

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

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

14 MAY 2018

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Monday 14 May 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 **Corporate Plan Targets** – Report of the Head of Development Control.

Summary

The report describes the action taken on a number of targets as set out the 2017/2018 Corporate Plan.

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

- 6 **Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April 2017- March 2018** – Report of the Report of the Chief Executive

Summary

This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April 2017 to April 2018.

The Contact Officer for this report is Robert Beggs (719238).

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

Summary

The report brings Members up to date in respect of the recent Daw Mill appeal decision.

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

8 **Exclusion of the Public and Press**

Recommendation:

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

**EXEMPT INFORMATION
(GOLD PAPERS)**

9 **Tree Preservation Order – Report of the Head of Development Control.**

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

JERRY HUTCHINSON
Chief Executive

Agenda Item No 4

Planning and Development Board

14 May 2018

Planning Applications

Report of the Head of Development Control

1 Subject

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

2 Purpose of Report

2.1 This report presents for the Board decision, a number of planning, listed building, advertisement, proposals, together with proposals for the works to, or the felling of trees covered by a Preservation Order and other miscellaneous items.

2.2 Minerals and Waste applications are determined by the County Council. Developments by Government Bodies and Statutory Undertakers are also determined by others. The recommendations in these cases are consultation responses to those bodies.

2.3 The proposals presented for decision are set out in the index at the front of the attached report.

2.4 Significant Applications are presented first, followed in succession by General Development Applications; the Council's own development proposals; and finally Minerals and Waste Disposal Applications. .

3 Implications

3.1 Should there be any implications in respect of:

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

4 Site Visits

4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.

4.2 Members are reminded of the "Planning Protocol for Members and Officers dealing with Planning Matters", in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 11 June 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/2018/0011	4	Michael Drayton School, The Woodlands, Hartshill, Temporary installation of a Portakabin classroom building for 60 weeks from July 2018.	General
2	PAP/2018/0053	8	Land South of Gardeners Cottage, Pooley Lane, Polesworth, Outline application (access only) for the residential development of up to 40 dwellings	General
3	PAP/2018/0082	31	92, Coleshill Road, Hartshill, Demolition of existing 3 storey retail building and demolition of canopy on adjacent building. Erection of new retail unit	General
4	PAP/2018/0094	47	St Andrews Home, Blythe Road, Coleshill, Removal of condition No.3 of PAP/2017/0267 relating to the occupation of the eight bungalows prior to the completion of the refurbishment works to St Andrews House	General
5	PAP/2018/0095	86	20, Hawthorn Way, Hartshill, Nuneaton, Works to trees protected by tree preservation order	General
6	PAP/2018/0133	97	St Georges House, Gerards Way, Coleshill, Work to tree protected by a tree preservation order	General

General Development Applications

(1) Application No: CON/2018/0011

Michael Drayton School, The Woodlands, Hartshill, CV10 0SW

Temporary installation of a Portakabin classroom building for 60 weeks from the start of July 2018, (prior to submission of a further planning application for a permanent extension to school to allow transition to 5 form entry) for

Warwickshire County Council

Introduction

This is an application which the County Council will determine and the Borough Council has been invited to submit representations as part of the process.

The Site

The School is located between Church Road and The Woodlands within the centre of Hartshill surrounded by residential property on three sides with the cemetery alongside the fourth. It is a single storey building with a large playground and playing fields. Staff vehicular access is via The Woodlands.

It is more particularly shown at Appendix A

The Proposal

The School is presently a four form entry junior school with just over 500 pupils attending. Proposed house building in its catchment area – both in the Nuneaton and the North Warwickshire Borough Council areas – will increasingly put pressure on accommodation and thus extensions to the School are planned. In order to provide immediate needs arising in the new Academic year 2018/19 prior to that extension work's completion, the County Council is proposing a temporary classroom to be located towards the east elevation – that facing Church Road. It would be placed on the playground not the playing fields. The period requested is 60 weeks – until September 2019.

Development Plan

The Core Strategy 2014 – NW2 (Settlement Hierarchy) and NW10 (Development Considerations)

Other Material Planning Considerations

The National Planning Policy Framework 2012

Observations

Members will be aware that infrastructure provision has been one of the key concerns in respect of new house building now proceeding and arising from further allocations. This is the response to that in respect of junior school accommodation in Hartshill. The wide catchment already extends to Galley Common, Ansley Common and to Camp Hill where new house building is proceeding. The School is already large and the proposals are to add permanent extensions to allow the expansion from a four form entry to a five form entry.

The current application is a step towards that objective to overcome an immediate concern from the start of the next academic year.

There are no visual or amenity impacts arising given its temporary nature and its separation distance from residential property. It neither takes up any significant areas of playground.

As is usual with other schools, it is the morning and afternoon drop off and collection, that is the main issue. Local roads do get very congested. It is therefore recommended that the County Council as Highway Authority looks to see if it could re-use presently wide grass verges alongside the roads within The Woodlands as parking lay-bys. Whilst this might not be directly relevant to this current proposal, the matter will need consideration at a later date when the permanent extension works are being considered.

Recommendation

That there is no objection to this current proposal but that the County Council be requested to consider the potential for increased car parking by replacing grass verges within The Woodlands estate with parking lay-bys.

BACKGROUND PAPERS

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

Planning Application No: CON/2018/0011

Background Paper No	Author	Nature of Background Paper	Date
1	Warwickshire County Council	Letter	23/4/18

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.



(2) Application No: PAP/2018/0053

Land South of Gardeners Cottage, Pooley Lane, Polesworth,

Outline application (access only) for the residential development of up to 40 dwellings, for

Mr K Holloway - N P Holloway And Son

Introduction

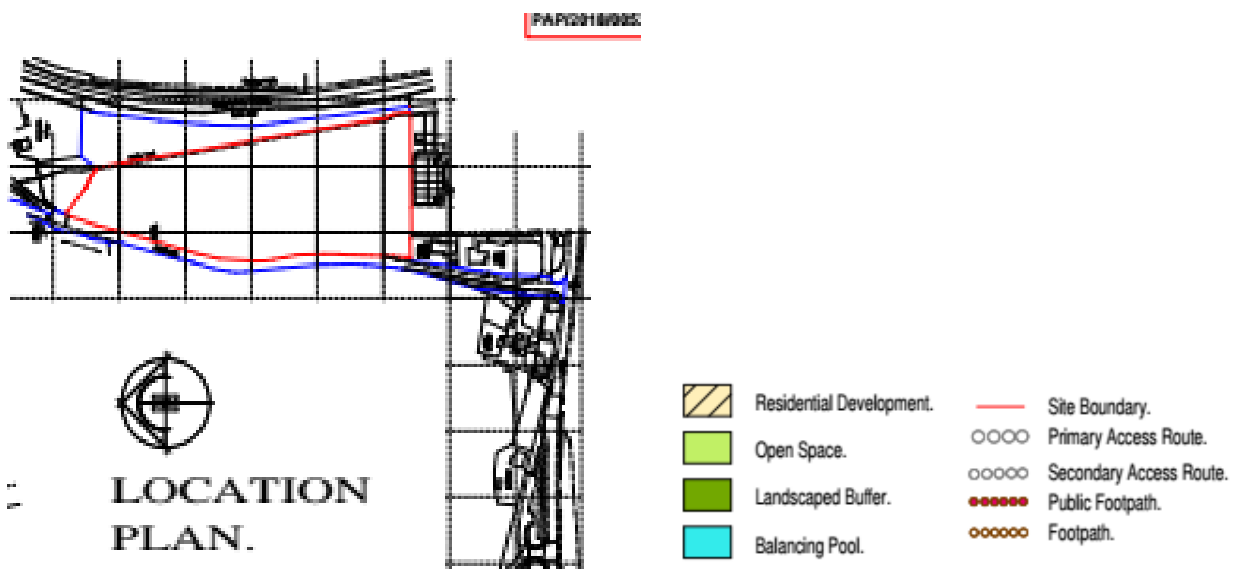
This application is reported to the Planning and Development Board at the discretion of the Head of Development Control in view of the planning history of the site.

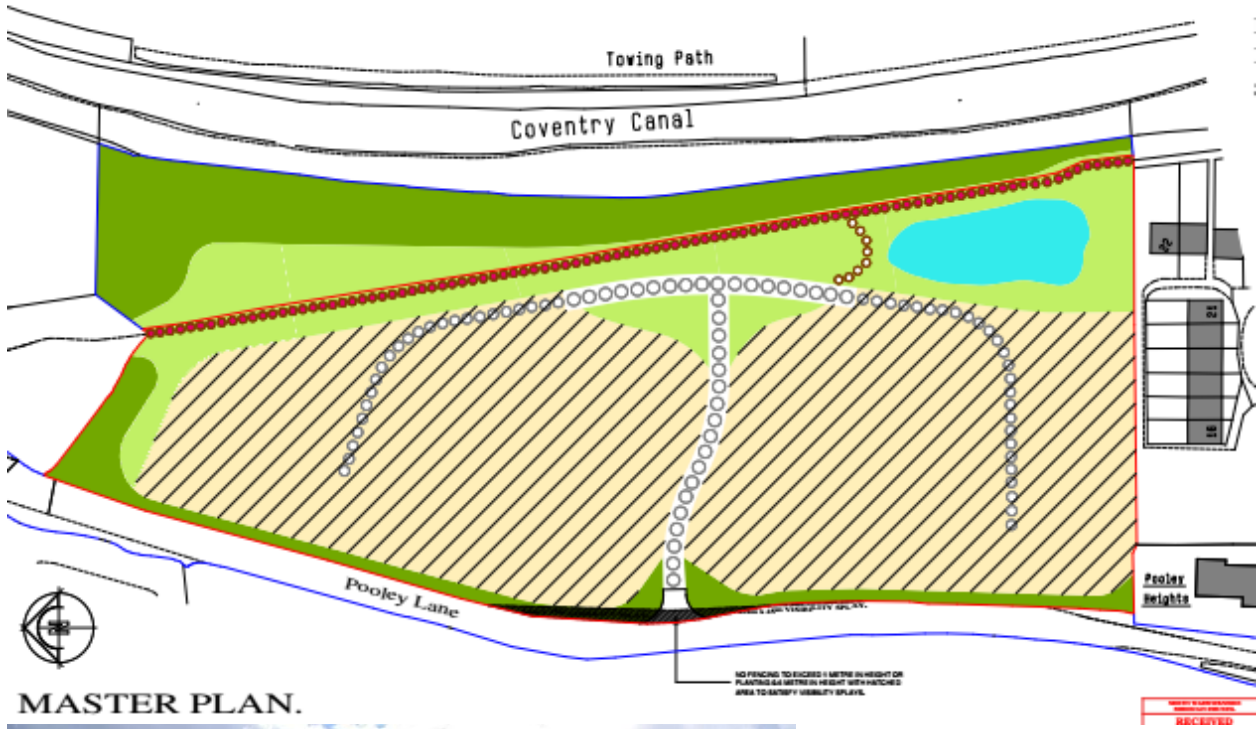
The Site

The proposed development site lies to the north of the housing development known as The Lynch off the B5000 on the west side of Polesworth. The site is bound by Gardeners Cottage to the north; the Coventry Canal and public footpath AE16 to the east, the Lynch to the south and Pooley Lane to the west. The settlement of Polesworth lies to the east of the site and the M42 is further to the west.

The site measures some 2 hectares and is bound by mature hedgerows along its northern and western boundaries with a landscaped buffer to its eastern boundary. The gardens of the properties on The Lynch form its southern boundary.

The outline of the site is shown below.





The Proposal

The scheme relates to the development of this field with residential units. It is submitted in outline format but with details of the vehicular access from Pooley Lane. The Masterplan submitted with the proposal includes the extent of a development plateau along with the access off Pooley Lane and landscaped areas. The indication in the plans submitted is that the site can accommodate up to 40 dwellings.

The following documentation has been submitted with the application:

- A Design, Access, Heritage and Planning Statement
- A Phase 1 Preliminary Ecological Appraisal
- A Flood Risk Assessment with surface drainage calculations
- An Archaeological Heritage Assessment
- A Reptile Survey
- Plan showing the access position

The proposal would be the subject of a Section 106 Agreement with the following draft heads of terms suggested by the applicant:

- 40% of the units to be affordable housing with 65% of these as socially rented units and 35% as shared ownership.
- £52000 towards public open space in Polesworth
- £2,048.15 towards Public Rights of Way Improvement
- £23,059.00 towards Health Care Services (George Elliot Trust)
- £876 towards Library improvement
- Maintenance and management of woodland areas and hedgerows within the site.
- Maintenance and management of the surface water balancing pond.

Background

Planning permission was sought for this same development in 2016 (reference PAP/2016/0213) – outline application for up to 40 dwellings on the same site.

Permission was refused and an appeal against that refusal was subsequently dismissed. A copy of the appeal decision is attached as Appendix A to this report. The Inspector identified two main issues in the determination of the appeal:

- (i) whether appropriate provision is made for affordable housing; and,
- (ii) the effect of the proposal on the character and appearance of the landscape and Polesworth Conservation Area.

In respect of affordable housing the Inspector identified that Policy NW6 of the Core Strategy seeks affordable housing, on site, for developments of 15 or more dwellings and that there was no dispute between the parties that the appeal proposal should, and could, comply with this policy. The Inspector was of the opinion that a condition attached to the planning permission could not effectively, or in an enforceable manner, secure the affordable housing. She found that a unilateral obligation presented by the appellant was deficient in a number of details needed to secure affordable housing effectively, not least details on the distribution of affordable housing and a plan with regards to land transfer and measures required to secure a registered provider. The

Unilateral Undertaking, therefore, would not make appropriate provision for affordable housing.

In respect of effect of the proposal on the character and appearance of the landscape and Polesworth Conservation Area the Inspector found the land to be bound by an area of housing (The Lynch, to the south), Pooley Lane to the west and woodland to the north and east. She found that, combined with the mature landscaping on its boundaries, the site is largely obscured from view, albeit that a footpath which runs through and along the edge of the site provides public access into it. It contributed to the wider verdant and rural character of the area.

The Inspector did not accept the Council's argument that the canal formed the natural barrier between Polesworth and the open countryside, she found that Pooley Lane served as a more natural barrier between Polesworth and the open countryside beyond. In respect of the 'Meaningful Gap' policy she argued that there was nothing within the evidence to suggest that the scale of this development would risk an amalgamation of Tamworth and Polesworth such that the retention of the appeal site in its current form became imperative.

The Inspector recognised that the site could form part of the green backdrop to the nearby Conservation Area but found that the new housing would not encroach physically onto the 'green backdrop' and nor, therefore, onto the setting of the Conservation Area. A landscaped buffer along the eastern edge of the site would guarantee this. However, given the lie of the land, the houses would sit higher than the canal and behind existing trees. Being an application for outline consent, details of existing and proposed landscaping, to include heights and species of plants, and details of finished site and ground floor levels would be for consideration at the reserved matters stage. Whilst the exact position of the houses in relation to the existing topography and trees is unknown at outline stage at worst, from within the Conservation Area looking west, the housing would be seen on the skyline, against a foreground of trees and alongside existing built development, though in the winter time when the leaves have fallen from the trees, the development would be more noticeable. She found there is nothing to suggest that the development would exceed the height of these properties or existing trees to appear incongruous or overly dominant within the local landscape. Equally, given the presence of built form within local views, a more exposed view of the development in the winter would not have any greater visual effect. She considered that the development would leave the setting of the Conservation Area preserved and unharmed.

The Inspector found that there was no apparent physical, visual or historical connection between the appeal site and the listed building at Pooley Hall. As such the development would not have a harmful effect on the setting of the listed building.

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment), NW15 (Nature Conservation), NW16 (Green Infrastructure), NW19 (Polesworth and Dordon) and NW22 (Infrastructure)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV4 (Trees and Hedgerows); ENV6 (Land Resources), ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

Other Relevant Material Considerations

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

The North Warwickshire Local Plan Submission Version, March 2018 - LP1 (Sustainable Development), LP2 (Settlement Hierarchy), LP5 (Meaningful Gap), LP6 (Amount of Development), LP7 (Housing Development), LP8 – Windfall, LP9 (Affordable Housing Provision), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP22 (New Services and Facilities), LP24 (Recreational Provision), LP29 (Walking and Cycling), LP31 (Development Considerations), LP32 (Built Form), LP37 (Renewable Energy and Energy Efficiency), LP39 (Housing Allocations)

Supplementary Planning Guidance: Design Guide for Bin Storage

Supplementary Planning Document Planning Obligations For Open Space, Sport And Recreation November 2017

Assessment of the Value of the Meaningful Gap and Potential Green Belt Alterations, January 2018.

Local Finance Considerations: New Homes Bonus (NHB), Community Infrastructure Levy (CIL).

Daw Mill Appeal Decision Reference APP/R3705/W/16/3149827

Consultations

Inland Waterways Association – Offered a representation ahead of knowing the outcome of the appeal decision. When made aware of the appeal decision the IWA noted that the Inspector does consider the ‘meaningful gap’ policy at paragraph 14. The IWA advises that it disagrees with the Inspector’s assessment, which it comments is both subjective and irrational. It points out that whilst one site does not by itself undermine the separation of settlements, if you apply that reasoning to all such sites individually then the policy would be rendered ineffective. Given that the policy has been updated and restated in the current Draft Submission Plan, the IWA would expect the Council to defend it and to refuse any such sites that fall within the designated area and do not meet the exception criteria.

Warwickshire County Council Infrastructure Team requests contributions for Libraries and Sustainable Travel Packs.

Design Out Crime Officer, Warwickshire Police – No objection.

George Elliott Trust – Offers evidence to demonstrate, that the Trust is currently operating at full capacity in the provision of acute and planned healthcare. It demonstrates that although the Trust has plans to cater for the known population growth, it cannot plan for unanticipated additional growth in the short to medium term. It seeks a contribution of £23,059 for the delivery of healthcare, which it indicates is being sought not to support a government body but rather to enable that body to provide services needed by the occupants of the new development, and the funding for which, as outlined above, cannot be sourced from elsewhere.

Environmental Health Officer – Recommends that hours of construction are limited to 08:00 to 18:00 during weekdays and 08:00 to 13:00 on Saturdays and a dust management plan is produced in line with the IAQM guidance for construction.

Planning Archaeologist, Warwickshire Museum – Indicates that the proposed development lies within an area of archaeological potential. It is probable that this site has been in agricultural use since at least the medieval period. However the site is located less than 250m to the west of the medieval settlement at Polesworth. (Warwickshire Historic Environment Record (MWA9573) Pooley Hall, a former Country House, now 2 houses and dating to the early 16th are located less than 150m north of the site, as is Pooley Hall Chapel (MWA227) which is of probable mid-12th century origins. Metal detecting carried out within the adjacent fields to the west and recorded through the Portable Antiquities Scheme of the site has identified a number of Roman and medieval period finds.

Whilst little evidence for pre-medieval activity has been identified from the immediate vicinity of the site, this may reflect a lack of previous investigations across this area, rather than a lack of archaeological remains. It should be noted that the site lies close to the River Anker which, in common with many other watercourses, is likely to have formed a focus for activity and served as a communication route during the prehistoric periods and later. The Archaeological Heritage Assessment which has been submitted with the supporting information to this application acknowledges that the application site has the potential to contain within it buried archaeological deposits. Since the significance of such remains, should they be present has not, been assessed, as required by NPPF paragraph 128, he does not agree with the suggestion within the Heritage Assessment that it would be appropriate, at this time, to recommend that an archaeological condition is attached to the outline planning consent should you be minded to grant planning permission for the scheme. He is of the opinion that the archaeological implications of this proposal cannot be adequately assessed on the basis of the available information. He therefore recommends that the applicant be requested to arrange for an archaeological evaluation to be undertaken before any decision on the planning application is taken. He indicates that this will help to define the character, extent, state of preservation and importance of any archaeological remains present, and will also provide information useful for identifying potential options for minimising or avoiding damage to them. The results of this evaluation should be provided before any decision is taken so that an informed and reasonable planning decision can be reached, and the application modified if appropriate.

Warwickshire County Council Highways Authority - No objection.

Warwickshire County Council, Rights of Way Team - No objection in principle, subject to conditions. To mitigate the increase in the Highway Authority's maintenance liability resulting from the increase in use of local public rights of way by new residents from this development the Rights of Way team would also request a contribution of £2048 towards improvements to public rights of way within a 1.5 mile radius of the development site.

Fire Authority - No objection to the application, providing the development meets compliance with Approved Document B, Volume 2, Section B5 –Access and Facilities for the Fire Service.

Canal and River Trust - The indicative Masterplan shows development in close proximity to the Coventry Canal and with any development close the waterway there is the potential for adverse impacts on the infrastructure of the canal in terms of stability, drainage, pollution etc. It is important that development does not adversely affect the stability of the cutting slope, as this could significantly increase the risk of damage to the adjacent canal. It highlights the need for appropriate lighting to protect biodiversity and the need to maintain visual screening between the site, the canal and the village conservation area.

Warwickshire Wildlife Trust – The Trust confirms that the Preliminary Ecological Appraisal is suitable for determining this application and this Appraisal shows that the woodland and majority of the hedgerow will be retained and protected. A reptile survey has also been submitted. With regards to Biodiversity then at present there is a loss of 49% of the biodiversity of the site. A loss would be contrary to the NPPF and Core Strategy Policy. This is due to the loss of low value improved grassland. Conditions are suggested if the application is approved.

Warwickshire County Council Infrastructure – Requests contributions for libraries and sustainable travel packs.

Lead Local Flood Authority – Sought revisions to the submitted Flood Risk Assessment to address identified concerns. A revised FRA has been received. The further comments of the Lead Local Flood Authority are awaited.

Representations

Two letters of objection has been received indicating the following

- An adjacent property known as Pooley Heights is operated as a residential respite provision for adults with a learning disability. The Charity which operates the facility indicates that residents benefit from having respite in a tranquil and rural setting. If access is granted and the development goes ahead Pooley Heights will be overshadowed and will lose its privacy and views over rural fields. There would be increased levels of noise and disturbance and this would have an adverse effect on the enjoyment of the vulnerable people who stay at the home.
- The development would present an unacceptable risk in relation to highway safety. Development of the site would create a considerable increase in traffic along Pooley Lane. The existing road has no footpath or street lighting and at points it is difficult for two cars to pass side by side. It does not have the capacity to safely withstand the additional volume of traffic that would be created. We believe it is inevitable that pedestrians will walk down Pooley Lane, the only road

by which the site could be accessed. This would present a risk to pedestrians and drivers using the lane. Significant improvements would need to be made to the existing road to address these issues.

- Development of the site would compromise the character of the area. Pooley Hall, a listed building of historical interest, and Pooley Country Park are both situated along Pooley Lane. Pooley Lane sits on the outskirts of the market town of Polesworth. The immediate area is currently sparsely populated and a development of up to forty houses would cause an overspill of the more urban area of Polesworth and would ruin the rural nature of the current setting.
- Concern about the 'extremely vague' reference to a landscaped buffer on the eastern, western and northern edges of the site. The landscaped buffers must be strictly subject to a suitably robust planning obligation with legally enforceable landscaping conditions which protect all existing trees and also cater for the future care and management of these buffer areas.
- Harm to residential amenity.
- Harm to ecology. The existing woodland provides an excellent wildlife corridor serving a large variety of insects, small mammals, birds, bats etc. e.g. the objector can account for in excess of 100 tawny owls being successfully reared.
- The site is located within the Meaningful Gap and residents see the protection of this gap between the two settlements as being very important.
- This site lies outside the Development Boundary for Polesworth and is not a preferred site as identified in the Site Allocations Plan. To allow the Proposed Development on the basis of it being "sustainable" would be too simplistic. The NPPF is clear in that proposals should be assessed against the Development Plan "unless material considerations indicate otherwise"

Observations

a) The Principle of Development

The site lies outside of the Development Boundary for Polesworth. Policy NW2 in North Warwickshire's Core Strategy seeks to develop a broad distribution pattern for development with more than 50% of the housing and employment requirements being provided in or adjacent to the Market Towns outside of the Green Belt and their associated settlements. Polesworth with Dordon is identified as one of these Market Towns.

This proposed site is adjacent to the development boundary for Polesworth which includes the existing development known as The Lynch.

However, in the recent appeal decision relating to the Daw Mill Colliery the Inspector and the Secretary of State reached the conclusion the Core Strategy Policies NW2 and NW10 (both in relation to development boundaries) to be out-of-date and therefore at that time only limited weight could be attached to them. The Inspector reached this conclusion ahead of the submission of the New Local Plan.

The submission Local Plan has carried forward Policy NW2 into LP2 but has been updated to reflect the amount of development that is now proposed to be delivered. This has resulted in development boundaries being altered to reflect the proposed allocations in the emerging local plan.

The relative weight to be afforded to the two plans has altered as a result of this change in circumstance. In relation to the Core Strategy as it relates to development boundaries it is out of date so afforded limited weight. Where other policies of the Core Strategy apply they carry full weight.

There have been representations made to the submission Local Plan against the proposed allocations and thus some of the development boundaries. There have been no direct representations to the development boundary in this vicinity. Balanced with this, Polesworth remains a market town and the hierarchy structure is not fundamentally altered. The emerging Local Plan can now be afforded moderate weight.

There is a public footpath which runs through the site and links it to Polesworth town centre via Tamworth Road. A condition would seek the surfacing of this footpath and the installation of street lighting to ensure that occupiers can use this path for direct access to the bus services along Tamworth Road and for the shops, services and schools in Polesworth. These pedestrian linkages comply with the requirements of Policy NW10 (4) and (5) to promote healthier lifestyles for the community to be active and to encourage sustainable forms of transport focussing on pedestrian access and provision of bike facilities. It is not considered that NW10 (4) and (5) are directly affected by the Secretary of State's decision in the Daw Mill appeal as they are unrelated to the issue of settlement hierarchy or development boundaries and so full weight can be attributed to them.

The site has not however been identified as a preferred housing allocation for Polesworth in the Council's Submission Local Plan. This is because the site is located within the area of land identified as a Meaningful Gap between Polesworth and Dordon and Tamworth as identified in Policy NW19 of the Core Strategy. The Council has developed guidance to inform the implementation of Policy NW19 and the submission Local Plan. Following public consultation and modification this Meaningful Gap Assessment was adopted by the Council in August 2015 as guidance to inform the implementation of Policy NW19. This guidance shows the site to be located within Area 2 due to its higher sensitivity to development impact as it follows the broad, eastern corridor of the M42. The guidance further goes on to say that small scale very limited development may be able to be accommodated in this area. The Assessment was updated in 2018 and a specific policy relating to the Meaningful Gap has been incorporated in the new Local Plan (Policy LP5) and shown on the proposed proposals map. Commentary below will separately consider the effect of this guidance in the context of the Inspector's findings.

The Council's Housing land supply as at 31 March 2017 was 5.1 years with a 5% buffer, however, for the purpose of a public inquiry the Council has carried out a full review and it can now be shown, as of 31 December 2017, to have a 5.8 year supply with a 5% buffer. In these circumstances that Council's housing policies can be considered up to date and there would be benefit to increasing housing supply.

Given the Secretary of State's findings in the Daw Mill inquiry, in relation to development boundaries, that they are out of date, the provisions of Paragraph 14 of the NPPF apply. Paragraph 14 states that "where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

- specific policies in this Framework indicate development should be restricted.”

This means that in this decision the tilted balance is engaged. The Council would have to show that there was significant and demonstrable harm to outweigh the presumption in favour of development. Members are reminded that the bar for establishing ‘significant demonstrable harm’ is a particularly high bar.

b) The Meaningful Gap

As this proposal is for the development of the majority of the site for up to 40 housing units, it would not be classed as being small in scale and so would be, by definition, contrary to the guidance informing Policy NW19. However, this is where Members need to be mindful of the Inspectors conclusions about the effect of the development of this site on the Meaningful gap and the character of the locality and the compliance with Policy NW19.

The submission Local Plan includes a policy on the Meaningful Gap as well as defining the boundaries on the proposals map. There have been objections to the Meaningful Gap policy and the defined boundary, these will be a matter for the Inspector to consider during the Local Plan Examination.

A new Meaningful Gap Assessment was received just a few days prior to the receipt of the appeal decision for this site and thus the previous Inspector did not have the benefit of considering its findings when formulating her own judgements. It is necessary to question whether the Assessment would affect in anyway the Council’s ability to rely on the appeal outcome.

The appeal site still forms a small part of Land Parcel 2 in the Assessment. Land Parcel 2 is identified as being important to the Gap and the separation of the settlements of Polesworth and Tamworth.

The appeal finds that *‘being east of Pooley Lane, as described above, the new housing would not encroach into the ‘meaningful gap’ or interject into the open countryside in a way that would undermine the separate identities of the settlements described or their separation from each other’* and that the loss of the site to development *‘would not be visually intrusive on the character and appearance of the Polesworth Conservation Area to cause harm, nor would the development be harmful to landscape character. The development would not, therefore, be contrary to policies NW12, NW14, NW19 or to policy NW13, which seeks development that protects and enhances the character of the natural environment’*. (NW19 being the current Meaningful Gap policy in the 2014 Core Strategy)

On the face of it the Inspector’s findings appear somewhat contrary to the report’s findings. The author of the Council’s Assessment (LUC) was therefore asked for an opinion to help make an up to date judgement on the effect of the loss of this land from the Meaningful Gap, having regard to the report findings and the findings of the Inspector. In essence advice was sought on the significance of the application/appeal site in the author’s conclusions about Land Parcel 2.

The authors of the new assessment indicated that the Meaningful Gap report considered the contribution of the parcel *as whole* to the Meaningful Gap. The parcel areas are significantly larger than the application site, which explains the difference in outcome of the Meaningful Gap report and the Inspector's wording within the planning appeal.

LUC also prepared Landscape advice for this site – The extract of text from this work set out below, aligns more closely with the Inspector's opinion of the site.

'Impact on the Meaningful Gap

Although the site is on the 'wrong' side of the canal in that it is located outside the settlement of Polesworth and has crossed the natural barrier formed by the canal, the topography is such that the site 'faces' back towards Polesworth. Development of the site in isolation would result in a minor erosion of the gap, but would not result in loss of the gap between Tamworth and Polesworth. However, development up the boundary of the site with Pooley Lane would mean housing would be on a localised ridgeline and if the Robey's Lane site were to be developed there may well be inter-visibility between the two sites, reducing the perception of a gap between Tamworth and Polesworth.'

Whilst there is sympathy with the views expressed by the Inland Waterways Association, that whilst one site does not by itself undermine the separation of settlements, if you apply that reasoning to all such sites individually then the policy would be rendered ineffective, each site does nevertheless have to be individually assessed. There is reason here to concur with the Inspector and the Assessment authors that, whilst these would be some lessening of the gap, the physical characteristics of the site and the definitive edge of Pooley Lane, means the harm to the Meaningful Gap could not be robustly defended.

c) The impact on the character and appearance of the area

The proposed site is an enclosed field. From Tamworth Road the site itself is obscured by the development known as The Lynch. From the Coventry Canal the site is obscured by the mature boundary trees and hedges along the Canal and along the public footpath to the east. However, in view of the topography of the site which steeply slopes away from the Canal up towards Pooley Lane, the site is visible from the village of Polesworth. At present, views from Polesworth towards the west are of open countryside. The development plateau as proposed would involve dwellings being built along Pooley Lane and so these would be clearly visible when viewed from Polesworth.

The Inland Waterways Association object to the proposal on the upper reaches of this site due to the potential for this development to obscure views from the Canal into the attractive open countryside. Indeed, this was also one of the reasons why the site was not allocated as a preferred site in the emerging Local Plan as it is a prominent site in the landscape due to its topography.

Public Right of Way AE16 runs alongside the eastern boundary of the site, and from here this is an attractive field which positively contributes to the overall rural character and appearance of the area. The site is surrounded by expansive open countryside to the west.

The Inspectors conclusions here are material; she essentially found that the main sensitivities would be in the detail of the proposal, the heights of the houses in relation to site levels and heights of any approved dwellings. She concluded there would be less than significant impact on the Polesworth Conservation Area and its character and setting would be unharmed, that is to say preserved.

Being an elevated site and adjacent to the canal it will be important that the entire landscape buffer alongside the canal, which is within the applicant's ownership, be retained and that careful control is exercised over the levels of development within the site. This can be addressed at the reserved matters stage and requirement of a condition of any permission here.

The Inspectors findings are sound and no significant or demonstrable harm can be substantiated.

d) Highway Infrastructure

The Highways Authority has no objections to the increase in traffic along Pooley Lane or at its junction with the B5000 Tamworth Road as a result of this scheme. They acknowledge that Pooley Lane is a private highway which is not maintained by the Highway Authority. They do raise concerns that although the speed limit on this private road is 30mph, this is not so evident in ways that it would usually be in a publicly maintained highway as the road does not have repeater speed limit signs or street lighting. As such, they recommend that a condition is imposed to ensure that the visibility splays from the new access onto Pooley Lane are a distance of at least 70 metres.

Concerns are also raised about Pooley Lane's lack of street lighting and footways making it unattractive for pedestrians and cyclists to use. They do, however, recognise that the majority of pedestrians will use public footpath AE16 as being the quickest route into Polesworth and Pooley Country Park. As such, improvements to this footpath are required before any of the dwellings are occupied to provide for surfacing in a bound material and street lighting for its length from its whole length within the development site up to the public highway of the B5000 Tamworth Road.

The proposed scheme complies with Policy NW10 (Development Considerations) in the Core Strategy and Policies TPT1, TPT3 and TPT6 in the North Warwickshire Local Plan 2006.

e) Loss of Biodiversity

Warwickshire Wildlife Trust raises concerns about the loss of biodiversity through the development of this site. Through the use of WCC's Biodiversity Impact Assessment calculator, the original plans show a loss to biodiversity of 1.72 biodiversity units resulting from this development. This is as a result of the loss of poor improved grassland.

Paragraph 118 of the NPPF states that when determining planning applications, Authorities should aim to conserve and enhance biodiversity by applying the principle of if significant harm resulting from a development cannot be avoided, adequately mitigated or as a last resort, compensated for, then planning permission should be refused.

A condition requiring a revised Biodiversity Impact Assessment that results in no net loss will be an appropriate mechanism for ensuring that the site layout at reserved matters stage takes account of the biodiversity policy objectives. Biodiversity offsetting may be a possibility.

The Trust also recommends that planning conditions are imposed on the need for a construction environment management plan, a Landscape and Ecological Management Plan and a Lighting Design Strategy for light-sensitive biodiversity. Compliance with these conditions will protect the biodiversity value of this site.

As such it is considered that a conditional permission will accord with the requirements of the NPPF, significant harm to biodiversity can be avoided.

g) Impact on the Archaeological Value of the Site

Concerns have been raised by the Planning Archaeologist at Warwickshire County Council regarding the potential for the site to contain Roman remains. The site lies approximately 170 metres from Pooley Hall which is a Listed Building and its eastern boundary adjoins the Coventry Canal which is a heritage asset and Polesworth Conservation Area which is some 300 metres away.

The applicant's Archaeology Report concludes that although the site is within a sensitive heritage location, development on this site will not greatly affect the significance of these known heritage assets. The County Archaeologist adopts a more precautionary stance. He considers that because there is no 'known' archaeology does not mean that there isn't any archaeology. He seeks a pre-determinative evaluation.

The Archaeology Report acknowledges that it is possible that the site contains as yet unidentified earth fast archaeological remains from previous occupation of the site. As the application is submitted in outline and is a reasonably extensive site, it is considered that there is some flexibility on where the development can take place on the site, it is a planning condition can be imposed to require a programme of archaeological works to be undertaken on site before the submission of any reserved matters applications. This works will include a geophysical survey followed by a programme archaeological trail trenching.

As such it is considered that amendments to the scheme as proposed by the applicant will address any concerns raised about the potential for development on this site to impact on the setting of the heritage assets in the locality.

h) Residential amenity

With regards to the residents to the north and south of the site, the application is submitted in outline format and so any reserved matters application can ensure that the units are all orientated to have their rear gardens backing onto any rear gardens of these existing residential properties. The proposal to control the levels on site and the landscaping of the site can reduce the impact on the residents at neighbouring dwellings, including those who are resident at the adult respite home.

As such it is not considered that there will be a significant loss of privacy or loss of light from the proposal for the residents to the north and south of the site. The proposal thus complies with Policy NW10 (Development Considerations) in the Core Strategy 2014.

i) Affordable Housing

Policy NW6 (Affordable Housing Provision) requires that 40% of the dwellings shall be affordable units. This can be required through a Section 106 Agreement whereby 40% of the dwellings will be affordable units with 65% of these units being socially rented units and the remaining 35% being shared ownership. The Council's Housing Officer is supportive of this mix in the context of Polesworth.

j) Access to services and education

Warwickshire County Council has not asked for any contributions towards education from this proposal.

A contribution (£52,000) is required towards the provision and improvement of open space in Polesworth is proposed in accord with the formula approach set out in the Submission Version of the Open Spaces Strategy. The funds will be directed to Abbey Green.

Health Care Services (George Elliot Trust) seek £23,059 for the provision of medical services in the area.

Warwickshire County Council seeks £876

A sum of £2,048.15 is sought from Warwickshire County Council for Public Rights of Way Improvement.

The applicant has indicated an intention to supply and sign a S106 Agreement to this effect. Care will need to be taken to ensure that the affordable housing clauses address the deficiencies identified by the Inspector in the Unilateral Obligation that was presented at the planning appeal but the principle of the provisions are acceptable and reasonably meet policy requirements.

.....K) Drainage and Flood Risk

The Flood Authority expressed concern about omissions from the Flood Risk and Drainage Strategy and the up to date nature of part of the submission. The applicant has revised his submission and re-consultation has taken place. The revised comments of the flood authority are awaited. There are no flooding or drainage issues in the vicinity of this site that have been identified in the processing of this application or the proposal that went to appeal. It is not anticipated that this site will present any insurmountable difficulties and that drainage provisions will be capable of being addressed. However, given that this matter remains unresolved, the recommendation to approve the application (below) will be subject to the resolution of this outstanding consultee objection.

l) Other Matters

Policy NW11 of the Core Strategy and emerging policy in the New Local Plan (LP37) both require '*New development will be expected to be energy efficient in terms of its fabric and use. Major development will be required to provide a minimum of 10% of its operational energy requirements from a renewable energy source subject to viability*'.

The application, being in outline, does not address this matter. However, it would be appropriate to require this as a condition of any planning approval.

Conclusions

This report acknowledges that this is a sustainable location for development, being immediately adjacent to the main town of Polesworth. No issue has been identified which would sufficiently outweigh the presumption in favour of sustainable development.

- The Council can demonstrate a five year housing land supply. This weighs against the proposal, however, there is pressure to maintain a healthy housing supply. The development would have the benefit of increasing housing supply, thus assisting further with the Council's five year housing supply.
- The site lies outside of the current and proposed development boundaries for Polesworth and this weighs against the proposal.
- Even though the site lies within the Meaningful Gap in the emerging Local Plan, given the findings of the Planning Inspector in respect of this site, no significant or demonstrable harm can be shown to the meaningful gap policy or to the character or appearance of the area more generally that cannot be addressed at the approval of reserved matters stage or by condition of this application. This weighs in favour of the proposal.
- It is a longstanding policy objective to direct the majority of development to the market towns which are seen as sustainable locations for new housing. The location of this site and its accessibility to the town centre weights in favour of the proposal.
- Subject to finalising the wording, a S106 Agreement can address the deficiencies in the provisions for securing affordable housing. The other contributions sought to address the impacts of the development have been agreed by the applicant. These are benefit weighing in favour of the proposal.

On balance, the development is considered to be sustainable development. There is a presumption to approve sustainable development without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

This proposal may be supported in principle, in accord with the recommendation below.

RECOMMENDATION

That subject to the resolution of the outstanding objection from the Lead Local Flood Authority, and subject to a S106 Agreement relating to the matters outlined in the report, the application be **Granted** subject to conditions addressing the following matters:

- The standard outline conditions
- The approval of the red line plan and plan showing the access position.
- Requirements for a landscaping scheme

- The submission and approval of existing and finished site and ground floor levels plans
- The hours of construction are limited to 08:00 to 18:00 during weekdays and 08:00 to 13:00 on Saturdays
- a dust management plan is produced in line with the IAQM guidance for construction.
- A programme of archaeological works to be undertaken on site before the submission of any reserved matters application. This works shall include a geophysical survey followed by a programme archaeological trail trenching.
- The development shall not be occupied until the public right of way AE16 has been improved so as to provide for surfacing in a bound material and street lighting for its length between the proposed development and the footway of the public highway B5000 Tamworth Road in accordance with a scheme approved in writing by the local Planning Authority in consultation with the Highway Authority.
- The maintenance of visibility splays achieving 'y' distances of 70 metres in the interests of the safety of users of the private road.
- A condition to ensure that any new vegetation of a type likely to grow more than 1 metre in height must be planted at least 2 metres away from the edge of any public right of way to help ensure that mature growth will encroach onto the public right of way.
- A gap of at least 2 metres must be allowed between the edge of any public right of way and the edge of any proposed new pond, lake or other water body or water course, to help ensure there is no encroachment onto the public right of way, including by future erosion.
- Need for a Biodiversity Impact Assessment that ensures no net loss of biodiversity by means of on-site measures or by means of Biodiversity Offsetting.
- need for a construction environment management plan
- need for a Landscape and Ecological Management Plan
- need for a Lighting Design Strategy for light-sensitive biodiversity.
- details of surface water drainage shall be submitted to and agreed in writing by the Local Planning Authority. This detail shall provide full details on any attenuation features, construction methodology and maintenance and management regimes.
- A scheme for the provision of energy efficiency and the use of renewable energy sources shall be submitted, approved and implemented. The renewable energy source(s) shall provide a minimum of 10% of the development's operational energy requirements.

Plus any conditions required by the Lead Local Flood Authority

Informatives

Informatives addressing the following matters would be appropriate:

- Smoke Control Zone
- Radon Gas (1-3%)
- Coal Development Low Risk
- At Reserved Matters stage drawings should be provided including swept path analysis to demonstrate whether a large refuse vehicle is able to access the site in a forward gear, turn in all relevant turning heads and exit the site in a forward gear
- Pooley Lane is a private road, and is not maintained by Warwickshire County Council as Highway Authority. The Highway Authority advises that any works that may be required to improve the road to adoptable standards have not been offered by the applicants or developers, so have not been considered by the Highway Authority in relation to the application, and the Highway Authority has therefore assessed this planning application on the basis of the road remaining private.
- Public footpath AE16 must remain open and available for public use at all times unless closed by legal order, so must not be obstructed by parked vehicles or by materials during construction.
- The applicant must make good any damage to the surface of public footpath AE16 caused during construction.
- If it is necessary to temporarily close public footpath AE16 for any length of time during construction then a Traffic Regulation Order will be required. Warwickshire County Council's Rights of Way team should be contacted well in advance to arrange this.
- Any disturbance or alteration to the surface of public footpath AE16 requires the prior authorisation of Warwickshire County Council's Rights of Way team, as does the installation of any new gate or other structure on the public footpath.
- The applicant/developer is advised to contact the Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".
- The applicant is advised that any surface water discharge to the waterway will require prior consent from the Canal & River Trust. As the Trust is not a land drainage authority, such discharges are not granted as of right-where they are granted they will usually be subject to completion of a commercial agreement. Please contact Joanna Bryan, Utilities Surveyor (Joanna.bryan@canalrivertrust.org.uk)
- The application has been handled in a positive and proactive manner.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0053

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	23/1/18
2	Inland Waterways Association	Consultation Response	29/1/18
3	Warwickshire Police	Consultation Response	1/2/18
4	George Elliott Trust	Consultation Response	8/2/18
5	Environmental Health Officer	Consultation Response	13/2/18
6	Planning Archaeologist, Warwickshire Museum	Consultation Response	15/2/18 22/3/18
7	Lead Local Flood Authority	Consultation Response	14/2/18
8	Warwickshire County Council Highways Authority	Consultation Response	16/2/18
9	Warwickshire Footpaths Team	Consultation Response	19/2/18
10	Fire Authority	Consultation Response	19/2/18
11	Canal and River Trust	Consultation Response	26/2/18
12	Warwickshire Wildlife Trust	Consultation Response	8/3/18
13	Warwickshire County Council Infrastructure	Consultation Response	12/4/18
14	G Smith	Representation	9/2/18 14/2/18
15	Forbes	Representation	13/2/18
16	M Grant, LUC	Consultation Response	14/2/18

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.



Appeal Decision

Site visit made on 6 November 2017

by Rachel Walmsley BSc MSc MA MRTPI

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

Decision date: 19th January 2018

Appeal Ref: APP/R3705/W/17/3179922

Land east Pooley Lane, Polesworth B78 1JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr K Holloway, N P Holloway and Son against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2016/0213, dated 15 April 2016, was refused by notice dated 4 April 2017.
 - The development proposed is outline application (access only) for the residential development of up to 40 dwellings land east of Pooley Lane, Polesworth, B78 1JB.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The description of development referred to in the header above has been taken from the planning application form. This forms the basis on which the appellant applied for the development proposed. I note that the local planning authority altered this description for its decision notice, however, in the absence of any evidence to demonstrate that the appellant agreed to this wording, I have used the description on the planning application form.
3. The application was submitted for outline planning permission with matters relating to layout, appearance, landscaping and scale reserved. I have dealt with the appeal on that basis, treating all plans as illustrative, except where they deal with the matter of access.

Main Issues

4. These are:
 - (i) whether appropriate provision is made for affordable housing; and,
 - (ii) the effect of the proposal on the character and appearance of the landscape and Polesworth Conservation Area.

Reasons

Affordable housing

5. Policy NW6 of the Core Strategy¹ seeks affordable housing, on site, for developments of 15 or more dwellings. There is no dispute between the parties that the appeal proposal should, and can, comply with this policy.
6. During the course of the appeal parties were in agreement to a planning condition to secure affordable housing. However, the Planning Practice Guidance (PPG) makes it clear that planning permission should not be granted subject to a condition that requires the applicant to enter into an obligation. Equally, a condition that leaves the method of securing affordable housing vague would not meet the tests set out in paragraph 205 of the National Planning Policy Framework (the Framework), not least because the condition would not be precise and, therefore, unenforceable.
7. For affordable housing to be provided effectively, arrangements must be made to, not least, transfer it to an affordable housing provider, ensure that appropriate occupancy criteria are defined and enforced, and ensure that the development remains affordable to first and subsequent occupiers. The legal certainty provided by a planning obligation makes it the best means of ensuring that these arrangements are effective. Prior to my determination of the appeal, I raised concerns about the use of a planning condition and gave parties the opportunity to provide a suitably robust planning obligation to address the above matters.
8. Consequently I received a signed and dated Unilateral Undertaking. However, this legal agreement is deficient in a number of details needed to secure affordable housing effectively, not least details on the distribution of affordable housing and a plan with regards to land transfer and measures required to secure a registered provider. The Unilateral Undertaking, therefore, would not make appropriate provision for affordable housing.
9. Given the above I must conclude that the development would not make an appropriate provision for affordable housing and as a result would be contrary to policy NW6 of the Core Strategy.

Character and appearance

10. The appeal site is not afforded the protection of any landscape designation such as those referred to within paragraph 115 of the National Planning Policy Framework (the Framework). However the site is within the Anker Valley Character Area, as set out in the North Warwickshire Landscape Character Assessment (2010). This character area is described as being a visually open and broad valley landscape, becoming steeper and more defined closer to the urban area of Polesworth.
11. The appeal site is an open grassed area, bound by an area of housing, (The Lynch, to the south), Pooley Lane to the west and woodland to the north and east. Combined with the mature landscaping on its boundaries, the site is largely obscured from view, albeit that a footpath which runs through and

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

along the edge of the site provides public access into it. This context contributes to the wider verdant and rural character of the area, which is appreciated within immediate views, from surrounding roads and footpaths, and from longer distance views from Polesworth and its wider environs.

12. The visually open and broad valley landscape offers long distance views of the site, from positions beyond the urban area of Polesworth. The site forms a small part of a much larger panoramic composition; one of a broad valley tops, interspersed with verdant landscaping and housing. Within long distance views the development would be visible, most notably the rooftops of the houses which no degree of landscaping would obscure. However, the height of the rooftops would not exceed the line of the horizon or the height of the trees visible within long distance views, such that it could be considered an incongruous or dominant feature on the skyline. To the contrary, the development would be appreciated as an extension of The Lynch and, therefore, would not detract from the existing settlement pattern of small towns in a rural landscape.
13. The Council refers to the area to the east of the site, which accommodates the canal, as being a natural barrier between Polesworth and the open countryside. Indeed, this area, covered with trees and on land that slopes steeply up to the appeal site, is a notable barrier between the settlement and open land further west. However, it was apparent from my site visit that the appeal site continues the steep gradient of this land, up to Pooley Lane, beyond which the land then falls away towards the motorway and Tamworth. Pooley Lane, therefore, serves as a more natural barrier between Polesworth and the open countryside beyond.
14. In addition to this natural barrier, the appeal site is within an area which policy NW19 of the Core Strategy seeks development that respects the separate identities of Polesworth, Dordon and Tamworth and maintains a meaningful gap between them. The appeal site occupies an area between existing development, to the north and south, and would be set in from other areas of Polesworth that extend further west. Together with being east of Pooley Lane, as described above, the new housing would not encroach into the 'meaningful gap' or interject into the open countryside in a way that would undermine the separate identities of the settlements described or their separation from each other.
15. I recognise the possibility that Tamworth's built envelope will be extended further east in the future. However, there is nothing within the evidence before me to suggest that the scale of this development would risk an amalgamation of Tamworth and Polesworth such that the retention of the appeal site in its current form becomes imperative.
16. The natural barrier between settlements forms a backdrop to the Polesworth Conservation Area (PCA). The character and significance of the PCA derives, in part, from this 'green backdrop', defined by trees on higher ground. Interspersed amongst these trees are buildings, including those at The Lynch. The appeal site is outside the PCA and behind the natural barrier described and therefore does not contribute to the significance or character of the Polesworth Conservation Area (PCA) overall. Nevertheless, given the proximity of the

development to the green backdrop, the development could impact on the setting of the PCA depending on the form of the development proposed.

17. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The National Planning Policy Framework (the Framework) states that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 137 of the Framework states that proposals that preserve elements of setting that makes a positive contribution to, or better reveal the significance of an asset, should be treated favourably. Equally, the Framework acknowledges that significance can be harmed or lost through development. The Council's policies on heritage within the Core Strategy, notably policies NW12 and NW14 support this approach, seeking development that sustains, conserves and enhances the historic environment.
18. The new housing would not encroach physically onto the 'green backdrop' and nor, therefore, onto the setting of the PCA. A landscaped buffer along the eastern edge of the site would guarantee this. However, given the lie of the land, the houses would sit higher than the canal and behind existing trees. Being an application for outline consent, details of existing and proposed landscaping, to include heights and species of plants, are earmarked for the reserved matters stage of planning. Details of finished site and ground floor levels would also be for consideration at the reserved matters stage. The exact position of the houses in relation to the existing topography and trees, therefore, is unknown. Nevertheless, from my observations on site and the evidence before me, I consider that at worst, from within the PCA looking west, the housing would be seen on the skyline, against a foreground of trees and alongside existing built development, though in the winter time when the leaves have fallen from the trees, the development would be more noticeable.
19. Taking the houses at The Lynch as a reference point, there is nothing before me to suggest that the development would exceed the height of these properties or existing trees to appear incongruous or overly dominant within the local landscape. Equally, given the presence of built form within local views, a more exposed view of the development in the winter would not have any greater visual effect.
20. Nevertheless, this judgement is made on the assumption that the heights of the houses proposed would not be insensitive to the presence of existing built form and to local views from the PCA. This certainty will be borne out of details at the reserved matters stage concerning the heights of the houses in relation to site levels. The importance of this detail to the development proposed means that it would be reasonable to secure any planning permission with conditions to ensure the submission and approval of finished site and ground floor levels. It is on the basis of my findings and this condition proposed, together with the less than significant contribution the site makes to the PCA, that I conclude that the proposal would leave the character of the PCA and its setting unharmed, that is to say preserved. The proposal would not, therefore, be contrary to policies NW12 and NW14 of the Core Strategy, nor paragraphs 132 and 133 of the Framework.

21. Within shorter distance views, the development would be seen from Pooley Lane and surrounding footpaths. Pooley Lane has a semi-rural character, defined by built development along sections of the lane and noise from motorway traffic, complemented by verdant landscaping including hedges and trees. As an extension of The Lynch and with a landscaped buffer east and west of the site, the development would combine built form with landscaping to complement the semi-rural character of the area.
22. There is no doubt that developing the site would change its character to a more urban one, which would be most notable from Pooley Lane and the footpath along the eastern edge of the site. The layout plan shows that there would be space for an area of landscaping between the lane and the new housing so that the development would be congruent with the semi-rural character of the area.
23. Walkers would experience a material change in their surroundings. The impression of walking in the countryside would be undermined by the presence of houses. However, the illustrative layout plan before me shows that access along Pooley Lane and the footpath would be retained. This would comply with policy NW12 of the Core Strategy, which seeks to protect existing rights of way. Furthermore, the landscaped buffer proposed would create a pleasant walking environment and would ameliorate any adverse visual effects the development may have on walkers' experience of the local area.
24. Therefore, on the basis of my findings and a landscaping and levels condition, I find that the development would not be visually intrusive on the character and appearance of the PCA to cause harm, nor would the development be harmful to landscape character. The development would not, therefore, be contrary to policies NW12, NW14, NW19 or to policy NW13, which seeks development that protects and enhances the character of the natural environment.

Other matters

25. Based on the evidence before me I am unable to come to a definitive conclusion on whether the Council has a 5 year housing land supply. Nevertheless, even if I were to conclude that there is a shortfall in the five-year housing land supply and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impact of granting permission, being the substantial harm arising from a lack of appropriate means of securing affordable housing provision, would significantly and demonstrably outweigh the benefits of any additional market housing provided.
26. The Council states that the development would have a harmful effect on a Grade 2 listed building, Pooley Hall, but it doesn't substantiate its claim. There is nothing within the evidence before me, nor was it apparent from my observations on site, that there is a physical, visual or historical connection between the appeal site and the listed building. As such the development would not have a harmful effect on the setting of the listed building and as a result does not influence my decision on the appeal in this regard.

Conclusion

27. I have found that the development would not have an adverse impact on the character and appearance of the landscape or upon Polesworth Conservation Area. Nonetheless, these factors would be outweighed by the harm arising from the lack of appropriate provision for securing affordable housing. It is on this basis that I find that the appeal proposal would fail to accord with the development plan when taken as a whole. For the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed

R Walmsley

INSPECTOR

(3) Application No: PAP/2018/0082

92, Coleshill Road, Hartshill, CV10 0PH

Demolition of existing 3 storey retail building and demolition of canopy on adjacent building. Erection of new retail unit, for

Mr S Chaudry - MAC Developments

Introduction

The application has been brought to the Board at the request of a Local member concerned about potential impacts.

The Site

The site is located on Coleshill Road, Chapel End and currently comprises first and some second floor residential use over an empty retail unit. The buildings to the east also consist of a terrace of small retail units with residential above. To the west of the site are larger, purpose built retail units with offices behind. There is a car parking area between the site and the buildings to the west.

Chapel End Congregational Church opposite the site is a Grade II listed building. There are bus stops directly outside the site providing regular services to Nuneaton, Atherstone and other communities. Below is a site location plan.



The Proposal

The scheme will demolish the existing two and three storey building which contained a shop on the ground floor. The proposal will lead to a new retail store with storage in the rear part of the roof space. Designated car parking will be set out for 34 spaces and three disabled spaces. The parking area will also contain space and a swept path for delivery vehicles.

The proposed building will have a height consistent with the buildings either side.

The proposal will also lead to the demolition of a canopy to a building to the west which is also owned by the applicant. The existing vehicle access will be revised slightly to accommodate parking and delivery vehicles. The daily opening hours would be between 0700 and 2200 hours. The site would provide employment for 10 workers.

The new building would be constructed with glass openings, bricks and tiles, along with roof lights. Below is an artist impression of the building. Appendix A provides plans of the proposal and Appendix B contains photographs of the site.



Background

The existing store at 100 -102 Coleshill Road has recently had a number of extensions approved, with the last being in 2017. Various other applications include signs for the shop and adjacent chip shop.

Development Plan

The Core Strategy – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW14 (Historic Environment), NW17 (Economic Regeneration) and NW20 (Services and Facilities)

Saved polices of the North Warwickshire Local Plan 2006 - ENV12 (Urban Design); ENV13 (Building Design), ENV14 (Access Design), ECON5 (Facilities relating to Settlement Hierarchy), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Travel and Transport and TPT6 (Vehicle Parking)

Hartshill Neighbourhood Plan 2017 – H4 (Good Quality Design) and H12 (Hartshill Retail Centre)

Other Relevant Material Considerations

National Planning Policy Framework - (the “NPPF”)

The North Warwickshire Local Plan Submission Version, March 2018 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP11 (Economic Regeneration), LP15 (Historic Environment), LP21 (Town Centres and Neighbourhood

Centres), LP22 (New Services and Facilities), LP23 (Loss of Services and Facilities), LP31 (Development Considerations), LP32 (Built Form), LP33 (Shop fronts, Signage and External Installations) and LP36 Parking)

Consultations

Environmental Health Officer – No objection subject to conditions.

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

Police Design Crime Officer – No objection

Nuneaton and Bedworth Borough Council – No objection

Representations

Hartshill Parish Council – It seeks to ensure that sufficient room is available for delivery vehicles to turn around off road and that there is sufficient parking specifically designated for customers.

Neighbours – An objection has been received from a neighbour referring to:

- The application for the proposed development would not be beneficial to the local community, given the existing established supermarket.
- The volume of traffic would greatly increase and as the local residents already know this is an ongoing problem. An existing known issue in the area with regards to parking and highways matters.
- The application does not take into account the increased parking needed for the proposed retail units and on the proposed plans shown, the delivery vehicles would not be able to manoeuvre as shown in the diagram.
- The vehicles at present off load directly from the highway over the pedestrian walkway and into the front entrance of the existing shop, which leads to highways issues for vehicles and pedestrians.
- Concerns are expressed about the proposed security lighting and light pollution in the area.
- More double yellow lines should be provided.

Observations

There is no objection in principle here as the proposal represents a retail redevelopment scheme within an established retail and community centre, as reflected in the Development Plan – particularly in its identification in the Hartshill Neighbourhood Plan as the Hartshill “retail “ centre. The main considerations on this application are therefore to assess the impacts on the neighbouring properties, including the listed building and on the present highway and parking situation.

The locality is a mixed residential and retail area and therefore related noise, lighting, highway, parking and amenity impacts are already present throughout the day. There are residential properties directly opposite the site and the application has given the opportunity to see if there can be some improvement to the existing situation in regards to these impacts. In particular the improved on-site car parking provision together with a rear delivery service area will reduce existing on-street car parking and unloading impacts. The Highway Authority recognises this through not objecting to the proposal. There have also been issues with on-site lighting. This will need to be removed and replaced as part of this proposal and thus the opportunity can be taken to secure the later details of this by way of a planning condition. It is agreed that lighting and CCTV coverage will be required here and thus the safeguarding condition is the best way to deal with this so as to balance this need against its impact.

The proposal is not considered to result in unacceptable harm upon properties in Willow Close, given the separation distances and the intervening buildings. There is already vehicle parking and some deliveries made along the boundary with Willow Close properties.

The application also provides the opportunity to condition opening times. The applicant has requested that the opening hours are revised from a 0700 hour start to 0600 hours. It is considered given the surrounding residential properties that the 0700 time should remain as an earlier opening time would impact upon amenity. The retention of the closing time of 2200 hours is acceptable.

The proposal will result in a larger development on the site but the height of the eaves and ridge along Coleshill Road will match the built form on either side. The front elevation will contain dormer style features, and on balance it is considered acceptable given the mixed retail and residential use of the area.

Opposite side of the Coleshill Road is a Grade 2 Listed Building. There will be harm to the setting of this building but it is considered that the proposed design, siting and setting would cause less than substantial harm. The design of the retail unit seeks to reflect that of the existing adjacent retail units and thus there would be little or no impact on the existing situation in the street scenes here. The greater public benefit of the improved operational arrangements and the enhancement of the retail provision in the recognised centre outweigh the less than substantial heritage harm that might be caused.

Recommendation

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

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered 17/78-11 and 00 received by the Local Planning Authority on 5 March 2018 and the plan numbered 17/78 14c received by the Local Planning Authority on 12 March.

REASON

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

3. No development shall be commenced before details of the facing bricks, roofing tiles, window and door frame colours and materials, surfacing materials and security shutter materials to be used have been submitted to and approved by the Local Planning Authority in writing. Only the approved materials shall then be used.

REASON

In the interests of the amenities of the area.

4. The demolition works shall only take place between the hours of 0800 and 1800 Monday to Friday and between 0800 and 1300 hours on Saturdays, with no such work on Sundays or recognised public holidays.

REASON

In the interests of the amenities of the area.

5. All materials obtained from demolition shall be permanently removed from the site within twenty eight days of demolition being commenced.

REASON

In the interests of the amenities of the area.

Pre-commencement

6. The retail store shall not be open to the public until a Delivery Management Plan has been submitted and agreed in writing by the Local Planning Authority. The approved plan shall be maintained at all times. This plan shall ensure that delivery vehicles use the on-site service yard.

REASON

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

7. No development shall commence until details of any air conditioning and refrigeration units to be installed, including their noise, siting, design and technical details have first been submitted to and agreed in writing by the Local Planning Authority. Only the approved details shall be retained at all times.

REASON

In the interests of the amenities of the area.

8. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- Parking, turning and loading/unloading of construction/demolition vehicles, and vehicles of contractors and visitors;
- Temporary parking for the existing land uses at 94-102 Coleshill Road during the construction period; and
- Details to prevent mud and debris on the public highway.
- Details of working hours

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

REASON

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

9. No development shall commence until a Dust management plan is submitted for approval in line with the IAQM guidance for construction sites and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to at all times.

REASON

In the interests of the amenities of the area.

Pre-Occupation

10. The retail store shall not be open to the general public until details of all external lighting, CCTV cameras and security lights surrounding the store and within the parking areas have first been submitted to and approved in writing by the Local Planning Authority. The details required are: hours of operation, location, height, light spillage and luminance of lighting sources. Any security lights shall be angled downwards so not to impact upon neighbouring properties. The approved details shall be installed before the building is open for retail sales.

All existing CCTV, floodlights, security lights, supports and fixtures on poles and on the existing buildings in or adjacent to the application site shall be **adjusted or** removed within 14 days upon the completion of the approved lighting and CCTV details before the building is open for retail sales.

REASON

In the interests of the amenities of the area.

11. The development shall not be occupied until all parts of the existing accesses within the public highway not included in the permitted means of access have been closed and the kerb and footway have been reinstated in accordance with the standard specification of the Highway Authority.

REASON

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

12. The development shall not be occupied until the vehicular access, manoeuvring and parking facilities have been provided, surfaced in a bound material for their whole length, and marked out, in general accordance with drawing number 17/78 11.

REASON

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

13. The development shall not be occupied until the existing vehicular access to the site has been remodelled in general accordance with drawing number 17/78 11.

REASON

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

Other conditions

14. The parking spaces hereby approved shall not be used for any purpose other than the parking of cars.

REASON

To ensure adequate on-site parking provision for the approved retail store and to discourage parking on the adjoining highway in the interests of local amenity and highway safety.

15. The retail building hereby approved shall not be used for any purpose, including any other purpose in Class A1 of the Town and Country Planning (Use Classes) Order 1987, (as amended), or in any statutory instrument revoking and re-enacting that Order with or without modification.

REASON

To prevent unauthorised use of the property.

16. There shall be no opening of the retail store for business purposes other than between 0700 hours and 2200 hours Monday to Sundays inclusive.

REASON

To prevent disturbance to the occupiers of nearby properties.

Notes

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

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

2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

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

3. Advertisement Consent is required under a separate procedure of the Town and Country Planning Act 1990. Should any advertisements, signs, name boards, or other devices to attract attention, be intended in respect of this development, the Local Planning Authority will be pleased to advise you on all associated aspects prior to the erection of any such advertisements, and provide you with application forms.

4. 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.

5. 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>

6. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and 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.

7. The Police Design officer has recommended the following:

- Roller shutters/grilles protecting pedestrian access doors shall be tested and certified to LPS1175 security rating 2 (minimum) and installed in accordance with the manufacturers specifications. R
- Roller shutters/grilles protecting windows shall be tested and certified to LPS1175 security rating 1 (minimum) (Level 2) and installed in accordance with the manufacturers specifications.
- All external and emergency egress doorsets not protected by a roller shutter or grille shall be tested and certificated to LPS 1175 Security Rating 2 (Minimum).
- Ground floor windows and those easily accessible above ground floor, shall be Certificated (BSI Kitemark or similar) to PAS 24 'Specification for enhanced security performance of casement and tilt/turn windows for domestic applications' or Loss Prevention Certification Board standard LPS 1175 Security Rating 1.
- I would recommend appropriate CCTV coverage for the whole site both internally and externally (including the ATM if installed).
- I would advise PAS 68/ 69 be installed along the front of the store, this will ensure the store does not suffer from ram raids.
- I recommend no street furniture be installed close to the store as these are used as unofficial seating by young people.
- I would recommend that the unit alarm system be extended into the building roof space as this has been a point of entry on a number of convenience store burglaries
- Within Warwickshire and nationally premises that have ATM's have been targeted as the applicant will know and having a stand-alone ATM will increase the problem as they are easier to attack.
- I would recommend that the applicant does not have an ATM fitted.

8. Condition numbers 11, 12 and 14 require works to be carried out within the limits of the public highway. Before commencing such works the applicant/developer must enter into a Highway Works Agreement with the Highway Authority under the provisions of Section 184 of the Highways Act 1980. Application to enter into such an agreement should be made to the Planning & Development Group, Communities Group, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant/developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Applications should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less ten days, notice will be required. For works lasting longer than 10 days, three months notice will be required.

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

10. With regards to condition 10 the replacement, revision and removal of the existing CCTV and security devices, and any new replacements devices is an important consideration given the surrounding residential uses. In particular the CCTV pole and security light sited at parking space 23 and 24 on drawing 11 (proposed site layout), will need to be removed given the customer parking layout.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0082

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	05/02/2018
2	Agent	Revised plan	12/02/2018
3	Police	Consultation response	12/3/2018
4	WCC Highways	Consultation response	12/3/2018
5	Hartshill Parish Council	Consultation response	20/3/2018
6	NWBC Environmental Health	Consultation response	21/03/2018
7	Nuneaton and Bedworth BC	Consultation response	22/03/2018
8	Press notice	Public consultation – expired 29/3/18	8/3/2018
9	L Duester	Representation objection	9/3/2018
10	Case officer	Email to NWBC Forward Plans	5/3/2018
11	Case officer	Email to NBBC	5/3/2018
12	Case officer	Emails to Councillors	5/3/2018
13	Case officer	Email to agent	5/3/2018
14	Case officer	Email to agent	5/3/2018
15	NBBC	Email to case officer	6/3/2018
16	NWBC Media	Email to case officer	7/3/2018
17	Case officer	Email to Tamworth Herald following NWBC Media email	7/3/2018
18	Case officer	Email to agent	9/3/2018
19	Case officer and agent	Exchange of emails	12/03/2018
20	Case officer	Email to Hartshill Parish Council	20/03/2018
21	Case officer and NWBC Environmental Health	Exchange of emails	21/03/2018
22	Case officer	Email to agent	21/03/2018
23	Case officer	Email to agent	23/03/2018
24	Case officer	Email to agent	03/04/2018
25	Case officer and agent	Exchange of emails	03/04/2018 06/04/2018
26	Case officer	Councillor consultation	28/03/2018
27	Councillor Bell and officers	Exchange of emails	04/04/2018 05/04/2018

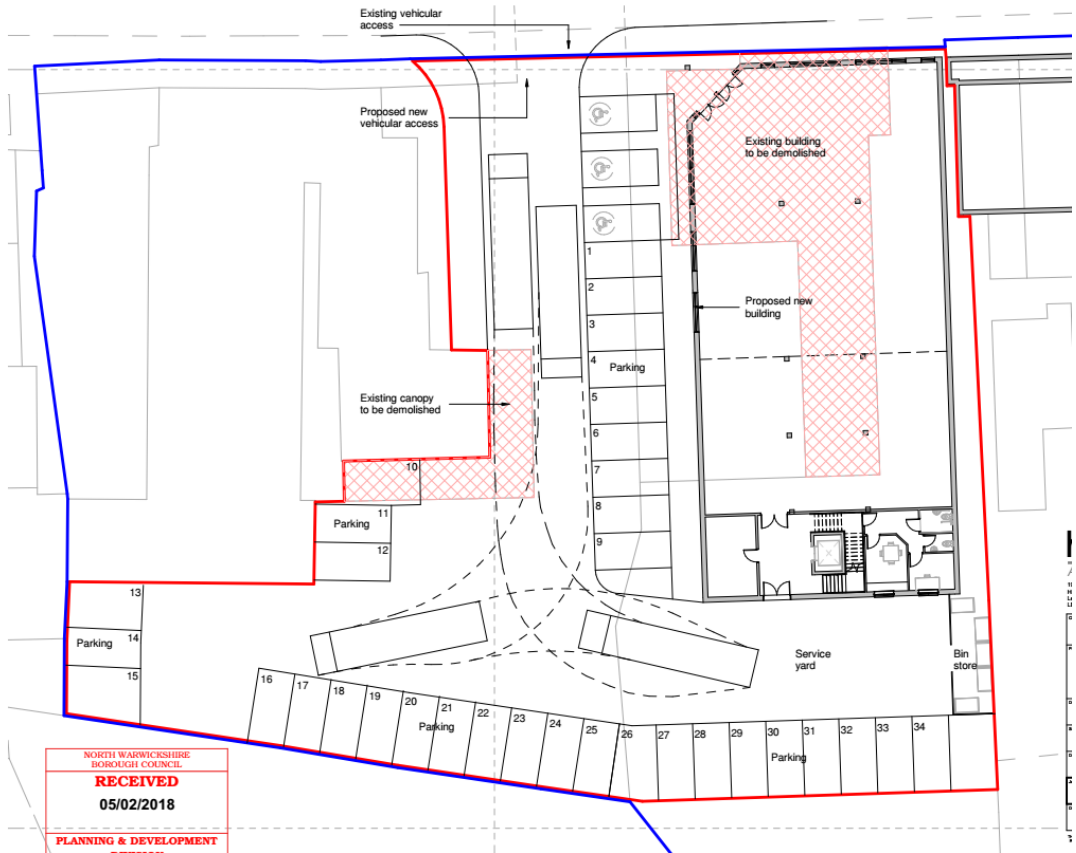
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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 - Plans



3D View

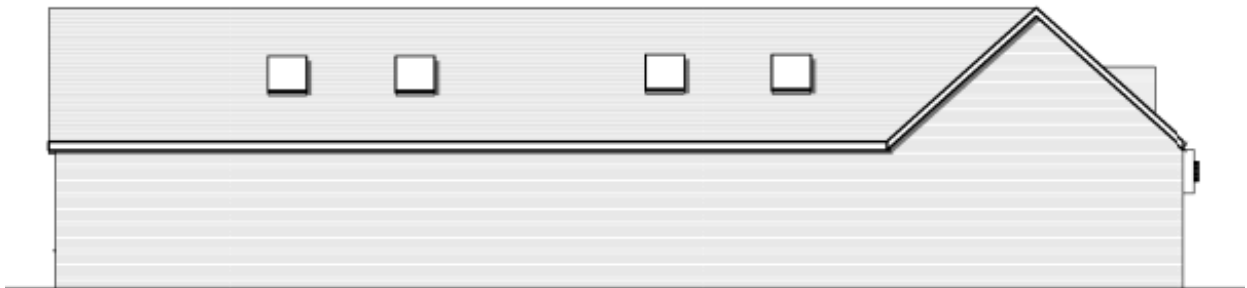




Front elevation



Side elevation



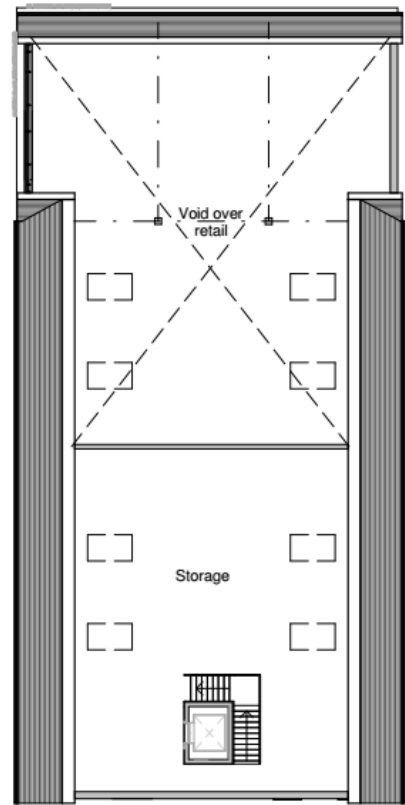
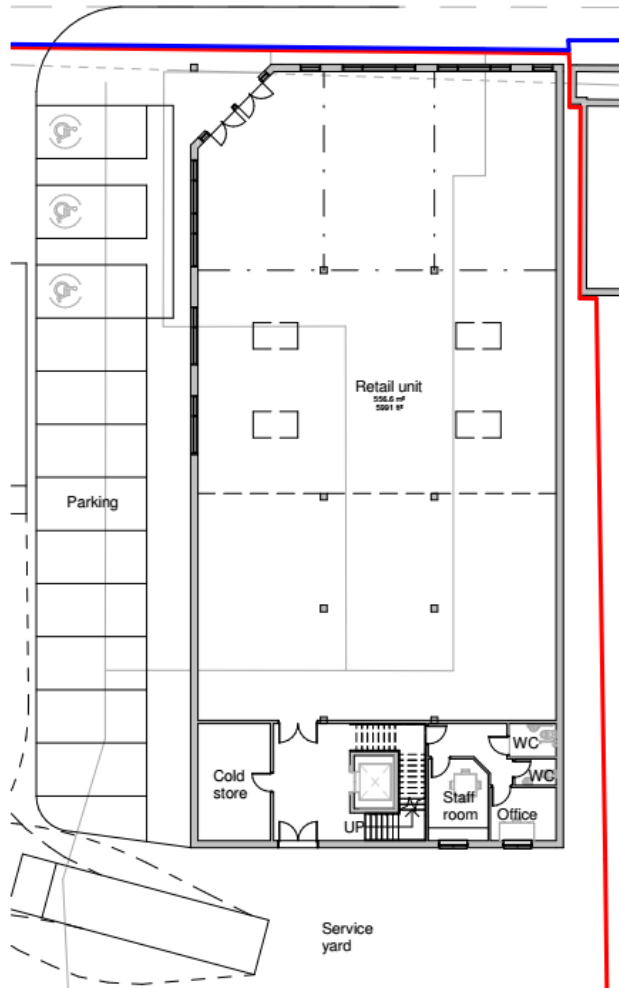
Side elevation



Rear elevation

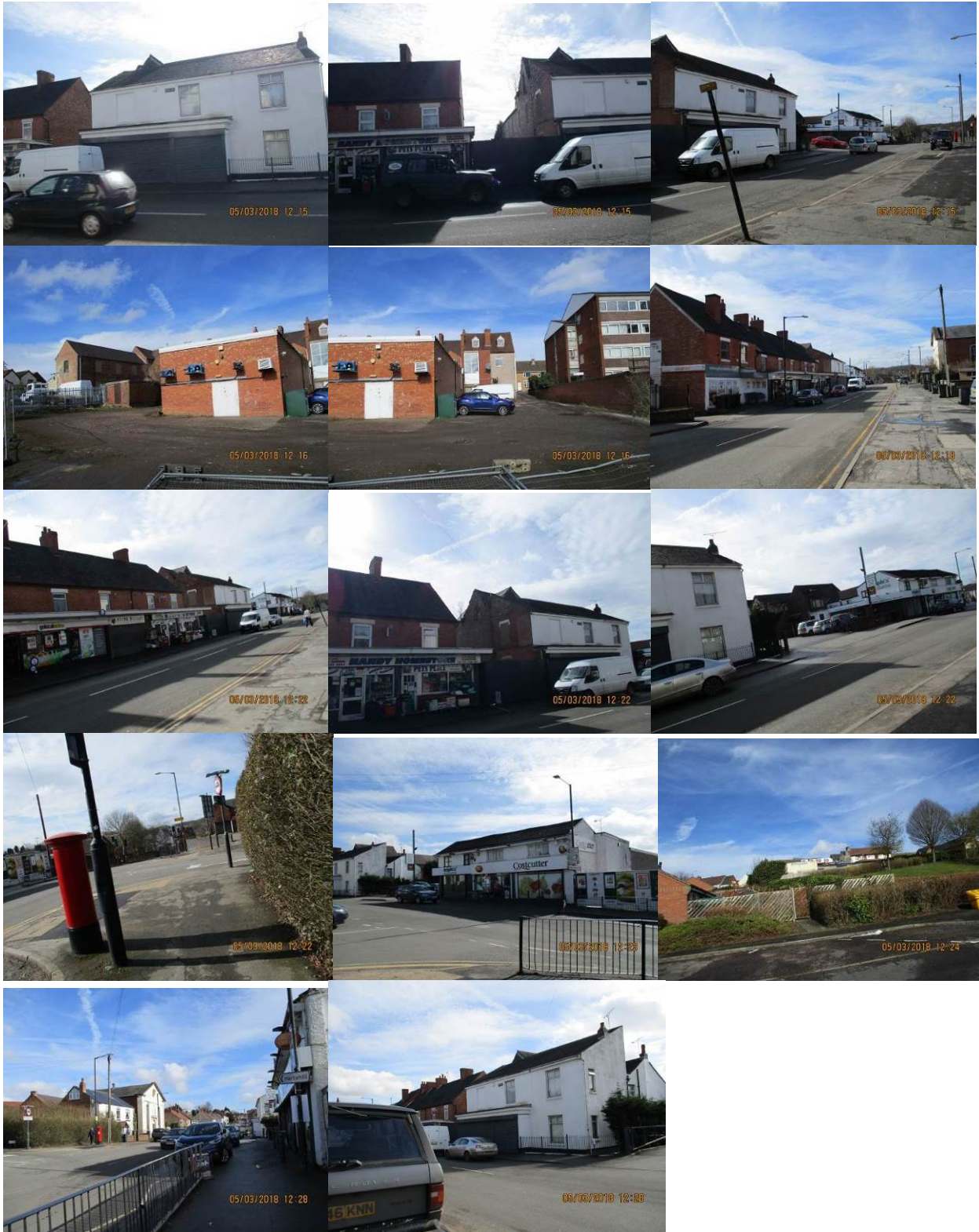
hayv
ARCHITECTS

19 Station Road
Hinckley
Leicestershire
LE10 1AW



Appendix B – Selected Site Photos





(4) Application No: PAP/2018/0094

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

Removal of condition No.3 of PAP/2017/0267 relating to the occupation of the eight bungalows prior to the completion of the refurbishment works to St Andrews House, for

Father Hudson Society

Introduction

This application was referred to the March Planning Board but determination was deferred in order that a meeting could be held between the applicant and representative Members of the Board in order to see if agreement could be reached on a variation of the condition or other measures in lieu of the condition. For the benefit of Members the previous report is attached at Appendix A

That meeting took place on the 20 April and a note is attached at Appendix B.

Observations

As can be seen from the note, no agreement was reached on potential alternatives.

The previous report pointed out that the issue here is to consider only whether the condition as set out meets the “tests” set out in Government guidance for the use of planning conditions.

The condition was seen to meet these tests, but explained that there was a need to explore alternatives and that has now been undertaken with the applicant. That meeting however did bring forward other considerations which are of weight and thus there should be further consideration by the Board of the central “test” here – that of the condition meeting a planning purpose.

The previous report suggests that it does and refers to the planning policy background to justify its inclusion. The applicant has drawn attention to three matters which need to be put into the balance to see if that conclusion needs to be changed. The first of these is that the new build development was not advanced as an “enabling” development in order to overcome a conservation deficit at St Andrews House. This is correct and therefore it should be noted that the condition was thus not a heritage requirement.

Secondly, the works approved for St Andrews House are not essential repair and maintenance works to safeguard the property. They are refurbishment works to accompany the proposed return of the property to a single dwelling house. This shows that the overall development is not an enabling development and thus that there is no essential link between the new build and any necessary repair of the House.

Thirdly, the House is not on the “At Risk” register and is structurally sound and in a good state of repair. As such completion of the new build will not change that situation – the house will still be in good repair and additionally, it will still have permission for its change to a single dwelling. The preferred use can therefore still be achieved without the condition.

The previous report indicated an initial “minded to refuse” recommendation. The subsequent meeting, and the attention that has now to be given to the above three factors, gives cause to reconsider the earlier recommendation. This is because these factors do carry significant weight and thus the situation is far more finely balanced. There is clearly a case for removal of the condition and Members should be aware that in an appeal situation that may very well be the outcome. However on balance, Members are reminded that the application as submitted was for the complete development and the applicant was very aware that Member’s concerns lay with re-use of St Andrews House and that the applicant amended his original submission in respect of the new build, to overcome adverse impacts on the setting of the Listed Building. There was no doubt therefore even in the applicant’s mind that the Council was treating the development as a whole and that there were planning and heritage purposes for linking the two parts of the overall development. It is because of this background that on balance, the recommendation as set out below is made.

Recommendation

That the Council does **NOT** agree to the removal of the condition for the following reason:

“The condition serves a planning and heritage purpose. St Andrews House is a Grade 2 Listed Building. The submission involved the development of a complete single site including land beyond St Andrews House. It was considered that as a consequence of amendments to the new build part of that development in order to reduce the impact on the setting of the heritage asset and to enhance the planning benefit of the preferred refurbishment of the asset, that less than substantial harm was caused. In accord with the National Planning Policy Framework that still carries substantial weight. However the Council considered that the greater public benefit lay with the refurbishment of the asset to its preferred use as a single dwelling and to the delivery of appropriate new housing. The removal of the condition with its planning and heritage purposes, would prejudice their overall achievement. The proposed removal does not therefore accord with Policy NW14 of the North Warwickshire Core Strategy 2014 as supported by the Framework”

(8) Application No: PAP/2018/0094**St Andrews Home, Blythe Road, Coleshill, B46 1AF****Removal of condition No.3 of PAP/2017/0267 relating to the occupation of the eight bungalows prior to the completion of the refurbishment works to St Andrews House, for****Father Hudson Society****Introduction**

This application is referred to the Board in light of its previous interest in the site.

Background

Members will recall the planning permission and Listed Building Consent were recently granted for the refurbishment of St Andrews House to a single dwelling with the erection of two cottages and eight bungalows. The bungalows were to be at the rear of the House on lower ground and with their own separate vehicular access.

One of the conditions attached to the planning permission here – number 3 – reads: “There shall be no occupation of any of the eight bungalows hereby approved until such time as the whole of the proposed refurbishment works to St Andrews House hereby approved, have been fully completed to the satisfaction of the Local Planning Authority”

The reason for this condition was to “ensure the works to the heritage asset are prioritised”,

The written report in respect of this case is attached at Appendix A for convenience.

The Proposals

The application is to seek to continue with the permission but to delete the requirements of this condition completely.

The applicant states that the condition “is, if anything, delaying the whole project”. The condition could only in his mind, “be viable if the whole scheme were being sold to one party. However the marketing, sale and development of the new housing and refurbishment elements of the scheme are for entirely different audiences. Prospective developers are being put off purchasing the new build elements as they cannot guarantee that they will not be prevented from selling the properties constructed.”

He continues by saying that there “is no heritage reason why the condition is necessary.” He attaches a report from a heritage consultant who argues that the site of the bungalows has no tangible heritage link with St Andrews House; that they were not treated as “enabling” development and that they are “acceptable in their own right”.

The condition is thus said to fail the tests set out in Government Guidance.

The report is attached at Appendix B.

Representations

Coleshill Town Council – No objection

Development Plan

The Core Strategy 2014 – NW10 (Development Considerations) and NW14 (Historic Environment)

Other Material Planning Considerations

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

The National Planning Practice Guidance – (the “NPPG” particularly in respect of planning conditions)

Observations

a) Introduction

This application proposes the removal of a planning condition imposed on a recent planning permission. As a consequence, the Board’s attention is necessarily drawn to the reasons for including the condition and thus its purpose. In this regard whilst the Board might consider that there may well be good reasons for it, those reasons will still have to satisfy the “tests” for including conditions as set out in the NPPG. If this application is refused then in an appeal situation, the Inspector will be looking to see that the condition does indeed satisfy these tests.

For the benefit of Members, these tests are that conditions have to be:

- Necessary,
- Relevant to planning
- Relevant to the development to be permitted
- Enforceable
- Precise and
- Reasonable in all other respects.

b) Background

When Members considered the main proposals here they wanted re-assurance that the approved refurbishment works to the Listed Building – St Andrews House - were completed so as to conserve the heritage asset. The preferred use for the building is as a single dwelling house and the refurbishment would enable the best prospect of that use coming to fruition. The “sanction” so as to reduce the possibility of the works not being implemented was to link them to the new build development at the rear. In this case, rather than to have the works completed prior to that new build commencing, it was considered reasonable to enable that construction work to continue but that the

sanction would be triggered through occupation. Hence the condition was so worded. The significance of the heritage asset was thus prioritised.

c) The Tests

It is considered that the condition is "precise" in that it is not open to interpretation and that it is enforceable because there is a clear "trigger" point with explicit requirements - no occupation. The main arguments thus revolve around the other tests.

It is considered that the condition is necessary for planning reasons. This is because it preserves the public benefit in having the heritage asset given the best opportunity to satisfy its preferred use. This would accord with Policy NW14 of the Core Strategy and the NPPF (paragraph 131 at Section 12). The NPPF also requires the Council to retain the significance of the heritage asset. Here that was identified as being a single dwelling house and in order to retain that, the "outlook" from the house was going to be an important consideration. There was a need therefore to resolve any impact of the scale of the new build on that outlook. The two parts of the development are thus linked.

The applicant considers that the condition is not necessary and not relevant to the development that has been permitted. There are two reasons being promoted. The first is that the site is being marketed as two sites thus to two "different audiences" who will have different perspectives and outcomes. The second is that there is no direct heritage link between the two portions of the site and thus the condition, by linking the two, is irrelevant and thus unreasonable.

In response to the first, it was a matter of fact that the applicant himself decided to submit just the one application for the whole site, not two applications. The whole proposal was designed and processed as a whole and the main issues were dealt with as a whole - e.g. the setting of the listed building extends over the land at the rear and the design and appearance of the layout and bungalows here has a material impact on that setting. Notwithstanding this, the applicant has himself taken the decision to market the site as two portions. If that has led to an issue about deliverability, then that was the outcome of his decision not this Council's. The issue of deliverability is of weight to the Council, in that it wishes to see both "portions" of the site delivered. However the decision to market as two sites is not a material planning consideration of significant weight in assessing the necessity of the condition. Indeed it could be argued that that decision prejudices the deliverability of the overall proposal.

In response to the second, then the Board accepted that the open paddock at the rear of the house, whilst important to the setting, was not an integral part of the curtilage of the house here. This was one of the reasons why development was permitted. The scale of that development and its impact on the significance of the asset was the key issue and hence the "planning" and "heritage" link between the two portions. Again whilst the applicant considers that the heritage link does not exist, the application was still submitted as one and not in two parts.

The condition is thus considered to be necessary and relevant to the overall proposal.

The final test is whether the condition is reasonable in all other respects. This is a little difficult to define as non-planning matters can enter the assessment here. Given the submission of the application, Members should give consideration as to whether an alternative or varied condition might still meet the Board's objective whilst offering some comfort to the applicant. In this regard the condition presently requires no occupation of

any of the bungalows until the approved works to the St Andrews are completed. A variation of this might allow occupation of some of the bungalows rather than all, or indeed occupation of nine of them but not the final one until substantive works to St Andrews have taken place. It is considered that such an approach might enable both the Council and the applicant to have some comfort through such a compromise.

d) Conclusions

It is considered that overall there is weight in retaining the condition as agreed. However the applicant has an issue and there is some weight that can be attached to that. It is therefore suggested that appropriate Members meet with the applicant in order to see if there is scope for varying the condition as outlined above, thus preventing the possibility of an appeal in the event of a refusal.

Recommendation

That the applicant be informed that the Council is not minded to support the removal of the condition for the reasons outlined above, but that he be invited to meet with appropriate Board Members in order to explore a variation of the condition acceptable to both parties.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0094

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	12/2/18
2	Coleshill Town Council	Representation	28/2/18

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

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

(5) Application No: PAP/2017/0267 and PAP/2017/0268

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

Reinstate St Andrews to a single dwelling with residential annex, and construct 10 no: 2 bed dwellings, comprised of a building replacing the original coach house as two dwellings, and 8 dormer bungalows, for

Father Hudsons Society

Introduction

These are identical applications to those considered by the Board at its May meeting.

At that time the Board deferred determination of the applications as it considered that the significance of St Andrews as a single dwelling should be enhanced through amended design.

The Board authorised representatives to meet with the applicant.

Following that deferral, the applicant submitted appeals with the Secretary of State against the non-determination of those applications. A decision on these will thus now be taken by a Planning Inspector. However in view of the Board's request, the applicant has re-submitted the proposals exactly as reported to the May Board, so that discussion could continue. These are the applications now reported to the Board. The applicant has indicated a willingness to withdraw the appeals if agreement can be reached in respect of the Board's concerns.

For convenience the full Board report from the May meeting is attached at Appendix A.

A missing paper was circulated separately to that meeting and this is at Appendix B.

Discussions

Councillors Simpson and Sweet met with the applicant's agent on 6 June in order to express the Board's concerns about the viability of retaining St Andrews as a single house within the design of the layout as promoted. That meeting has resulted in an amended plan which has now been submitted. This is at Appendix C.

The changes are two-fold:

- There was concern about the outlook to the north from St Andrews overlooking the proposed car park and bungalows together with the proximity of the boundary here. The ground floor windows in St Andrews are to a kitchen, a laundry room and a dining room. However the principal windows to that dining room face towards the east not the north. In order to improve the outlook, the car parking area has been re-designed so as to have more space for landscaping here as well as less car parking space. The overall number of car park spaces remains the same; there is just a re-alignment of them.

- The shared access off Blythe Road serving both St Andrews and the new Coach House building remains, but there is now a physical separation within the site so as to clearly demarcate two distinct curtilages. That boundary would be an iron railing with a sliding gate.

Development Plan and Other Material Planning Considerations

The previous report, at Appendix A, sets out the relevant Development Plan policies. Members are advised that the Coleshill Neighbourhood Plan was adopted on 12 June and thus it now becomes part of the Development Plan. The relevant policies that the Board now has to consider as part of its consideration of these applications are HNP1 (Housing Allocations) and HNP2 (Integration of New Housing).

There have no changes to any other material planning considerations since the previous meeting.

Representations

The Coleshill Town Council has no objection thus reinforcing compliance with the Neighbourhood Plan.

A letter of support has been submitted.

Consultations

There is no change in respect of technical considerations with these re-submissions as the changes do not affect highway, drainage, ecological or archaeological interests. Earlier responses from the consultant agencies can thus be carried forward and they will carry full weight.

Observations

There has been no change in the planning policy background to these resubmissions since the May meeting. The proposals accord with the Coleshill Neighbourhood Plan policies referred to above. As such there remains no objection in principle to the proposals.

The central issue is thus to assess the impact of these amendments on the significance of the heritage assets – The Grade 2 Listed St Andrews House and the Coleshill Conservation Area. There is considered to be no additional impact or effect on the significance of the town's Conservation Area. There will however be an impact on the setting of St Andrews House. The additional landscaping and re-location of some of the car parking provision at the rear is a benefit to the setting as it enhances the privacy of the area at the rear of the House. The sub-division at the front does harm the openness of the setting of the House as it is at the front and will be visible from the public domain. However, that harm is less than substantial because the boundary would be an iron railing and thus would not be a visual barrier and secondly because it is easily reversible. As a consequence these amendments would not alter the overall assessment that was reached with the previous applications and reported to the Board. Overall there is harm to the heritage asset here but that is less than substantial. There is however a greater public benefit which outweighs that harm in that St Andrews would be brought back into use as a single dwelling – its preferred and its original use – and

that outcome is enhanced through these latest changes. The applications, as amended, can thus be supported.

Recommendations

That planning permission and listed building consent be granted subject to the conditions and notes set out in Appendix A together with the substitution of plan numbers so as to refer to those attached at Appendix C.

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BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0267 and 2017/0268

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	23/5/17
2	Head of Development Control	Letter	17/5/17
3		Note of meeting	6/6/17
4	Mr Axe	Representation	7/6/17
5	Coleshill Town Council	Representation	7/6/17
6	Environmental Health Officer	Consultation	15/6/17

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.

(6) Application No: PAP/2018/0659 and PAP/2017/0660

Planning and Listed Building Applications for the re-instatement of St Andrews to a single dwelling with a residential annex and the construction of ten two bedroom dwellings comprising a building replacing the original coach house as two dwellings and eight dormer bungalows with associated parking and landscaping and a new access point off Chestnut Grove for

The Father Hudson's Society

Introduction

The receipt of this application was reported to the December Board meeting but determination was deferred to enable a site visit. That took place in February and the matter is now reported back to the Board.

The previous report is attached for convenience at Appendix A and the site visit note is at Appendix B.

Amended Plans

Although the scale and nature of the proposal here has not altered since the December Board, the applicant has amended the design of the new buildings – the Coach House and the rear bungalows. Additionally the number of parking spaces for the eight bungalows has increased to 16.

A copy of the overall layout is attached at Appendix C and the latest elevations are at Appendix D.

It can be seen that the bungalows reflect a more traditional appearance whereas the Coach House attempts to reflect the appearance of St Andrews itself, but this has led to the introduction of a rear flat roof feature.

Additionally the applicant has submitted a letter concluding that the proposed new building would not be likely to have a negative impact on the marketing of St Andrews as a large single dwelling – see Appendix E.

Representations

A letter of support has been received welcoming the plan to secure the future of the building and to provide new houses in Coleshill. It adds that there needs to be a pedestrian access from the bungalows to Blythe Road.

Six letters of objection have been received referring to the following matters.

- Increased traffic will arise on Blythe Road where there are already long peak hour tailbacks.
- Lack of capacity on the local facilities
- On-street car parking will spill over into Chestnut Grove.

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- Details of boundary treatments need to be agreed.

Coleshill Civic Society – No objections

Coleshill Town Council – No response received

Consultations

Warwickshire County Council as Flood Authority – It originally objected requiring additional detail. This has been submitted and the objection has been withdrawn subject to conditions.

Warwickshire Police (Architectural Liaison) – No objection

Environmental Health Officer – No objection

Warwickshire Museum – No objection

Warwickshire County Council as Highway Authority – It originally objected to the proposal seeking more information which has since been provided. It had not responded to this at the time of preparation of the report. The recommendation below recognises this situation.

Heritage Consultant – Following the amended plans there is no objection from a heritage point of view to the overall development or to the design of the new bungalows. However there are issues with the design of the new Coach House because the rear roof design lacks integrity as a development within the setting of a listed building.

Observations

As indicated in the previous report there is no objection to these proposals in principle as the site is within the development boundary of Coleshill as defined by the Development Plan. The town is also one where new housing is supported. The proposal is thus located within a sustainable location. The issues to look at in this case are therefore the detailed considerations of the likely impacts – particularly the highway and heritage impacts.

a) Heritage Impacts

There are two matters to address – the impact on St Andrews as a Listed Building and its setting and secondly the impact on the town's Conservation Area.

In respect of the first then St Andrews is a Grade 2 Listed Building dating from around 1820 but built in the Regency style thus exhibiting both internal and external design characteristics of that period. There is a separate service/servants quarters extension and there used to be a detached coach house to the west. It was occupied as a single dwelling by different owners up to 1949 when the Father Hudson's Society acquired it for use as a boys home as an annex to the Society's main campus at the southern end of the town. This use ended in the 1980's when the building was converted to self-contained flats occupied by other of the Society's residents. The historical record shows that its principal elevation faced towards the east away from Blythe Road and that its related garden and curtilage ran west/east along this frontage. The former orchard at the rear and now vacant land was not part of the original curtilage as it was acquired at a later date and included within the Society's land holding. The significance

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of this heritage asset lies in the retention of a relatively unaltered mid -19th Century single dwelling house detailed in the Regency revivalist style.

In terms of the impact of the proposal on this significance then the Council's Consultant agrees with the applicant that it would be beneficial. Not only will the house be put back into its original use as a single dwelling but the changes will remove inappropriate partitions and alterations that would not affect the original built form, internal layout or the contemporaneous fittings and fixtures. External changes would re-instate original openings and window design. As such the scheme would be entirely beneficial in this respect rather than harmful. The re-instatement of the Coach House too would be appropriate historically and thus no harm in principle would be caused as the location would match that of the original siting.

The main issues are therefore around the impact of the proposals on the setting of the Listed Building. As indicated above there is no issue in principle with the reinstatement of the Coach House. In principle there is neither an objection to the introduction of new development in the former orchard at the rear. This is because this land was not part of the historic curtilage of St Andrews and it therefore had no direct association with the building apart from a recent ownership connection. There is thus no objection in principle to its development. In this case that development is neither considered to be harmful to the building. This is because of the low height of the proposed buildings; them being at a lower ground level, they have an alternative access not breaching the curtilage of St Andrews and the pronounced break of slope between the two parts of the site being retained. As a consequence the proposal is considered to have less than substantial harm on the setting of the listed building.

It is neither considered that the proposed appearance of the new buildings here would alter these conclusions. The bungalows to the rear have a different style to that of St Andrews and because of that and their simple design there would be no direct harm caused. The Coach House has been designed so as best to reflect the style of St Andrews without causing harm, but this has introduced a rear flat roof feature which doesn't sit well within the setting of the Listed Building. However this feature would not be visible and the weight of the dissatisfaction with this feature would thus be lessened.

In all of these respects therefore it is considered that the proposals in their entirety would have less than substantial harm to the setting of the Listed Building and that they would have benefits in respect of the building itself.

In terms of the Conservation Area then its significance can be described as reflecting the evolution of the town with the range retaining the variety of different architectural styles and the growth of the town along a pronounced ridgeline. The application site is not in the Conservation Area and neither does it adjoin it. It is considered that the proposals here have no impact on the significance of the Area as set out above.

The Council has a statutory duty to have special regard to the desirability of preserving Listed Buildings, their settings and any features of special architectural or historic interest. It also has to have special regard to the preservation or enhancement of the character and appearance of a Conservation Area. In this case in overall terms the proposals have less than substantial harm on the setting of St Andrews and no harm on the significance of the Conservation Area. This conclusion will have to be placed in the final planning balance. That will have to assess whether the less than substantial harm is outweighed by the public benefits of the overall scheme.

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b) Highway Impacts

The Highway Authority originally objected but not in terms of highway capacity or the adequacy of the off-site junctions. It was concerned with the detailed geometry of the internal layout. This has now been resolved through the submission of amended plans. The County Council is fully aware of the highway concerns expressed by the objectors as it has had to deal with other applications that lead to increased traffic using Blythe Road. However it has not objected to the principle of the development and this carries substantial weight. Members will be aware that the NPPF advises a highway refusal reason only if the impacts are severe. That is not the case here.

c) Other Matters

There are no other matters that would cause adverse harm and the details submitted are acceptable subject to final clearance through conditions.

There has been some concern expressed about the long term future of St Andrews in that whilst this proposal represents the best outcome for the property, the market may well not respond to this project either initially or in the future. In this regard there may be proposals in the future to sub-divide the property again should no future purchasers be found for the large single dwelling. Members will, be aware that speculation is not a material planning consideration and that commercial and market considerations are not planning considerations. Future proposals will need to be considered on their merits dependant on the planning considerations at the time of determination. In order to assist however two planning conditions are recommended. One is to ensure that the refurbishment works to St Andrews are completed first such that the heritage asset is fully realised and thus available for occupation as a single dwelling. The second would restrict sub-division in order to show intent, but as indicated this may not prevent the submission of future applications to vary the condition.

d) Conclusions

There is no objection in principle to this proposal as a whole and it carries significant benefits. It is located in a sustainable location and has the benefit of increasing housing supply in that respect, thus assisting with the Council's five year housing supply. There is also a significant benefit in enabling the refurbishment of a Listed Building in a way that is preferred, as it re-establishes the original single dwelling with separate annexe accommodation without any internal or external adverse heritage impact. Members will have to assess whether there is any harm caused that is sufficient to outweigh these benefits in a final planning balance.

In this respect there is no harm other than the less than substantial harm caused to the setting of the Listed Building and the less than substantial harm caused by the design of the rear element of the new Coach House building. Individually or taken together it is not considered that this level of harm is sufficient to clearly outweigh the benefits arising here within the final planning balance.

Recommendations

a) PAP/2016/0659

That planning permission be **GRANTED** subject to there be no objection from the Highway Authority and to the following conditions together with other that might be required by that Authority:

1. Standard Three year condition
2. Standard Plan numbers –

Defining Conditions

3. There shall be no occupation of any of the eight bungalows hereby approved until such time as the whole of the proposed refurbishment works to St Andrews House hereby approved, have been fully completed to the written satisfaction of the Local Planning Authority.

REASON

In order to ensure that the works to the heritage asset are prioritised.

4. There shall be no internal sub-division of St Andrews House once the refurbishment works hereby approved have been fully completed and neither shall there be any sub-division of the whole of its curtilage.

REASON

In order to retain the heritage asset

Pre-commencement Conditions

5. No development shall commence on site until a full landscaping scheme for the whole site has first been submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall then be implemented on site.

REASON

In the interests of the visual amenities of the area

6. No development shall commence on site until full details of all facing, roofing and surface materials to be used throughout the site and details of all boundary treatments including the dividing retaining wall between St Andrews and the bungalows have first been submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall then be used on site.

REASON

In the interests of the visual amenities of the area.

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7. No development shall commence on site until full details of the surface water and foul water disposal from the site have first been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall then be implemented on site.

REASON

In order to reduce the risks of flooding and pollution.

8. No development shall commence on site until full details of the measures to be implemented on site to protect trees to be retained have first been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall be implemented on site and these shall remain on site until construction is completed.

REASON

In the interests of the visual amenities of the area and to protect bio-diversity.

9. No development shall commence on site until a Construction Management Plan has first been submitted to and approved in writing by the Local Planning Authority. This Plan shall remain in force throughout the construction period. It shall include details of:

- a) The parking of vehicles for site operatives and visitors
- b) Loading and unloading of plant and materials
- c) Storage of plant and materials
- d) The erection of security hoarding/fencing
- e) Wheel washing facilities
- f) Dust emission measures
- g) A waste recycling scheme
- h) Working and delivery hours
- i) Contact details for the site manager

REASON

In the interests of the residential amenities of the area and to reduce the risk of pollution.

Notes

The Local Planning Authority has met the requirements of the National Planning Policy Framework in this case through pre-application discussion and no-going negotiation in order to address planning and heritage issues.

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b) PAP/2016/0660

That Listed Building Consent be **GRANTED** subject to the following conditions:

1. Standard three year condition.
2. Standard Plan numbers condition – plans per condition (i2) in PAP/2016/0659

Defining Conditions

3. There shall be no occupation of any of the eight bungalows hereby approved until such time as the whole of the proposed refurbishment works to St Andrews House hereby approved, have been fully completed to the written satisfaction of the Local Planning Authority.

REASON

In order to ensure that the works to the heritage asset are prioritised.

4. There shall be no internal sub-division of St Andrews House once the refurbishment works hereby approved have been fully completed and neither shall there be any sub-division of the whole of its curtilage.

REASON

In order to retain the heritage asset

Pre-Commencement Conditions

5. No development shall commence on site until a full landscaping scheme for the whole site has first been submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall then be implemented on site.

REASON

In the interests of the visual amenities of the area.

6. No development shall commence on site until full details of all facing, roofing and surface materials to be used throughout the site and details of all boundary treatments including the dividing retaining wall between St Andrews and the bungalows have first been submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall then be used on site.

REASON

In the interests of the visual amenities of the area.

7. No development shall commence on site until full details including scaled elevations and cross sections of all windows and external doors throughout the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall then be implemented on site

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REASON

In the interests of the historic and heritage value of the site and its setting.

Other Conditions

8. All windows and doors throughout the development hereby approved shall be recessed back into their openings by a minimum of 75mm

REASON

In the interests of the historic and heritage value of the site and its setting.

9. All new doors and windows throughout the development hereby approved shall be constructed in wood and maintained as such thereafter.

REASON

In the interests of the historic and heritage value of the site and its setting.

Notes

The Local planning Authority has met the requirements of the National Planning Policy Framework in this case through pre-application discussion and on-going negotiation to resolve the heritage issues arising from the proposal.

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BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0659

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	23/11/16
2	Mr and Mrs Axe	Support	24/11/16
3	WCC Flooding	Consultation	29/11/16
4	Mr and Mrs Gascoigne	Objection	29/11/16
5	Mr Briody	Representation	30/11/16
6	Warwickshire Police	Consultation	2/12/16
7	Mr and Mrs Gainsley	Objection	4/12/16
8	Environmental Health Officer	Consultation	6/12/16
9	Warwickshire Museum	Consultation 9/12/16	9/12/16
10	T Bond	Representation	11/12/16
11	D Griffiths	Objection	13/12/16
12	S Peachey	Objection	13/12/16
13	Coleshill Civic Society	Support	23/12/16
14	Heritage Consultant	Consultation	Dec 2016
15	WCC Highways	Objection	18/1/17
16	Site Visit	Note	4/2/17
17	Agent	Letter	16/2/17
18	WCC Highways	Consultation	6/4/17
19	Heritage Consultant	E-mail	5/4/17
20	Agent	E-mail	28/4/17

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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(9) Application No: PAP/2016/0659 and PAP/2016/0660

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

Planning and Listed Building Applications for the re-instatement of St Andrews to a single dwelling with a residential annex and the construction of ten two bedroom dwellings comprising a building replacing the original coach house as two dwellings and eight dormer bungalows with associated parking and landscaping and a new access point off Chestnut Grove for

The Father Hudson's Society

Introduction

This application is reported to the Board for determination at the discretion of the Head of Development Control. This however is an introductory report which will describe the site, outline the proposals and identify the relevant Development Plan background.

The recommendation is that the Board visits the site prior to determination.

The Site

This comprises just under a half hectare of land on the north side of Blythe Road to the east of the town centre. It is essentially made up of two sections. The front half lies behind a heavily landscaped road frontage which is marked by a brick wall. Several of these trees are protected by Order. The House sits behind, with an area of car parking space and it has its own access onto the road. The rear half is divided from the front by an obvious bank which runs the whole width of the site. This lower half is best described as a paddock and runs down to the northern boundary. There is a gated access in the far north-eastern corner linking to the cul-de-sac head of Chestnut Grove.

The site is surrounded by other traditional two storey residential property. That on the western boundary however is a three storey terrace with a blank gable facing the site.

The site is not in nor does it adjoin the Coleshill Conservation Area but the boundary is close by. The site is on higher ground with extensive open views to the north.

The site's location is illustrated in Appendix A.

St Andrews House is a Grade 2 Listed Building dating from around 1820, built in the Regency style thus exhibiting both internal and external design characteristics of that period. There is a service/servants quarters extension and there used to be a detached coach house to the west. It was occupied as a single dwelling by different owners up until 1949 when the Fathers Hudson's Society acquired it for use as a boys home as an annex to the Society's main campus at the southern end of the town. This use ended in the 1980's when the building was converted to self-contained flats occupied by other of the Society's residents. It has however been vacant since 2013.

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The Proposals

It is proposed to return the main house to a single dwelling with six bedrooms and to convert the servant's quarters to a residential annex associated with the main house. Very little in the way of change is involved internally apart from the removal of the partitioning that was installed when the Society converted it to apartments. External alterations are minor comprising new windows. All access would be from the existing Blythe Road access and six car parking spaces are proposed.

Appendix B illustrates the internal layout as proposed and Appendices C and D illustrate the external changes.

The remainder of the proposals involve the erection of ten additional two storey dormer bungalows. Two of these would be semi-detached and would be located roughly in the location of the former coach house to the west of the main building and would be 7 metres to their ridge. Materials would be a mixture of render, facing brickwork and cement fibre slate roofing tiles. The front elevation replicates coach doors. Four car parking spaces are to be provided. The remaining eight bungalows would be in two blocks - one of five and the other of three - comprising linked dormer units set around a communal area on the lower ground to the north with its own parking area providing 12 spaces. They would be 7 metres to their ridge and use the same materials as before. Vehicular access to these eight bungalows would be from the gate onto Chestnut Grove. The existing break in slope would remain across the site marked by an iron field railing set onto a brick retaining wall.

No affordable housing is being proposed either on-site or by way of an off-site contribution as the applicant considers that as there are ten new units being proposed, the development comprises a small development thus exempt from such provision following recent case-law.

The overall site layout is illustrated at Appendix E and illustrations of the new dwellings are at F and G.

Supporting documentation includes the following reports.

An Ecology Study concludes that the site as a whole has poor bio-diversity but that the tree frontage and perimeter hedgerows provide some ecological value. Further surveys are needed to establish the presence of bats in the trees.

A Day Time Bat survey suggests that the construction of the present House would preclude the presence of bats and that there were no signs of bat roosts in the trees.

A Transport Assessment concludes that the development would not cause adverse highway impacts that would amount to "severe", so as in the terms of the NPPF to warrant refusal.

A Preliminary Drainage Assessment recommends that sustainable drainage arrangements on site would ensure that surface water was contained and that discharge would not be greater than green field run-off.

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A Tree Survey describes the trees and hedgerows around the perimeter of the site. The most significant are those along the Blythe Road frontage comprising a mature Cedar, acacia, maple, holly and sycamore. The Survey shows that all of these are worthy of retention as are others along this frontage. Some management is needed and those trees to be removed are those of poor quality and in poor condition. The works in and around the house would not affect the trees to be retained provided appropriate root protection measures are introduced. The remainder of the site would be enhanced through new planting.

A Design and Access Statement explains the setting of the site and how the design, layout and appearance of the new buildings have been arrived at.

A Heritage Impact Assessment has been submitted and this describes the history of the site and provides a detailed architectural description of each of the rooms. The report confirms that there were service quarters in the south west corner of the site. The House stood in grounds that extended parallel to the road extending further to the east with its access further to the east – hence explaining why the main front elevation of the house now faces away from the road. The land to the north of the application site was an orchard but was physically distinct and separate from the House and its gardens. Much of the orchard has now been developed but the remainder of the site is now the paddock land as seen today. However the Report makes it clear that historically there was no connection between the House and the land – it only becoming linked probably when the Society acquired the site and the remaining orchard land. The Assessment concludes that the works to the House itself are not harmful and actually enhance the heritage significance by bringing the property back into use as a single dwelling – the preferred use in respect of the new range to the south west than this would not significantly affect the setting of the house and also enable a re-statement of the historic built form. The bungalow development to the north however will impact on the setting of the Listed Building. But the assessment points out that the setting has already been "severely compromised" with original gardens to the House lost and redeveloped such that the linear form running parallel to the road has been lost: the former orchard and gardens being historically distinct and physically separated and because the north elevation of the House is in fact not the principal elevation. The impact of the development on the present setting is thus limited. In terms of the impact on the Conservation Area then again harm is considered to be limited.

A Planning Statement brings all of these matters together arguing that there should be no objection in principle because of the sites location inside the town's development boundary and it being sustainable development. With no harm arising from highway, ecological or drainage impacts the main consideration revolves around heritage impacts. The Statement draws on the Heritage Assessment to conclude that any impacts would be outweighed by the greater public benefit in bringing the house back into its preferred and original use as a single dwelling.

The applicant also draws attention to a public exhibition which was held in September.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development), NW2 (Settlement Hierarchy), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development) and NW14 (Historic Environment)

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Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows), ENV12 (urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Conservation), ENV16 (Listed Buildings) and TPT6 (Vehicle Parking)

Other Material Planning Considerations

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

The National Planning Practice Guidance 2014

The Coleshill Conservation Area Designation Report 1969

Observations

The site is wholly inside the development boundary for Coleshill as defined by the Core Strategy and thus there is no objection in principle here. The town is allocated for a minimum of 275 new dwellings in the plan period and the emerging Local Plan does not alter the significance of the town as a location for new housing. The development is thus sustainable development and the presumption is therefore one of support unless material planning considerations indicate otherwise.

Members will be aware that such considerations revolve around looking at the impact of the proposals on a range of matters. The next report will explore these – highway, drainage, arboricultural and ecological impacts. The effect on the residential amenity of the adjoining householders will also need to be examined. However as Members are aware from this report it is likely that the two most significant issues that they should look at are the impact on the heritage assets (the Listed Building and the Conservation Area) as well the quality of the design and appearance of the proposed new dwellings.

In this regard the recommendation below is that the Board visits the site in order to better understand its setting prior to making a determination.

Recommendation

That the Board visits the site

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BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0659

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	21/11/18

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

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

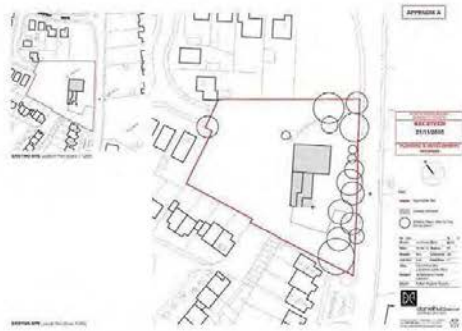
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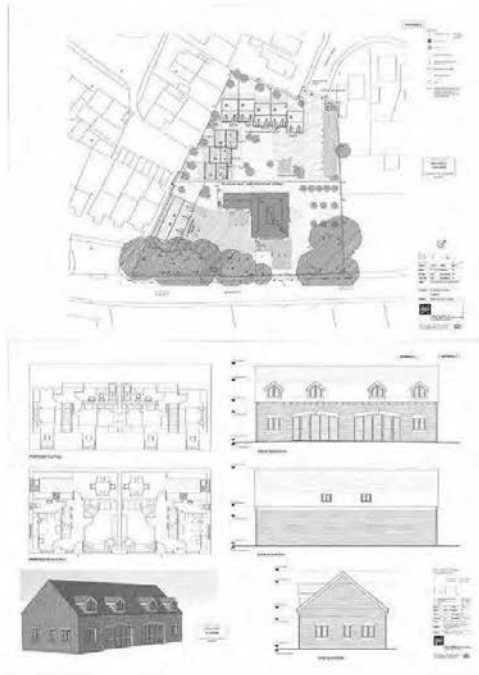
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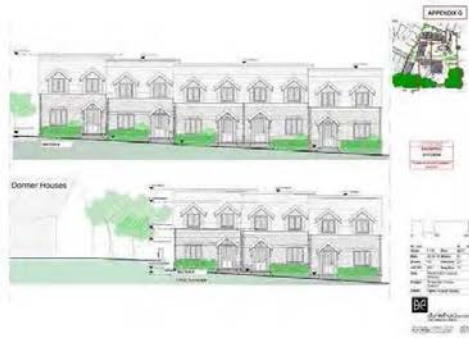
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PAP/2016/0663

St Andrews House, Coleshill

Member Site Visit – Saturday 4th February 2017 at 1045

Present: Councillors Bell, E and N Driveiks, Hayfield, Henney, Humphres, Johns, Jones, Reilly, and Simpson with J Jowitt (Agent for the applicant) and J Brown

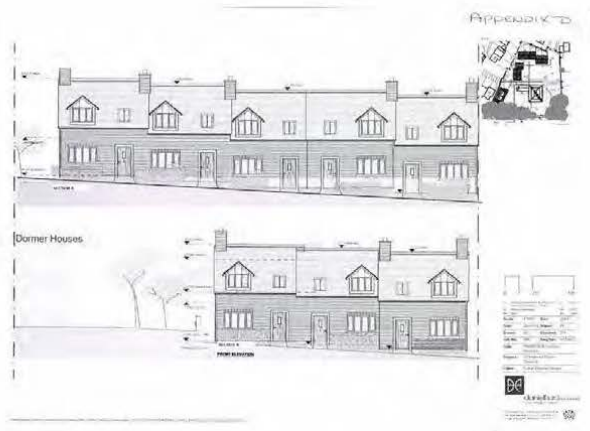
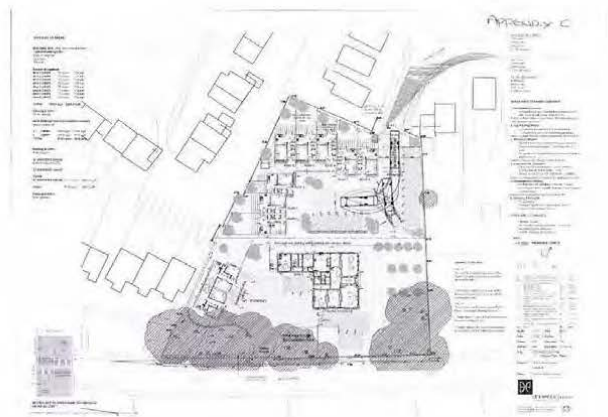
1. Members were shown the proposed plans and layout. The main house and its "wing" were noted as well as the buildings to be demolished.
2. Members were shown a historic plan outlining the position of the house and its original curtilage. The position of the former coach house was seen on the plan.
3. Whilst at the front of the house Members noted the access, the tree lined frontage, the location of the proposed two semi detached houses and the side gable of the properties to the west.
4. They then proceeded to walk around St Andrews House. They saw the main front elevation noting its aspect. The position of new windows was outlined in the northern elevation.
5. Whilst here Members saw the open land to the north noting the position of surrounding houses and their rear gardens. The position of the new access off Chestnut Grove was noted. The position of the new boundary feature dividing the house from the new built area was noted. In particular Members noted the slope towards the north and the nature of the proposed layout.
6. Members then went inside the house and were able to look at the main ground floor circulation space as well as the original kitchen. The room layout was explained as well as the position of the cellar and the staircases.
7. Members left the site at around 1110.

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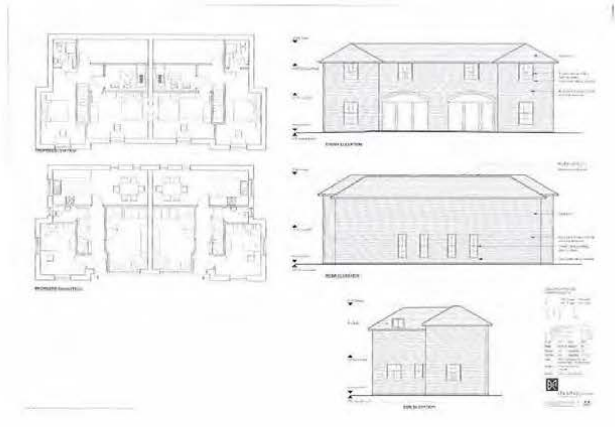


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4/78

Appendix B



Charles Bradley Miller FRICS
Consultant: Alexander Smith FRICS

Date 15th February 2017

Our Ref: CBM/LMB/7111

Your Ref:

Mr. N. Stubbs
Father Hudsons Care
St Georges House
Gerards Way
Coleshill, B46 3FG



Dear Noel,

Re: St Andrews, Blvrthe Road, Coleshill, B46 1AF

Further to our recent telephone conversation and your email of last week I note that following a meeting between your architect and NWBC Planning Committee one issue that was raised was whether the number and proximity of units would have a detrimental effect on the marketing of St Andrews as a single dwelling house.

I would advise that the property has been marketed since 2013 by Miller Briggs & Co, as joint agents with Reeves & Partners, during which time there was very little interest received for the property as a single dwelling, only for the development opportunity offered by the whole of the site. This was partly due to the condition of repair of the property, its Listing status and the established use as a residential care home. Hence the marketing of the property was not successful in finding a buyer.

Having examined various options for the development of the site and the refurbishment of the house, the use as a single property has proved to be most cost effective and we do not consider that the proximity of the new build would have a significant adverse affect on the marketing of the property.

The two dormer windows are located to the rear of St Andrews whilst the bungalows will be located on land which slopes gently down to the Chestnut Grove cul-de-sac and will not therefore be over intrusive as viewed from St. Andrews.

I look forward to hearing that the planning process has been satisfactorily concluded and if I can be of any further assistance then please do not hesitate to contact me.

Kind regards.

Yours sincerely,

CHARLES MILLER FRICS

Clinton House, High Street, Coleshill, B46 3BP
Tel: 01675 462355 Fax: 01675 466197 DX 15053 Coleshill
Email: Charles@miller-briggs.com www.miller-briggs.com



St. Andrew's House
(formerly Blythe Cottage)
Blythe Road
Coleshill
Warwickshire
NGR: SP 20130 89307

A
Heritage Impact Assessment
of Proposed Development
in the Grounds

An Addendum
Regarding
New Houses and Enabling Development

Text
Richard K Morriss *MA(Hons) MSocSc*
Assistants
R Patterdale

December 2017
Mercian Heritage Series No.1186

- 1 -

*Richard K Morriss & Associates, Historic Buildings Consultants, Bromlow House, Bromlow, Shropshire, SY3 0EA
Rkm@bromlowhouse@aol.com*

1. Introduction

St. Andrew's House is, despite originally being called Blythe Cottage, a large early-19th century house in the late-Regency style. Originally built on the outskirts of Coleshill, it is now subsumed within its built up area. In July 2016 this consultancy produced a heritage impact assessment of proposals for the redevelopment of the house and development within its grounds.¹

This is a short addendum to that report; the report contains the historical background to the property and its setting, as well as an outline description of the building and a heritage assessment of the proposed development of part of its grounds. The consultancy also produced more details assessments and appraisals of the house itself but these are not relevant to this particular note.

2. The Issue

As part of the development scheme, eight new houses were built in the former grounds to the north of the house. One of the planning conditions was that:

'There shall be no occupation of any of the eight bungalows hereby approved until such time as the whole of the proposed refurbishment works to St Andrews House hereby approved, have been fully completed to the written satisfaction of the Local Planning Authority.'

REASON

'In order to ensure that the works to the heritage asset are prioritised.'

Although not officially stated as such, this is suggestive of 'enabling development', allowed to assist in the repair of a designated heritage asset – in this case, St. Andrew's House. It is appreciated that the concept of 'enabling development' is a complex one. Paragraph 140 of the National Planning Policy framework states that:

'Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.'

This consultancy has been asked to assess whether or not there are any purely heritage-based reasons why the houses cannot be occupied prior to the works being completed on the main house.

¹ Mercian Heritage Series No.916.

3. The Assessment

The consultancy's report outlined the fact that the extent and appearance of the present grounds of St. Andrew's House are very misleading. The original gardens, carved out of the adjacent fields, was a long and narrow linear strip parallel to Blythe Road – the northern, or rear, boundary of which was on the lip of the slope dropping down northwards.

The rear of the house faced this boundary, beyond which the slope was, in the 19th century, occupied by an orchard. There was, therefore, no historical link between the slope and the gardens of the house – the two being in separate use and ownership.

The orchard did contribute to the setting of the house, but its contribution changed as the field evolved and, in particular, as housing was developed over much of it – and in fields to either side.

By the mid-20th century the setting had changed dramatically, as had the boundaries of the grounds of St. Andrew's House. These lost their original eastern section – taken up by new housing – but gained part of the top of the formerly separate orchard, which was then laid to grass as it dropped down to the new suburban housing.

The new houses are within this section of garden gained from the former orchard and thus not, historically, part of the original grounds of the early-19th century house. Because of this and because of the existing development to the north, the original heritage impact assessment, considering the potential for these new houses, concluded that:

'Overall it is considered that the impact on the historical setting of proposed new housing of similar type, height and massing of the existing modern properties in the area along the north-western edge of the site will be minimal – largely because of the fact that the setting has already been considerably compromised by the redevelopment of the original gardens and also because the new housing will be down the slope from the house and within the site of the former orchard that was outside of its gardens'.

It is considered that this assessment still stands. Neither the houses nor their site have any tangible heritage link with St. Andrew's House. It is not considered that the houses could be considered, in heritage terms, as enabling development for the listed building because they lack such a historical link with it. There is also no specific indication in the planning consents that the issue of enabling development has officially been raised.

It is unclear whether or not the development of the land historically outside the boundaries of the listed building and adjacent to existing modern development would conflict so significantly with planning policy that it could only be permitted if it was considered to be enabling development.

This assessment would be different for the developments within the historic gardens of the property, specifically towards their western end where the former stable and coach house court once stood.

- 3 -

Richard K Morris & Associates, Historic Buildings Consultants, Bromlow House, Bromlow, Shropshire, SY5 8EA
Rkbromlowhouse@aol.com



The Consultancy

Richard K Morriss founded this Consultancy in 1995 after previously working for English Heritage and the Ironbridge Institute of the University of Birmingham and spending eight years as Assistant Director of the Hereford Archaeology Unit. Although Shropshire-based the Consultancy works throughout the UK on a wide variety of historic buildings for clients that include the National Trust, the Landmark Trust, English Heritage, the Crown Estates, owners, architects, planning consultants and developers. It specialises in the archaeological and architectural analysis of historic buildings of all periods and planning advice related to them. It also undertakes broader area appraisals and Conservation Plans.

*Richard Morriss is a former Member of the Institute of Field Archaeologists and of the Association of Diocesan and Cathedral Archaeologists, archaeological advisor to four cathedrals, occasional lecturer at Bristol and Birmingham universities, and author of many academic papers and of 20 books, mainly on architecture and archaeology, including *The Archaeology of Buildings* (Tempus 2000), *The Archaeology of Railways* (Tempus 1999), *Roads: Archaeology & Architecture* (Tempus 2006) and ten in the *Buildings of series: Bath, Chester, Ludlow, Salisbury, Shrewsbury, Stratford-upon-Avon, Warwick, Winchester, Windsor, Worcester* (Sutton 1993-1994). He was a member of the project team responsible for the restoration of Astley Castle, Warwickshire, winner of the 2013 RIBA Stirling Prize.*

- 4 -

*Richard K Morriss & Associates, Historic Buildings Consultants, Bromlow House, Bromlow Shropshire, SY5 0EA
Rkmbramlowhouse@aol.com*

PAP/2018/0094

St Andrews House, Coleshill

Meeting – 20th April 2018 at 1230

Present: Councillors Reilly, Simpson and Sweet together with J Jowitt and N Stubbs from Father Hudson's Society and J Brown

1. JB introduced the item explaining the discussion at the recent March Board meeting. The meeting was to explore alternatives to removal of the condition.
2. Members emphasised their commitment to seeing St Andrews House in a good state of repair such that it could be reused as a single dwelling house – its preferred use. To that end they would be keen to seek agreement rather than to consider a refusal.
3. An alternative was suggested to the proposed complete removal of the condition. This would be to vary the existing condition such that rather than have no occupation of any of the bungalows prior to the works at St Andrews House, there be a reduced number or that only occupation of the last be tied to completion of those works.
4. The FHS representatives explained that the marketing they had done to date had led to much interest, but that there was no prospective purchaser of the bungalows committing to the development, because of the linkage of the bungalows to the House, which was “depressing” all of that interest. They indicated that the same outcome would arise from any variation of the condition – even restricting occupancy of the eighth bungalow.
5. A further alternative was to see the proposal as two developments. In lieu of the condition and in exchange for its removal, the possibility of a Section 106 Agreement could be entertained. This would be an Undertaking that the Society would undertake the approved works to the house within a specified time period and/or through an agreed phasing.
6. The FHS representatives saw this as an impediment to the sale of the house and that without a prospective purchaser the Society would be unlikely to undertake those works itself as they were not repair and maintenance works, just to keep the House in good order. Even if the Undertaking included reference to the successor if title undertaking the works, FHS considered that there would be very little interest.
7. Members again expressed concern that the bungalow development would go ahead with no work whatsoever happening to St Andrews.
8. The meeting did not resolve the matter by way of agreeing an alternative proposal.

(5) Application No: PAP/2018/0095

20, Hawthorn Way, Hartshill, Nuneaton, CV10 0XQ

Works to trees protected by tree preservation order, for

Mr & Mrs Harris

Introduction

The application is reported to Board in light of the fact that the Borough Council is the owner of a number of the trees which are 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

This is a detached two storey house at the end of a short spur off Hawthorn Way on the edge of the Moorwood Estate in Hartshill dating from the 1990's. There is a rear conservatory. To the side of the property is an area of open amenity space that has a number of trees.

A general location plan is at Appendix A

Background

This amenity area is subject to a Tree Preservation Order referenced TPO 713.030/4 which was confirmed in March 1993. It covers a large number of trees including some that are close to number 20. The application relates to several trees that are close to the boundary and one tree that is owned by the applicant. These are marked on Appendix A at TG1 and T1.

- Consent was granted in 2012 for the removal of some branches from one of these trees.
- Consent was refused in early 2018 for the removal of several Council owned trees within TG1. No appeal has been lodged.

The Proposal

It is proposed that agents working on behalf of the applicant and his insurance company install a root barrier to avoid damage to property from offsite trees – T1, T2 and G1 (as seen on the site plan). In order to facilitate installation of the barrier, tree root severance is anticipated. The root barrier specification is to be 28m long and installed to a depth of 3m. The barrier will be a minimum of 6m from the protected trees, full details of the root barrier specification can be found in the root barrier Information document at Appendix B.

The reason for this proposal is that the applicant considers that these trees are responsible for root induced clay shrinkage subsidence damage to the house at 20 Hawthorn Way. Damage was identified in January 2015 and the applicant considers that it has worsened since then, such that the matter was referred to his Insurers. The damage affects the central section of the house with fracturing occurring internally to the ground floor hall ceiling and around door openings with similar fracturing to the first floor rooms. There is no external damage recorded. The area of damage is shown on Appendix A. By reference to the BRE Digest 251, the applicant considers that the damage can be classified as “slight” – that is to say crack widths of between 1mm and 5mm.

The applicant concludes that this damage is indicative of subsidence and that this appears to be being caused by clay shrinkage. The underlying clay soils beneath the house and the proximity of the trees indicates to the applicant that the shrinkage is root induced. The applicant concludes that this problem is reversible because clay soils will rehydrate in the winter months causing the clay to swell and the cracks to close.

This was the argument which he submitted in the recent application to fell the trees and he supported that case with technical documentation. However following the refusal, the applicant is suggesting a different approach – the root barrier. He considers that this option should be considered prior to him having to consider other engineering solutions such as underpinning the property.

Development Plan

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

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

Hartshill Neighbourhood Plan 2017

Other Relevant Material Considerations

BS3998:2010 – (Tree work: Recommendations)

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

Representations

Hartshill Parish Council – A response of no objection was received on 7th March 2018.

The Council’s Tree Officer – A response of no objection to the works was received on 4 April 2018. He comments as follows.

Following the receipt of this application there has been contact with the agent working on behalf of the applicant to discuss the proposed positioning of a root barrier and the potential damage that may be caused to both the trees owned by the Council and the tree on the applicant’s own property. After much discussion, and reference to the appropriate BS documents, it has been agreed that root severance would be minimal

and as such, the long term impact on all of the trees within this application would be limited and may remove the need for more expensive works – e.g. underpinning.

A previous application (PAP/2017/0533) had requested the removal of the Council's trees, but Consent was refused. It should be noted that these specific trees do provide a stabilising effect upon the land in this area in close proximity to the dwelling upon the site address and that their removal may have significant impacts in respect of the structural integrity of this land formation. The root removals as now requested are understood to have little to no potential effect in this way and as such can be agreed

Observations

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

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 trees, the subject of this application are included within an Order which is substantial in its geographic area and the number of trees covered. The Order was confirmed in 1993.

It was made at the same time as the Council was considering a significant residential development in this part of Hartshill. It was considered that in order to properly plan for this development, significant areas of existing trees should be protected. These were largely on the edge of the development, marking the edge of the settlement and included areas covered by public footpaths, naturally regenerated brown field land and other woodland cover. In other words there was a substantial public amenity value and worth to retaining these trees. They had a material influence on the subsequent layout and design of the residential estate, in particular with the former mineral railway cutting, which runs alongside the application site, as a wildlife corridor to the open land beyond. In order to maintain their presence and amenity value, ownership of significant parts of the land the subject of the Order was transferred into public ownership. Subsequent management of the trees has occurred in order to maintain their longevity.

The trees the subject of this application, are part of this whole and they retain a strong public amenity value. They are readily visible from public viewpoints in an area very accessible to the public; part of the overall design of the layout of the estate, provide a wildlife corridor and are part of a much larger whole marking the natural edge of the settlement. The trees are mature, in good health and have several years' longevity. As a consequence it is concluded that their retention would maintain the significant strong public amenity value apparent in 1993 when the Order was confirmed.

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. These trees were included in the 1993 Order for these very reasons. They make a positive contribution to the quality of the local landscape and to the character of this particular residential estate. That contribution is considered to be significant.

As a starting point therefore, it is concluded that the presumption here is that every effort should be made to retain the trees.

In the previous application, the proposal was to fell the trees. Consent was refused as it was considered that the applicant had not clearly shown that the loss of the trees would not result in more damage; that the differential subsidence was not caused by insufficient regard to the specifications required for the foundations of the house given the underlying soils and the presence of a number of large trees, and that the applicant had not shown that underpinning could be explored as a reasonable alternative. The applicant may have had a case for the removal of the Council owned trees, but it was considered that it did not have sufficient weight to overcome the planning presumption here.

The applicant however is now proposing an alternative set of works and this has the support of the Council's tree officer as it would retain the protected trees with little impact on their continuing longevity and thus amenity value.

Other matters

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.

The Council is able to revoke a Tree Preservation Order if the trees the subject of the Order, are no longer considered to warrant the protection afforded by it. The most common reason for revocation is that the health of the tree is in serious decline. This is not the case here and as indicated above the retention of the trees as a contribution toward public amenity remains of significant weight.

Recommendation

That Consent be **GRANTED**.

Notes

1. In dealing with this application, the Local Planning Authority has met the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework through undertaking a professional review of the evidence submitted with the application and engaging with the applicant in that respect.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0095

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	12/02/2018
2	NWBC Green Space Officer (Trees)	Representation	04/04/2018

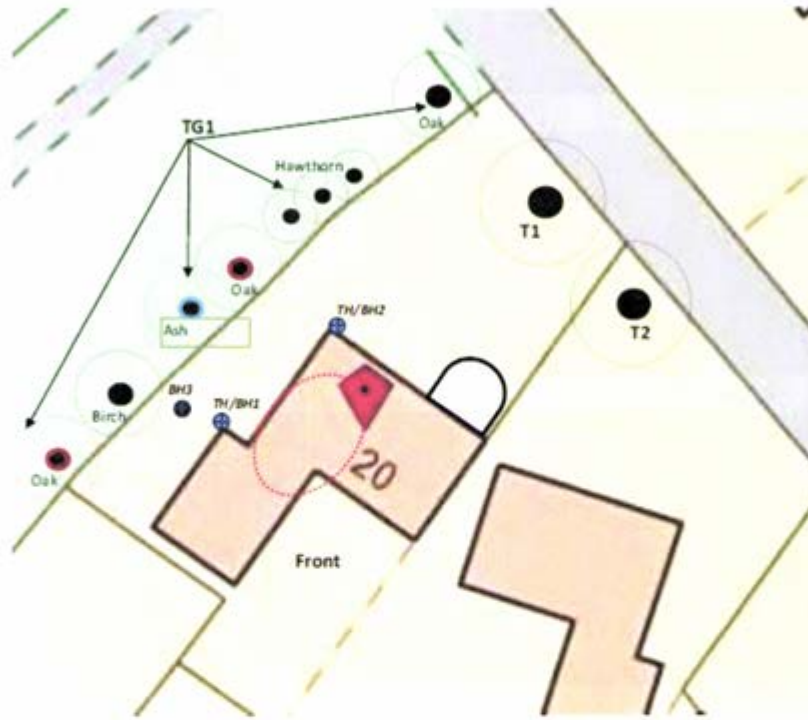
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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.

Site Plan

This plan is Not to Scale

This plan is diagrammatic only and has been prepared to illustrate the general position of the property and its relationship to nearby trees etc. The boundaries are not accurate, and do not infer or confer any rights of ownership or right of way. Position of utilities is only indicative and contractors must satisfy themselves regarding actual location before commencing works.



Plan not to scale – indicative only

 Approximate areas of damage

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 Map Reproduced with the Permission of Ordnance Survey License Number #*****

Key:

	Tree: Deciduous		Tree: Conifer		Shrub
	Hedge		Area of Damage		Bore Hole
	Trial Hole		Trial & Bore Hole		Level Monitoring
	Rain Water Manhole		Rain Water Gully		Rain Water Pipe
	Waste Water Manhole		Waste Water Gully		Toilet Pipe

Chartered Loss Adjusters

Cartwright House, Tottle Road, Riverside Business Park, Nottingham, NG2 1RT. Tel 0115 943 8260 ■ www.crawfordandcompany.com
 Registered Office ■ Crawford & Company Adjusters (UK) Ltd, 70 Mark Lane, London, EC3R 7NQ ■ Registered in England No 2908444

Optera Structural Solutions

Oxburgh – The Barn, Fosse Way, Stretton-On-Dunsmore. West Midlands. CV23 9JF.
tel: 02476 553776 fax: 08447 746370



SOW 3409 for Agreement to carry out the installation of a 28m Root Barrier to Crawford & Company

Date	Services Performed By:	Services Performed For:
January 26, 2018	Optera Structural Solutions Oxburgh – The Barn, Fosse Way, Stretton-On-Dunsmore. West Midlands. CV23 9JF. tel: 02476 553776 fax: 08447 746370	Crawford & Company Cartwright House, Tottle Road, Riverside Business Park, Nottingham. NG2 1RT

POLICY HOLDER:	MR & MRS HARRIS
POLICY HOLDER ADDRESS:	20 HAWTHORN WAY, HARTSHILL, NUNEATON. CV10 0XQ
CLIENT REFERENCE:	SU1600209
OUR REFERENCE:	3409
ANTICIPATED START DATE:	TBC

PROJECT MANAGER:	CHRIS WHITE

This scope of works # 3409 (hereinafter called the “SOW”), effective as of January 26, 2018, on approval by Crawfords & Company is entered into by and between Contractor and Client.

Report

We attended site on the 26/01/2018 with a view to looking at the feasibility of alleviating the property from the clay shrinkage movement that's currently occurring. Following discussions with Nilesh Bhattha from Crawfords & Company, we have been asked to install a 28m copper root barrier to separate the main property from multiple trees outside the rear left-hand boundary as well as the large Oak tree within the back garden of the policy holders property. *(trees outside the PI's boundary are local authority owned).*

Looking at the arborist and CET reports supplied to us, the plastic content of the clay, desiccation levels and moisture content are all in line with the findings that roots were found to a maximum depth of 2.5m and the likely cause of the movement to the building.

We believe that a copper root barrier will be an effective defense against the clay shrinkage occurring under the foundations of the building if installed to a depth of 3m.

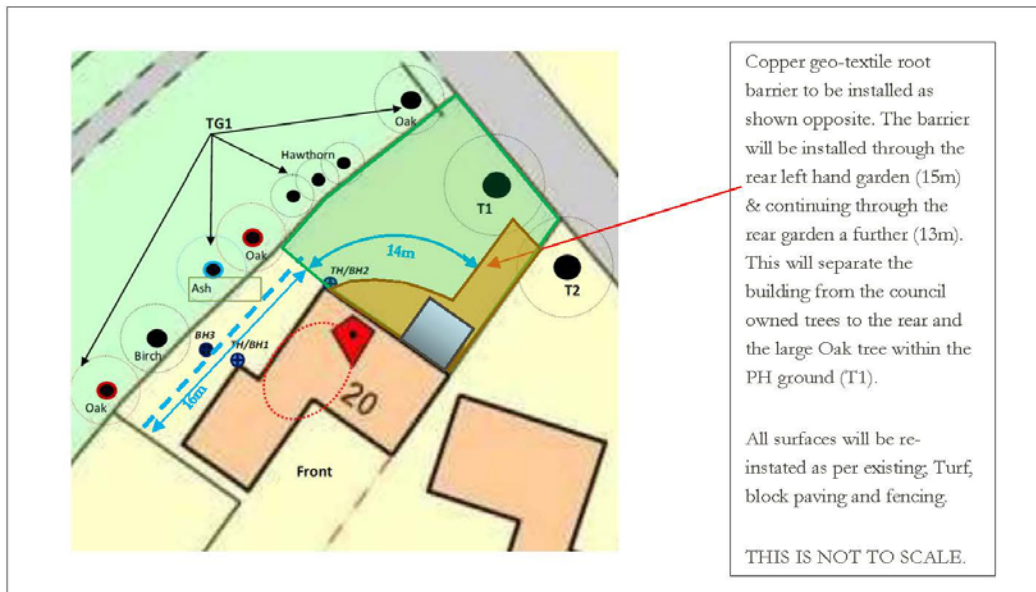
The barrier would run parallel to the rear left-hand fence line approx. 6 m from the trees on average and running from the left hand fence line to the grassed area of the rear garden (16m). We will then return the barrier at approx. 40 degrees to the main building and continue a further 14m. This will separate the most influenced part of the building from the council owned trees as well as the large oak tree situated within the Ph's garden. The barrier will vastly reduce the effects of clay shrinkage to the underside of the building.

We can gain access via the fence to the left of the garage. 2 number sheds will need to be relocated, one timber, the other steel, to enable the plant to enter the rear garden. A 16m run of block paving will need to be removed and set aside. We will have to avoid the underground drainage system as well as the services for the gas and the electric. It's believed the services run in the opposite direction to where the proposed works would be undertaken.

The drive and gravel area in front of the garage can be utilised as our site compound. We will separate the rest of the front access from the main building to limit any disruption to the PH. The back garden will also require segregation to allow the PH dogs to still access an area within the garden.

Root Barrier

Specification of Barrier.					
Barrier Type	length	Max Root Depth	Maximum depth to be achieved with barrier	Distance between tree / Vegetation and barrier	shortest distance between barrier and foundation
Copper	28m	2.5m	3.0m	6m Min	2m



Barrier Works

- Site setup, construct a temporary compound and board and protect working areas to the front drive
- Segregate the works area from the public access to the property and setup temporary divert of foot traffic to the right hand side of the drive.
- C.A.T Scan & Hand Excavation of the ground to locate services, mark up and protect accordingly
- Removal and set aside of front fencing, gate and the rear pergola type construction separating the garden from the block paved area. To be reinstated on completion of works.
- Machine excavation of 28 linear metres in 2.5m- 3m sections down to a depth of 3m. Disposing the spoil via track barrow and skips located at the front of the property.
- Installation of a copper sheet root barrier to the face of the trench to the full depth of the excavation
- Backfill in 150mm layer with type 1 MOT hardcore, consolidating with a trench compactor back to surface level.
- Following installation of the barrier, reinstatement of the surface finishes to be made good, this will involve replacing the removed block paving and reinstating the garden with top soil and seed.
- All fencing, the gate and the pergola will be refitted.
- Full site clean & all plant/waste materials removed.





Completion Criteria

Contractor shall have fulfilled its obligations when:

- Contractor accomplishes the Contractor activities described within this SOW
- The Policy Holder is in agreement that works have been carried out as per the agreed specification to an acceptable standard.

- Agreement that works have been carried out as per the agreed specification to an acceptable standard by the appropriate Crawford & Company Engineer
- Site has been vacated and all plant and materials removed.

Project Variation Procedure

The following process will be followed if a change to this SOW or a Variation of works is required:

- A project variation request will be submitted to Crawford & Company. The variation must describe the change, the rationale for the change, and the effect the change will have on the project.
- The designated Technical Manager for OPTERA will review the proposed change and determine whether to submit the request to the other party.
- If variation works are agreed, works will be booked in at the request of the Crawford & Company engineer and OPTERA will seek formal approval via Crawford & Company.
- Upon completion of the variation works, these will be invoiced separately to the initial authorized project.

Assumptions

- No allowance has been made for new fencing, gate or pergola replacement at this time as we believe these can be reinstated.
- No allowance has been made for unknown services or obstructions that maybe found during the course of excavations (All areas will be CAT scan and marked out as required as part of the works and during). Electric and Gas are close to the work area, however this appear to run in the opposite direction to our works.
- We assume the drainage runs are as per your provided detail and no hidden runs are found during excavation works. The found inspection chambers indicate the drainage maps provided are accurate.

*****PLEASE NOTE: We reserve to the right to amend the quotation should any of the above conditions apply or unknown/hidden works are uncovered during the construction or demolition phases. We will seek prior approval for anything amendments required*****

(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 Crytomeria 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.

APPENDIX A



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 TI 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

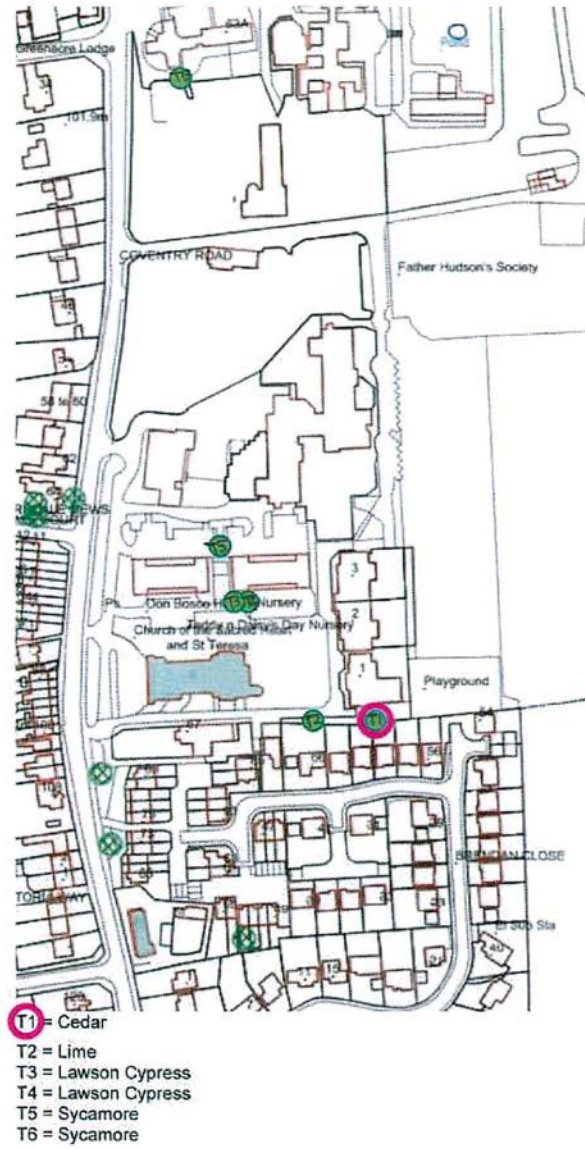


Fig 2. Photographs:

1. Wind damage from the west



2. General view of Cedar from east

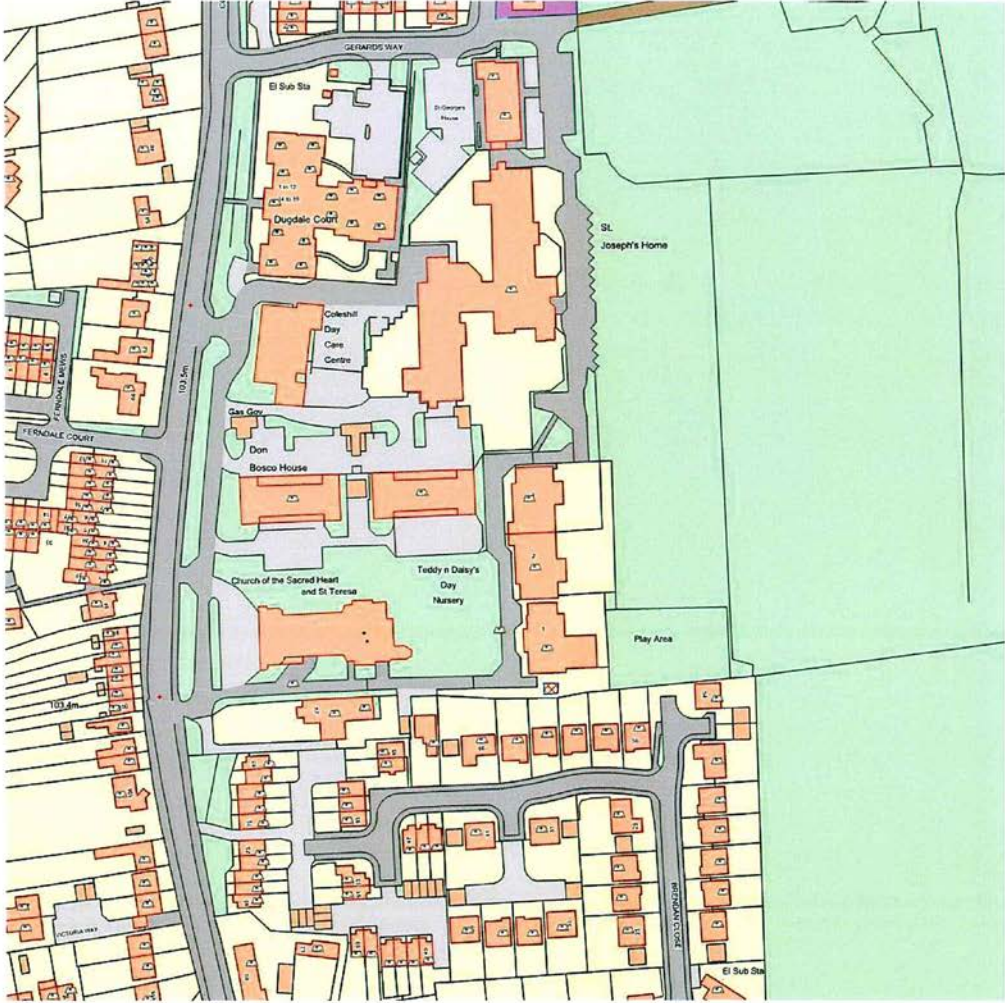


3. View of canopy overhanging residential gardens to the south.



4. General view of tree line from the west.





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

Agenda Item No 5

Planning and Development Board

14 May 2018

**Report of the
Head of Development Control**

**Corporate Plan Targets
2017/18**

1 Summary

- 1.1 The report describes the action taken on a number of targets as set out the 2017/2018 Corporate Plan.

Recommendation to the Board

That the Board notes the report and be invited to make any observations.

2 Consultation

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

3 Introduction

- 3.1 There are a number of on-going targets set out in the current Corporate Plan which require an annual report to this Board.
- 3.2 Members will be aware of the substantial and constant change in the planning environment within which the Board is now determining planning applications. The impact has been seen this year with the Government's intervention to secure a standard approach to the calculation of objectively assessed housing need and the consultation on a revised National Planning Policy Framework which has an even greater emphasis on the need to provide and deliver substantial new housing development. Members too will have seen this year, the direct involvement of Government with Local Planning Authorities that are found not to be "performing". Appeal decisions are also highly sensitive to an Authority's actual delivery of new housing.
- 3.3 In respect of these issues, then the Council is now well-placed with the submission of its new draft Local Plan at the end of March.

4 Development Management

- 4.1 There are several targets under the Council's priority to protect the Borough's countryside and heritage in times of growth. The first is to manage development so as to deliver the priorities of the Corporate Plan and the Sustainable Community Strategy. The determination of planning applications and the management of proposed development seeks to meet this target through "adding value" to submitted proposals. This is done in several ways – pre-application discussions; early involvement of the community and Members in pre-application presentations and events, identifying and resolving technical matters prior to submission, seeking amendments to plans, the use of planning conditions and particularly and more importantly, the use of Section 106 Agreements. Members are familiar with all of these activities. That being said, Members should always continue to decide to refuse planning permission where there is clear significant and demonstrable harm, or in the final balance they do consider a proposal does not accord with the Development Plan when taken as a whole.
- 4.2 Members have regularly received presentations during the year – e.g. land off Robey's Lane; off the B5000, at Hartshill, at Packington, Ansley Common and Coleshill. Local Members too have been involved in more local issues in direct meetings with applicants prior to submission – e.g. Kingsbury Hall and Ansley.
- 4.3 There are also regular site visits to better understand the setting of sites and to understand local issues prior to determination.
- 4.4 With the larger applications now being submitted, Members will have increasingly been aware of the involvement of a number of infrastructure providers in seeking contributions towards expansion or extension of their services and facilities. This is for external Agencies such as education and health, as well as internally such as to trigger affordable housing provision or enhancement of recreation and open space facilities. The table at Appendix A provides a summary of the total contributions agreed over the past few years and it can be seen that the scope and number has increased recently. Further reports will follow in respect of these matters throughout the next few years as developments get underway.
- 4.5 The Board is thus meeting the target of meeting the priorities of the Sustainable Community Strategy through securing more sustainable patterns of development.

5 Design Champions

- 5.1 The second target is to use the role of the Design Champions in achieving better design and appearance for new development. This is now an active and on-going arrangement either directly with officers at an informal level, even for small and minor developments, but also critically with the developers themselves for the larger schemes – e.g. Blytheways at Coleshill and the Angel Inn at Atherstone.

6 Rural and Built Heritage

- 6.1 The third target is to secure the protection of the Borough's built and rural heritage. In respect of the built heritage then active Member involvement has had an impact too. The heritage role within the Division is now well established with an officer soon to be professionally qualified to take up this role fully, and thus reliance on outside guidance is reducing significantly. The future scope of this role is something that will be considered within the next few months. Additionally, meetings with the local Heritage Forum are to become established so as to broaden the effectiveness in meeting this ongoing target.
- 6.2 In terms of protecting the rural heritage, then Members will appreciate that this is becoming increasingly more difficult because of the growth agenda. Matters should become more stable as the new Local Plan proceeds through its forthcoming Examination towards adoption. However there are still likely to be cases where appeal decisions run contrary to decisions taken by the Council, and one of the essential elements in reducing this risk, is to maintain a five year housing supply. The upcoming Ansley appeal is a case in point.
- 6.3 Active involvement in managing new development proposals through layout design; appearance of buildings, retention of important views and open spaces, hedgerows and trees and the better use of sustainable drainage measures will increasingly become more significant as a consequence. Neighbourhood Plans too will be able to better address these matters. The Borough now has five such Plans – Arley, Austrey, Coleshill, Hartshill and Mancetter.
- 6.4 Of particular note, this year has been the increased prominence of bio-diversity offsetting and on-site improvements through Section 106 Agreements. Most notable was the transfer of land at Hams Hall to the Parish Council together with an ecological enhancement plan so as to better link that site into the Tame Valley Wetlands Scheme. Members too will have seen off-setting contributions appearing the written reports or confirmation that new developments will be enhancing bio-diversity on site – e.g. Aston Villa development.
- 6.5 The Council also can use its enforcement powers to achieve a better outcome in respect of protecting the rural appearance of the area. A notable case has been the recent appeal decision at the Corley Moor stables. The Board too has confirmed several Tree Preservation Orders during the year.

7 Green Belt

- 7.1 The Government is continually stressing the significance of the Green Belt and that its boundaries should only be altered through proper review and only in exceptional circumstances. As the Green Belt covers a large portion of the Borough, there is substantial weight that it can give to the protection and safeguarding of the rurality of the Borough. The Submitted Version of the

new Local Plan maintains this role. However, The Board still receives applications for new development within the Green Belt. Members know that just because a site is in the Green Belt, does not lead to an automatic refusal. There is always a balance to be assessed and reports on these cases, continually stress the sequential process that has to be followed and the importance of attributing weights to all considerations in the final planning balance. This was recently experienced in the Corley Service Area case where the Board attributed different weights. The Board should also take considerable comfort from two appeal decisions this year – the proposed houses off Maxstoke Lane and of considerable significance – the Daw Mill decision. Both cases were reported to Board at its last meeting. However the situation remains challenging and the outcome of the Corley Service Area appeal will be awaited.

8 Supporting Business and Employment

- 8.1 Members will be aware that development proposals for employment provision also have to be dealt with. These too are the subject of Section 106 Agreements, but they are more likely to involve two other types of contribution – assistance with public transport connections and the enhancement of opportunities for the local community through better access for training and other openings. Both of the two recent large permissions for new employment provision have included these matters. St Modwen, at Junction 10 have to contribute towards both transport provision as well for training purposes and Prologis at Hams Hall for the latter. As these developments have not yet commenced the outcomes cannot be reported. However, the proposed details for the St Modwen development include pedestrian connections to a bus layby on the adjacent A5 as well as bus stops within the development.
- 8.2 The Council is working with other Agencies to secure the replacement of allotments at Birch Coppice and as part of that scheme, the improvement of pedestrian and cycle connections into Birch Coppice is being pursued and a Section 106 contribution is focussed on this outcome.

9 Report Implications

9.1 Finance and Value for Money Implications

- 9.1.1 These actions are all taken within existing budgets and the outcomes are very often the consequence of developer contributions. The extent of these is exhibited in the report.

9.2 Legal, Data Protection and Human Rights Implications

- 9.2.1 Planning decisions are all based on an assessment of the weights to be given to competing policies. These are made explicit in Board reports and are open to challenge at appeal. Section 106 Agreements are publically available.

9.3 Environment, Sustainability and Health Implications

9.3.1 The Board works with applicants to secure developments that improve the social, economic, well-being and environmental conditions of the Borough as defined in the Development Plan.

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date

Agenda Item No 6

Planning and Development Board

14 May 2018

Report of the Chief Executive

Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April 2017- March 2018

1 Summary

- 1.1 This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April 2017 to April 2018.

Recommendation to the Board

That Members consider the performance achieved and highlight any areas for further investigation.

2 Consultation

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

3 Background

- 3.1 This report shows the year end position with the achievement of the Corporate Plan and Performance Indicator targets for 2017/18. This is the fourth report showing the progress achieved so far during this year.

4 Progress achieved during 2017/18

- 4.1 Attached at Appendices A and B are reports outlining the progress achieved for all the Corporate Plan targets and the agreed local performance indicators during April to March 2017/18 for the Planning and Development Board.
- 4.2 Members will recall the use of a traffic light indicator for the monitoring of the performance achieved.

Red – target not achieved (shown as a red triangle)

Green – target achieved (shown as a green star)

5 Performance Indicators

- 5.1 The year end returns are subject to review by Internal Audit and therefore maybe subject to chances. Any amendments to the returns will be reported to a future meeting of the board.

6 Overall Performance

- 6.1 The Corporate Plan performance report shows that 100% of the Corporate Plan targets and 33% of the performance indicator targets have been achieved. The report shows the individual targets that have been classified as red or green. Individual comments from the relevant division have been included where appropriate. The table below shows the following status in terms of the traffic light indicator status:

Corporate Plan

Status	Number	Percentage
Green	7	100%
Red	0	0%
Total	7	100%

Performance Indicators

Status	Number	Percentage
Green	1	33%
Red	2	67%
Total	3	100%

7 Summary

- 7.1 Members may wish to identify any areas that require further consideration where targets are not currently being achieved.

8 Report Implications

8.1 Safer Communities Implications

- 8.1.1 Major applications are considered by the Police Architectural Liaison Officer who is looking to ensure that Secure by Design principles are applied for new developments.

8.2 Legal, Data Protection and Human Rights Implications

8.2.1 The national indicators were specified by the Secretary of State for Communities and Local Government. They were replaced by a single list of data returns to Central Government from April 2011.

8.3 Environment and Sustainability Implications

8.3.1 Improvements in the performance and quality of services will contribute to improving the quality of life within the community. The actions to improve apprenticeships, training and employment opportunities and transport links for local residents is contributing towards the raising aspirations, educational attainment and skills priority of the North Warwickshire Sustainable Community Strategy 2009 – 2026.

8.4 Risk Management Implications

8.4.1 Effective performance monitoring will enable the Council to minimise associated risks with the failure to achieve targets and deliver services at the required performance level.

8.5 Equality Implications

8.5.1 The action to improve employment opportunities for local residents is contributing to equality objectives and is a positive impact in terms of the protected characteristics for age through the young people employment programme.

8.6 Links to Council's Priorities

8.6.1 There are a number of targets and performance indicators included relating to supporting employment and business, protecting countryside and heritage, and promoting sustainable and vibrant communities.















The Contact Officer for this report is Robert Beggs (719238).

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

NWCP Planning and Development Board 17/18

	Action	Priority	Reporting Officer	Year End	Status	Direction
NWCP 012	Manage development so as to deliver the priorities on the Council's Corporate Plan and in the Sustainable Community Strategy and report by March 2018	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board in May 2018	 Green	
NWCP 013	To report on Growth pressures on the Borough, how to protect the Green Belt as far as possible and sustain the rurality of the Borough by February 2018 and at least annually thereafter	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board in May 2018	 Green	
NWCP 014	Use the Design Champions to ensure the best achievable designs are implemented and developed so as to reflect setting and local character and report by March 2018	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board in May 2018	 Green	
NWCP 111	To seek to secure the protection of the best of the Borough's built and rural heritage	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board in May 2018	 Green	
NWCP 051	a) Work with the County Council, Job CentrePlus and other partners to provide apprenticeships/training, including reporting by December 2017 on the feasibility and cost of directly employing more apprentices; b) administer funding provided by the developers and through other funding sources to maximise opportunities for employment of local people including employment engagement activity, development of work clubs and bespoke training; and c) to work with the County Council, Town/Parish Councils and other partners to maximise section 106/CIL contributions for infrastructure, biodiversity offsetting and community improvements	Supporting Employment & Business	Steve Maxey/Bob Trahern	A number of contributions from developers has been collected and a number of training activities delivered. Focus for upcoming work is digital skills due to demand from employers. Options are being explored to establish a number of code clubs in North Warwickshire and make links with the Digital School House at Coleshill Secondary school. The ability to develop apprenticeship opportunities and training is being reviewed as to whether the Council is in a position to support these. The Council continues to work closely with the Jobcentre to promote work opportunities. A successful Jobs Fair was held in October 2017.	 Green	
NWCP 070	Look at ways to improve transport links, including cycle links, footpath links, public transport and HGV parking to local employment and report on progress by March 2018	Supporting Employment & Business	Jeff Brown	This is dealt with through the processing of applications – particularly by increasing connectivity to existing facilities and in master planning a site	 Green	
NEW	To continue to work with North Warwickshire Heritage Forum to protect, promote and develop the heritage and tourism of North Warwickshire	Protecting our Countryside & Heritage	Jeff Brown	This is a material planning consideration where appropriate –eg the Belfry application	 Green	

NWPI Planning Board 17/18

Ref	Description	Section	Priority	Year End Target 2017/18	Outturn 2016/17	April - Mar Performance	Traffic Light	Direction of Travel	Comments
@NW:NI157a	Processing of planning applications in 13 weeks for major application types	Development Control	Countryside and Heritage	60%	95.00%	91.00%	 Green		Consistent practices and procedures are in place ensuring good performance
@NW:NI157b	Processing of planning applications in 8 weeks for minor application types	Development Control	Countryside and Heritage	80%	87.00%	79.45%	 Red		Consistent good practice and procedures in place
@NW:NI157c	Processing of planning applications in 8 weeks for other application types	Development Control	Countryside and Heritage	90%	86.00%	85.00%	 Red		Slight reduction due to workload

Agenda Item No 7

Planning and Development Board

14 May 2018

Report of the Head of Development Control

Appeal Update

1 Summary

- 1.1 The report brings Members up to date in respect of the recent Daw Mill appeal decision.

Recommendation to the Board

That the report be noted at this time.

2 Consultation

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

3 Introduction

- 3.1 Members will have already received the appeal decision from the Daw Mill Inquiry. This report brings Members up to date in respect of two consequences arising from that decision. The second is significant in that it will affect the planning balance in consideration of some future planning determinations.

Statutory Challenge

- 3.2 The first matter is that the applicant has lodged a challenge with the High Court seeking to quash the decision to grant planning permission by the Secretary of State. The challenge has been served within the relevant time period. The challenge revolves around the decision of the Secretary of State not to agree that the site is previously developed land. Officers will update Members at the meeting.

Development Plan Policy

- 3.3 Members are aware that Policy NW2 of the Core Strategy sets out a settlement hierarchy in respect of the locations for new development whether that be for employment or housing. Development boundaries are used by that Policy to assist in defining the limits of such development in named settlements. That approach as Members are aware is carried forward into the Submission Version of the new Local Plan. The Secretary of State found that because of the new evidence base on both housing and employment increased needs, there would be a requirement for land beyond current development boundaries. As a consequence some re-appraisal and likely amendment to these boundaries will be required to deliver that growth agenda. He concluded that Policy NW2 was thus out of date as far as it relies on development boundaries or defined areas on the Proposals Map. It is this conclusion that has had consequences, for example it became a defining issue in the recent Inquiry concerning 70 houses at Ansley.
- 3.4 Members will know from the National Planning Policy Framework (the “NPPF”) that if a Development Plan has relevant policies that are out of date, then planning permission should be granted unless there are significant and demonstrable adverse impacts. This approach is therefore the one which should be followed in the determination of future applications that have in the past relied on NW2 for a possible refusal reason.
- 3.5 This does not mean that no weight should be given to NW2, but Members need to be aware that only limited weight can be ascribed to it.
- 3.6 It is also important to say that because the emerging Local Plan has now been submitted to the Secretary of State and Examination dates are to be very soon, then the time period in which this situation in respect of NW2 applies should be short-lived.
- 3.7 As a consequence future reports will explicitly outline what weights are to be assigned to NW2 and draw attention to whether significant and demonstrable adverse harm can be robustly evidenced.

4 Report Implications

4.1 Environment, Sustainability and Health Implications

- 4.1.1 This decision has important consequences for future planning determinations, as the overall planning balance to be considered will become more sensitive. The Council is however well placed because of the Submission of its emerging Local Plan to limit its impact.

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

Agenda Item No 8

Planning and Development Board

14 May 2018

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

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

Agenda Item No 9

Tree Preservation Order - Report of the Head of Development Control

Paragraph 6 – by reason of the need to consider the making of an order

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