refrigerated trailers stored in west yard	-0.4	-3.4
Loaded refrigerated trailers stored in west yard, docked trailers chilled by warehouse	-0.6	-4.0
Loaded refrigerated trailers stored in west yard, docked trailers chilled by warehouse, 2m van despatch bay barriers	-1.0	-5.0
Loaded refrigerated trailers stored in west yard, docked trailers chilled by warehouse, 2m van despatch bay barriers, 2m southern trailer bay barriers	-1.1	-5.2

- 4.37 The reductions shown in Table 3.6 indicated that the mitigation in the yard on its own, i.e. with no plant room mitigation, was relatively ineffective, suggesting that noise from the plant room dominated the overall noise emissions, and should be targeted first.
- 4.38 The September 2014 draft letter concluded that an iterative approach may be needed, where as each source is addressed, the next loudest becomes the most important to address.
- 4.39 The September 2014 draft letter stated that the most effective mitigation strategies were considered to be:
- moving all refrigerated trailers to the western yard when their refrigeration units are running;
 - using the temperature of the warehouse to chill docked trailers, avoiding the need to pre-cool the trailers; and
 - attenuating noise emissions from the plant room using acoustic enclosures and screens.

November 2014 Draft Letter

- 4.40 Resound Acoustics undertook an evaluation of specific plant room enclosure proposals in November 2014. The evaluation was set out in a letter dated 10th November 2014 (reference RA00327 – Let 2). This letter, which was issued in draft, is referred to in this report as the 'November 2014 draft letter'.
- 4.41 Plant enclosure proposals were provided by EEC Ltd and IAC Ltd, with both manufacturers proposing enclosures with three sides and roof. The dimensions were similar, with EEC's being 18 metres long by 2.6 metres deep by 7 metres high, and IAC's 17.7 metres long and 3 metres deep. IAC did not state the height of its proposed enclosure, however, it appeared to be a similar height to EEC's from IAC's drawings.

- 4.42 Sound reduction data was received from the manufacturers and the potential overall sound reduction was calculated.
- 4.43 EEC Ltd proposed using the following materials:
- LA1/30/HP acoustic louvres to the front elevation;
 - 50mm AEP/50 panelwork to the sides and roof.
- 4.44 EEC Ltd also provided the option of using LA2 acoustic louvres.
- 4.45 IAC Ltd proposed using the following materials:
- SL-150 Slimshield acoustic louvres to the front elevation;
 - 100mm thick Moduline panelwork to the sides and roof.

- 4.46 The November 2014 draft letter set out the calculated noise reductions from each of the proposed enclosures, as shown below in Table 3.7, which is a reproduction of Table 3 of the November 2014 draft letter.

Table 3.7: Calculated noise reduction for Dordon enclosures

Proposed by	Calculated Noise Reduction, dB
EEC	10 to 12dB ⁽¹⁾
IAC	8 to 10dB

Notes:

⁽¹⁾ – Value shown is for the LA1 louvre. A greater reduction of 15dB was calculated for the LA2 louvre

- 4.47 The November 2014 draft letter stated that EEC's proposal was marginally more effective than the IAC proposal.
- 4.48 The November 2014 draft letter also set out a cost-benefit analysis, and concluded that the EEC proposal was slightly cheaper per decibel of reduction.
- 4.49 Subsequent to the November 2014 draft letter being produced, the EEC enclosure was installed at the site in February 2015.

March 2015 Technical Note

- 4.50 Resound Acoustics undertook noise measurements in around Ocado's Dordon site in March 2015 to determine the effect of the sound-attenuating measures that had been installed on the plant room. The results of the measurements were set out in a technical note (reference RA00327 – TN1, dated 25th March 2015), which is referred to in this report as the 'March 2015 technical note'.
- 4.51 The noise measurements, which were carried out on the evening of Tuesday 10th March 2015 by Mike Brownstone of Resound Acoustics, with Paul O'Sullivan of Ocado and Dean Walters of NWBC in attendance, made at the following locations:
- close to the plant room at Ocado; and
 - in the garden of Stone Cottage.
- 4.52 Analysis of the sound-attenuating louvres was conducted by comparing the measurements made close to the plant room and measurements made at the same position in June 2014.

before modifications of the plant room had taken place. This comparison is shown below in Table 3.8, which is a reproduction of Table 2 of the March 2015 technical note.

Table 3.8: Comparison of pre- and post-mitigation plant room noise levels

Location	Measured Noise Levels, $L_{Aeq,T}$ dB		Difference
	June 2014: Pre-Mitigation	March 2015: Post-Mitigation	
4m from plant room	83.2	67.3	-15.9

- 4.53 The measurements suggested that the sound attenuating louvres had reduced noise from the plant room by approximately 16dB.
- 4.54 During the measurements at Stone Cottage, the compressors and condensers within the plant room were switched off at various points. However, it was subjectively difficult to distinguish the plant noise from other general noise in and around Birch Coppice.
- 4.55 Noise levels at Stone Cottage due to plant room noise were determined by subtracting the measured levels when the plant was not operating from the noise levels when it was. It was noted in the March 2015 technical note that this calculation was sensitive to small changes in noise from extraneous sources, which could lead to larger apparent level changes for the source of interest when in reality that source is constant. The noise levels at Stone Cottage are shown in Table 3.9, which is a reproduction of Table 3 of the March 2015 technical note.

Table 3.9: Ocado plant room noise levels at Stone Cottage, free-field dB

Noise Source	$L_{Aeq,T}$
<i>Averaged Measured Values</i>	
Residual / no plant operating	38.6
All plant operating	41.1
Just condensers operating	41.4
<i>Calculated Values</i>	
Calculated noise level for all plant	37.5
Calculated noise level for condensers only	38.2

- 4.56 The sensitivity of the calculation to changes in extraneous sources can be seen from Table 3.9, where the noise due to just the condensers is shown as marginally higher than the noise level for the compressors and condensers together. Clearly, this is not possible; it is explained by noise from extraneous sources being marginally higher during the period where only the condensers were operating.
- 4.57 Notwithstanding this, the noise levels due to the plant room were taken to be in the region of 38dB at Stone Cottage.
- 4.58 To corroborate this value, the March 2015 technical note set out a calculation of the noise level at Stone Cottage, based on the measurements close to the plant room. These calculations suggested a noise level of 35 to 38dB, depending on the amount of soft ground assumed between the plant room and Stone Cottage (these calculated values were for 100% soft ground and 50% soft ground respectively). The calculation suggested that the measured noise level was approximately correct.

4.59 The March 2015 technical note stated that at Stone Cottage noise from the plant room was subjectively indistinguishable from general noise from Birch Coppice and the wider area. It was understood that this was a noticeable improvement on the situation prior to the sound-attenuating measures being installed.

June 2015 Noise Report

4.60 Resound Acoustics undertook a noise assessment of Ocado's Dordon facility in June 2015. The assessment was set out in a report titled *A Noise Assessment for Ocado, Dordon* (reference RA00327 – Rep 2, dated 2nd June 2015), which is referred to in this report as the *June 2015 noise report*.

4.61 The assessment was prepared to discharge Condition 13 of the reserved matters approval for the site (reference PAP/2010/0514). Condition 13 required the submission of an assessment of the noise impact associated with external activities at the site, with recommendations made to mitigate any adverse noise impacts.

4.62 The sound levels from operations at the site were calculated using the same methodology used in the August 2014 draft noise report, in conjunction with source data measured on site in June 2014 and March 2015, supplementary source data typical of vehicle activities taken from similar but unrelated developments and source data set out in the Acoustics Associates noise report.

4.63 The following mitigation measures that had been installed by Ocado since the August 2014 draft noise report were also included in the calculations:

- the plant room has been modified to include sound-attenuating measures, as described in the November 2014 draft letter and March 2015 technical note;
- idling refrigerated trailers were now parked in the north yard, with the spaces close to the building prioritised to maximise the amount of acoustic screening from the trailers themselves;
- vans utilised thermostatically controlled chiller units and were no longer pre-chilled;
- reduced the rotational speed of the building compressors at night from 1,200 rpm to 1,000 rpm;
- Ocado vehicles do not use tonal reversing alarms during the night-time.

4.64 The noise levels due to operations at the site were predicted at Stone Cottage, and are shown below in Table 3.10, which is a reproduction of Table 5.4 of the June 2015 noise report.

Table 3.10: Predicted specific sound levels, June 2015 noise report, free-field $L_{Aeq,T}$ dB

Receptor	Period	Specific Sound Levels, $L_{Aeq,T}$		
		Vehicles only	Plant only	Total ⁽¹⁾
Stone Cottage	Daytime (07:00-23:00)	38	35	40
	Night-time (23:00-07:00)	39	35	41

Note: ⁽¹⁾ the total specific sound level is the logarithmic sum of the vehicle and plant specific sound levels.

- 4.65 The total specific sound levels from the proposed development were assessed using the methodology set out in BS4142: 2014.
- 4.66 The specific sound levels were converted to rating levels by a correction of +2dB, to account for tonal characteristics of reversing alarms being just perceivable at Stone Cottage. The BS4142 assessment is shown in Table 3.11, which is a reproduction of Table 5.5 of the June 2015 noise report.

Table 3.11: BS4142 assessment, June 2015 noise report, free-field dB

Receptor	Period	Background Sound Level, L_{Aeq}	Rating Level, $L_{Aeq,T}$	Difference
Stone Cottage	Day	42	42	0
	Night	40	43	+3

- 4.67 The rating level was calculated to be equal to the background level during the daytime and +3dB above the background sound level during the night-time. BS4142: 2014 states that a rating level of equal to or below background is indicative of a low impact. The rating level during the night-time is below the threshold that BS4142: 2014 states is likely to indicate an adverse impact.
- 4.68 The June 2015 noise report also stated that rating levels at receptors in Baddesley Ensor were predicted to be approximately 10dB lower than those at Stone Cottage, suggesting the outcome of a BS4142: 2014 assessment would be no worse than that shown in Table 3.11.
- 4.69 The June 2015 noise report also stated that maximum noise levels due to a shunter or heavy goods vehicle picking up a trailer, or slamming car doors, were unlikely to exceed the 60dB criterion set out in the World Health Organisation's *Guidelines for Community Noise* at sensitive receptors.
- 4.70 The June 2015 noise report concluded that the mitigation measures installed at the site by June 2015 had been effective in reducing the noise emissions from the site, and suggested that Condition 13 of the planning permission could be discharged. However, NWBC did not discharge Condition 13.

August 2016 Draft Technical Note

- 4.71 Resound Acoustics undertook noise measurements at Stone Cottage in August 2016. The results of the measurements were set out in a technical note (reference RA00327 – TN2, dated 24th August 2016), which is referred to in this report as the 'August 2016 draft technical note'.
- 4.72 The measurements were made in response to a complaint from the occupants of Stone Cottage, Mr and Mrs Cole, who had complained about the noise at their property due to the operations of Ocado's facility, in particular the operation of the refrigeration plant. It was understood that Mr and Mrs Cole had a particular issue when the wind was blowing from Ocado to their property, i.e. in the arc from north-west to north-east.
- 4.73 The measurements were unattended except between 22:30 and 23:00 hours on the evening of 15th August 2016, when Andrew Moseley of Resound Acoustics, Stephen Whiles of North Warwickshire Borough Council, and Mr and Mrs Cole attended site. The timing of the attended measurements was at Mr and Mrs Cole's request.

- 4.74 The survey results suggested there was a correlation between wind direction and noise levels. During intervals in which the wind was blowing in the arc from south-west to south-east, i.e. from Stone Cottage towards the site, noise levels were generally lower. When the winds were noted to be blowing from the north-east, i.e. from the site to Stone Cottage, noise levels generally appeared to be higher.
- 4.75 However, the draft August 2016 technical note stated that, without attending the site during north-easterly wind conditions, it was not possible to determine whether Ocado was the source of the increase, or whether other sources such as the A5 road or other premises at Birch Coppice Business Park contributed.
- October 2016 Technical Note**
- 4.76 Resound Acoustics undertook further noise measurements to the rear of Stone Cottage in September 2016. The results of the measurements were set out in a technical note (reference RA00327 – TN3, dated 4th October 2016), which is referred to in this report as the *October 2016 technical note*.
- 4.77 The measurements were a further investigation of how the wind direction affects the noise levels at Stone Cottage. The measurements were made at short notice in response to appropriate wind conditions, and were made without the occupants of Stone Cottage being aware that they were taking place.
- 4.78 The noise survey was carried out between 22:54 and 23:59 hours on Tuesday 13th September 2016, with both Resound Acoustics and Dean Walters of NWBC in attendance throughout. The wind was blowing in a direction from Ocado's site to the receiver, broadly a northerly or north-north-easterly wind.
- 4.79 The sources noted during the survey included:
- plant, considered likely to be from Ocado's plant room, although the exact source could not be determined;
 - occasional vehicle movements, some from Ocado, some from other sites,
 - occasional reversing alarms, considered to not come from Ocado;
 - heavy goods vehicle horns on the estate road;
 - pneumatic torque wrench, which appeared to be located close to the southern boundary of the site;
 - occasional cars passing on local roads; and
 - general 'industrial' hum.
- 4.80 It was noted that the M42 motorway was closed between Junction 10 and 11 during the survey, and there were roadworks on the A5. As a result, the level of road traffic noise during the survey may have been lower than might otherwise have been the case.
- 4.81 The overall sound levels at the monitoring location were taken to be 47dB $L_{Aeq,45min}$ and 45dB $L_{Aeq,45min}$. It was not possible to isolate sound from Ocado's plant as other sources occurred too frequently.
- 4.82 It was noted that while plant was audible, it was a reasonably broadband sound and served to mask some of the intermittent sources of the sound from the business park.

- 4.83 It was not clear if the pneumatic torque wrench was in use by Ocado or by one of the other businesses at Birch Coppice Business Park.
- 4.84 As a result of the October 2016 technical note, Ocado undertook a review of their vehicle maintenance regime, and committed to carrying out noisy tasks, such as changing wheels using pneumatic torque wrenches, on the northern side of the building to obtain maximum acoustic screening effect.

November 2016 Draft Noise Report

- 4.85 Resound Acoustics undertook further noise measurements at Stone Cottage in October and November 2016, again, to investigate the effects of Ocado's activities on the acoustic climate at the property. The survey was timed to coincide with a partial shut-down at Ocado over a single night-time period, which is a rare occurrence. Measuring the noise levels before, during and after the shut down would provide valuable information on how Ocado's activities contribute to the acoustic climate at Stone Cottage.
- 4.86 The results of the noise survey were set out in a report titled *A Noise Survey for Ocado, Dordon* (report reference RA00327 – Rep 3, dated 30th November 2016). This report was issued in draft, and is referred to in this report as the *November 2016 draft noise report*.
- 4.87 The November 2016 draft noise report set out the results of measurements undertaken between Wednesday 26th October 2016 and Thursday 24th November 2016.
- 4.88 The report concluded that the gathered noise data and associated weather data suggested some correlation between higher noise levels and winds from a more northerly direction.
- 4.89 During the survey it was also understood that Ocado undertook an operational shut-down overnight between Saturday 29th and Sunday 30th October 2016.
- 4.90 The November 2016 draft noise report stated that based on the measurement trace, there was a noticeable drop in noise level for all noise indices between approximately 23:00 hours on Saturday 29th and approximately 06:00 hours on Sunday 30th October 2016. The reduction in noise level was particularly clear for the L_{wp} , L_{eq} and L_{10} noise indices. There was no comparable reduction on either the previous Friday night or the following Sunday night, when Ocado was operating as normal. The increase in noise level at around 06:00 hours on Sunday 30th October was quite steep, suggesting a significant source of sound was switched on.
- 4.91 The November 2016 draft noise report concluded that on the basis of the noise measurements, noise emissions from Ocado were a prominent component of the overall noise climate at Stone Cottage.

February 2017 Technical Note

- 4.92 Following discussions with NWBC to identify which areas of the site could benefit from further noise control, Resound Acoustics undertook further calculations to test the benefit that noise barriers around the goods-in yard at Ocado's Dordon facility.

- 4.93 The results of the calculations were set out in a technical note produced in February 2017 (reference RA00327 – TN4, dated 23rd February 2017), which is referred to in this report as the 'February 2017 technical note'.
- 4.94 The alignments of the barriers tested in the February 2017 technical note are shown in Figure C.6 in Appendix C.
- 4.95 A number of barrier heights were modelled, as well as different barrier configurations, for example, barriers with a cantilevered top section that leans over the yard. A hypothetical 15 metre high building was also modelled to provide a benchmark as to the level of sound reduction that could be achieved with such a structure.
- 4.96 The potential noise reduction was calculated for two scenarios:
- the reduction likely to be achieved for the sources in the good-in yard only;
 - the overall reduction likely to be achieved, when all sources at the site were considered.
- 4.97 The barriers tested were:
- straight barrier at heights of 4, 5, 6, 7 and 8 metres;
 - cantilevered barrier at heights of 5, 6 and 8 metres, with varying degrees of overhang.
- 4.98 The calculated noise reductions for the sources in the goods-in area only are shown in Table 3.12, which is a reproduction of Table 1 of the February 2017 technical note. The ranges of reduction shown relate to differing receptor heights at Stone Cottage.

Table 3.12: Calculated noise reductions for goods-in area only, dB

Barrier Type	Height	Range of reduction, dB
Straight Barrier	4m	-0.2 to -2.8
	5m	-1.0 to -4.3
	6m	-1.5 to -5.3
	7m	-1.6 to -5.3
	8m	-1.0 to -4.6
Cantilevered barrier ⁽¹⁾	5m	-1.1 to -4.3
	6m	-1.3 to -4.7
	8m	-1.5 to -4.7
Building	15m	-3.4 to -7.1

Notes: ⁽¹⁾ – cantilever modelled as 2m vertically, 1m horizontally for 5m high barrier, and 3m vertically and 3m horizontally for 6 and 8m barriers.

- 4.99 It could be seen that a barrier around the goods-in area could elicit a reduction of approximately 4 to 5dB at Stone Cottage. Constructing a cantilevered barrier showed little benefit in relation to the added structural complexity.
- 4.100 The effects of the same barriers were recalculated, but including all of the noise sources at the site, as shown in Table 3.13, which is a reproduction of Table 2 of the February 2017 technical note.

Table 3.13: Calculated noise reductions for all sources, dB

Barrier Type	Height	Range of reduction, dB
Straight Barrier	4m	0 to -0.2
	5m	-0.1 to -0.3
	6m	-0.2 to -0.4
	7m	-0.1 to -0.3
	8m	-0.1 to -0.3
Cantilevered barrier ⁽¹⁾	5m	-0.1 to -0.3
	6m	-0.2 to -0.4
	8m	-0.2 to -0.4
Building	15m	-0.8 to -1.6

Notes: ⁽¹⁾ – cantilever modelled as 2m vertically, 1m horizontally for 5m high barrier, and 2m vertically and 2m horizontally for 6 and 8m barriers

4.101 The overall effect of the various barriers was considerably reduced when all noise sources at the site were factored in.

April 2017 Technical Note

4.102 Following further discussions with NWBC, Resound Acoustics undertook further calculations to refine the assessment of barriers around the goods-in yard at the site. NWBC requested calculations to determine what height of barrier would elicit a 3dB reduction at Stone Cottage.

4.103 The results of the calculations were set out in a technical note (reference RA00327 – TNS, dated 27th April 2017), which is referred to in this report as the 'April 2017 technical note'.

4.104 The alignment of the barrier tested in the April 2017 technical note is shown in Figure C.7 in Appendix C. This was a modified barrier alignment from that considered in the February 2017 technical note, as a result of constraints identified by Ocado that would prevent those previously considered barriers being erected.

4.105 The potential noise reduction was calculated for three scenarios:

- Scenario 1: the reduction likely to be achieved for the sources in the good-in yard only;
- Scenario 2: the overall reduction likely to be achieved, when all sources at the site were considered;
- Scenario 3: the reduction likely to be achieved when the dispatch elements of the site were not operating.

4.106 In terms of these scenarios, Scenario 1 was considered to represent the theoretical maximum performance of the barrier, which will never occur in practice. Scenario 2 was likely to occur for approximately 19.5 hours per day. Scenario 3 was likely to occur for approximately 4.5 hours per day between 16:00 hours and 20:30 hours, when the dispatch elements of the site do not operate.

4.107 The barriers tested were:

- straight barrier at heights of 3, 4, 4.5, 5, 6, 7, 8, 9 and 10 metres;
- cantilevered barrier at heights of 8, 11 and 13.5 metres, with the same degree of overhang.

- 4.108 The calculated noise reductions for the sources in the goods-in area only are shown in Table 13.14, which is a reproduction of Table 1 of the April 2017 technical note. The ranges of reduction shown relate to differing receptor heights at Stone Cottage.

Table 13.14: Calculated noise reductions for goods-in area only – Scenario 1, dB

Barrier Type	Height	Range of reduction, dB
Straight Barrier	3m	-0.1 to -1.9
	4m	-0.1 to -2.7
	4.5m	-0.7 to -3.7
	5m	-1.0 to -4.2
	6m	-1.3 to -4.6
	7m	-1.3 to -4.7
	8m	-1.5 to -4.7
	9m	-1.5 to -4.8
Cantilevered barrier ⁽¹⁾	10m	-1.6 to -4.9
	8m	-1.5 to -4.7
	11m	-2.1 to -5.8
	13.5m	-3.0 to -6.7

Notes: ⁽¹⁾ – cantilever modelled as 1m vertically, 2m horizontally.

- 4.109 The calculated noise reductions for all sources are shown in Table 13.15, which is a reproduction of Table 2 of the April 2017 technical note. The ranges of reduction shown relate to differing receptor heights at Stone Cottage.

Table 13.15: Calculated noise reductions for all sources – Scenario 2, dB

Barrier Type	Height	Range of reduction, dB
Straight Barrier	3m	0 to -0.2
	4m	0 to -0.2
	4.5m	-0.1 to -0.3
	5m	-0.1 to -0.3
	6m	-0.2 to -0.4
	7m	-0.1 to -0.2
	8m	-0.1 to -0.3
	9m	-0.1 to -0.3
	10m	-0.2 to -0.3
Cantilevered barrier ⁽¹⁾	8m	-0.2 to -0.4
	11m	-0.3 to -0.4
	13.5m	-0.3 to -0.4

Notes: ⁽¹⁾ – cantilever modelled as 1m vertically, 2m horizontally.

- 4.110 The calculated noise reductions for all sources except dispatch are shown in Table 13.16, which is a reproduction of Table 3 of the April 2017 technical note. The ranges of reduction shown relate to differing receptor heights at Stone Cottage.

Table 13.16: Calculated noise reductions for all sources except dispatch – Scenario 3, dB

Barrier Type	Height	Range of reduction, dB
Straight Barrier	3m	0 to -0.6
	4m	0 to -0.8
	4.5m	-0.2 to -1.0
	5m	-0.3 to -1.0
	6m	-0.4 to -1.1
	7m	-0.4 to -1.1
	8m	-0.5 to -1.2
	9m	-0.5 to -1.2
Cantilevered barrier ¹⁾	10m	-0.6 to -1.3
	8m	-0.5 to -1.2
	11m	-0.7 to -1.4
	13.5m	-1.0 to -1.6

Notes¹⁾ – cantilever modelled as 1m vertically, 2m horizontally.

- 4.111 The April 2017 technical note concluded that to achieve a 3dB reduction in noise from just the goods-in area at the first-floor level of Stone Cottage, a 4.5 metre high barrier would be required. To achieve a 3dB a reduction at both ground and first floor level, a 13.5 metre high cantilevered barrier would be required.
- 4.112 The difference between the requirements for the ground and first floor level was considered to have been due to the ground floor at Stone Cottage already benefiting from acoustic screening as a result of the local topography. Therefore any further screening, such as from barriers erected on the Ocado site, would be less effective for receptors at ground floor than first floor. However, the technical note stated that in practice, noise from the goods-in area would never occur in isolation, and when factoring in from other areas of the site, the effectiveness of the barriers was considerably reduced.
- 4.113 Despite not finding the goods-in barrier to be particularly effective, through discussions with NWBC, Ocado committed to installing electrical hook-up points at each dock leveller in the goods-in yard. No commitment could be made to install similar points along the trailer parking bays on the opposite side of the yard, as the cost and practical considerations of supplying power to that side of the yard would be prohibitive.
- 4.114 It was not possible to quantify the potential benefit of installing electrical hook-up points as the number of supplier vehicles that have the requisite equipment to use them will vary on a daily basis. However, using the hook-up points where the trailers are equipped to do so will generate an acoustic benefit to some degree.

5 CONCLUSION

- 5.1 Ocado Operating Limited has appointed Resound Acoustics Limited to produce a summary noise report setting out an overview of the noise assessments undertaken at its distribution facility at Birch Coppice Business Park, Dordon, Warwickshire.
- 5.2 The report is to set out in one place, a summary of all of the acoustic assessment work undertaken at the site, to assist North Warwickshire Borough Council (NWBC) in determining whether to discharge Condition 13 of the planning permission for the site.
- 5.3 This report sets out a summary of all mitigation measures considered at the site, identifying those measures that have been installed, and those that have been considered but not implemented, with reasoning provided.
- 5.4 This report concludes that the installed mitigation measures represent the best practicable means of reducing noise emissions from the site, and have minimised the likelihood of adverse impacts at the nearby noise sensitive receptors. On this basis, it is our opinion that Condition 13 should be discharged.

Appendices

Appendix A – Introduction to Noise and Glossary of Terminology

Noise is defined as unwanted sound. The human ear is able to respond to sound in the frequency range 18Hz (deep bass) to 18,000Hz (high treble) and over the audible range of 0dB (the threshold of perception) to 140dB (the onset of pain). The ear does not respond equally to different frequencies of the same magnitude, but is more responsive to mid-frequencies than to lower or higher frequencies. To quantify noise in a manner that approximates the response of the human ear, a weighting (filtering) mechanism is used. This reduces the importance of lower and higher frequencies, approximating the response of the human ear.

Furthermore, the perception of noise may be determined by a number of other factors, which may not necessarily be acoustic. Noise can be perceived to be louder or more noticeable if the source of the noise is observed; e.g. roads, trains, factories, building sites etc. In general, the impact of noise depends upon its level, the margin by which it exceeds the background level, its character and its variation over a given period of time. In some cases, the time of day and other acoustic features such as tonality may be important, as may the disposition of the affected individual. Any assessment of noise should give due consideration to all of these factors when assessing the significance of a noise source. Various noise indices have been derived to describe the fluctuation of noise levels that vary over time. Usually, these noise indices relate to specific types of noise, and as such different noise indices are used to describe road traffic noise, background noise, construction noise, etc.

The weighting mechanism that best corresponds to the response of the human ear is the 'A'-weighting scale. This is widely used for environmental noise measurement and the levels are denoted as dB(A) or L_{Aeq} , L_{A10} , etc, according to the parameter being measured.

Noise is measured on the decibel scale, which is logarithmic rather than linear. As a result of this, a 3dB increase in sound level represents a doubling of the sound energy present. Judgement of sound is subjective, but as a general guide a 10dB(A) increase can be taken to represent a doubling of loudness, whilst an increase in the order of 3dB(A) is generally regarded as the minimum difference needed to perceive a change. Table A.1 sets out examples of noise levels typically experienced during everyday activities. Table A.2 sets out an explanation of the terminology used in this report.

Table A.1: Typical sound levels found in the environment

Sound Level	Location
0 to 10dB(A)	Threshold of hearing
10 to 20dB(A)	Broadcasting studio
20 to 30dB(A)	Quiet bedroom at night
30 to 40dB(A)	Living room during the day
40 to 50dB(A)	Typical office
50 to 60dB(A)	Inside a car
60 to 70dB(A)	Typical high street
70 to 90dB(A)	Inside a factory or noisy pub
100 to 110dB(A)	Burglar Alarm at 1m
110 to 130dB(A)	Pneumatic drill at 1m away
140dB(A)	Threshold of Pain

Table A.2: Terminology relating to noise

Sound Pressure	Sound, or sound pressure, is a fluctuation in air pressure over the static ambient pressure.
Sound Pressure Level (Sound Level)	The sound level is the sound pressure relative to a standard reference pressure of 20 μ Pa (20 $\times 10^{-6}$ Pascals) on a decibel scale.
Decibel (dB)	A scale for comparing the ratios of two quantities, including sound pressure and sound power. The difference in level between two sounds s_1 and s_2 is given by $20 \log_{10}(s_1/s_2)$. The decibel can also be used to measure absolute quantities by specifying a reference value that fixes one point on the scale. For sound pressure, the reference value is 20 μ Pa.
A-weighting, dB(A)	The unit of sound level, weighted according to the A-scale, which takes into account the increased sensitivity of the human ear at some frequencies.
Noise Level Indices	Noise levels usually fluctuate over time, so it is often necessary to consider an average or statistical noise level. This can be done in several ways, so a number of different noise indices have been defined, according to how the averaging or statistics are carried out.
L_w	The L_w or sound power level, is a measure of the total noise energy of a source.
$L_{eq,T}$	A noise level index called the equivalent continuous noise level over the time period T. This is the level of a notional steady sound that would contain the same amount of sound energy as the actual, possibly fluctuating, sound that was recorded.
$L_{max,T}$	A noise level index defined as the maximum noise level during the period T. L_{max} is sometimes used for the assessment of occasional loud noises, which may have little effect on the overall L_{eq} noise level but will still affect the noise environment. Unless described otherwise, it is measured using the 'fast' sound level meter response.
$L_{10,T}$ or Background Noise Level	A noise level index. The noise level exceeded for 90% of the time over the period T. L_{10} can be considered to be the "average minimum" noise level and is often used to describe the background noise.
$L_{10,1}$	A noise level index. The noise level exceeded for 10% of the time over the period T. $L_{10,1}$ can be considered to be the "average maximum" noise level. Generally used to describe road traffic noise.
Free-field	Far from the presence of sound reflecting objects (except the ground), usually taken to mean at least 3.5 metres.
Façade	At a distance of 1 metre in front of a large sound reflecting object such as a building façade.
Fast Time Weighting	An averaging time used in sound level meters. Defined in BS EN 61672.

Appendix B: Site Plans

Figure B.1: Site location Plan

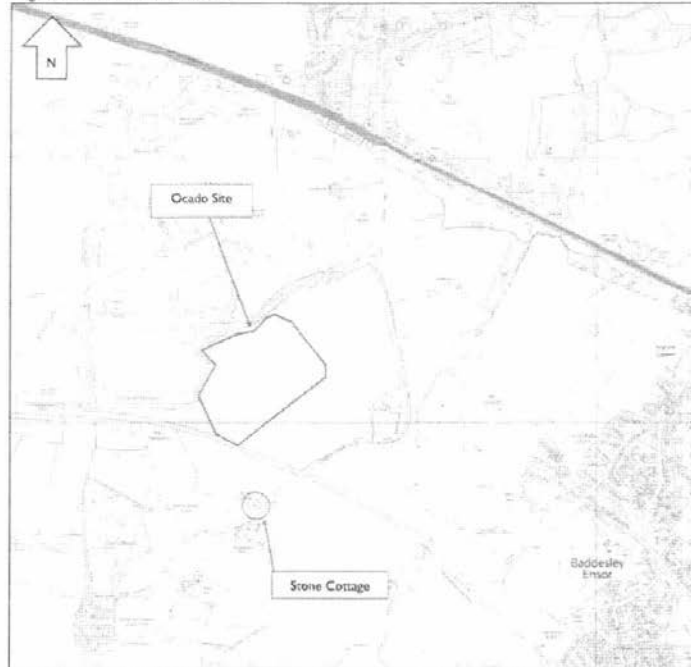
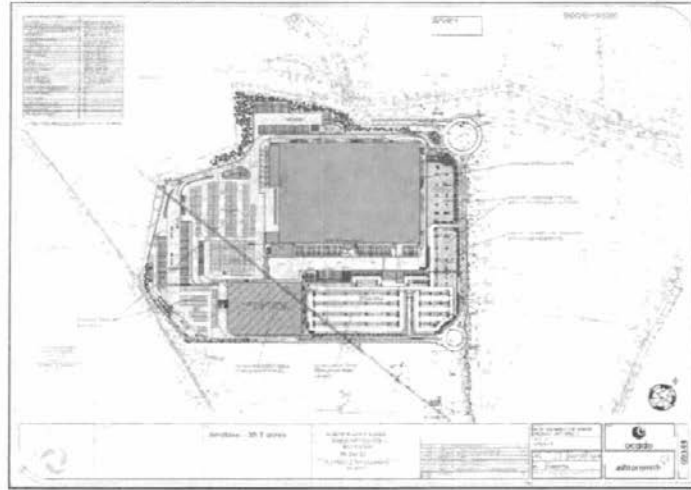


Figure B.2: Site layout plan



Appendix C - Assessment Figures

Figure C.1: August 2014 draft noise report - noise barrier option 1

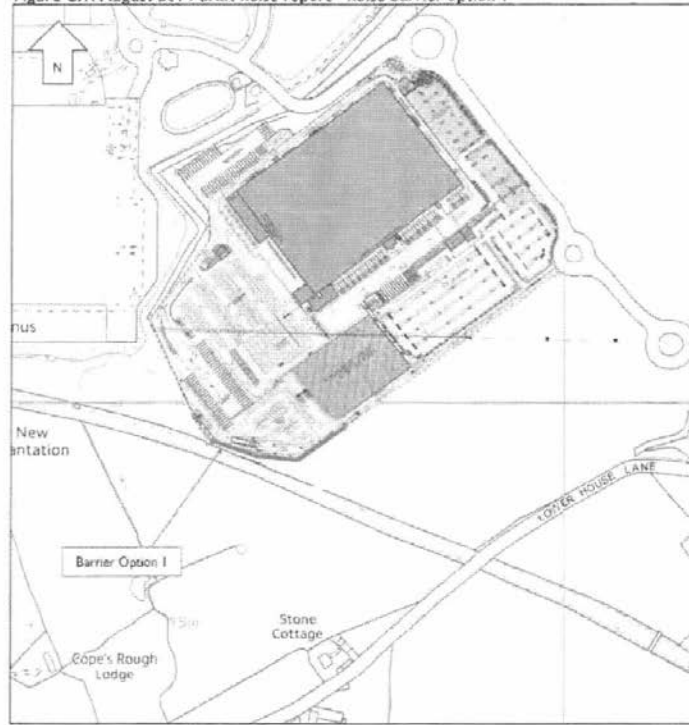


Figure C.2: August 2014 draft noise report - noise barrier option 2

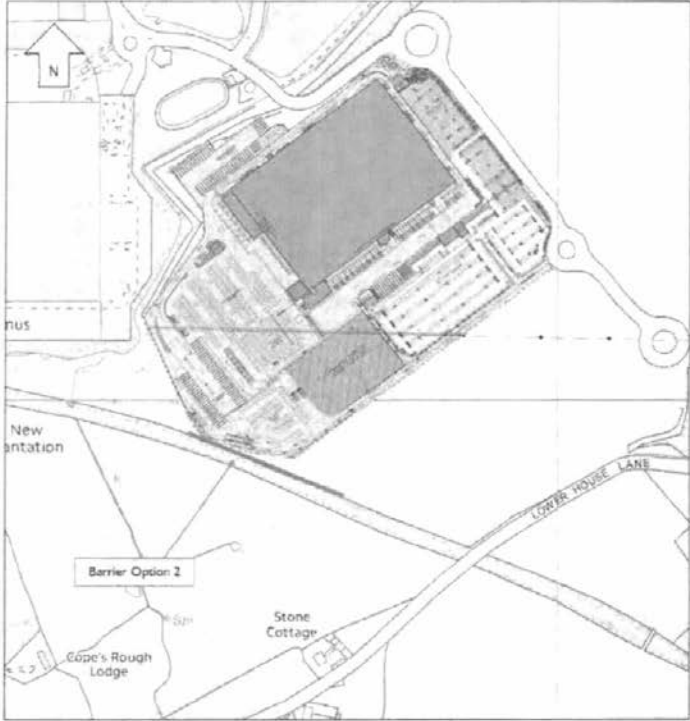


Figure C.3: August 2014 draft noise report - noise barrier option 3

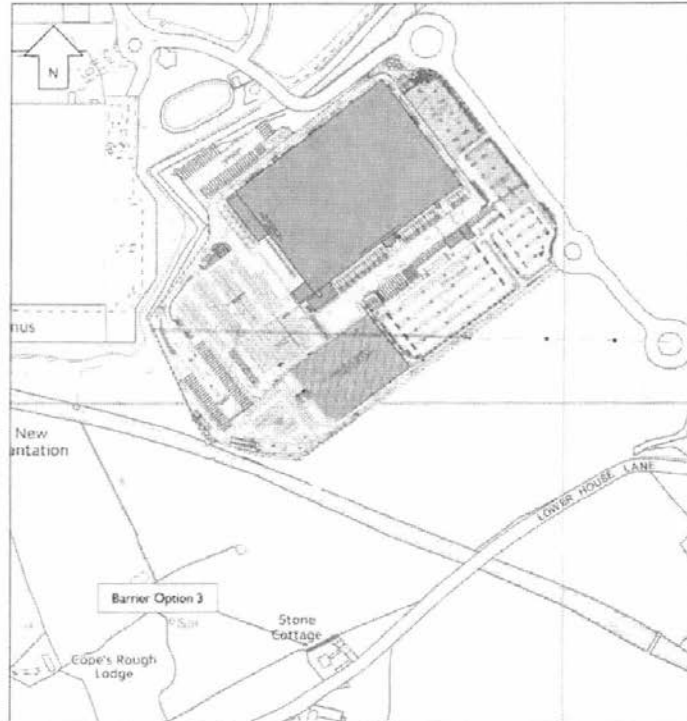


Figure C.4: September 2014 draft letter – van parking barriers

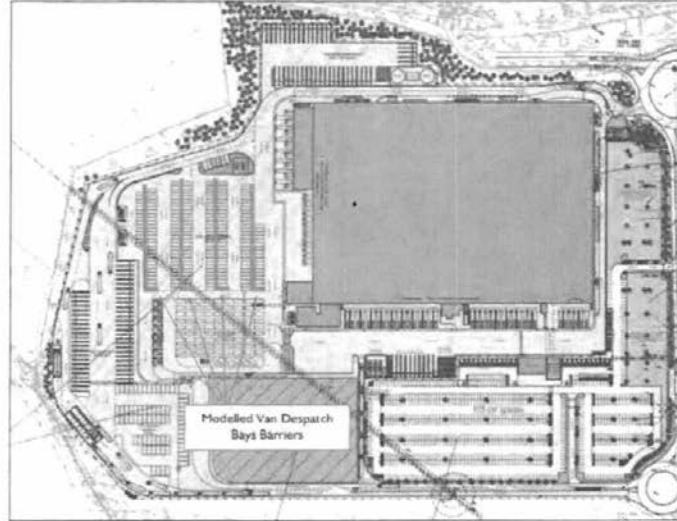


Figure C.5: September 2014 draft letter – southern trailer parking barriers

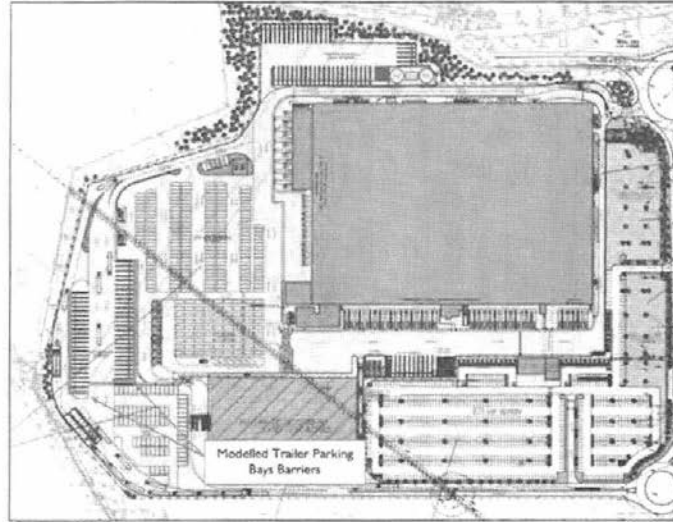


Figure C.6: February 2017 technical note – goods-in barriers

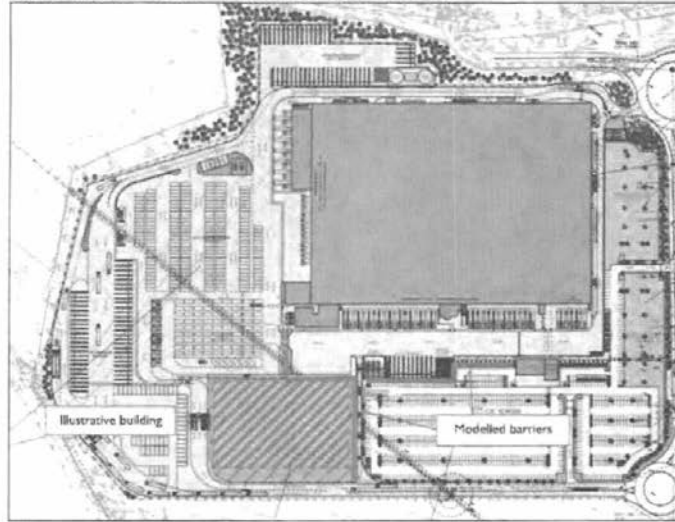
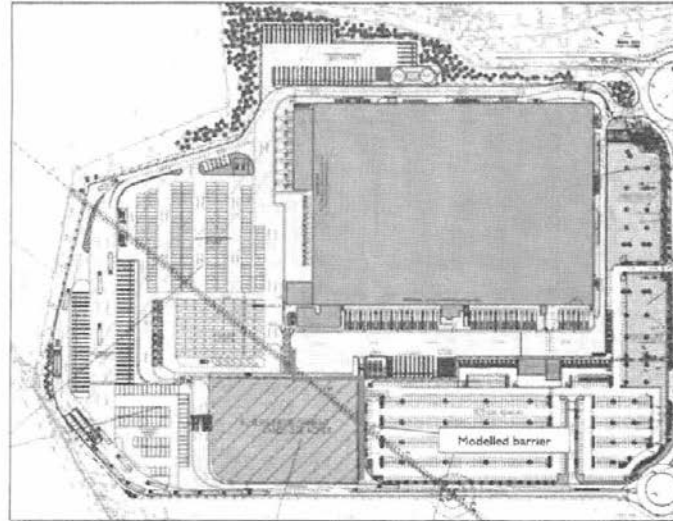


Figure C.7: April 2017 technical note – goods-in barrier



APPENDIX C

Ocado Noise issues

Dear Mr Brown

I have seen the document produced by Resound Accoustics regarding the noise issues at the Ocado operation at Birch Coppice Business Park Dordon.

I understand that Ocado would now like Section 13 of the original Planning Permission, relating to noise, to be discharged.

Since its inception Birch Coppice has generated noise at levels way beyond the accepted limit and as such has been operating outside the current guidelines to this day.

The 37 page report by Resound Accoustics outlines measures introduced in an attempt to reduce the noise to an acceptable level.

The simple reality is the "reduction" is barely noticeable at Stone Cottage.

Resound did set up noise monitoring equipment in the back garden of Stone Cottage.

As is generally known the main protagonist at Birch Coppice is the compressors at Ocado.

The noise generated is variable depending on the plant operation.

The other main issue is of wind speed and direction, which determines which community is the most affected at any one time.

During noise testing the prevailing wind inevitably blew away from Stone Cottage thereby negating the effect.

One measure looked at has been the erection of an Accoustic barrier along the boundary of Ocado and the disused railway line.

Because of the height of the structure required it is concluded to be "Impractical".

However, structures such as these are in successful operation in various sensitive sites in the UK.

Rather than Impractical I suspect the financial implication to be the main factor in Ocado's reluctance to fix the problem once and for all.

If North Warwickshire Borough Council sees fit to accept Ocado's efforts to date and discharges Section 13 prematurely, at Stone Cottage we will have to consider our options.

My Wife's health has been steadily declining due, in significant part, to Sleep Deprivation.

This can be directly attributed to the excessive noise generated by the Ocado building.

Due to our limited options and the significant reduction in the value of Stone Cottage since the redevelopment of Birch Coppice, were a financial offer be made available to us, with a heavy heart, we would have to give it due consideration.

Birch Coppice has the potential to become an impressive Legacy for North Warwickshire Borough Council.

It would be lamentable indeed, if this were to be tarnished by a decision to sanction Ocado's continued deficient operation contrary to clear Planning Law.

Regards

Dear Mr Brown

As a resident of Manor Close, Baddesley Ensor I would like to respond to the document provided by Ocado to the planning office regarding the discharge of the condition.

I would like to point out that the lorries are still being charged on the west side of their property and not the north as they have stated. You only have to walk the public footpath behind their premises to see and hear them being charged.

Regarding the acoustic fencing mentioned and the fact that it would not be high enough to be effective in noise prevention, it was discussed at a NAG meeting to plant high growing trees in front of the old railway line at a high level to reduce the noise to private properties nearby. After receiving communication from Ocado, Merevale estates have asked for plans as to where the trees would be planted but they did not hear from Ocado again.

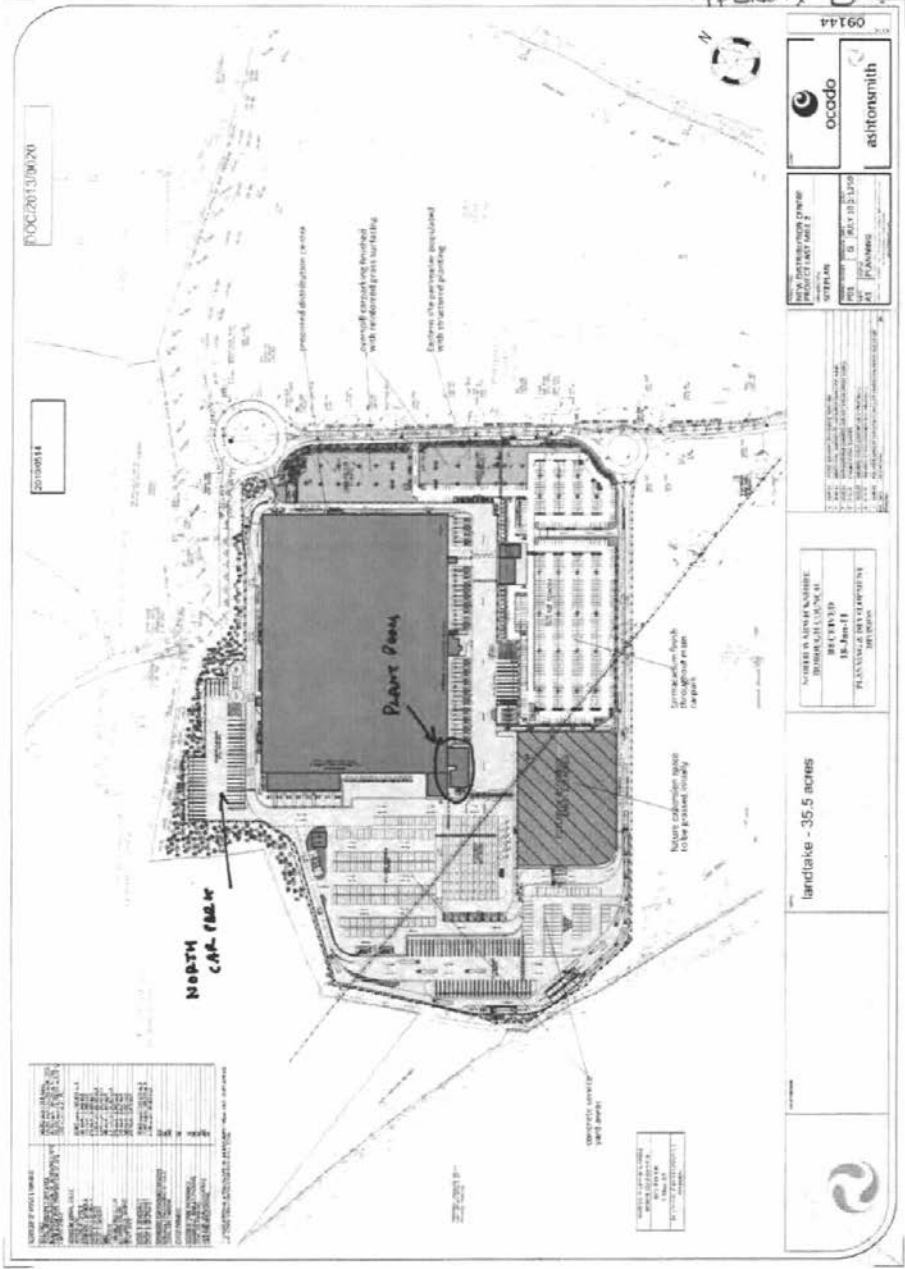
The decibel reading does not seem acceptable for the public to be able to enjoy their garden and outside relaxation time. This noise would be classed as a nuisance noise likely to happen anytime 24/7 at that level.

Why were the readings done in March instead of the summer months when the compressors would be working at full capacity and showing the highest level the public have to endure at any one time.

If an independent company has been used by Ocado, would it not be appropriate for the public to have a similar reading done during the summer months on their behalf by the borough council?

As I live at [REDACTED] I can still hear the compressors whenever they are running when I am outside my property even in the winter months.

We still have not received an explanation from the council as to how some companies on the Birch Coppice site can operate without a noise impact assessment before they are given a license to operate.



POC: 2013/06/20

Site Plan

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ocodo

ashtonsmith

PREPARED FOR: [Client Name]

PROJECT: [Project Name]

DATE: [Date]

SCALE: [Scale]

PROJECT NO.: [Project No.]

DATE: [Date]

SCALE: [Scale]

PROJECT NO.: [Project No.]

LANDLAKE - 35.5 acres

Plot 1 Ocado, Phase 2, Danny Morson Way, Birch Coppice Business Park, Dordon, B78 1SE

Approval of details required by condition 13 of permission PAP/2010/051, dated 4 March 2011, relating to a noise impact assessment of external activities at the premises., for

Ocado Ltd

Introduction

Members will be aware of the report to the Board in respect of this application. It contained two letters of objection. Since the publication of that report a further objection has been received from the Baddesley Ensor Parish Council. Additionally, the applicant has provided a response to all three objection letters.

With the agreement of the Chairman, a supplementary report has been prepared in order that the Parish Council letter and the applicant's full response to all of the objections, can be forwarded to Members in good time for the meeting.

The Parish Council's letter is attached at Appendix A and the applicant's letter is at Appendix B.

Observations

The additional correspondence has been considered by the Council's Environmental Health Officer who does not wish to amend his original response as recorded in the main report

BACKGROUND PAPERS

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

Planning Application No: DOC/2013/0020

Background Paper No	Author	Nature of Background Paper	Date
1	Baddesley Parish Council	Objection	25/1/18
2	Applicant	Letter	26/1/18
3	Environmental Health Officer	Consultation	26/1/18

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.

OCADO – NOISE NUISANCE

Condition 13 of the original planning permission for the development of the Ocado site placed certain responsibilities on Ocado to mitigate against noise nuisance.

Since the premises were built Ocado have, it has to be said, made several changes both in terms of the structure and in working practices and, following each of these improvements, have applied unsuccessfully for Condition 13 to be discharged.

The present application for discharge of condition 13 concerns changes primarily to eliminate the need for delivery vehicles to run their motors at the loading points by providing electric hook-up points. Between 2014 and the present there has been considerable activity in terms of sound level monitoring and consideration of acoustic barriers, some of which are already installed but the majority have been disregarded because, it is argued, that the extreme height for them to be effective makes them impracticable. The electric hook-up points will not be installed until February and, when they are in-situ, it is acknowledged that not every vehicle will be able to make use of them – not every supplier's vehicle has that facility.

Attempts have been made to differentiate between plant sound levels, vehicular noise and background noise emanating from the rest of the Industrial Park and adjacent roads. Significantly, there appears to be an acceptance that noise from the Plant Room dominates the overall noise emissions. This was noted when, following a partial shut-down of Ocado, a significant increase in sound levels was identified when the plant was switched back on. This would appear to be in line with the complaints from domestic properties close to the site and at Manor Close and Hill Top, Baddesley Ensor. I suggest that the following e.mail be sent to NWBC's Environmental Control and Planning Depts.

"It seems from reading the report of Resound Acoustics Ltd that, while the noise from the Plant Room has been improved by the installation of acoustic louvres, much of the remedial works have been aimed at reducing vehicular and other engineering noise. This despite the Plant Room being identified as the most prominent component of the overall noise. Until the electrical hook-up points are installed and the opportunity taken to carry out further monitoring, nothing has changed. The Parish Council still continue to hear complaints about the perpetual hum from Ocado's Plant Room. We do not, therefore, accept that Condition 13 has been discharged and ask that further monitoring be carried out."

APPENDIX B.

Our Ref: Ocado, Dordon
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26 January 2018

Jeff Brown
North Warwickshire Borough Council
South Street
Atherstone
CV9 1DE

Dear Mr Brown,

**OCADO LIMITED – PLOT 1 PHASE 2 BIRCH COPPICE BUSINESS PARK, DORDON
APPLICATION FOR DISCHARGE OF CONDITION 13 OF PERMISSION PAP/2010/051
APPLICATION REFERENCE: DOC/2013/0020
RESPONSE TO OBJECTIONS**

We write to formally respond to the objections received during the consultation period for the above referenced discharge of condition application. The responses are set out against the individual objections and address the noise-related points raised. Where the points raised are directed to NWBC or concern matters outside the scope of the application no response is provided.

Objection from Mr McCabe, dated 18th January 2018

1 Mr McCabe states:

"I would like to point out that the lorries are still being charged on the west side of their property and not the north as they have stated. You only have to walk the public footpath behind their premises to see and hear them being charged."

It is our understanding that the refrigerated trailers for dispatch are parked in the northern trailer park. There may be occasions where this is not the case, however, it is the case in the main.

Supplier refrigerated trailers are parked along the southern side of the building, consistent with the operating processes agreed with NWBC.

2 Mr McCabe states:

"Regarding the acoustic fencing mentioned and the fact that it would not be high enough to be effective in noise prevention, it was discussed at a NAG meeting to plant high growing trees in front of the old railway line at a high level to reduce the noise to private properties nearby. After receiving communication from Ocado, Merevale estates have asked for plans as to where the trees would be planted but they did not hear from Ocado again."

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Without specific knowledge of what was discussed at a Noise Action Group meeting, we would note that planting trees is not an effective method of reducing sound. While trees will diffuse some of the higher frequencies, unless a significant depth of trees is planted, typically in excess of 20 metres in depth, they are unlikely to reduce overall sound levels by a significant amount.

3 Mr McCabe states:

"The decibel reading does not seem acceptable for the public to be able to enjoy their garden and outside relaxation time. This noise would be classed as a nuisance noise likely to happen anytime 24/7 at that level."

It is not clear which reading Mr McCabe considers excessive. However, we would note that there is no objective, numerical threshold for nuisance, it is purely a matter of the EHO's judgment. If the EHO considers a nuisance to exist, he or she is obliged to take action. In this instance, the absence of action suggests that the EHOs do not consider a nuisance to exist.

4 Mr McCabe states:

"Why were the readings done in March instead of the summer months when the compressors would be working at full capacity and showing the highest level the public have to endure at any one time."

Baseline noise surveys were undertaken by Resound Acoustics in March 2015, August 2016, September 2016, and October/November 2016. The timing of the August 2016 survey was agreed with the occupants of Stone Cottage, having postponed an earlier survey at their request; the timing of the September 2016 survey was agreed with NWBC to make use of wind conditions that would have maximized noise propagation from Ocado to Stone Cottage; the October/November 2016 was timed to coincide with a partial shutdown of Ocado's operations.

5 Mr McCabe states:

"If an independent company has been used by Ocado, would it not be appropriate for the public to have a similar reading done during the summer months on their behalf by the borough council?"

This is primarily a matter for NWBC to respond to; however, we would note that the surveys have been carried out in consultation with NWBC's technical officers, and they have attended the surveys on a number of occasions.

Objection from Mr Cole (undated)

6 Mr Cole states:

"Since its inception Birch Coppice has generated noise at levels way beyond the accepted limit and as such has been operating outside the current guidelines to this day."

We would note that there are no guidelines or noise limits that apply at the site either by virtue of the planning permission, nor by virtue of a universal, national or local policy.

7 Mr Cole states:

"As is generally known the main protagonist at Birch Coppice is the compressors at Ocado. The noise generated is variable depending on the plant operation."

Ocado has invested a significant amount of money in reducing noise from their plant room, and Resound Acoustics' measurements suggests that the changes to the plant room were successful in reducing its noise emissions.

8 Mr Cole states:

"The other main issue is of wind speed and direction, which determines which community is the most affected at any one time."

"During noise testing the prevailing wind inevitably blew away from Stone Cottage thereby negating the effect."

This is not wholly correct. It is true to note that the propagation of noise over large distances can be affected by wind direction and speed, as it is also affected by other meteorological factors such as humidity and temperature.

However, a survey was proposed at the beginning of August 2016 as the wind direction was forecast to be from Ocado to Stone Cottage, and Mr Cole refused access to his property for survey. When permission was granted, albeit only a week or so later, the wind direction was no longer from Ocado to Stone Cottage.

A survey was carried out in September 2016 in conjunction with NWBC when the wind direction was from Ocado to Stone Cottage. The survey was undertaken at short notice when it became clear that the wind conditions would generate the worst-case noise levels at Stone Cottage.

The survey in October/November 2016 covered a period of around four weeks, and was subject to a range of wind speeds and directions, which were themselves measured. There were periods during that survey where the wind direction was from Ocado to Stone Cottage.

9 Mr Cole states:

"One measure looked at has been the erection of an Acoustic barrier along the boundary of Ocado and the disused railway line.

Because of the height of the structure required it is concluded to be "Impractical".

However, structures such as these are in successful operation in various sensitive sites in the UK

Rather than Impractical I suspect the financial implication to be the main factor in Ocado's reluctance to fix the problem once and for all."

The heights of the barriers considered for both Ocado's boundary and the intermediate position along the disused railway line, would need to be in excess of 6 metres and even then would have given a relatively small benefit. A barrier along the edge of Ocado would have been particularly ineffective.

The effectiveness of acoustic barriers is largely determined by the geometry of the relationship between the heights of the noise source, the top of the barrier and the receiver. Unless the barrier is taller than a line drawn between the source and receiver, it will not give much benefit. The reason that the barriers are relatively ineffective in this instance, is due to the topography of the site and surrounding area, whereby the elevated positions of Stone Cottage and Baddesley Ensor require very tall barriers to break the line between the sources and the receivers.

It is noted that a barrier close to Stone Cottage was also considered, and found to be considerably more effective than the barrier along the edge of Ocado and along the disused railway line. However, barriers erected away from Ocado such as one adjacent to Stone Cottage, or along the disused railway line, are likely to generate non-acoustic issues in terms of land ownership and rights of access for maintenance, further adding to the impracticality.

Objection from Mr Moore on behalf of Baddesley Ensor Parish Council, 24th January 2018

10 Mr Moore states:

"Between 2014 and the present there has been considerable activity in terms of sound level monitoring and consideration of acoustic barriers, some of which are already installed but the majority have been disregarded because, it is argued, that the extreme height for them to be effective makes them impracticable."

We welcome Mr Moore's acknowledgement that Ocado has been proactively working to reduce noise emissions from their site. The practicality of the acoustic barriers that Mr Moore refers to, was not just assessed on the basis of their height, but also took account of matters such as land ownership and access for maintenance.

Where particular mitigation measures have been deemed impractical, NWBC has been consulted on the matter and has generally concurred. Where NWBC did not agree that all practical steps had been taken, Ocado were asked to revisit the issue. An example of this would be where Ocado looked at barriers around the Goods In area and concluded that they would not be practicable, nor give a meaningful benefit. However, NWBC requested that Ocado reconsider that part of the site, leading to the decision to install electrical hook-up points on all inbound chill loading docks.

11 Mr Moore states:

"The electric hook-up points will not be installed until February and, when they are in-situ, it is acknowledged that not every vehicle will be able to make use of them – not every supplier's vehicle has that facility."

Ocado has confirmed that the installation of electrical hook-up points will commence on 1st February 2018, with the installation expected to be complete by 5th February 2018.

The acknowledgement that not every supplier's vehicle will have the physical connections to make use of the electrical hook-up points is a statement of fact. Ocado has no control over their suppliers' vehicle fleets, but they are making the hook-ups available for those that can use it. This is a reasonable step for Ocado to take.

12 Mr Moore states:

"Significantly, there appears to be an acceptance that noise from the Plant Room dominates the overall noise emissions. This was noted when, following a partial shut-down of Ocado, a significant increase in sound levels was identified when the plant was switched back on."

There is no acceptance that noise from Ocado's plant room dominates the overall noise emissions, as Mr Moore claims. It is accepted that Ocado is a significant contributor to noise emissions from the business park, indeed the report states that noise from Ocado is considered to be a 'prominent component of the overall noise climate'. While this is in part due to the type of operations they undertake, it is also a result of their location on the edge of the business park, a location exacerbated by the topography of the site and surrounding area.

However, it is important to note that 'prominent' is not the same as 'dominant': it was noted on a number of occasions that specific sources at Ocado could not be identified due to non-Ocado noise, and other sources could not be definitively attributed to Ocado as it was not clear that they had caused them.

It is also worth noting that the increase in noise at the end of Ocado's shut down in October 2016, as documented in the January 2018 noise report, was not solely attributable to plant noise. While it is considered likely to have been due to Ocado's general operations coming back on-line, this included plant noise, vehicle movements, van activities etc. The restarting of Ocado's operations was wider than just the plant switching on.

13 Mr Moore suggests an email is sent to NWBC's Environmental Health and Planning teams, stating:

"This despite the Plant Room being identified as the most prominent component of the overall noise."

As noted above, the emphasis in Mr Moore's text misrepresents the situation. In the same way that noise from the plant room is not the dominant source in the area, neither is it "the most prominent"; these words have not been used by Resound Acoustics nor, to the best of our knowledge, by NWBC to describe the plant noise.

It is a prominent source, not the most prominent source; the subtly different emphasis is important. No-one is disputing that noise from the plant room is audible, but it is wrong to characterise it as the most prominent or dominant source in the area; it is prominent, but that does not imply dominance.

14 Mr Moore states.

"Until the electrical hook-up points are installed and the opportunity taken to carry out further monitoring, nothing has changed."

This could be misleading depending on one's frame of reference. It is manifestly untrue to state that noise from the site has not changed since 2013 when Ocado started operating. Mr Moore himself accepts that Ocado has "...made several changes both in terms of the structure and in working practices and, following each of these improvements, have applied unsuccessfully for Condition 13 to be discharged." A clear acknowledgement that improvements have occurred as Ocado has made changes.

It may be technically correct that there will be no material benefit between January 2018 when the noise report was submitted and 1st February 2018 when Ocado commence installation of the electrical hook-up points. However, the application to discharge Condition 13 is not predicated on this single item of mitigation: it is based on the totality of the works, and whether NWBC consider there to be any further reasonable steps that could be taken.

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15 Mr Moore states:

"We do not, therefore, accept that Condition 13 has been discharged and ask that further monitoring be carried out."

This statement highlights a procedural issue in discharging Condition 13. Condition 13 states:

"13 The development hereby approved shall not be occupied for business purposes until the scope of an impact assessment of the noise associated with external activities to be undertaken at the premises, including noise associated with vehicle reversing manoeuvres, has first been submitted to the Local Planning Authority. This report shall make recommendations for measures to mitigate any adverse noise impacts identified by that report. The premises shall not be brought into business use until such time as these or other appropriate mitigation measures have been approved in writing and installed on site. All such measures shall be complied with at all times."

Condition 13 requires the submission of an impact assessment, and for identified measures to be installed on site and maintained thereafter. There is no requirement to monitor those measures, so Mr Moore's request for further post-mitigation measurement is not covered by Condition 13 and should not be used as a reason to not discharge the condition.

It is worth reiterating that Ocado would not simply wash their hands of all noise matters if Condition 13 is discharged. The noise issues matters that would crop up from time to time would ordinarily be dealt with as they arise by Ocado and NWBC under the Environmental Protection Act. Ocado would still be committed to taking all reasonable steps to keep their emissions to a minimum, but prolonging the discharge of Condition 13 to bring this about is not the appropriate approach.

We trust the responses appropriately address the points raised through the objections, but would be pleased to provide further clarity where this would be helpful.

Yours sincerely,



Thomas Mitchell MPlan MRTPI
PLANNER
For and on behalf of Colliers International

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DOC/2013/0020

Plot 1, Phase 2, Danny Morson Way, Birch Coppice

Site Visit – 19th April 2018 at 2000 hours

Present: Councillors Bell, Jarvis, Jenns, Phillips, Simpson, Smitten, Sweet and Wright together with J Brown and S Whiles and several representatives from Ocado.

1. Members spent some time looking at the south elevation of the main building where a lorry trailer had been parked up against a loading bay. Its chilling equipment was turned on so that members could listen to both that being run from diesel and electric sources.
2. The group then walked around to the west elevation and continued into the north car park. Here they saw and were able to listen to a refrigerated trailer awaiting dispatch from the yard.
3. They then continued around the perimeter of the site observing the movements in the lorry trailer and van park as empty trailers were being manoeuvred around.
4. Members met at the far south-west corner of the site at the fuel area where they looked back into the site and were able to see the line of the rail embankment. Whilst walking to this point the location of Stone Cottage was pointed out.
5. Members then returned to the plant room where they went inside. Externally they were shown the acoustic screening that had been added to the south elevation.
6. The visit concluded at around 2130 hours.

NB. The evening was warm (18 degrees), dry and with little wind.

DOC/2013/0020

Plot One, Phase Two, Danny Morson Way, Birch Coppice

Site Visit - Sunday 20th May 2018 at 1330

Present: Councillors Hayfield, Phillips, Simpson, Sweet, Symonds and Wright together with J Brown.

1. Members met at the end of Manor Close in Baddesley and walked onto the adjoining field so as to view the Birch Coppice Estate. The Ocado premises were identified together with the line of Lower House Lane, the railway embankment and the location of Stone Cottage.
2. Members remained here for around ten minutes.
3. Members then drove around to Lower House Lane where they parked and walked to the bridge over the railway line. They then walked along the line to where the Ocado service yard abuts it. They remained here for around ten minutes.
4. The location of Stone Cottage was pointed from this position.
5. Members then returned to the road
6. Several Members then drove further along Lower House Lane and parked beyond Stone Cottage in order to listen to the site from this location looking down onto the Ocado premises.
7. The visit concluded at around 1410.

NB: The day was warm and sunny (22 degrees) with a light south easterly breeze.

Paul O'Sullivan
 Ocado
 Buildings One & Two
 Trident Place
 Mosquito Way
 Hatfield
 Hertfordshire
 AL10 9UL



Ref: RA00327 – Let 3

30th April 2018

Dear Paul

Re: Ocado, Dordon

Further to the receipt of the letter from North Warwickshire Borough Council (NWBC) dated 22nd April 2018, we set out here the requested technical details.

The letter sets out three matters that were raised by Members of the Planning Committee:

- "a) An undertaking that trailers awaiting despatch are parked in the north car park. Members witnessed a parked trailer here on their visit and agreed that it was best kept here being the furthest away from any likely outside receptor*
- b) An acoustic baffle be attached to the exhaust fan in the compressor house. The high level fan was clearly audible from outside the plant room. Whilst Members appreciate that the noise was not audible further afield, it was considered that reducing potential noise issues at source was by far the best solution. I know that this issue was raised on the evening itself.*
- c) Members would like to look again at the erection of an acoustic fence along the south-west boundary of the site – that closest to the railway embankment. They would ask that this is erected along the embankment itself. They appreciate that this is in the ownership of the Merevale Estate and thus they would request that an approach is made to see if this measure can be implemented."*

It is understood that others will respond on Items (a) and (b); this letter sets out technical matters in relation to Item (c).

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The potential benefits of an acoustic barrier on the railway embankment south-west of the site was considered in the Resound Acoustics report *A Noise Report for Ocado, Dordon* (reference RA00327 – Rep 4, Rev 1, dated 2nd January 2018) that was submitted to NWBC in January 2018 in connection with the discharge of Condition 13 of the planning permission for the site (planning reference PAP/2010/0514). That report is referred to as ‘*the January 2018 noise report*’ in this letter.

Paragraphs 4.9 to 4.27 inclusive of the January 2018 noise report set out a summary of an earlier assessment, prepared in August 2014, which considered the potential benefit of erecting an acoustic barrier along the railway embankment to the south-west of the site, as well as the potential benefit of an acoustic barrier at two other locations. The barriers were tested with specific reference to Stone Cottage, a residential property to the south-west of the site that is elevated above the site by some 22 metres.

As stated in the January 2018 noise report, three barrier alignments were tested:

- Option 1: along the south-western edge of the service yard adjacent to the lorry parking area;
- Option 2: to the south-west of the site, along the top of the northern edge of the dismantled railway; and
- Option 3: along the northern boundary of Stone Cottage.

Of these three options, Option 2 matches that requested by the planning committee. For the sake of clarity, the three barrier options tested are shown in Appendix A.

Table 1 shows the reductions in total Ocado noise levels at Stone Cottage that were determined by the calculations, for three different barrier heights.

Table 1: Summary of noise reduction due to three barrier options

Barrier Height	Calculated reduction in total Ocado noise, dB		
	Option 1	Option 2	Option 3
4 metres	-1.0	-1.6	-5.4
5 metres	-1.0	-2.1	-5.8
6 metres	-1.0	-2.8	-6.8

The January 2018 noise report noted that barrier Option 3, along the northern edge of Stone Cottage, would be the most effective in terms of noise reduction. However, a barrier in this location could affect the occupants’ views and light, and as a large structure in an elevated position, there were likely to be significant wind loading issues, which would need to be taken into account in the barrier design.

The Option 2 barrier, which is what the Members of the Planning Committee have requested be considered, is predicted to give a reduction of less than 3dB even at a height of 6 metres. A 3dB reduction is typically the smallest change in sound that is readily distinguishable to the average human ear in normal circumstances.

Page 3 of 6

The August 2014 draft noise report concluded that a key limitation to the use of noise barriers at the Dordon site is the elevated position of Stone Cottage; for noise barriers to be effective, they need to break the line of sight between source and receiver, and the topography makes this difficult to achieve without utilising substantial structures.

As noted above, the ground level at Stone Cottage is approximately 22 metres higher than the ground level at the site, so any barriers located on or near the site boundary would need to be impractically high to break the line of sight to an upper floor window. For example, to provide a similar reduction as Option 3, Option 1 would need to be approximately 16 to 20 metres high, and Option 2 would need to be approximately 10 to 15 metres high.

On the basis of the limited benefit offered by these barriers, it was concluded that they would not offer a practical method of achieving a meaningful reduction of noise from the site.

I trust that you will let me know if you have any queries or if you require further details.

Yours sincerely



Mike Brownstone BEng(Hons) MIOA
Director

Enc.

Appendix A – Figures

Figure A1: Barrier Option I

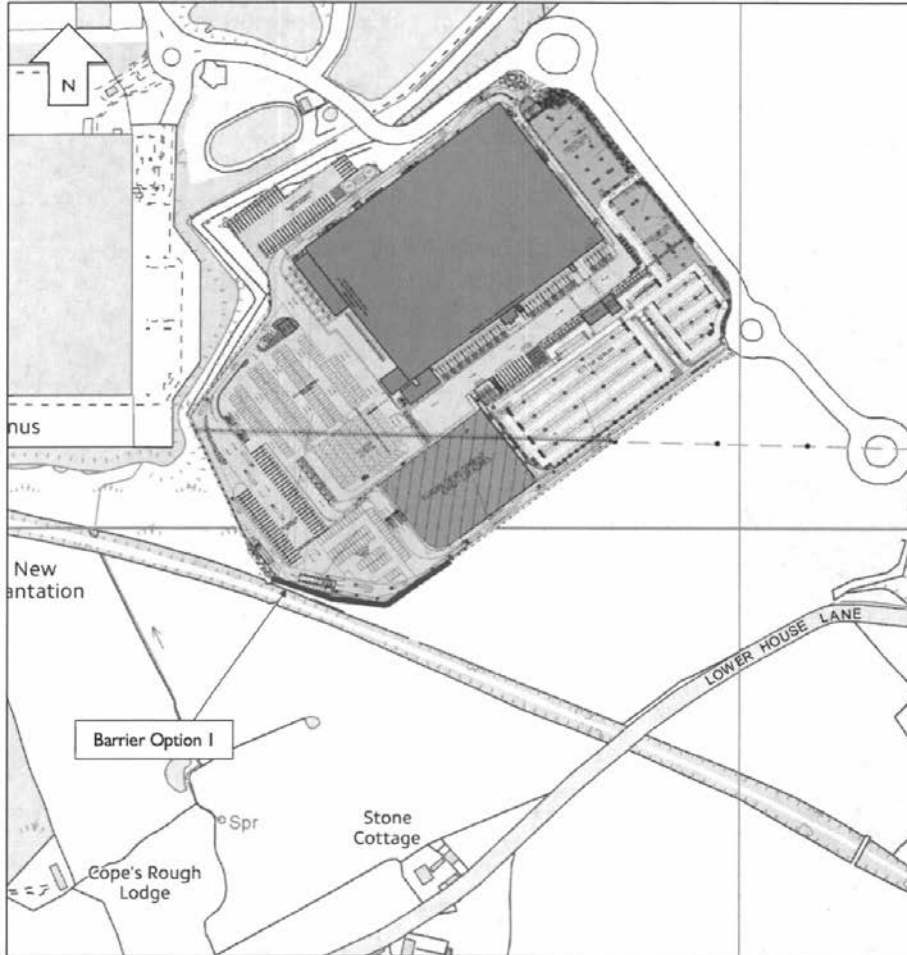


Figure A2: Barrier Option 2

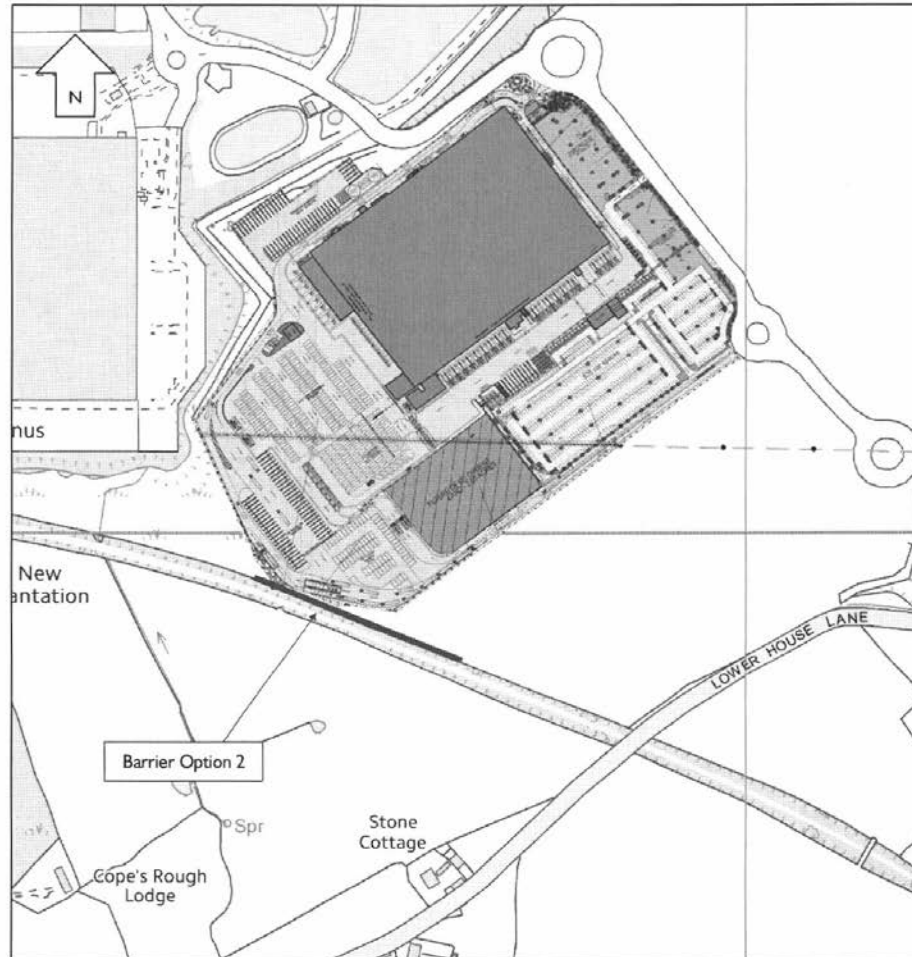
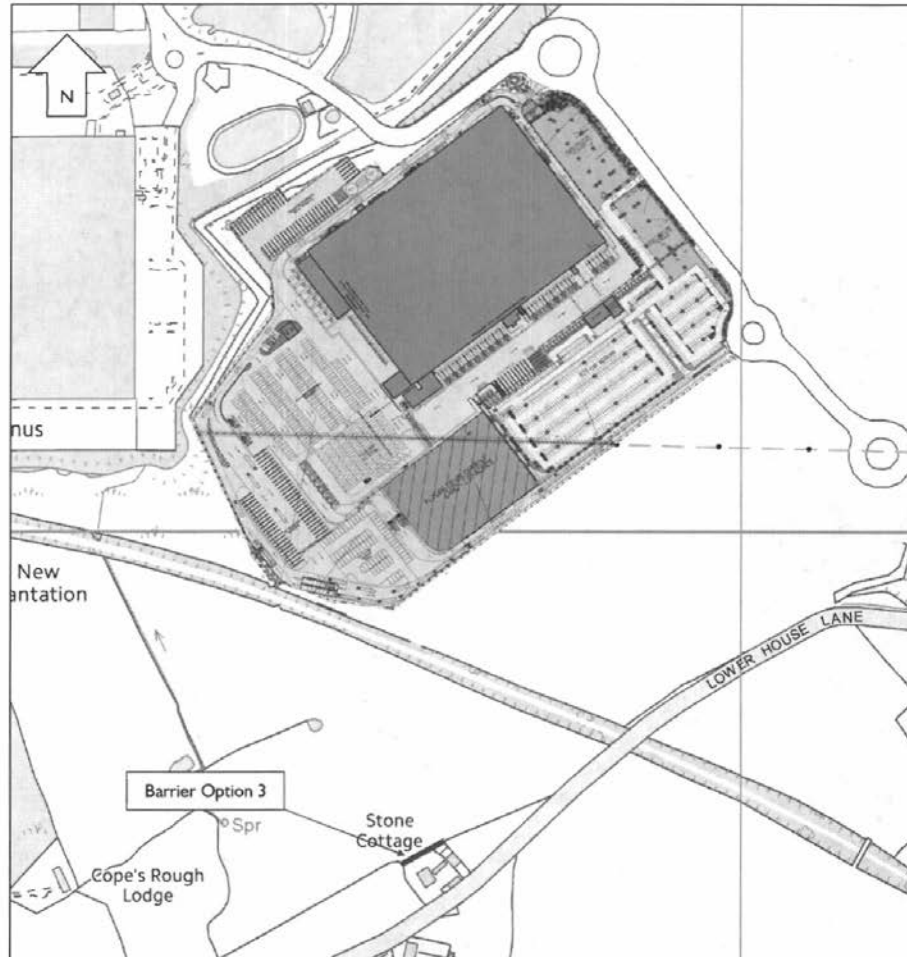


Figure A3: Barrier Option 3



(4) Application No: PAP/2017/0413

Land North of Grendon Road, Polesworth

Full Planning Application for the erection of 37 dwellings with landscaping, access and associated works for

Bloor Homes

Introduction

The Site

The site is 1.2 hectares in extent and lies north of Grendon Road, to the east of Polesworth, opposite the Taylor Wimpey site currently under construction by 143 dwellings. It is green field in nature and lies between Grendon Road and the Coventry Canal. To the immediate east there is a residential dwelling known as Wood Park Farm Cottage. Mature trees and hedgerow planting screen the site largely from surrounding views.

The general location is illustrated at Appendix A.

The Proposal

The application was originally for the erection of 44 dwellings with landscaping, access and associated works but it has been amended and the revised layout plan now proposes the construction of 37 dwellings. These in the main, would be accessed via a principal access, by way of a new fourth arm on the existing roundabout junction to the south of the site on Grendon Road. In addition to this, it is proposed to create an additional three access points serving private drives from Grendon Road, two to the west of the main access and one to the east.

The application would comprise a mix of house types including one bed maisonettes; bungalows, 2 bed houses, 3 bed houses and 4 bed houses within a mixture of terraced, semi-detached and detached built forms. The present scheme includes ten affordable units (four rented and six shared ownership) which comprises 28% provision.

The layout shows that the dwellings would be set back off the Grendon Road behind existing hedgerows and mature trees. The mature boundary hedgerows fronting Grendon Road to the south and the Coventry Canal to the north would be retained and an attenuation basin would be constructed in the north-west corner of the site to provide additional on - site drainage.

The revised layout is at Appendix B.

Development Plan

The North Warwickshire Core Strategy 2014 - Policies NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment), NW15 (Nature Conservation), NW16 (Green Infrastructure), NW19 (Polesworth and Dordon) and NW21 (Transport)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations in New Developments), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking)

Other Relevant Material Considerations

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

The National Planning Practice Guidance 2014

The Draft Site Allocations Plan - 2014

The Submission Version of the North Warwickshire Local Plan 2018 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP7 (Housing Development), LP9 (Affordable Housing Provision), LP14 (Landscape), LP16 (Environment), LP31 (Development Considerations), LP32 (Built Form) and LP39 (Housing Allocations)

The Daw Mill Appeal decision – ref: APP/R3705/W/16/3149827

Consultations

Warwickshire Wildlife Trust – The Trust state that the development would result in a net loss to biodiversity and therefore be contrary to the National Planning Policy Framework. The applicant has undertaken a Biodiversity Impact Assessment and this indicates that the important boundaries to the site – the existing hedgerows and the canal side frontage will be retained and enhanced – and thus there will be retention of some bio-diversity on the site. However he points out that overall, there would be a nett loss and is prepared to contribute to bio-diversity off-setting elsewhere.

Warwickshire Fire and Rescue Service – It confirms that there is no objection to the development subject to the imposition of a planning condition.

Canal and River Trust – The Trust considers that the proposal is premature pending the outcome of the Examination into the Submission Version of the new Local Plan. However if developed, the Trust advised that any three storey development alongside the canal would adversely impact on the rural setting of the canal that contributes to its heritage interest, as well as its wildlife, amenity value and recreation. As a consequence the amended plan has taken the opportunity to address this matter. There are no longer three storey buildings proposed here and there is a greater “set back” from the canal side.

Warwickshire Museum – It confirms that based on the results of the trial trenching undertaken across the site, a condition is not required with regards to the need for further archaeological work.

Warwickshire County Council as Highways Authority – The Authority has no objection in principle to the proposal because its main access is onto the existing large roundabout. There would neither be severe impacts off-site on the local highway network. However the Authority did ask for additional information in respect of the geometry of the internal layout and other engineering details. These have been submitted and amended plans have resulted in that the Highway Authority being satisfied subject to standard conditions.

Warwickshire County Council (Public Rights of Way) - Seeks a contribution of £2765 towards the upkeep of public footpaths within a kilometre and a half radius of the site.

AD (Housing) - The original plans consisted mainly of three and four bed properties. In respect of the Borough's needs, there is significant demand for two bed houses. This has been accommodated in the revised plan with four of the ten proposed affordable units being two bed properties.

Environmental Health Officer – No objection subject to conditions relating to a construction management plan.

AD(Streetscape) – He advised that the refuse service would not access any shared access driveways and thus bin presentation points were needed at positions adjacent to adopted highway. This has been accommodated in the revised layout submitted.

AD (Leisure and Community Development) - He advised that a contribution of £53,690 is required towards off-site recreation/open space provision.

Warwickshire County Council as Flood Authority – There was a holding objection until further details were submitted. These have now been forwarded and the objection removed subject to conditions.

George Eliot Trust - A contribution of £25,365 is requested for primary health care services.

District Valuer – He concludes that the applicant's claim that the provision of 40% affordable housing on site would make the scheme unviable with the inclusion of the other contributions required by a 106 Agreement as outlined above, can be evidenced and supported. A 28% provision would be satisfactory.

Representations

Polesworth Parish Council – The Council is concerned about the proposal as with the 150 dwellings already approved off St Helena Road this will amount to 300 dwellings in this area. It expresses concern about the impact of this number of properties on the village facilities including the schools and doctors. There is also concern about the traffic problems this would cause on the B5000.

Sixteen letters of objection from local residents have been received which refer to:

- The increase in traffic which such a development would bring to the B5000 which is already relatively busy especially at peak times and many cars travel too fast.
- There is a real concern that the narrow canal bridge cannot cope.
- One of the authors' suggests that traffic calming should be considered on the existing Grendon Road (within the existing populated areas) before the application is approved.
- Comments are also made on the effects of this development on the village infrastructure such as village parking, school places and doctors surgery.

Observations

a) Principle of development

The site lies outside of the development boundary for Polesworth as defined by the Development Plan. Core Strategy Policy NW2 (Settlement Hierarchy) states that during the plan period, more than 50% of the housing and employment requirements for the Borough should be provided in or adjacent to the Market Towns and their associated settlements. Polesworth is one such Market Town. Policy NW19 of the Core Strategy states that the broad location of growth will be to the south and east of Polesworth and Dordon. This is the case here. It would therefore follow that the proposal accords with the Core Strategy.

However as reported to the May Board meeting, in the recent Daw Mill appeal decision the Secretary of State found that Policy NW2 was out of date in respect of its reference to development boundaries and therefore only limited weight could be attached to it. Thus with limited weight being given to development boundaries, there is a situation here where a refusal could be considered. For that to be promoted, the Council would need to be able to evidence significant and demonstrable harm.

It is considered that that is not the case with this application. There is a planning policy reason for this conclusion; a reason to do with housing supply as well as looking at impacts.

Looking first at the planning policy matter, then the Daw Mill decision was prior to the submission of the new Local Plan for North Warwickshire. This includes Policy LP2 which retains the approach of a settlement hierarchy for spatial planning purposes as well as reflecting the new amount of development proposed to be delivered. Indeed this application site is

identified within this, as shown in Policy LP39 of the Submitted Plan. This allocation continues that originally identified in the draft Site Allocations Plan – the site was identified therein as POL12 with an anticipated development of around 35 dwellings. Because of the recent consistent approach taken in regard of this site and the Submission Version now being with the Secretary of State, it is considered that it carries moderate weight, which would be more than the limited weight now to be given to Core Strategy NW2.

The second matter is that the Council has a 5.8 year housing supply as at end of December 2017 as recorded at a recent Public Inquiry. As Members are aware the NPPF requires not only a five year supply, but sufficient flexibility to retain a five year supply of deliverable land without impediment to delivery. This usually translates into an Authority committing to a % over-provision to allow for lapsed permissions and slower than expected build-out rates for example. The minimum % required by the NPPF is 5% - i.e. meaning a 5.25 year supply. The Council is thus meeting that %, but the difference is slender and certainly not significant enough to warrant a refusal solely based on the figure.

The third area referred to above relates to there being no significant harm to relevant material considerations as will be explained more fully below.

It is concluded that together, these matters provide sufficient weight to override any consideration of non-compliance with NW2 as a reason for refusal, by virtue of it now being out of date.

b) Highway Impacts

The Highway Authority has not objected to the application in principle. It considers that the proposed principal access onto the new roundabout is acceptable and that there will be no material adverse impacts on the local highway network. This is not surprising given that the County Council was involved in the engineering design of that roundabout in the full knowledge that the application site had been allocated for housing in the draft Site Allocations Plan and that this was carried forward into the Submission Version of the new Local Plan, itself the subject of a Sustainable Transport Assessment. The comments from the County Council have therefore been concentrated on the internal geometry of the proposed layout. A number of amendments have resulted, but the County Council and the applicant have now agreed a final acceptable layout. In light of this there is no highway technical evidence to substantiate significant and demonstrable harm here amounting to that being “severe”, so as to warrant a refusal as advised by the NPPF.

The proposals also enable footpath/pavement connections along the northern side of Grendon Road and thus to the new bus stop added by the new housing estate developer on the opposite side of the road.

c) Drainage Issues

Similarly here the County Council as lead local flood authority has not raised an objection in principle. It is satisfied that the approach taken with the proposed on-site sustainable drainage measures is sufficient to meet its specifications and standards. It has been made aware of local concerns but cannot sustain an objection. In the absence of technical drainage evidence to substantiate significant and demonstrable harm here, there is not considered to be a refusal reason based on this issue.

d) Bio-Diversity

It is regrettable that there will be some loss of countryside, however what is important in this application is how to ensure that the design and appearance of the layout seeks to retain as much existing habitat as possible. The housing scheme proposed is a relatively low density scheme of 31 dwellings per hectare which will ensure that parts of the site remain as open space areas/landscaped areas – particularly those most valued for bio-diversity. There however

will still be a net loss of bio-diversity and thus there is harm caused. This would usually be resolved through bio-diversity off-setting, but in this case that is not argued. This will be explored further later in the report.

e) Affordable Housing

The proposals put to the Board include ten units of affordable housing - that is 28%. The housing types within this would be one, two and three bedrooms and the tenures would be 60% shared ownership and 40% rented. The Council's AD (Housing) is satisfied with these arrangements. The policy requirement here – the site being green field - is for a 40% provision (that is 15 units). In view of the difference between this and the actual proposal, the District Valuer was asked to examine the viability issues involved and as can be seen above, it can be seen that any greater provision would make the scheme as a whole unviable. Given this independent and robust evidence, it is considered that there would be no case here for a refusal. This matter is taken up again below.

f) Other Matters

The design and appearance of the proposed layout is in keeping and offers a different approach to the estate being completed on the other side of the Grendon Road.

The contributions sought in respect of health provision and enhancement of off-site recreation facilities are welcomed.

Members will have noted the absence of a contribution for the education service. Indeed there was no call either from a recent similar sized proposal off Pooley Lane and brought to the Board at its May meeting. There are two substantial reasons for this and neither relate to inconsistency by the County Council. The first is that we presently do not know what the future "shape" of education facilities in Polesworth and Dordon will be – for instance retaining existing sites in whole or in part, or relocation in whole or in part. Without a more firm proposal any Section 106 contribution would not meet the statutory requirements because it wouldn't be precise. This runs into the second reason. Members will know that there is a statutory limit as to the number of Section 106 contributions that can be pooled towards a single infrastructure project. That limit is five contributions. As a consequence that five could be taken up very soon if it applied to the first five residential applications approved in the Polesworth and Dordon catchment. Members are very aware that the applications for the very large housing proposals for the land to the east of Polesworth and Dordon and to the west of Robey's Lane are not yet submitted. These will amount to some 3500 houses. Taking up the ceiling of five now, would negate any contribution from these much larger proposals which themselves would give rise to substantial financial contributions. Members are therefore asked to be patient, given the constraints applied by these statutory requirements.

Members will have seen the contribution sought for local footpath upkeep. Recent appeal decisions, including the two Ansley sites, have concluded that such contributions do not meet the statutory requirements for inclusion in a 106 Agreement. It has been suggested that the value of this contribution be added to the off-site recreation contribution in lieu. The AD (Leisure and Community Development) has asked that the total contribution be put towards artificial grass pitch provision in Polesworth.

g) Viability and the Section 106 Agreement

As can be seen above, the affordable housing provision being proposed is less than the policy requirement. The Core Strategy policy allows for this provided it can be justified. That is undertaken through a viability study. Such a study has to stand up to scrutiny and in this case the applicant agreed that his study could be investigated by the District Valuer. The findings show that a 40% provision would make the scheme unviable as a whole. This is mainly because of the need to include the other Section 106 contributions. It was indicated above that the applicant was considering the offer of an off-setting contribution. Using the appropriate and

relevant calculations supplied by the Wildlife Trust, this would amount to £138k. Because of the viability issues, inclusion of this amount would result in a drop in the affordable provision to just eight units (22%), in order to retain viability. The District Valuer agrees with this assessment. The applicant has therefore had to come to a balanced proposal.

It is agreed with the applicant that the priority here should be for affordable housing provision and thus the increased provision is supported. That means that the off-setting contribution is lost. However Members should be aware that there are significant areas of open space and retention of existing habitats on the site. Additionally, the site has been one that has been identified for residential development for some time. In other words it would be built on and the existing level of bio-diversity would always be lost. It is considered that the Council should give greater weight to the increased affordable provision in this case. If the Board dis-agrees, then the contribution can be re-instated but the affordable housing provision would be reduced from ten to eight units.

h) Conclusions

This has not been a straight forward case coming soon after the Daw Mill appeal decision and the submission of the new local plan, which has led to a planning policy issue. Moreover the viability issue has drawn Members attention to the need to balance contributions within the Council's priorities; the statutory background to contributions and the inevitable difficulties in associated with these matters. It is considered that the current proposal has led to the best balance between these competing issues.

Recommendation

That subject to the signing of a Section 106 Agreement covering the draft Heads of Terms as set out in this report, the Council is minded to **GRANT** outline planning permission with the following conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the Site Location Plan, Elevational Plans, Proposed Site Plan KAL 7581-1500, received 22/05/2018, and revised Plot Plans 17581, 277B (Plot 37), and 7581, 275B (Plot 35) received 26/03/2018, Revised Planning Statement received 22/05/2018, Road Safety Audit (RSA), Prepared by Travis Baker received 27/03/2018.

REASON

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

3. None of the thirty seven units hereby approved shall be occupied until the whole of the access and car parking arrangements as shown on the approved plan have first been fully completed to the written satisfaction of the Local Planning Authority. The car parking provision shall remain permanently for this use alone.

REASON

In the interests of highway and traffic safety.

4. No work shall commence on the site until detailed surface and foul water drainage schemes 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. Only the approved schemes shall then be implemented on site.

REASON

In the interests of reducing the risks of flooding and pollution.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended or as may be subsequently amended, no development within Classes A, B and C of Part 1 of Schedule 2 to that Order shall commence on site.

REASON

In order to protect the residential amenity of surrounding occupiers.

6. No development shall take place on site until a Construction Management Plan has been submitted to the Local Planning Authority for approval in writing, which shall remain in force throughout the construction period. The Plan shall provide details of the arrangements for: • The location of storage compounds and car parking for site operatives and visitors; • The HGV Routing Plan; • The hours of working and the hours of delivery of goods, plant and materials; • Wheel washing facilities and any dust suppression measures particularly to prevent mud and debris entering the public highway; • Noise control during construction; • A dust management plan in line with the IAQM guidance • Site lighting details; • Measures for the protection of trees that are to be retained; • Household refuse from occupied dwellings during construction; and, • The contact for any local concerns with regards to the construction activities on the site.

REASON

In the interests of highway safety and of the amenity of neighbouring residents.

7. The hours of construction shall be limited to 08:00 to 18:00 on weekdays and 08:00 to 13:00 on Saturdays only. There shall be no construction at any other times.

REASON

In the interests of residential amenity.

8. An ecological management plan (EMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The content of the EMP shall include the following: a) Measures for the protection and retention of existing trees and hedgerows. b) Description and evaluation of features to be managed. c) Aims and objectives of management. d) Appropriate management options for achieving the aims and objectives. e) An up-to-date Biodiversity Impact Assessment demonstrating that 'no net loss' to biodiversity has been achieved. f) A work schedule, including an annual work plan capable of being rolled forward over a five-year period. g) Details of the body or organisation responsible for the implementation and ongoing management, monitoring and remedial actions of the plan, including the mechanism for funding. The approved plan shall be implemented in full accordance with the approved details and maintained as such at all times thereafter.

REASON

In the interests of protecting the biodiversity interests of the site.

9. None of the residential units hereby permitted shall be occupied 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 interest of public safety from fire and for the protection of the Emergency Fire Fighters.

Notes

1. 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.

2. Warwickshire County Council as the Lead Local Flood Authority does not consider oversized pipes or box culverts as sustainable drainage. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, with a preference for above ground solutions.

3. Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management. Sustainable Drainage Systems (SuDS) are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water onsite as opposed to traditional drainage approaches which involve piping water off-site as quickly as possible.

4. 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

5. Wildlife and Countryside Act 1981 - Birds. Please note that works to trees must be undertaken outside of the nesting season as required by the Wildlife and Countryside Act 1981. All birds, their nests and eggs are protected by law and it is thus an offence, with certain exceptions. It is an offence to intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built, or to intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed for an offence under the Wildlife and Countryside Act - in respect of a single bird, nest or egg - is a fine of up to £5,000, and/or six months' imprisonment. You are advised that the official UK nesting season is February until August.

6. The applicant is advised to contact the Works Engineering Team of the River and Canal Trust in order to ensure that necessary consents are obtained and that works comply with the appropriate Trust Code of Practice.

7. The applicant is advised that any surface water discharge to the waterway or culvert will require prior consent from the Trust. As the Trust is not the land drainage authority, such discharges are not granted as of right – they will usually be subject to completion of a commercial agreement.

8. 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 suggesting amendments to improve the quality of the proposal. 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.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0413

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	31.07.2017 03.08.2017 09.02.2018 22.05.2018
2	Jackson	Representation	16.08.2017
3	Philpotts	Representation	16.08.2017
4	Mahoney	Representation	31.08.2017
5	Holmes	Representation	31.08.2017
6	Thorpe	Representation	31.08.2017
7	Harrison	Representation	28.02.2018
8	Warwickshire County Council Public Health & NHS Warwickshire North Clinical Commissioning Group	Consultation Response	29.09.2017
9	Lead Local Flood Authority	Consultation Response	15.02.2018
10	Fire and Rescue	Consultation Response	22.08/2017
11	NWBC Housing and Strategy Officer	Consultation Response	19.02.2018
12	Warwickshire Wildlife Trust	Consultation Response	30.08.2017
13	Environmental Health Officer	Consultation Response	04/09.2017
14	Planning Archaeologist, Warwickshire Museum	Consultation Response	30.08.2017
15	Warwickshire County Council Footpaths	Consultation Response	01/09.2017
16	NWBC Streetscene	Consultation Response	14.02/2018
17	Warwickshire County Council Highways Authority	Consultation Response	05.03/2018
18	Inland Waterway Association	Consultation Response	21.08.2017
19	Canal and River Trust	Consultation response	05.03.2018

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 A



APPENDIX B



(5) Application No: PAP/2018/0133

St Georges House, Gerards Way, Coleshill, B46 3FG

Work to tree protected by a tree preservation order, for

Father Hudson's Society

Introduction

The application to fell this Cedar Tree was reported to the Board's May meeting but determination was deferred to enable Members to view the tree. That visit will take place prior to the next meeting and thus a written note of that meeting will be circulated at the meeting.

In the interim a copy of the previous report is attached at Appendix A.

Recommendation

This remains as set out in Appendix A.

(6) Application No: PAP/2018/0133**St Georges House, Gerards Way, Coleshill, B46 3FG****Work to tree protected by a tree preservation order, for****Father Hudson's Society****Introduction**

This case is referred to the Board at the request of a local Member concerned about the impact of the tree the subject of the application.

The Site

The tree is located on the Society's grounds at the rear of the Church close to St George's House and the rear boundaries of private residential properties in Brendan Close. Its location is illustrated at Appendix A.

The Proposal

It is proposed to fell a Cedar Tree (a Deoder Cedar) because of its excessive standing and long term danger to adjoining properties. It would be replaced with a large containerised Juniperus Scopulorum and a large containerised Cryptomeria Japonica Elegans in the same location.

Background

In 2016, the Council received notification from the Society that it wished to fell the tree. This notification was because the tree is located within a Conservation Area. In response to this, the Council actually made an Order to protect this and other trees in the locality. This was confirmed in April 2017. The tree is thus protected in its own right. In late 2017 an application was received to fell the Cedar tree but thus was refused Consent under delegated powers following the Council's adopted procedures set out in the Scheme of Delegation.

This application is thus in effect a resubmission of that refusal.

The applicant objected to the making of the Order and submitted a report outlining the reasons for this. The report was updated and submitted with the previous TPO application referred to above. It is re-submitted here and is attached at Appendix B.

Representations

Coleshill Town Council – No objection

Consultations

The Council's Tree Officer - Objection

Development Plan

The Core Strategy 2014 – NW13 (Natural Environment)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows)

Coleshill Neighbourhood Plan

Other Material Planning Considerations

The National Planning Policy Framework

The Submission Version of the North Warwickshire Local Plan 2018

BS 3998:2010 – Tree Work: Recommendations

Observations

Members are aware that Tree Preservation Orders are made if it is “expedient in the interests of amenity to make provision for the preservation of trees or woodlands”. There is no definition of “amenity” in the Regulations but in respect of Preservation Orders, it is generally accepted that the trees should have a significant impact on the local environment and its enjoyment by the public. There should therefore be some reasonable degree of public benefit. That benefit might be a present or future one; visibility from the public’s viewpoint, its intrinsic beauty, its contribution to or an enhancement of the landscape or historic features and its scarcity. Orders should not be made when a tree is dead, dying or dangerous.

The tree here is within a Conservation Area. The making of the Order was seen as being significant protection for a number of trees to enhance the character and significance of that Area. This part of the Area is marked by larger individual buildings within areas of open space whose amenity value is enhanced by the addition of the trees. That character and its significance remains and thus the amenity value is retained. The trees are visible to the public, not only by residents but also by visitors to Brendan Close and to the Church and St George’s House as well as to users of nearby roads and public footpaths. As a consequence the amenity value here is not only environmental but also heritage led. The tree the subject of the application is a Cedar tree which is not that common in the Borough and as such there is some intrinsic value in its scarcity value.

The starting point here is thus that the tree retains its amenity value and thus its protection by way of the Order. There has been no change in its amenity value since the Order was made in early 2017.

The report attached to the application significantly does not conclude that the tree is dead or dying. The Council’s tree officer agrees. There is thus no reason to agree to its removal as a consequence

The report also significantly does not provide any evidence to show that the tree is structurally unsound; that it is diseased or that due to its age there are likely to be structural issues – e.g. loss of limbs or movement in the root plate. There is neither any evidence to show that the tree is causing any structural damage to any building. The tree officer is thus very clear that the tree is not “dangerous” and this is confirmed by his own observations.

The reasons to fell are outlined in the report and in summary these are mainly due to “perceived” future concerns; loss of light to the interior of the houses, spreading roots and it not being suitable for this locality. These are confirmed by the Tree Officer as not constituting evidence to show that the tree is dangerous or that it is causing structural problems with the private houses. There is nothing within the Tree Regulations to prevent the owner from submitting an application to undertake sympathetic works to the tree to reduce any amenity issue that might arise. This would be expected because of the anticipated longevity of the tree.

In view of the very firm objection from the Tree Officer it is agreed that there is not the evidence available to show that the removal of the tree is essential.

Recommendation

The Consent be **REFUSED** for the following reason:

“This tree is of a maturity, species and standing such that it contributes significantly to the character and significance of the Conservation Area in which it is located and to the general public amenity of its setting. Its loss would thus adversely change the visual amenity of the locality. There is no evidence submitted with the application to suggest that the tree is dead, dying or dangerous. There is no evidence that it might be causing structural problems at nearby property. In these circumstances the removal of the tree cannot be supported.”

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0133

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	28/2/18
2	Coleshill Town Council	Representation	4/4/18
3	Tree Officer	Consultation	26/3/18

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

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



TREE PRESERVATION ORDER

**BS 5837:2012 Trees in Relation to Design, Demolition
and Construction-Recommendations**

**Objection to Tree Preservation Order 2016
at
Father Hudson's Society, Coventry Road,
Coleshill B46 3EA
for
Father Hudson Society**



Ref 2920
November 2016
Rev A. August 2017

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OBJECTION TO TPO

Written	Checked	Approved	Revision
Peter Styles, Dip Hort; Dip LA; FLI; FRSA	Tim Farrow	Peter Styles	A. 20 Aug 2017



CONTENTS:

- 1.0 Introduction
- 2.0 Existing Trees
- 3.0 Tree Inspection
- 4.0 Rationale for Objection
- 5.0 Tree Evaluation for Preservation Orders
- 6.0 Legal and Planning Constraints Regarding Trees on Site
- 7.0 Conclusion

Appendices

- Fig.1 Tree Location Plan
- Fig.2 Tree Photographs 1-4



1.0 INTRODUCTION

Lingard Styles were appointed in November 2106 by Father Hudson's Society to prepare evidence to support an objection to a temporary Tree Preservation Order made by North Warwickshire Borough Council on the 3rd November 2016.

Subsequently a decision was reached by NWBC on the 3 April 2017 confirming the Tree Preservation Order 2016. This was communicated to the client by letter dated 13 April 2017.

We have subsequently been instructed to refute this decision and this revised report presents further information to support a further application to remove tree no T1, a Deodar Cedar.

2.0 EXISTING TREES

The trees contained in the Order includes six trees which are located in the grounds of Father Hudson's Society in Coleshill. These six trees include 1 no. Cedar, 1 no. Lime, 2 no. Lawsons Cypress and 2 no. Sycamore. The one tree which is subject to this objection is the Cedar (T1) located between the residential bungalow no. 1 in the Father Hudson's Estate and residential property no. 60 in Brendan Close. Father Hudson's Society has received representations from the owners of 60 Brendan Close to remove the tree.

3.0 TREE INSPECTION

An inspection of the Cedar tree and its surrounds was undertaken on the 28th November 2016. The tree is a semi mature specimen of Himalayan or Deodar Cedar (*Cedrus deodara*). Inspection of the tree was carried out in accordance with the recommendations contained in BS5837:2005 fig.1 (British Standard Guide for Trees in relation to Construction Recommendations).

Dimensions of the tree are as follows:

Height: 18m

Spread radius: N: 4.8m S: 7.0m E: 6.5m W: 7.5m

Diam: 800mm

Canopy above ground: 3 m

Condition: Semi mature specimen with ivy cladding to main stem. Wind damage to west of canopy, broken limb stub at 4m west. Minor dead wood throughout canopy (see photo no 1).

Grade: B

The tree is located on the boundary fence line at the eastern end of a line of trees which includes Lime, Lawsons Cypress and mature Laurel. These trees form a good screen between the two residential areas.

The Cedar is located approximately 1m from the fence line. Its southern canopy spread is approx. 3m from the windows of house no 60 Brendan Close. Its northern canopy spread is 1m from the gable end of bungalow no.1. The RPA (Root Protection Area) is calculated as 9.6m radius from the centre of the tree therefore we would expect there to be extensive tree root activity in the adjoining residential garden to the south.

4.0 RATIONALE FOR OBJECTION TPO T1

4.01 Himalayan Cedar is a tree normally planted as a specimen in parks and large gardens. It is possible that when the tree was planted some 50 years ago it was surrounded by garden area to the south. Subsequently this area has been developed for residential.

The Arboricultural Association (AA) publishes a guide to the life expectancy of common trees. For Cedars, the life expectancy is given as 150 -200 years.

The Cedar is clearly the incorrect species for this restricted location and will never be able to attain its ultimate size and form. This species can attain a height of 30 m plus, with a spread of between 12-15 m.

If the tree is retained and as it grows and spreads it is likely that there will be further representations from the immediate house owners for the tree to be severely pruned or removed.

The objections to retaining this tree can therefore be summarised as follows.

- The tree currently causes light problems. Both properties have windows that are affected by the dense evergreen canopy restricting sunlight throughout the year.

- There will also be future issues with the spreading roots to the adjoining gardens creating shade, drying out the soils and increasing the acidity of the soils through fallen needles.
- Eventually there will be damage to the boundary fence from the increased girth of the tree.
- The unique form of this tree species is more suitable to open parkland and any attempts to reduce the tree canopy could result in an unbalanced and unsightly tree form

4.02 In addition, there is a further consideration in respect of the position of the Cedar and its close proximity to the two adjoining residential buildings and gardens. There is a possibility of damage to these properties and risk to their residents caused by the Cedar and this is of concern to the Father Hudson's Society.

Cedars are susceptible to storm damage and in particular damage from heavy snow. Generally coniferous trees are more prone to wind damage than deciduous trees. The Cedar has previously suffered from storm damage caused by the prevailing high winds from the south west (see photo 1).

Father Hudson's Society, in the interests of safety, have a duty of care to ensure that their tree assets do not cause physical damage to life and /or property. The legal obligations are very clear under the Occupiers Liability Act 1957 and 1984. Father Hudson's Society may be liable for losses arising from an accident to a third party, where the cause of accident was both reasonably foreseeable and reasonably preventable.

4.03 It is recognised that the Cedar, along with the other conifers, forms a feature along the boundary and for this reason Father Hudson's Society would like to see the tree removed and replaced with more suitable tree species. This would include the planting of one or two smaller evergreen trees species that would retain a boundary feature and screen but would not create the same problems caused by the Cedar. Suggested conifer species would include:

Cryptomeria japonica 'Elegans' Japanese Cedar
Cotoneasters Cornubia
Juniperus sp.

There are also many deciduous ornamental trees that would provide a similar boundary feature.

5.0 TREE EVALUATION FOR PRESERVATION ORDERS

The TEMPO assessment tool was devised by the Forbes-Laird Consultancy and has now been adopted by Local Authorities as the standard for TPO assessment. The assessment is based on a number of criteria which are used to provide a score. The final score then relates to the suitability of a tree for TPO consideration.

The criteria include:

- a. Condition. Five categories included.
- b. Retention span. Expected useful life of a tree.
- c. Relative public visibility.
- d. Other factors, such as good form, tree groups, veteran specimens, commemorative.

5.01 We have carried out a TEMPO Tree Evaluation for T1 and our assessment was:

- a. Condition and suitability for TPO. Fair/satisfactory **Score 3**
- b. Retention span in years. We assessed this on the basis that the Cedar is clearly outgrowing its context (position). **Score:0**
- c. Relative public visibility. We consider that the Cedar is a medium tree with a limited view only. **Score:3**

The TEMPO assessment allows a break at this point. Trees must have accrued 7 or more points to qualify for the next stage of assessment. We would consider that the Cedar does not qualify for this next stage.

Part 3: Decision guide of TEMPO give a total scoring guide. Scores of 1-6 merit TPO indefensible. Our considered score for the Cedar is 6 and on this basis the Cedar would not be suitable for TPO status.

For this reason, we do not agree with the TPO assessment for T1.

6.0 LEGAL AND PLANNING CONSTRAINTS REGARDING TREES ON SITE

6.01 The legal considerations referred to are general constraints that relate to arboriculture and do not cover any other legal matters that may be relevant on this site.

- 6.02 **The Wildlife and Countryside Act 1981** protects nesting birds and to disturb nesting birds can be a criminal offence. Therefore, if tree works are programmed during the nesting season, between March and August. Should nesting birds be present then all but essential works will be postponed. If in undertaking essential works a nest or nests are found to be present, then further advice will be sought from the relevant authority.
- 6.03 **Tree Preservation Orders and Conservation Area Status.**
The law on TPOs is in **Part VIII of the Town and Country Planning Act Town and Country Planning (Trees) Regulations 1999**. When any tree is protected by a TPO or are situated within a Conservation Area it is an offence (1) cut down (2) uproot (3) top (4) lop (5) wilfully damage or (6) wilfully destruct a tree without the express written permission from local Planning Authority (LPA), there are no exceptions.
- 6.04 **Wildlife and Countryside Act (as amended) Conservation (Natural Habitat) Regulations (1994) 5.1** In Britain, all bats and their roost sites are currently protected by law. The part that protects them is found within the Wildlife and Countryside Act 1981 and as amended by schedule 12 of the Countryside and Rights of Way Act 2000 and by the conservation Regulations 1994 under Section 39 (1).
The legislation makes it an offence to intentionally or recklessly damage, destroy or obstruct access to a site used by bats whether bats are present at the time or not. This can include work on trees whether it is surgery, felling, the covering or filling of cavities or the installation of rod braces and flexible cable braces where a bat roost is present.
There are some 16 species of bat native to the British Isles, all are insectivorous and depend to some extent on habitat in which trees are a significant element. Bats are a protected species and are in decline both globally and nationally. Therefore, they are to be fully considered before any tree work commences and particularly if the trees are mature. If a bat roost is known to be in any tree that is to be removed or worked on, a licence must be obtained from Natural England.
Where there is a risk that bat roosts may be present, it is incumbent upon the owner to commission a specialist bat survey to identify bat roosts before instruction for tree surgery to commence. Failure to do so and in the event of disturbing a roost site and upon conviction is an offence. Maximum penalties for committing offences relating to bats or their roosts can amount to imprisonment for a term not exceeding six months or to fines of up to Level 5 on the standard scale under the Criminal Justice Act 1982/1991 (i.e. £5,000 in April 2001) per roost or bat disturbed or killed or both.

6.05 **Statute and Common Law**

A landowner should be aware that both statute and common law dictates regular inspections of trees on land in their control are necessary where such trees could cause injury or damage in the event they should fall or shed any parts. A person suitably qualified in arboriculture should undertake such routine inspections and any remedial tree works recommended within the time constraint specified, to prevent injury or damage occurring. A landowner should retain records of all inspections and any remedial tree works that have resulted from such inspections.

7.0 **Conclusion**

We believe that the retention of the T1 Cedar will present an unacceptable long-term nuisance to the adjoining residents both in terms of light shading and potential damage to gardens and fencing. Furthermore, Father Hudson's Society are concerned that the tree will become a long term public safety liability.

We would also question the assessment value of the tree for TPO status as described in section 5.01 of this report.

This is an incorrect tree species for this restricted location and given the close proximity of buildings and gardens to the tree it would not be able to achieve its full mature stature.

Father Hudson's Society agree that the group of existing trees in this location are an important asset to the estate and if permission were granted to remove this tree then an additional conifer tree of suitable species would be planted as a replacement.



Peter Styles
Lingard Farrow Styles

6.0 APPENDICES

Fig.1 Tree Location Plan

Fig.2 Tree Photographs 1-4

Fig 1. Site and TPO Tree Location Map



Fig 2. Photographs:

1. Wind damage from the west



2. General view of Cedar from east



3. View of canopy overhanging residential gardens to the south.



4. General view of tree line from the west.





<http://planning.northwarks.gov.uk/portal/servlets/AttachmentShowServlet?ImageNam...> 28/02/2018

4/115

4/108

(6) Application No: PAP/2018/0206

Co-op Supermarket, 123 Long Street, Atherstone, CV9 1AB

Section 211 Works to a tree in a Conservation Area, for

Mr Saracevas

Introduction

The application is reported to Board in light of the fact that the Borough Council is the owner of the tree, the subject of this application.

Members are advised that the Board's remit here is to determine the application as the Local Planning Authority in accordance with planning legislation and the Development Plan and not as the owner of the trees.

The Site

The tree within the application is located on the employee's car park of the the grounds of the North Warwickshire Borough Council House offices within the Conservation Area of Atherstone.

A general location plan is at Appendix A

Background

A "common hawthorn" tree overhangs the car park of the adjoining Co-op supermarket. The works requested are a result of damage caused by contractors for the Co-op placing plant and equipment next to the tree canopy on 16th March 2018.

The Proposal

It is proposed to remove one damaged bough following that damage and as a result of a risk assessment for potential failure of the bough being retained.

Development Plan

The Core Strategy 2014 - NW10 (Development Considerations) and NW13 (Natural Environment)

Saved Policy in the North Warwickshire Local Plan 2006 - ENV4 (Trees and Hedgerows)

Other Relevant Material Considerations

BS3998:2010 – (Tree work : Recommendations)

BS5837:2012 – Trees in Relation to Design, Demolition and Construction– Recommendations

Representations

Atherstone Town Council - No objection

The Council's tree officer - No objection. Following a report that damage had been caused, a site visit revealed that this was minor and a small amount of emergency repair works were undertaken at that time. The damage was too limited to seek a prosecution, particularly as further remedial action could be undertaken without permanent damage to the tree.

Observations

As referred to in the introduction to this report, the Board's remit here is to determine the notification as the Local Planning Authority.

The Board has three options available to it, in regards to determining an application for tree works within a Conservation Area. These are:

- make a Tree Preservation Order if justified in the interests of amenity;
- decide not to make an Order and inform the person who gave notice that the work can go ahead; or
- decide not to make an Order and allow the 6-week notice period to end, after which the proposed work may be done within 2 years of the date of the notice.

While bearing in mind the 6-week notice period, the authority should allow sufficient time for it to receive objections to the work. The authority should consider duly submitted objections when deciding whether the proposals are inappropriate and whether an Order should be made.

A section 211 notice is not, and should not be treated as, an application for consent under an Order. So the authority cannot:

- refuse consent; or
- grant consent subject to conditions.

The Planning Act says that the Council should protect trees, if "it is expedient in the interests of amenity to make provision for the preservation of trees in their area".

The Development Plan says that new development should not be permitted if it would result in the loss of trees that make a positive contribution to the quality of the local environment and that the quality, character and local distinctiveness of the natural environment should be protected and enhanced. The reason for such an approach is to protect the mature trees and rural character of the Borough.

It can be reported to the Board that it is the opinion of the Council's tree officer that a Tree Preservation Order is not required given the location of the tree and its ownership, and that the proposed works would not be detrimental to the tree.

Members are aware that in some circumstances, there is the potential for a claim of compensation for costs that might be incurred as a consequence of a refusal of consent to undertake works to protected trees. However, in this case, the tree is owned and managed by the Authority and the applicant has offered to correct the damage caused to the tree. As such, the Council will be spared the expense of the works.

Recommendation

That the works may continue without the need for a Tree Preservation Order.

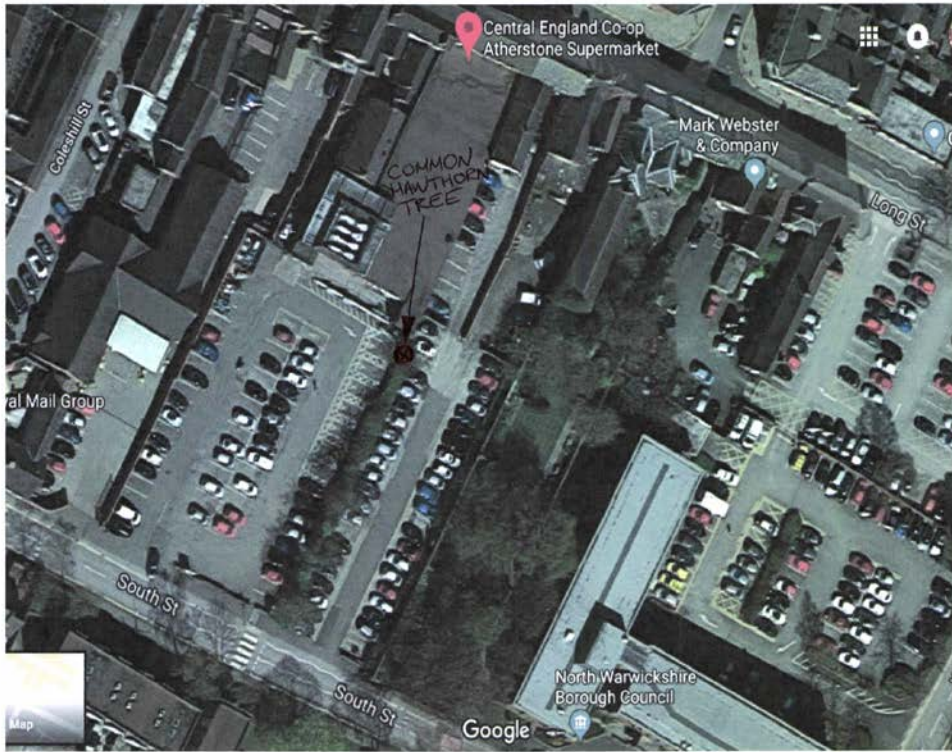
BACKGROUND PAPERS

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	The Applicant or Agent	Application Forms, Plans and Statement(s)	22/03/2018
2	NWBC Green Space Officer (Trees)	Representation	25/05/2018

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.



(7) Application No: PAP/2018/0235

L'abri, Ansley Lane, Arley, Coventry, Warwickshire, CV7 8FU

Retrospective application for the erection of detached garage, for

Mr L Hughes-Marriott

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



Aerial photography of the application site, with the property delineated by a white star

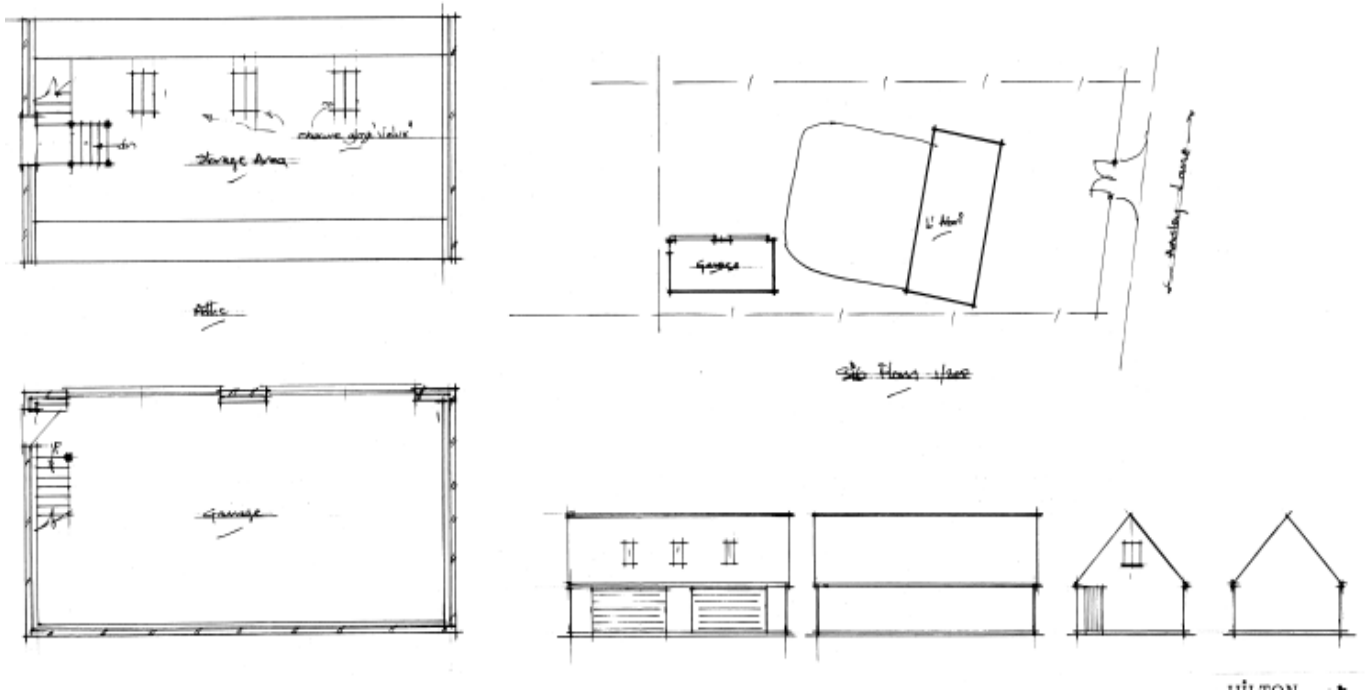
N.B. The hedgerow along the dwelling's western boundary has been removed in lieu of timber close boarded fencing

The application site comprises a large detached bungalow with a hipped roof located on Ansley Lane within the village of Old Arley. Other detached bungalows are present within the immediate vicinity, with terraced properties located to the south of the site. Vehicular access is via Ansley Lane, with a narrow track to the east of the dwelling leading on to the property's rear garden.

The Proposal

Planning permission is sought retrospectively, for the erection of a detached double garage within the dwelling's rear curtilage. Storage space is provided within the roof area. The garage is 6.1 metres long, 12.25 metres wide, with an eaves height of 2.65 metres and a ridgeline of 6.05 metres to the apex of a gabled roof.

Three Velux roof lights have been inserted within the building's east facing roof slope, with a further window present on the northern first floor elevation of the building. Two 4.25 metre wide doors are provided at ground floor level for the access and egress of vehicles. The building is of brick construction with clay roof tiles. The proposals are shown below.



Garage building in-situ

Background

In 2007 consent was sought and granted for an extension to the dwelling's roof form to provide additional living space at first floor level, alongside the provision of three new projecting bays to the front elevation. However this consent was not implemented, with a succeeding application to replace the dwelling submitted to and approved by the authority in 2008.

In 2013 permission was refused for the erection of a garage building and the change of use of land to the rear of the dwelling to an equestrian use, along with the provision of stable block. A revised application was subsequently approved six months later. The permission has not been implemented.

Development Plan

The Core Strategy 2014 - NW10 (Development Considerations).

Saved Policies of the North Warwickshire Local Plan 2006 - ENV 12 (Urban Design); ENV13 (Building Design), ENV14 (Access Design) and TP6 (Vehicle Parking)

Arley Neighbourhood Plan 2015-2030 - ANP1 (Maintain the Rural Character of the Parish) and ANP5 (Ensure the built environment in Arley meets the highest current standards)

Other Relevant Material Considerations

The National Planning Policy Framework 2012 (the "NPPF")

The Submitted North Warwickshire Submission Local Plan 2018 - LP31 (Development Considerations); LP32 (Built Form) and LP36 (Parking)

Representations

Arley Parish Council – It objects to the application because of the loss of amenity to neighbouring properties. It also queries the use the building as lorry deliveries and the use of a fork lift truck have been seen.

Eight letters of representation from local residents have been received, objecting to the development for the following reasons:

- Visual impact of the development
- Disregard for permitted development rights
- Design inappropriate for a garage
- Concern that loft area will be used for commercial storage purposes
- Allegations that a material change of use at the premises has occurred owing to increased vehicles movements; outside storage and keeping of commercial vehicles at the site, all of which are causing noise and disturbance to neighbouring residents
- Dominating impact of building
- Effect of extension on neighbouring amenity - building is too close to the boundary
- No reference is made within application form to the proximity of trees and hedges
- Western wall of building, facing westward, is breezeblock – out of character with the existing built form

Observations

a) Principle of Development

The dwelling lies within the development boundary of Old Arley 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, dual pitched incidental outbuilding here provided that its height is limited to 4 metres and the structure is sited more than 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.

The application will be assessed against the development plan unless material considerations, including the fall-back position, indicate otherwise, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004.

b) Design

Saved policy ENV12 of the 2006 Local Plan 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 ANP 5.3(1) of the Arley Neighbourhood Plan seeks to ensure that new development respects existing built form.

Saved policy ENV13 refers to the physical characteristics of new built form, only permitting development where the *'scale, massing, height and appearance of the proposal positively integrates into its surroundings'*.

The proposal is not considered to accord policies ENV12, ENV13 or ANP5.

The immediate built form along the northern side of Ansley Lane consists of bungalows and incidental buildings with hipped roofs. Although the garage building is gabled, contrasting with the prevalence of hipped roofs in the surrounding area, no objection is raised in principle to a gabled roof design.

Nevertheless the garage measures 6.05 metres to the apex of a steep pitched gabled roof, just 0.15 metres lower than main dwelling's ridgeline. 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.

Additionally, although the building is not visible from the surrounding street scene, the application at Old Arley sits, topographically, at an elevated position to the wider landscape and therefore the garage appears readily visible on the approach from Ansley Lane.

Furthermore, considering Submitted Local Plan policy LP32, although the use of facing brickwork and roof tiles is acceptable and coherent with the present built form, the development's scale does not respect the surrounding single storey dwellings, nor safeguard the amenity of neighbouring occupiers, a matter which will be further explored in the subsequent paragraphs.

c) Amenity

2014 Core Strategy 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 policy is considered to be consistent with the NPPF, notably paragraph 17, bullet point 4.

The two dwellings considered to be most affected by the building are Westward and Terrefel, sited to the west and east of the application site respectively. Westward is slightly elevated in respect of L'abri and the properties share a common boundary, a boundary close to which the garage has been erected. The building is sited 2.2 metres from the shared boundary and 7 metres from Westwards extended rear elevation.

Existing boundary between Westward and L'abri



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 would appear intrusive and oppressive to the detriment of amenity, the resultant impact can be considered to form a material planning consideration.

The rear garden of Westward is currently overgrown and the existing vegetation cover presently screens the rear of the extended dwelling. Nevertheless it was evident from visits that the garden is in the process of being cleared and restored and in any event the present state of the garden can of course always change. The substantial 6 metre high building, which is 12 metres long on its western elevation, clearly has an overbearing and unacceptable impact on the occupants of Westward by virtue of dominating the outlook from the immediate garden area.

In respect of overshadowing, although the building clearly has an adverse impact, the existing vegetation cover, as previously referred to, screens the dwelling to such an extent that the resultant impact of the garage is lessened, and the building is not considered to materially worsen the present situation.

Concern has also been raised within a letter of representation pertaining to overlooking from the windows on the east facing roof slope. Although resulting in a degree of overlooking to the rear garden of the property at Terrefel, the windows direct views upwards, a separation distance of approximately 30 metres is retained to the rear elevation of Terrefel and the garage, and intervening features such as boundary fencing and a garage limit the prospective views.

d) 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 2.2 metres away and thus should have a height of 4 metres if it is to be “permitted development”. As a consequence the building would have to be reduced in height to 4 metres from its existing 6 in order to be “permitted development”. If it is wholly moved closer to the boundary then it has to be reduced by 3.5 metres. It seems to be that the former is the more realistic “fall-back” here.

The Board will need to consider whether the difference between 4 and 6 metres has an influence on the planning policies referred to above. 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 happened 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.

e) Change of use

Concerns have been raised, with the submitted neighbour representations and the consultation response from Arley Parish Council that a material change of use has occurred at the premises, owing to increased vehicle movements, outside storage and keeping of commercial vehicles at the site, all of which are perceived to cause noise and disturbance to neighbouring residents.

Planning Practice Guidance states that, in determining whether a material change of use has occurred, consideration may be given to the following issues *“whether home working or a business leads to notable increases in traffic, leads to disturbance to neighbors or abnormal noise or smells, or the need for any major structural changes or major renovations”*.

Officer visits to the site have revealed the presence of fire extinguishers; roof tiles, and metal fencing etc., stored on and within pallets and wooden boxes alongside two fork-lift trucks and a white storage structure was noted. The applicant has indicated that he does not work commercially from the premises and that the forklift trucks will be removed once building works are completed. Members are advised to take note of the above guidance in determining the application, however it should be noted that this application does not seek to change the premises use.

f) Access and parking

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

g) Trees/hedgerows

A hedgerow has been removed adjacent to the boundary with Westward, which has destabilised the surrounding root structure and caused soil erosion. Moreover trees are likely to be within falling distance of the building, which has not been indicated on the application forms. Nevertheless the hedgerow removal and potential concerns with regards to damage to neighbouring properties are not material to the determination of a planning application.

h) 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 its immediate surroundings, conflicting with saved policies ENV12 and ENV13 of the 2006 North Warwickshire Local Plan. Additionally the structure has an overbearing and unacceptable

impact on the occupants of Westward as a result of dominating the outlook from the immediate garden area, contrary to policy NW10(9) of the 2014 North Warwickshire Core Strategy.

In these respects the recommendation below is one of refusal.

i) 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 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 are appropriate here given the fall-back position – that is to retain the building but to reduce its ridge height from 6 to 4 metres.

Thirdly, there will be an adverse impact on the owner. That impact will be financial, being the cost of undertaking the building works to reduce the height. However he will still be able to use the building for garaging purposes incidental to the residential use of the planning unit.

As a consequence, given the identified conflict with the Development Plan and the impact on neighbour amenity, that enforcement action is expedient here and that the requirements of any Notice should be to reduce the building's ridge height to 4 metres throughout its complete length. A compliance period of six months is considered to be proportionate to this requirement.

Recommendations

A) That planning permission be refused for the following reason:

“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 its immediate surroundings, conflicting with saved policies ENV12 and ENV13 of the 2006 North Warwickshire Local Plan together with policy ANP5 of the Arley Neighbourhood Plan. Additionally the structure has an overbearing and unacceptable amenity impact on the occupants of Westward as a result of dominating the outlook from the immediate garden area, contrary to policy NW10(9) of the 2014 North Warwickshire Core Strategy.”

B) That authority be granted to the Assistant Chief Executive and Solicitor to the Council to issue an Enforcement Notice requiring the ridge height of the building to be reduced to 4 metres throughout its whole length, with a compliance period of 6 months, for the reasons set out in this report.

C) That officers monitor the use of the building in light of the ongoing concerns about an alleged material change in use.

Notes

1. Notwithstanding the above refusal, the Local Planning Authority is considered to have worked with the applicant in a positive and proactive manner, through identification of the planning concerns along with regular contact and meetings. However the identified planning issues at this site cannot be addressed. 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.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0235

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	12/4/18
2	Arley Parish Council	Representation	19/4/18
3	Carroll	Representation	16/4/18
4	Hales	Representation	23/4/18
5	Tulip	Representation	23/4/18
6	Williams	Representation	23/4/18
7	Williams	Representation	23/4/18
8	Briggs	Representation	29/4/18
9	Tulip	Representation	4/5/18
10	Case Officer	Exchange of emails to representor	24/4/18 to 1/5/18
11	Case Officer	Email to Agent	19/4/18
12	Case Officer	Email to Agent	4/5/18
13	Case Officer	Email to Applicant	20/4/18
14	Marriott	Email to Case Officer	24/4/18

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/2018/0282

Alder Court and Heather Court, Friary Road, Atherstone, CV9 3AE

To carry out a flat to pitched roof conversion and external wall insulation covering to block 1 to 20, for

North Warwickshire Borough Council

Introduction

This application is brought the Planning and Development Board in line with the Council's adopted Scheme of Delegation because the application has been presented by North Warwickshire Borough Council as the Applicant.

The Site

The site is a pair of 4 storey blocks of flats, with five walk up flats on each floor, located on Friary Road, opposite the Cemetery on Sheepy Road. They back onto the Lister Road.

The Proposal

This is as described above

Development Plan

North Warwickshire Core Strategy 2014 - NW10 (Development Considerations); NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development) and NW18 (Atherstone)

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

Other Relevant Material Considerations

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

The North Warwickshire Local Plan Submission Version, March 2018: -LP31 (Development Considerations); LP32 (Built Form) and LP37 (Renewable Energy and Energy Efficiency)

Representations

None received

Observations

The site is in the Atherstone Development Boundary but does not fall within the Conservation Area. Whilst the proposal will not increase the size of the footprint to the buildings there will be a 2.85 metres increase in height with the addition of the shallow pitch roof.

The proposed development is intended to improve the appearance of the existing residences; to reduce maintenance costs and improve the energy efficiency and efficacy of the existing housing stock. This is to be achieved by the installation of a new lightweight pitched roof and external wall insulation.

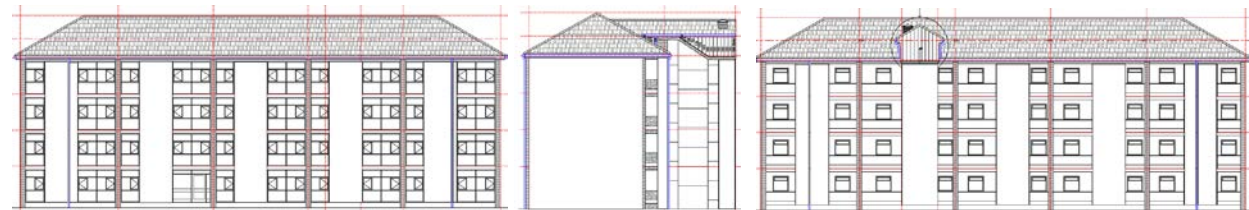


The proposed pitched roof will be fixed to the existing flat roof structure, with a pre-engineered metal trussed roof over-clad with lightweight roofing tiles to minimise the additional loading on the existing structure. The roof tiles are to have a Viksen profile and be Brindle colour. The roof is to be hipped at each end, minimising the impact on the adjacent neighbour at 24 Friary Road, adjacent to Alder Court. No neighbours have objected to the proposal. A tree lined footpath separates the flats from 40-45 Friary Road, and provides a pedestrian shortcut through into the Lister Road Estate. No neighbours are considered to be significantly adversely affected by the proposal.



The colours of the proposed render are selected to match those of the recently refurbished dwellinghouses in Friary Road and Lister Road areas. The proposal is therefore considered to be in keeping with the characteristics of the local neighbourhood.

The walls are to be externally clad using an external wall insulation system. They will generally be finished in a cream coloured smooth render, with cross wall features finished in a red brick appearance render. The brick effect rendered cross walls, together with the grey painted window frames and infill panels are proposed to break up the blocks and retain the vertical character of the elevations, and give a more modern appearance to the elevations. The rendered finishes can more easily be painted to remove graffiti than the brickwork that currently forms the flank walls of the flats, particularly at the south elevation of Heather Court.



West Elevation to Friary Road

Side Elevation

East Elevation to rear

The materials proposed here are similar to those used at Chantry Court in Chapel End, Hartshill, with exception of the roof colour being Brindle in Atherstone, and Walnut in Hartshill.

It is considered that the proposal is in accordance with saved policies and the emerging Local Plan. The proposal is in keeping with the character of the locality and is not considered to have any significant adverse impact on neighbours. The proposal is considered to be an improvement in terms of the energy consumption of the properties, and the reduction in the maintenance needs of the site.

Recommendation

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

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

REASON

To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory purchase Act 2004, and to prevent an accumulation of unimplemented consents.

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered 16339/101, 16339/400 and 16339/406, CGI front elevation, CGI side elevation and the Design and Access statement, received by the Local Planning Authority on 02 May 2018; and the plans numbered 16339/203A, 16339/204A, 16339/205A and the revised specification, received by the Local Planning Authority on 24 May 2018. The buildings are identical and the proposals apply equally to Alder Court and Heather Court.

REASON

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

3. The new works shall be carried out with Westville External Wall Insulation (EWI), 90mm expanding polystyrene system, with a part brick effect render and part OC80 (Cream) reinforced render finish to existing external walls. A new pitched roof will be formed in Viksem profile, sand finished Brindle colour Langley lightweight roofing tiles (1325 x 410mm). Fascias, Soffits and vertical (arrowhead) cladding to be white powder coated aluminium, and rainwater goods to be black powder coated aluminium.

REASON

In the interests of the amenities of the area and the building concerned.

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. 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 paragraphs 186 and 187 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/2018/0282

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant	Application Forms, Plans, specifications and Statements	02/05/2018 & 24/05/2018
2	The Applicant	Sample materials	24/05/2018

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.

(9) Application No: PAP/2018/0287

Former Sparrowdale School & Recycling Centre, Spon Lane, Grendon, CV9 2PD

Construction of 56 residential dwellings (class C3) including; construction of new vehicular access to Spon Lane, formalisation of existing vehicular access to Spon Lane, pedestrian accesses to Spon Lane and A5 (Watling Street), drainage infrastructure, landscaping, public open space and other works, for

Kier Living

Introduction

This application is reported to the Board at this time for information as it has just recently been submitted. The report will outline the details of the proposals and identify the relevant Development Plan policies. A determination report will be prepared in due course when consultation responses have been received.

The Site

This is the site of the former Sparrowdale School together with the former household recycling site between the old and new lengths of Spon Lane, north of the Grendon roundabout on the A5 Watling Street. It has a combined area of 2.1 hectares. A brook course runs along the boundary between the former school site and waste site from Spon Lane to the rear of numbers 67 to 73a Watling Street. There is existing residential development on three sides of the site with the fourth being the new line of Spon Lane on the other side of which is open countryside and the local Severn Trent Water treatment works. The Grendon Working Mens Club is to the south and its bowling green also abuts the site to the east. There is also a small convenience and newsagent store close by.

The general location of the site and its setting is illustrated at Appendix A.

The Proposals

This is a detailed planning application for the residential redevelopment of the combined site. A total of 56 dwellings is proposed with a mix of houses types – single bedroom flats to four bedroom dwellings. These would all be two storey developments apart from a small block of three storey development fronting the Grendon roundabout. Parking overall is a 210 % provision with the larger houses having three spaces each.

Vehicular access to the great majority of the site would be via a new access onto the new length of Spon Lane. This would lead into a cul-de-sac extending into the site. The existing school access from the old Spon Lane would be closed to vehicular traffic but be retained for pedestrians and cycles. There would be an additional pedestrian link to the Watling Street at the far southern end of the site. The existing access serving the former household waste centre would be improved so as to provide access to six flats which would front the roundabout. Sustainable drainage features would be included on site.

Seventeen affordable dwellings are proposed as part of the development amounting to a 30% provision. These would all be shared ownership and include the six units at the front of the site facing the roundabout.

The proposed layout is attached at Appendix B and a selection of elevations is at Appendix C.

Supporting documentation has been submitted with the application.

A Ground conditions investigation recommends conditions relating to clearing some areas of “made” ground” and that surface water from the development will require sustainable drainage designs as soakaways would not be appropriate here.

A tree survey concludes that the site contains a diverse range and quality of trees and hedgerows with the main interest being the new full length of the hedgerow fronting the line of the new Spon Lane. The proposals are considered by the author to have a limited impact on the amenity value of the retained features on the site.

An Ecology survey concludes that the majority of the site is grass land but with significant areas of hardstanding – the site of the now demolished school and the waste site service yard. The surrounding hedgerows are not species rich. No further work is suggested in respect of greater crested newts; reptiles, other amphibians or badgers.

However further research is needed in respect of bat roosts, but the site itself is considered to offer low quality opportunities for foraging and commuting.

A Noise Impact Assessment suggests that suitably designed acoustic measures built in to the new dwellings will be required.

A Heritage Assessment identifies that there are no heritage assets within the site itself and little potential for prehistoric or medieval remains. The overall conclusion is of there being no significant heritage constraints either underground or affecting the settings of other assets which are some distance away.

An Open Spaces and Recreation Statement refers to the recent qualitative and quantitative assessments made of the Borough's recreation facilities, and concludes that in the Baddesley and Grendon area there is local adequate provision. However enhancements to the Boot Hill recreation area were sought and the development could contribute to that work.

A Surface and Foul Water Strategy is provided. This confirms that surface water would not be discharged by soakaway, but via sustainable drainage measures discharging into the brook that crosses the southern end of the site and feeds in to the Penmire Brook.

A Transport Assessment concludes that the site is in a sustainable location given access to the road network; the regular bus services connecting to larger settlements with rail services and a wide range of facilities. Local facilities are nearby – a primary school, recreation facilities and a shop. The Statement concludes that the overall increase in traffic would be minimal on the surrounding network and no off-site works are recommended. The Statement refers to other recent studies that have concluded that a new crossing over the A5 cannot be substantiated.

A Statement of Community Involvement describes the pre-application community consultation work undertaken by the applicant prior to his submission. This took the form of an initial leaflet drop to 785 properties in early February 2018. 19 forms were returned with comments referring to the cumulative impact of new development in the area; traffic impact on the A5, a need for a pedestrian link over the A5, capacity at local facilities, need for bungalows and an on-site play area. A subsequent public consultation and exhibition took place in late March 2018. Similar comments were made at this event as previously.

A Planning Statement draws together all of these matters and places the application in its planning policy context.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW 4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment), NW15 (Nature Conservation) and NW12 (Infrastructure)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT3 (Sustainable Travel) and TPT6 (Vehicle Parking)

Other Material Planning Considerations

The National Planning Policy Framework 2012

Draft Site Allocations Plan - June 2014: Sites GRE 1 and GRE2.

The Submission Version of the North Warwickshire Local Plan 2018 - LP2 (Settlement Hierarchy); LP6 (Amount of Development), LP7 (Housing Development), LP8 (Windfall), LP9 (Affordable Housing Provision), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP24 (Recreational Provision), LP29 (Walking and Cycling), LP31 (Development Considerations), LP32 (Built Form) and LP39 (Housing Allocations)

The North Warwickshire Green Space Strategy – 2018

The Daw Mill Appeal Decision – APP/R3705/W/16/3149827

Observations

Members will be familiar with this site and the proposals to allocate the land here for housing in the last few years through the draft Site Allocations Plan of 2014 and the recently Submitted Version of the North Warwickshire Local Plan. Given this planning policy background, Members will be aware that the approach to this application will thus be one of establishing whether there are significant adverse impacts that can be demonstrated through robust evidence.

The determination report will outline the responses that are received from the various consultation bodies. In the interim Members are invited to comment on the details of the proposals as currently submitted.

Recommendation

That the receipt of the application be noted at this time

BACKGROUND PAPERS

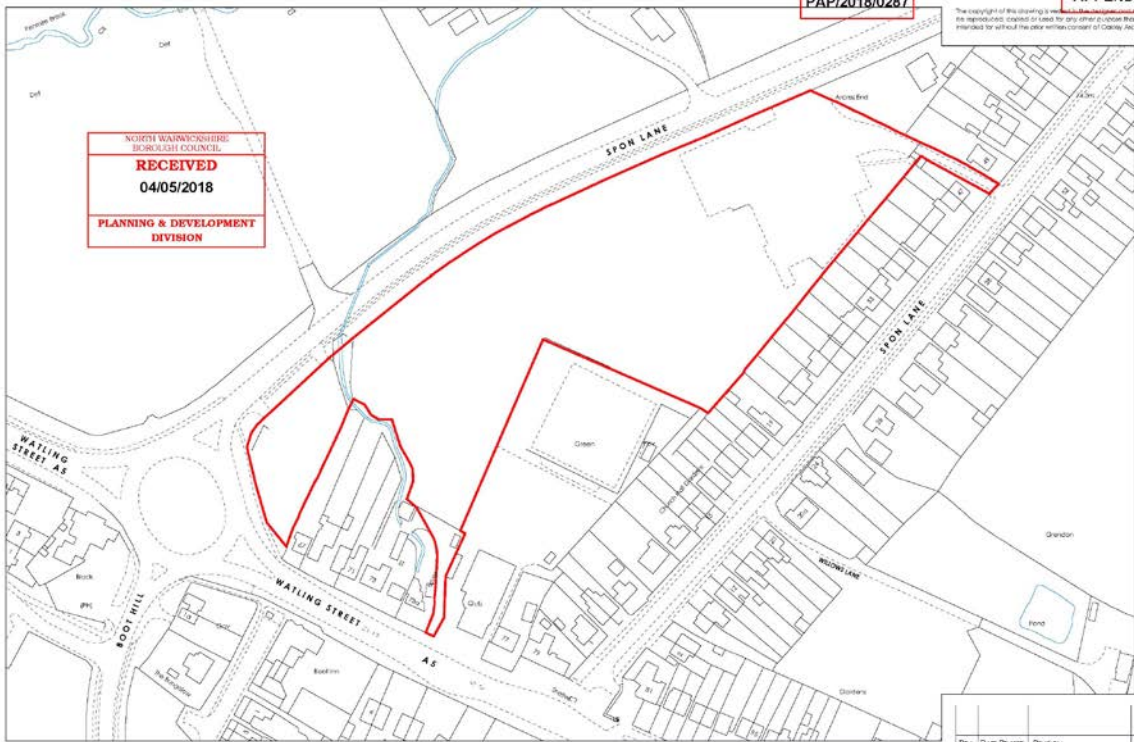
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2018/0287

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	4/5/18

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.



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Rev	Date	By	Revised	Rev	By

SITE LOCATION PLAN



Client: Spon Lane, Gosden
 Date Issued: 01/03/2018
 Drawing Title: Site Location Plan
 Drawing No: 201728
 Checked By: SIMON OAKLEY
 Job Number: 201728
 Drawing Number: 03



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TYPE	NO.	PARKING
SALE SITES		
COLINGWOOD (3B)	7	300%
RODMWOOD (3B)	10	300%
LODGEWOOD (3B)	4	300%
MADEWOOD (3B)	3	300%
CHAMFORD (4B)	3	300%
HAMFORD (4B)	7	300%
SPONWOOD (4B)	9	300%
TOTAL SALE	50	
RESIDENTIAL OVERSEAS	0	000%
SALES	50	300%
SP1	20%	7 300%
SP2	20%	3 300%
SP3	10%	2 300%
TOTAL AFFORDABLE	17	
GRAND TOTAL	67	

EXTERNAL WORKS LEGEND

- 1. Landscaping
- 2. Fencing
- 3. Driveway
- 4. Path
- 5. Wall
- 6. Gate
- 7. Gate
- 8. Gate
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Project: Spon Lane, Gosden
 Drawing No: Site Plan
 Date Issued: 01/03/2018
 Drawing Title: Site Plan
 Drawing No: 201728
 Checked By: SIMON OAKLEY

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PERSPECTIVE LOOKING TOWARDS PLOTS 1,11,12 & 13

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Rev	Date	Revised	Revision	Rev By

Client	Project	Spot Lane, Clevedon
Kier Living	Drawn By	DATE DRAWN
Drawn By	Checked By	22.02.2018
Perspective 2	Job Number	201728
Drawn By	Checked By	Drawn Number
LEA OAKLEY	SWON OAKLEY	46A

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PERSPECTIVE LOOKING TOWARDS PLOTS 2-7

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Rev	Date	Revised	Revision	Rev By

Client	Project	Spot Lane, Clevedon
Kier Living	Drawn By	DATE DRAWN
Drawn By	Checked By	22.02.2018
Perspective 4	Job Number	201728
Drawn By	Checked By	Drawn Number
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PERSPECTIVE LOOKING TOWARDS PLOTS 10-12

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Client	Project	Drawn	Checked
Kier Living	Spun Lane, Crendon	DAJ	JSN
Drawn Title	Drawing Scale	Date Drawn	Drawn Number
Perspective 5	(A3)	22.02.2018	49
Drawn By	Checked By	Drawn Number	Drawn Date
LSA OAKLEY	SIMON OAKLEY	201728	49

Rev	Date Revised	Revision	Rev By

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(10) Application No: PRE/2018/0023

Land south east of M42 Junction 10, Trinity Road, Dordon

Application under Section 257 of the 1990 Planning Act to divert public footpath AE55 for Acorus Rural Property Services Ltd

Introduction

This is not a planning application. Members will be aware that most diversions of public footpaths are sanctioned by the County Council as Highway Authority. In some cases however, diversions can be agreed by the Local Planning Authority. This is the case if the grant of a planning permission requires such a diversion, as is the case here.

Background

This particular case was referred to the Board's March meeting and it resolved to make a Public Path Order as a consequence of the approval for the new St Modwen development at this junction affecting the footpath AE55. If objections were received then the matter would be referred back to the Board. The Order was duly published and the County Council lodged an objection.

In the interim, St Modwen's also submitted its application for the details of Phase Two of the development here and the proposed layout would necessitate modifications to the route of the proposed diverted path.

As a consequence of these two matters, St Modwen's wish to update the procedures here.

A copy of the proposed diversion as agreed by the Board is attached at Appendix A.

A copy of the latest proposed diversion is attached at Appendix B.

Observations

The County Council's objection is not one in principle. It draws attention to what it considers are technical shortcomings in the actual Order – eg. no coordinates given so as to specifically locate the turning points of the proposed route and no reference to its width.

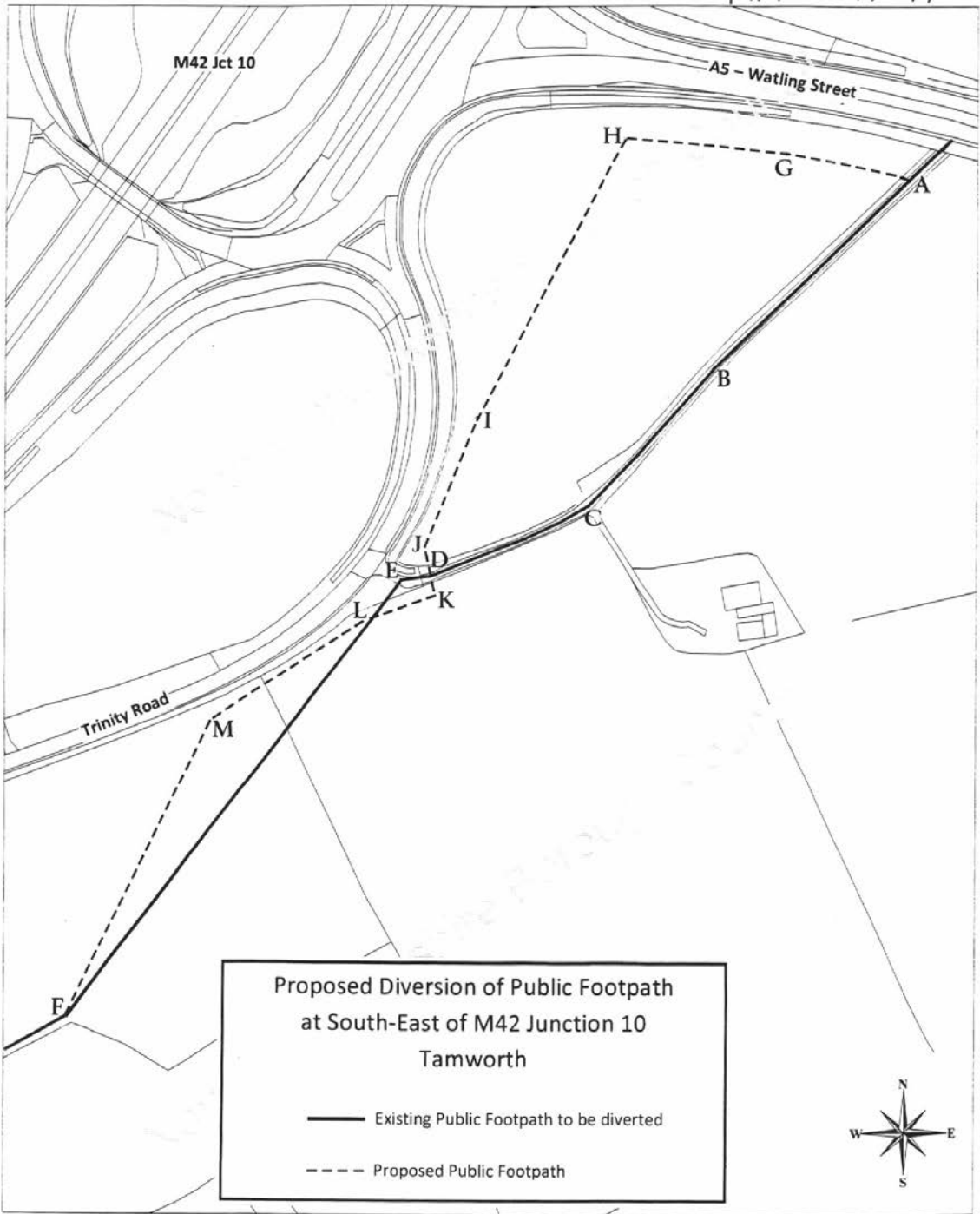
The alterations to the Phase 2 layout as proposed do not materially or prejudicially affect a new route for the path as can be seen for the two Appendices.

In order to resolve these matters, it is suggested that the current Order not be confirmed, but that a fresh Order be made as set out in Appendix B. That too would need to be published for a fresh period.

Recommendation

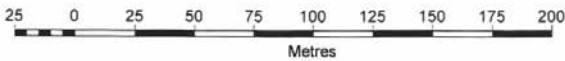
- a) That the Public Path Order AE55 not be confirmed for the reasons given in this report.
- b) That a Public Path Order AE55 (Number 2) be made and circulated for consultation.
- c) Provided no objections are received, that Order be confirmed.

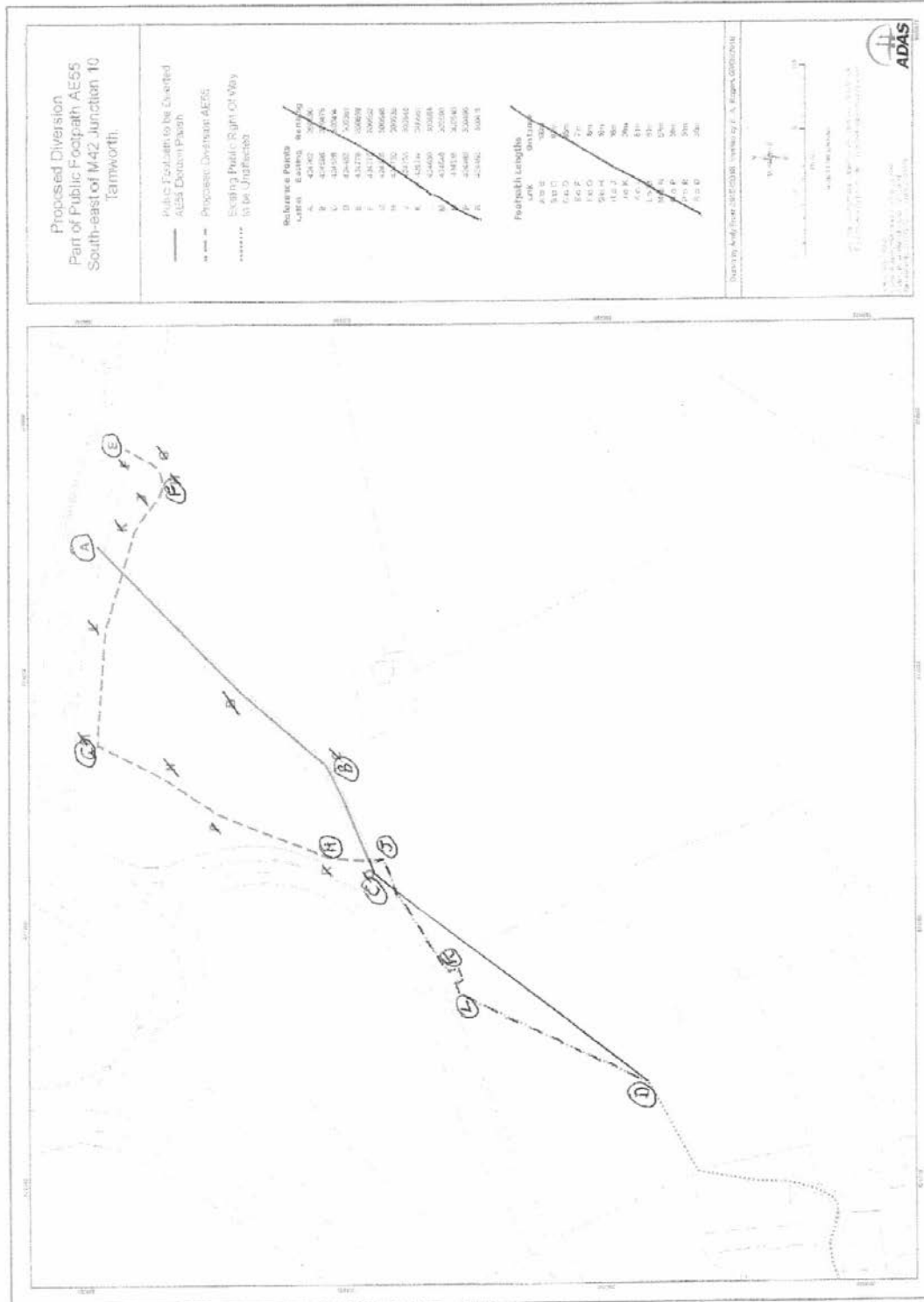
APPENDIX A



Date: 20/03/18
Scale: 1:2500

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Ordnance Survey 100017910





Agenda Item No 5

Planning and Development Board

11 June 2018

**Report of the
Head of Development Control**

Appeal Update

1 Summary

1.1 The report brings Members up to date with recent appeal decisions.

Recommendation to the Board

That the report be noted.

2 Appeal Decisions

2.1 There are three recent decisions to report.

a) The Tarmac Bagging Plant at Hartshill

This planning application was submitted to extend the permitted hours of the bagging operations at this plant at the bottom of the Anchor Hill in Hartshill. Members heard from local residents who considered that the extended hours would be harmful. The Inspector disagreed and has granted a planning permission. The case revolved around the weight of evidence to defend the refusal. In short the Council did not have the appropriate technical evidence to demonstrate significant harm. As a consequence, it is important to understand that any refusal based on technical matters has to have the necessary level of evidence to support the case. In this instance even noise surveys in the location of the houses did not support the refusal. The decision letter is at Appendix A.

b) Oak Lodge, Maxstoke Lane, Coleshill

This is a valuable decision as it indicates that attempting to “cram” development into small spaces can lead to refusal and that this will be supported when appropriate, by the Planning Inspectorate. The decision letter is at Appendix B.

c) East of St Lawrence Road, Ansley

This decision is not unexpected. Members received a report at the Board’s last meeting on the matter arising from the Daw Mill decision that has led to the situation here. In short Policy NW2 of the Core Strategy is out of date in respect of development boundaries. Members will have seen the impact of

this in subsequent Board reports. It is now hoped that pre-application meetings will proceed with a view to looking at the prospective design and layout of this site together with the Phase One land.

On a more technical note and given the Board's concerns about traffic impacts of new developments, Member's attention is drawn to para 26 of the decision letter, where there is explicit reference to the "test" for possible refusal reasons on this ground. In short there has to be proven "severe cumulative harm".

... The decision letter is at Appendix C.

3 Report Implications

3.1 Sustainability and Environmental Implications

3.1.1 Members have been advised of the implications of the Daw Mill appeal decision and the Ansley case here, is the first real consequence of that. Future determinations will have to take account of this. Because the emerging new Local Plan has been submitted, this interim period between the Core Strategy and that Plan being adopted should not be long.

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



Appeal Decision

Site visit made on 9 April 2018

by **Rachel Walmsley BSc MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2018

Appeal Ref: APP/R3705/W/17/3189168

Tarmac Bagging Yard, Nuneaton Road, Hartshill, North Warwickshire CV10 0RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant 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 Tarmac Limited against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2017/0005, dated 3 January 2017, was refused by notice dated 16 May 2017.
 - The application sought planning permission for change of use to aggregate bagging depot including erection of hoppers & material bays without complying with a condition attached to planning permission Ref PHARXX/0114/2004/FAP dated 24 March 2004.
 - The condition in dispute is No 4 which states that: *there shall be no deliveries to the site, dispatch of bagged aggregates, or aggregate bagging plant operations on site, other than between 0700 hours to 1800 hours on Mondays and Fridays inclusive, and between 0700 and 1400 hours on Saturdays. There shall be no operations whatsoever on Sundays, Public or Bank Holidays.*
 - The reason given for the condition is: *to prevent disturbance to the occupiers and visitors of nearby properties and canal users.*
-

Decision

1. The appeal is allowed and planning permission is granted for change of use to aggregate bagging depot including erection of hoppers & material bays at Tarmac Bagging Yard, Nuneaton Road, Hartshill, North Warwickshire CV10 0RT, in accordance with the application ref PAP/2017/0005 dated 3 January 2017 without compliance with condition No 4 previously imposed on planning permission ref PHARXX/0114/2004/FAP dated 24 March 2004 and subject to the following conditions:
 - (i) the development hereby approved shall not be carried out otherwise than in accordance with the plan numbered DEV0074B received by the District Planning Authority on 22 March 2004 and the location plan numbered received by the District Planning Authority on 28 January 2004;
 - (ii) the use hereby approved shall only take place between the hours of 0600 hours and 2300 hours on Monday to Friday and between 0700 hours and 1400 hours on Saturdays. There shall be no operations on Sundays, Public or Bank Holidays;

- (iii) there shall be no deliveries to the site other than between 0700 hours and 1800 hours on Monday to Friday and between 0700 hours and 1400 hours on Saturdays;
- (iv) between 0600 hours and 0700 hours and 1800 hours and 2300 hours Monday to Friday, all doors to the bagging plant shall remain closed and line 3 and its hopper machine shall not be in use;
- (v) the use hereby approved shall not be commenced until the 2 metre high screen fence indicated on the approved plan has been constructed in accordance with full details to be first submitted to and approved in writing by the Local Planning Authority, and thereafter retained.

Main Issue

2. This is the effect varying condition 4 would have on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.

Reasons

3. The appeal site lies to the east of Mancetter Road, a busy thoroughfare with residential properties along it but at a notable distance from the appeal site. The appeal site is also south of the Coventry Canal where boats moor. On the opposite side of the canal to the appeal site is the Anchor Pub with a garden and beyond this, and a distance from the appeal site, are residential properties adjoining Leather Mill Lane.
4. The appeal site concerns a mineral and mineral products bagging, storage and distribution operation. The planning application proposes to extend the hours of this operation by one hour in the morning (from 6am) and by five hours in the evening (until 11pm) Monday to Friday. It is proposed that deliveries will not take place into or out of the site within these extended hours and therefore the application seeks only to change the hours of the processing operations on site.
5. Policy NW10 of the Local Plan¹ seeks to avoid and address unacceptable impacts upon neighbouring amenities, not least with regards to noise.
6. The Noise Assessment Report before me identifies that, between the extended hours of 6am and 7am and 6pm and 11pm, the level of noise from the processing plant would exceed the average background noise level at the public house. This level of exceedance would be in the region of 3dB higher than the lowest background level identified. This increase would not have a discernible effect on the living conditions of the occupiers of the public house and therefore would not have a significant adverse impact on the health and quality of life of these people.
7. With regards to people moored on the canal, the Noise Assessment Report concludes that the level of noise from the processing plant would not exceed the average background noise level at this position. In the absence of any specific or substantive evidence to suggest otherwise, I find that the living conditions of any person moored on the canal would not be jeopardised by

¹ North Warwickshire Local Plan, Core Strategy, Adopted October 2014

- intrusive levels of noise. This implies that there would be no harm to the popularity of the canal or its attractiveness as a tourist and leisure destination.
8. Beyond the immediate environs of the site there are residential properties along Mancetter Road and Leather Mill Lane. Concern has been raised that, despite these properties being some distance from the site, prevailing winds would carry noise such that it would be harmful to the living conditions of residents nearby. However, having found that the noise from operations on site would not have a discernible effect on those living within proximity to the site, I find no harm to those living further away.
 9. Nonetheless, the Noise Assessment Report is based on the doors to the bagging operation being closed and line 3 with its noisy auto vibrate hopper not being in use during the extended hours proposed. It is therefore necessary to restrict any planning consent with conditions to ensure that the site operates within these restrictions as an unfettered planning permission would result in escalated noise levels that would be harmful to the living conditions of those living close by.
 10. Third party concerns have been raised for the additional noise HGV deliveries would create during the extended hours. The application excludes deliveries from the extended hours proposed and therefore this is not a justifiable concern.
 11. I note that the Council's Environmental Health Officer recommended a temporary consent for monitoring purposes. However, in light of my findings and the lack of harm identified, I find no basis on which to consider a temporary permission necessary. Nonetheless, if noise levels were found at any time to be inappropriate, Environmental Health has processes in place to manage and take action against inappropriate levels of noise. I am satisfied that, with conditions as discussed above, harmful levels of noise could be dealt with by Environmental Health.
 12. In all, I find that to vary condition 4 to extend the hours of operation would not have a harmful effect on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance. Subject to the conditions discussed, the development would address the potential for unacceptable noise impacts and therefore the proposal would not be contrary to policy NW10 of the Local Plan.

Conditions

13. In allowing the appeal I am granting permission for the change of use described subject to conditions described above. Planning permission PHARXX/0114/2004/FAP will remain intact and therefore implementable too.
14. As well as the conditions on the original planning permission, I have before me a list of *without prejudice conditions* should the appeal be allowed. The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions for the original planning permission, unless they have already been discharged. With no details before me regarding the discharge of conditions I have repeated relevant conditions from the original permission and amended or added conditions where relevant, as explained below.

15. As the original planning permission has started, there is no requirement to impose conditions regarding time limits and demolition. A plans condition has been included for reasons of certainty. An hours of use condition limits the use of the premises to the hours applied for with time restrictive conditions regarding site operations to protect the living conditions of residents living nearby. These conditions are explicit in their requirements and therefore I consider them enforceable, contrary to the Council's view. In the interests of visual amenity I have repeated the condition regarding the provision of a high screen fence.

Conclusion

16. For the reasons given above, I conclude that the appeal should succeed. I will vary condition 4 of planning consent PHARXX/0114/2004/FAP, in line with the discussion above.

R Walmsley

INSPECTOR



Appeal Decision

Site visit made on 8 May 2018

by **H Baugh-Jones BA(Hons) DipLA MA CMLI**

an Inspector appointed by the Secretary of State

Decision date: 17 May 2018

Appeal Ref: APP/R3705/W/18/3195514

Land adjacent to Oak Lodge, The Drive, Maxstoke Lane, Coleshill B46 3DH

- 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 Arnold Holdings Ltd against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2017/0538, dated 28 September 2017, was refused by notice dated 5 January 2018.
 - The development proposed is construction of three detached dwellings and ancillary site works.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) the effect of the proposal on the character and appearance of the area; (ii) its effects on highway safety; and (iii) whether it would make satisfactory provision for waste and recycling collection.

Reasons

Character and appearance

3. The appeal site is of a rectilinear form and is currently occupied by rows of garages within a residential area. There is a mix of dwelling styles next to the site and in the surrounding streets. There has been an accretion of modest residential development in the vicinity of the site in recent years through backland and infill schemes.
4. The scheme comprises two detached two-storey dwellings and one at first floor that would sit above three carports to create a 'coach house' style dwelling. The design and layout of the two-storey dwellings would be in general conformity with the surrounding built character.
5. Although the coach house style is not a particular feature of the local area, the overall form of the building including its use of modest front dormers would be broadly reflective of the dwelling granted permission to the rear of 13 and 15b Coventry Road. The appearance of the proposed coach house would not appear unduly out of place in the overall residential context.
6. However, it would have a narrow amenity space that would be tightly hemmed in by the side boundaries of Oak Lodge and the remaining area of garages immediately to the north of the site. It would sit behind the rear corner of the

coach house and would be accessed through one of the garages. Overall, the form of the outdoor space and its spatial relationship to the dwelling it would accompany would appear contrived and out of keeping with the larger plots of surrounding dwellings.

7. Furthermore, the coach house would sit in front of and in close proximity to plot 2 and at a right angle to it. This spatial arrangement would not accord with the surrounding development pattern whereby dwellings sit side-on to each other and which has been maintained by other recent developments. Although the proposed two-storey dwellings would generally accord with the prevailing development pattern, in combination with the coach house, the overall effect would be one of a harmful cramped development.
8. For the above reasons, the appeal scheme would have an adverse effect on the character and appearance of the area. Thus, it would run counter to saved policies ENV12 and ENV13 of the North Warwickshire Local Plan (2006) (LP) that together amongst other things, only seek to permit development if all of its elements are well related to each other and harmonise with the immediate setting and wider surroundings including through its appearance. These policies broadly accord with the National Planning policy Framework requirement for good design.
9. The proposal would also run counter to policy NW12 of the North Warwickshire Core Strategy (2014) (CS) that amongst other things requires proposals to demonstrate a high quality of sustainable design that positively improves the individual settlement's character, appearance and environmental quality.

Highway safety

10. There is general agreement between the parties that the proposal would not result in an intensification of vehicle access along The Drive. Saved LP policy TPT3 seeks to resist development where it would not make provision for safe and convenient pedestrian and vehicular access and circulation. Saved LP policy ENV14 has broadly similar objectives and also only permits development where access to the site is safe and the local road network is able to accommodate the traffic to and from it without problems of congestion, danger or intimidation caused by the size and number of vehicles.
11. The highway authority has no objection to the proposed development subject to the imposition of two conditions. However, the Council considers that one of these could not be suitably enforced although it is unclear from the evidence as to why it considers that to be the case.
12. Planning Practice Guidance says that unenforceable conditions include those for which it would, in practice, be impossible to detect a contravention or remedy any breach of the condition or those concerned with matters over which the applicant has no control. I do not consider that it would be impossible to detect a breach of the suggested condition in practice as monitoring of vehicle movements and their sizes could take place.
13. Moreover, on the basis of the evidence before me and from what I observed at my site visit, I see no clear reason why delivery vehicles in compliance with the suggested condition would not be able to enter the site, turn and leave it in a forward gear. Accordingly, I do not find that the proposal would result in the

harmful effects suggested by the Council and in this respect it would accord with the requirements of saved LP policies TPT3 and ENV14.

Waste and recycling

14. The Council requires that waste and recycling can be collected at the kerbside. In order for this to take place, it would be necessary for the occupants of the two-storey dwellings to take their bins to Coventry Road whilst those in the coach house would take theirs to Wyndshiels via the proposed amenity space and then along an alleyway.
15. Guidance for the walking distance between waste and recycling storage points and where it is collected from is provided in *Manual for Streets*. I have no substantive evidence to demonstrate that the above collection points would be an unacceptable walking distance from the points of storage. The provision of waste and recycling storage points within the site is a matter that could be addressed by a suitably worded condition. Accordingly, I find that the proposal would make satisfactory provision for waste and recycling collection.
16. For the above reasons, I do not find any conflict with saved policies TPT3 and ENV14.

Other Matter

17. The appeal site is located close to the southern part of the Coleshill Conservation Area (CA) and thus has the potential to form part of its setting. I therefore have a statutory duty to consider whether the proposal would preserve or enhance the character or appearance of the CA.
18. The CA in this part of the settlement is inward looking by way of its focus on Coventry Road. In my view, the site is located sufficiently away from the CA and within a residential environment of varying character to have any material influence on the CA's setting. Thus, no harm would be caused to the significance of this designated heritage asset.

Conclusion

19. I have not found that the proposal would be unacceptable in relation to highways or waste and recycling collection matters. However the proposal would result in harm to the character and appearance of the area. Consequently, the appeal does not succeed.

Hayden Baugh-Jones

Inspector

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is crucial for ensuring transparency and accountability in the organization's operations.

2. The second part of the document outlines the various methods and tools used to collect and analyze data. It highlights the need for consistent and reliable data collection processes to ensure the validity of the results.

3. The third part of the document describes the different types of data that are collected and how they are used to inform decision-making. It notes that a combination of quantitative and qualitative data is often used to provide a comprehensive view of the organization's performance.

4. The fourth part of the document discusses the challenges and limitations of data collection and analysis. It acknowledges that there are often obstacles to obtaining complete and accurate data, and that these must be carefully managed.



Appeal Decision

Inquiry Held on 30 April, 1, and 2 May 2018

Site visit made on 2 May 2018

by **David Murray BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 May 2018

Appeal Ref: APP/R3705/W/17/3189584

Land east of St Lawrence Road, Ansley, CV10 9PW.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Muller Property Group against the decision of North Warwickshire Borough Council.
 - The application Ref. PA/20170352, dated 5 July 2017, was refused by notice dated 13 October 2017.
 - The development proposed is the erection of up to 70 dwellings with details of access, layout, scale, appearance and landscaping being reserved matters.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 70 dwellings at land east of St Lawrence Road, Ansley, CV10 9PW, in accordance with the terms of the application, Ref. PA/20170352, dated 5 July 2017, and the plan submitted with it, subject to the conditions set out in the attached Schedule.

Procedural and preliminary matters

2. On the second day of the Inquiry the Council advised that it would not be continuing with its objection to the development proposed in the current appeal and no longer defended the reason for refusal. This decision had been taken in the light of the Secretary of State's decision on appeal APP/R3705/W/16/3149827, dated 21 March 2018 and concerning a proposed business (B2) development at Daw Mill Colliery in Arley. The Secretary of State agreed with the conclusion of his Inspector, that Policy NW2 regarding 'Settlement Hierarchy', and other specified policies in the Council's Core Strategy 2014, were 'out-of-date', particularly as it relied on settlement boundaries. The Council therefore accepted that the harm identified in the current appeal proposal does not significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework (the Framework) as a whole. Therefore, the Council now concludes that planning permission should be granted for the development proposed in this appeal. Notwithstanding the Council's revised position at the Inquiry, I have to consider the local community's stated written and oral objections to the proposal as set out on behalf of Ansley Parish Council and by individual residents.

3. The application is in outline format with all detailed matters reserved for subsequent approval. I have therefore treated the layout plan (drawing 492/100/Rev F) as submitted with the application, for illustrative purposes only.
4. A draft planning obligation in the form of a Unilateral Undertaking (UU) made under section 106 of the Act was submitted at the Inquiry and discussed by the main parties. A final version dated 14 May 2018 and signed by the landowner and the appellant was submitted after the close of the Inquiry. In general terms, the UU covenants the signatories, should planning permission be granted on appeal, to make provision for affordable housing as part of the development, and to pay various specified financial sums in respect of NHS/public health facilities and sustainable travel packs. I have considered the UU as a material consideration subject to my comments in paragraphs 29-33 below.
5. Although a written note of a potential costs application was submitted on behalf of the appellant prior to the Inquiry, no formal application for costs was made by any party at the Inquiry.

Main Issues

6. The main issues are:
 - Whether the proposal accords with the North Warwickshire Core Strategy 2014, including the provisions of Policy NW2, or would materially harm the implementation of the strategy in the development plan;
 - Whether the Council can demonstrate a five year supply of specific deliverable sites for new housing; and
 - The cumulative effect of the development on the character of the village of Ansley, including taking into account the criteria set out in Core Strategy Policy NW12.

Reasons

Background

7. The appeal site comprises about 2ha of equestrian grazing land which lies in a generally central position in the village of Ansley to the east of existing housing around St. Lawrence Road and to the north of existing allotments and other frontage housing along Birmingham Road. To the north of the site also lies the residential garden of an existing house (Magnolia House) and then another paddock in different ownership and beyond this lies open countryside. This rural land is not Green Belt which, generally, only lies to the south-west of Ansley. Further, open land to the east of the appeal site is presently undeveloped but was subject to appeal APP/R3705/W/16/3149572 where in early 2017 outline planning permission was granted for residential development of up to 79 residential units. The appellant now refers to that scheme as the Phase 1 consent and so will I. It is indicated that this development land would provide access from Tunnel Road to the residential development now proposed on the appeal site. The current application also proposes that 40% of the residential development would be on-site affordable housing.

Policy Context

8. The development plan includes the Council's Core Strategy adopted in 2014 (CS) and saved policies in the North Warwickshire Local Plan 2006 (LP) although the Council accepts that the housing policies within this local plan have been superseded by the Core Strategy.
9. The Council is also preparing a new local plan - the North Warwickshire Local Plan 2016 (now referred to as the emerging local plan (eLP)). This was published in draft in late 2016 and the revised 'Publication' version was consulted on in a period that expired in March 2018. The Council says that the plan has now been submitted for Examination by an inspector in due course. The provisions of the eLP are capable of being a material consideration, however, I understand that there are outstanding objections to the policies and provisions of the plan, including Policy LP2 concerning the Settlement Hierarchy and the associated settlement boundaries, which will need to be considered at examination. This limits the weight that can be applied to the eLP at this stage in the plan-preparation process.
10. I also note that in order to meet the wider needs of the area under the 'duty to co-operate' as set out in paragraphs 178-181 of the Framework, it is apparent that the eLP will seek to help meet the housing and employment needs of other parts of the West Midlands, particularly Tamworth, Birmingham and Coventry.

Whether the proposal accords with the development plan

11. At the outset it is clear that the proposal does not accord with Policy NW2 of the Core Strategy. This sets out a settlement hierarchy which defines settlements, according to a range of criteria including services, facilities and connectivity as examined in the Council's Settlement Sustainability Assessment 2010. Part of the justification for this strategy is to 'help achieve vibrant sustainable communities within a sustainable pattern of development'¹. Within this hierarchy, Ansley is classed as a category 4 settlement - (that is a small village with limited facilities) and within this category the policy indicates that new development will be limited to that identified in the Plan or in a Neighbourhood Plan (although the latter has not been produced in Ansley). Moreover, Policy NW5 indicates that Ansley will cater for 40 dwellings over the plan period until 2029, usually on sites of no more than 10 units at any one time. Further, the CS utilises the settlement boundary of Ansley used in the LP and this does not include the appeal site or the phase 1 land within the settlement boundary.
12. As the appeal proposal involves land that is outside the settlement boundary and is of a scale that would greatly exceed the total and on-going levels put forward for the village, the principle of the location and scale of the proposed residential development on the appeal site conflicts with the provisions of the current development plan. However, the weight that can be given to the current and applicable development plan is very limited. As mentioned in paragraph 2 above, the Secretary of State has recently found that Policy NW2 is 'out of date'. As this policy in the Core Strategy is a key element in the distribution of new housing in the borough this status of being 'out of date' means that the housing numbers and distribution can no longer be relied on.

¹ (Paragraph 6.6 of the Core Strategy)

Therefore the housing development proposed cannot be held to materially harm the implementation of the strategy.

13. In terms of the emerging plan, similar provisions are put forward in a settlement hierarchy in Policy LP2, and Ansley is still regarded as a category 4 settlement and with a site for 12 houses allocated in the plan in the northern part of the village. Further, the settlement boundary put forward for Ansley village excludes the appeal site, although it now recognises the development of the phase 1 land as part of the built up area of the village. However, as there are objections to the Submission version of eLP, including to Policy LP2, which will have to be considered at the Examination, only limited weight can be placed on this policy at this stage in the plan-making process.

Housing land supply

14. Paragraph 47 of the Framework indicates that Councils must be able to demonstrate five years supply of new housing set against their requirements. The Statement of Common Ground No.2 (SCG/2) (document 12) indicates that the appellant's team does not challenge the Council's written evidence on housing land supply. Further, it will be clear from my comments above that as the Secretary of State has accepted that the critical policy on 'settlement hierarchy' put forward in policy NW2 of the Core Strategy should be considered as 'out-of-date', then the 'titled balanced' as generally regarded as applying in the fourth bullet point of paragraph 14 of the Framework is engaged. On this basis there is no benefit to be gained by assessing housing land supply in detail, as per paragraph 49 of the Framework, as the same outcome on the status of the policy, as being 'out of date', would be reached. Moreover, the local community, in terms of the parish council and individual residents, did not put forward any specific evidence on housing land supply. I therefore do not need to consider this issue further.

Effect on the character of Ansley

15. The Council describes Ansley as a dispersed linear settlement spread out along the Birmingham Road but recognise that the village has grown with development in depth around St Lawrence Road in the northern part and around Nuthurst Crescent in the southern part up to Tunnel Road. Further there is new development committed off Tunnel Road with the phase 1 site stretching up to the rural edge with open countryside. This pattern of development leaves the open land in the centre of the village comprising the appeal site, the allotment gardens and another private paddock.
16. In assessing the effect of the development proposed I have had regard to the general requirements of CS Policy NW12, (which is not concerned with the supply of housing and has not been found to be out of date) and at my site visit I considered the setting of the appeal site from the land itself and the public right of way (PRoW) which runs along the rear of properties facing Birmingham Road and adjoins the allotments, and from Tunnel Road.
17. Although the appeal site is open, the land used for equestrian grazing has an urban setting in that it is largely contained by residential development and the allotment gardens which although mainly open contain many small sheds. Visually the appeal site has a separate and distinct character to the area of open countryside to the north and east. I find that residential development on the 'L' shape of the appeal site would not materially harm the overall setting of

the village but visually and physically it would round off what exists and also what has planning permission to be built. The impact on public views from the PRoW would be limited in extent to a relatively short distance and the environs of the footpath would still benefit from the visual break of the allotment gardens.

18. I acknowledge that the occupiers of some of the adjacent houses in St Lawrence Road and Birmingham Road that adjoin the appeal site would have a different outlook from their properties and the appellant's impact assessment says that this local impact could be 'significant'. The present rural aspect would be changed materially and long distance views towards the countryside could be lost or curtailed, however, there is no legal right to a particular view over other private land. The proposal would result, in part, in new housing sited alongside other housing and there is no reason in principle to suggest that such a relationship would be materially harmful to the living conditions currently enjoyed by the occupiers of these properties.
19. In terms of the wider setting of the village, the Inspector who considered the phase 1 appeal identified one of the key characteristics of the village as the staggered and irregular edge along the eastern side of the settlement. Taking account of the likely development on the phase 1 site, whilst this would be likely to have a smooth external edge to the countryside following the line of a field hedge boundary, in the vicinity of the appeal site the external boundary would still be staggered and irregular, caused by the siting and presence of Magnolia House and its curtilage and other grazing land.
20. Given the largely built up nature of surrounding land I am satisfied that the principle of the residential development proposed would visually and physically integrate well with the surroundings of the site. Although dealing with an outline application, the 'reserved matters' would still be subject to policies that would seek to encourage good design and integration with the village. Therefore I have no reason to doubt that the resulting detailed scheme would positively improve the visual character, appearance and environmental quality of the area in the context of the first bullet point of Policy NW12. Neither is there evidence that the requirements of the other bullet points in the policy would be conflicted with.
21. I recognise that the appeal scheme and the phase 1 development could result in some 150 houses being added to the village in a relatively short period. This together with other permissions for housing could represent an increase in the population of the village of about 65% over 5 years as suggested by local people and the parish council. This would involve a significant change in Ansley over a short period rather than the limited organic growth envisaged in the Core Strategy. However, apart from the raw numbers of housing involved, there is little evidence before me to demonstrate that such a level of housing would have a material and unacceptable impact on the social character of the village. Residents refer to the lack of commercial and social facilities in the village at present and I noted at my site visit that a village pub and a social club had closed. To be balanced with this, the appellant provides evidence of the likely expenditure that the residents of the new housing could bring to the area and it is suggested that such expenditure could help keep facilities open and can encourage further investment by attracting new services to the area.

22. Overall, on this issue, I find that the proposed housing development in principle would be likely to visually and physically integrate positively with the present character and appearance of the village, although there would be a change to the present rural outlook of the occupiers of some adjoining properties, and the significant cumulative scale of new development in a small village has to be recognised.

Other considerations

23. The local community raises fundamental concerns about the effect of the additional traffic generation on the highway network around the village and also question whether the proposal would be sustainable development in this location which is said to be isolated from services and facilities. In support of this the parish council tabled a copy of a letter from the Highway Control Engineer of Warwickshire County Council who raised objection to application 180049, a later resubmission of the appeal scheme by the appellant. However, it appears that this consultation response was an interim comment which has now been superseded.

24. The evidence submitted at the Inquiry includes a Statement of Common Ground - Transport (SCG) agreed between the appellant's highway consultant and the Highway Authority dated April 2018 (Document 1). This SCG Transport includes a Technical Note dated March 2018 which deals with the previous concerns of the highway authority and updates the original Transport Assessment and also provides details of a pedestrian count undertaken in March 2018. The SCG (Transport) concludes that on the basis of the further information provided the highway authority confirm that the previous reasons for objection have been addressed and that there are no outstanding objections to the appeal scheme.

25. Consideration is given in the SCG Transport to the parish council's request for a 'dropped crossing' at Tunnel Road for movements between Birmingham Road and Ansley Road and I considered the nature of the junction at my site visit. There are informal tarmac sections of pavement just off the main roundabout and it appeared to me these represent a desire line for pedestrian movement across Tunnel Road. Further the form of crossing envisaged by the parish council would aid safe pedestrian movement and improve accessibility to Galley Common and beyond.

26. Overall on highway matters, on the basis of the expert evidence submitted on highway matters and in the absence of specific evidence to the contrary, I have to conclude that the traffic generation arising from the development of up to 70 houses, on its own and in conjunction with phase 1, would not result in a severe cumulative effect on the local transport network, which is the relevant test set out in the third bullet point of paragraph 32 of the Framework.

27. In terms of the general accessibility of the village, the SCG Transport sets out the general components of modes of travel from the appeal site and around the village and the highway authority does not raise objection to the scale of development proposed on accessibility grounds. Further, I note that in the Sustainability Appraisal Report - Dec 2017² the appeal site was rated as having a minor positive effect in relation to the sustainability objective of 'Increasing

² NWLP: Draft Submission Version - Sustainability Appraisal Report: Appendices (LUC).

use of public transport, cycling and walking and reducing use of the private car'.

28. I conclude on this aspect that the location of the site for residential development would result in a sustainable pattern of growth appropriate to this rural area and which can facilitate the use of sustainable modes of transport and that this would be generally in accordance with the guidance in paragraph 30 of the Framework.

Unilateral Undertaking

29. The proposal also includes the provisions of the Unilateral Undertaking (UU) as I described in paragraph 4 above. In assessing this formal obligation I have had regard to the updated statements - 'Evidence for 106 Developer Contributions for services' - (document 1) and the CIL Regulations Compliance Statement (documents B)
30. In terms of affordable housing the UU make provision for 40% of the total dwellings constructed on site to be affordable housing. This provision is in accordance with the requirements of Policy NW6 of the Council's Core Strategy. Moreover, I note from the written evidence submitted by Mr Stacey on behalf of the appellant that there is an acute need for affordable housing across the Borough and in Ansley he has identified that there has been a loss of 9 affordable houses in the last six years through people exercising the 'right to buy'. Further he states that in April 2017 there were 49 households on the Housing Register with an identified need for affordable housing in Ansley. The provision of up to 28 affordable homes secured through the UU is therefore a consideration to which I attach significant weight.
31. Regarding the specific contributions to George Eliot NHS and Public Health facilities, the policy basis for the requirement and the justification for these is set out in the accompanying evidence which demonstrates the need that will flow from the additional population arising from the proposed housing development whereas the existing facilities are operating at full capacity. The justification also relates the need for improvements to health facilities to the general provisions of the Framework in promoting healthy communities.
32. Finally the Sustainable Travel Pack contribution would be used to ensure that the occupiers of each new property be given information on sustainable modes of transport to promote such travel in the local area and help deliver road safety education. I regard these travel packs as integral to the appellant's evidence about the proposed development integrating with the wider accessibility of the area and making use of a range of transport modes.
33. I conclude that the terms of the UU are necessary to make the development acceptable in planning terms; are directly related to the development; and are fairly and reasonably related in scale and in kind to the development. I am therefore satisfied that the UU is an obligation which meets the tests laid out in paragraph 204 of the Framework. The relevant parts of the UU also fulfil the tests in Regulation 123 of the Community Infrastructure Levy Regulations 2011 (as amended) and I have not been advised that any contribution would exceed the stated limit for a particular 'pooled contribution'. I will therefore take all of the UU into account as a material consideration.

Planning balance

34. Bringing together the conclusions I have reached on the main issues, the proposal for up to 70 dwellings on the appeal site conflicts with the provisions of Policy NW2 of the Council's Core Strategy as the site lies outside of the defined settlement boundary. Further the scale of the development would exceed the general limits of 10 units put forward in Policy NW5. However, only very limited weight can be given to applying Policy NW2 now as the Secretary of State has recently found that it is 'out of date'.
35. In terms of the Council's emerging Local Plan, the proposal also conflicts with Policy LPP2 as the site lies outside of the updated settlement boundary however, only limited weight can be placed on the plan at this early stage in the plan-making process prior to examination.
36. In terms of the effect on the character of Ansley I have found that the principle of housing development would be likely to visually and physically integrate with the surroundings of the site and would not harm the village's setting in the wider countryside. However, the open field aspect to the rear of some of the existing houses would change significantly and the cumulative scale of new development on the village has to be recognised. Nevertheless, I do not consider that the actual living conditions of the occupiers of adjoining houses would be likely to be materially harmed.
37. Other relevant considerations include the effect of development on the highway network and the overall accessibility of the site and the village. On the evidence put to me, I have found that it has not been demonstrated that the effect of development on the local highway network would be 'severe' and that the location of the site would result in a sustainable pattern of growth which can facilitate the use of sustainable modes of transport. The proposal would also make appropriate provision for affordable housing which the village is shown to be in need of.
38. In balancing the benefits and adverse effects of development, I recognise the strength of local people's views against the development. The parish council said the recent parish survey indicated that some 93% of responders were against the further development in the village. Even if I were to place great weight on this factor, in the absence of a Neighbourhood Plan and with the very limited weight to be given to the Policy NW2, the other material considerations have to be weighed in the context that the Framework seeks to achieve sustainable development and within this the government seeks to significantly boost the supply of housing.
39. Overall, I conclude, like the Council at the Inquiry, that the adverse effects identified with the proposal do not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Therefore, in accordance with the final bullet point of paragraph 14 of the Framework, planning permission should be granted for the development

Conditions

40. In terms of conditions, the Council recommends 10 be imposed on any permission which I will consider under the numbering put forward. As the scheme is in outline form with all matters reserved it is necessary to impose conditions 1- 4 in relation to the timing of the development and in relation to

the necessary reserved matters. Further, in order to secure satisfactory access to the site this should be obtained from Tunnel Road (via phase 1 land) and I will impose condition 5a. Retaining existing hedgerows on site will contribute to the overall environmental quality of development and I will impose condition 5b although with modified wording. I am also satisfied that condition 5c is necessary to limit the possible scale of new buildings adjoining the allotment land in order to minimise the effect on public views. It is reasonable and necessary to specify the finished floor levels of the properties to ensure that these are not liable to problems though surface water, as per condition No.6 and condition No.7 is needed to ensure that foul and surface water is disposed off properly in the interests of avoiding flooding or pollution. I am also satisfied that a Construction Management Plan (condition No.8) is necessary in order to ensure that the construction phase of development does not lead to unacceptable local conditions. In order to ensure that the eventual layout of the housing development is well integrated with neighbouring development and permeable, I will impose condition No.9 to ensure the linking of the footpaths. Finally, given my comments in paragraph 25 above about the need to improve the pedestrian crossing in Tunnel Road in the vicinity of the roundabout in Birmingham Road/Ansley Road I will impose condition 10.

Conclusion

41. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the approved site location plan ref 492-001-A
- 2) Details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters"), along with public open space of a size in general accordance with illustrative site layout plan 492-100-F, shall be submitted to the Local Planning Authority for approval in writing before any development takes place and the development shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 4) 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.
- 5) No more than 70 dwellings shall be constructed on the site with all vehicular access obtained from Tunnel Road, Ansley.
- 6) The layout and landscaping plans submitted as reserved matters to satisfy condition No.2 above shall make provision for the hedgerows on the site to be retained except where required for access.
- 7) The layout of the dwellings shall not include any dwelling bordering the allotments that exceeds 2 storeys in height.
- 8) Finished floor levels for properties in the surface water outline should be set to a minimum of 300mm above ground level. All other finished floor levels shall be set no lower than 150mm above existing ground levels.

Pre-commencement conditions

- 9) No development shall commence on site until a detailed surface water drainage scheme for the development based on sustainable drainage principles and an assessment of the hydrological and geo-hydrological context of the site has been submitted to the Local Planning Authority for approval in writing. Development shall be carried out in accordance with the approved details.
- 10) No development shall take place on site until a Construction Management Plan has been submitted to the Local Planning Authority for approval in writing, which shall remain in force throughout the construction period.

The Plan shall provide details of the arrangements for:

- Details of the location of storage compounds, haul roads and car parking for site operatives and visitors;
- Details of the hours of working and the hours of delivery of goods, plant and materials;
- Wheel washing facilities and any dust suppression measures;
- Noise control during construction;
- Site lighting details;

- Measures for the protection of trees that are to be retained;
- Details of household refuse from occupied dwellings during construction; and
- Details of the contact for any local concerns with the construction activities of the site.

Pre-Occupation conditions

- 11) No development shall take place until a scheme to provide for pedestrian access between the development site and public right of way ref. PROW AE138 has first been submitted the Local Planning Authority for approval in writing. Development shall be carried out in accordance with the approved details prior to first occupation of the dwellings.
- 12) A scheme to provide a dropped kerb pedestrian crossing across Tunnel Road (from Birmingham Road to Ansley Road) shall be submitted to the Local Planning Authority and shall then be completed in full to the written satisfaction of the Local Planning Authority prior to the occupation of the first house hereby approved.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms T Osmund-Smith of Counsel, Instructed by Mr S Maxey, Assistant Chief Executive and Solicitor to the Council.

She called

Mr A Murphy, BA(Hons), Director, Stansgate Planning Consultants Ltd.
MSc, MRTPI

Mr J Brown Head of Development Control, North Warwickshire Borough Council.
(Spoke regarding Conditions)

FOR THE APPELLANT:

Mr K Garvey of Counsel, Instructed by Mr M Wedderburn, Senior Associate, Knights Professional Services Ltd., on behalf of Muller Property Group.

He called

Mr M Wedderburn BSc Senior Associate, Knights Professional Services Ltd.
(Hons), MRTPI
(Spoke regarding conditions)

(No other witnesses were called)

INTERESTED PERSONS:

Mr Greedy	Chair, Ansley Parish Council
Mr Lyons	Representative of Ansley Parish Council
Mr Holmes	Local resident
Mr Rees	Local resident
Mr Hill	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Statement of Common Ground - Transport - (Signed by SCP on behalf of Appellant and by Highway Control Engineer - Warwickshire County Council.)
- 2 Revised copy of Core Document 15 re NHS Representation (Council).
- 3 Rebuttal Proofs from Mr Wedderburn on behalf of the appellant.
- 4 Bundle of Court decisions and appeal decisions to be referred to legal submissions (both main parties).
- 5 Written copy of Opening Statement for the Appellant.
- 6 Written copy of Opening Statement for the Council.
- 7 Statement read by Mr Lyon on behalf of PC and village residents.

- 8 Extract from eLP re Ansley and paragraph 5.16 re allocation ANS1 and Green Belt boundary (from Council).
- 9 Statement read by Mr Holmes.
- 10 Draft Statement of Common Ground re Housing Land Supply.
- 11 Copy of Secretary of State decision on appeal APP/R3705/W/16/3149827
- 12 Statement of Common Ground No.2 - signed by main parties.
- 13 Conditions recommended by the Council.
- 14 Draft Planning Obligation Unilateral Undertaking (unsigned and not dated).
- 15 Closing Note on behalf of Local Planning Authority.
- 16 Closing Statement on behalf of appellant.

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

- A Section 106 Planning Obligation Unilateral Undertaking - signed and dated 14 May 2018.
- B CIL Compliance Statements - May 2018

The first part of the paper discusses the general theory of the firm, focusing on the role of capital structure and the trade-off between debt and equity. It examines how the firm's investment opportunities and growth prospects influence its financing decisions. The second part of the paper applies this theory to the case of leveraged buyouts (LBOs), where the firm is typically taken private and its capital structure is significantly increased. The paper analyzes the effects of LBOs on firm performance, including changes in operating leverage, cash flow, and profitability.

The paper concludes by discussing the implications of the findings for corporate finance theory and practice. It suggests that the trade-off theory provides a useful framework for understanding the financing decisions of firms, particularly in the context of LBOs. The paper also highlights the importance of considering the firm's investment opportunities and growth prospects when evaluating its capital structure.