

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

**(Councillors Simpson, Reilly, Bell, Chambers, L  
Dirveiks, Hayfield, Henney, Jarvis, Jenns,  
Morson, Phillips, Smitten, Sweet and  
A Wright)**

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

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

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

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

## **PLANNING AND DEVELOPMENT BOARD AGENDA**

**12 JUNE 2017**

The Planning and Development Board will meet in  
The Council Chamber, The Council House, South Street,  
Atherstone, Warwickshire CV9 1DE on Monday 12 June  
2017 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 **PAP/2016/0060 Great Chapel Field, Wall Hill Road, Chapel Green, Fillongley - Retention of change of use from agricultural to dog training/exercising for Mr S Hammon** – Report of the Head of Development Control.

### **Summary**

Members will recall that planning permission was refused at the Board's May meeting for the above planning application. As the application sought a retrospective planning permission and because this use continues, the Board has to consider the expediency of taking enforcement action.

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

- 6 **Submission of Coleshill and Austrey Neighbourhood Plans for Adoption** - Report of the Assistant Chief Executive and Solicitor to the Council

### **Summary**

This report informs Members of the progress of the Coleshill and Austrey Neighbourhood Plans and seeks approval to adopt in accordance with section 16 of the Neighbourhood Planning (General) Regulations 2012.

The Contact Officer for this report is Sue Wilson (719499)

- 7 **Car Boot Sales** - Report of the Head of Development Control.

### **Summary**

This report brings Members up to date following the Board's request to look into the management of car boot sales in the Borough.

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

- 8 **Tree Preservation Order Blytheways, Blythe Road, Coleshill -**  
Report of the Head of Development Control.

**Summary**

The purpose of this report is to inform members that an Emergency Tree Preservation Order has been made.

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

- 9 **Tree Preservation Order, Herring Road, Atherstone -** Report of the  
Head of Development Control.

**Summary**

This report brings the Board up to date following deferral of this item at the May Board, in respect of confirmation of this Order.

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

**EXEMPT INFORMATION  
(GOLD PAPERS)**

- 10 **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.**

- 11 **Breaches of Planning Control –** Report of the Head of Development  
Control.

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

JERRY HUTCHINSON  
Chief Executive

**Agenda Item No 5**

**Planning and Development Board**

**12 June 2017**

**Report of the  
Head of Development Control**

**PAP/2016/0060  
Great Chapel Field, Wall Hill Road,  
Chapel Green, Fillongley  
Retention of change of use from  
agricultural to dog  
training/exercising for  
Mr S Hammon**

**1 Introduction**

1.1 Members will recall that planning permission was refused at the Board's May meeting for the above planning application. As the application sought a retrospective planning permission and because this use continues, the Board has to consider the expediency of taking enforcement action.

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

**Recommendation to the Board**

**That the Solicitor to the Council be given authority to issue an enforcement notice in the terms as set out in this report and for the reasons as outlined.**

**2 Observations**

2.1 Members will be aware that enforcement action should be followed where it is expedient to do so. It is not automatic action following a breach of planning control. In this case Members have considered the possibility of the retention of the use though the option of a retrospective application and in doing so they have also explored whether planning conditions attached to a grant of planning permission could overcome any adverse impacts. The Board however resolved to refuse that planning application. As such all of the planning considerations pertaining to the case have already been discussed and in these circumstances it would be considered to be expedient to take enforcement action.

2.2 Members should be aware that any action will have to be directed against the existing use and arrangements and not against that for which planning permission has recently been refused. In this respect there are two main reasons for that action. The first is that both the Highway Authority and the



independent consultant considered that the retention of the existing access was unsafe for the use. This is a significant harm and can be demonstrated by the evidence of these highway responses. The second is the impact on the residential amenity of the nearest occupier – the reason for the refusal of the retrospective application. This is significant and can be demonstrated through the evidence of that occupier has submitted in response to the retrospective application. As a consequence the planning policy context for the action is non-compliance with policy NW10 (6) and (9) of the Core Strategy 2014.

- 2.3 Any such action would require the cessation of the use and the removal of all of the associated temporary and permanent structures on the site. A compliance period of three months would be appropriate.
- 2.3 Prior to taking a decision Members will also have to consider the impacts of that action on the land owner and the tenant. There will clearly be a loss of income to the landowner but this is not considered to be a significant issue here and the tenant will have to find alternative premises. This is likely to be the greater impact but it is understood that the tenant has alternative sites from which the use is operated. There is thus unlikely to be a material adverse impact.

### 3 Report Implications

#### 3.1 Financial and Value for Money Implications

- 3.1.1 There are none in respect of the service of the Notice, but should an appeal ensue then there may be an application for costs made against the Council and there would be a cost in handling that appeal particularly if not dealt with through the written procedures.

#### 3.2 Legal and Human Rights Implications

- 3.2.1 The owner and tenant both have the right of appeal against the Notice and thus can represent their case to the Secretary of State. Non-compliance with the Notice requirements can lead to criminal proceedings in the Courts.

#### 3.3 Environment and Sustainability Implications

- 3.3.1 The existing use causes adverse environmental and highway impacts thus there is considered to be an environmental betterment through its removal thus meeting the objectives of the Development Plan.

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

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

(2) Application No: PAP/2016/0060

Great Chapel Field, Wall Hill Road, Chapel Green, Fillongley,

Retention of change of use of land from agricultural to dog training/exercising, including new access, car park and siting of moveable field shelter and dog agility course equipment, for

Mr Stephen Hammon - Heart Of England Promotions

## Introduction

This application was reported to the Board at its March meeting but there was a further deferral in order that the road safety aspects of the proposed access arrangements could be explored further.

The previous report is attached at Appendix A.

## Additional Information

The independent highway consultant's report requested by the Board concluded that the existing access arrangements for continuation of the use were inappropriate, thus agreeing with the County Council. It supported a new location for the access into this site in association with the use of the land. However Members were concerned that even though the report supported the general location of that new access, it suggested that there may not be adequate visibility. Officers were asked to follow this through.

As a consequence the traffic survey and speed data that had been collected since the application was submitted was referred back to the consultant.

This data showed that the average speed of traffic – the 85% percentile - in a westerly direction was 38 mph and in an easterly direction it was 39 mph. Although the national speed limit applies here, the actual recorded survey information shows traffic moving at a lower speed and thus the visibility splays required for a road with the national speed limit need not be applied and those applicable to the surveyed speeds are appropriate. In these circumstances a Road Safety Audit is not required.

For the information of Members, the speed survey was undertaken over a period from the 18 to the 24 June 2016.

The County Council as Highway Authority agrees with this conclusion and this is why no objection was lodged.

## Recommendation

That planning permission be **GRANTED** subject to the conditions as contained in Appendix A and with subsequent alterations to accommodate the new plan numbers.

# APPENDIX A

## APPENDIX A

### General Development Applications

**(#) Application No: PAP/2016/0060**

**Great Chapel Field, Wall Hill Road, Chapel Green, Fillongley,**

**Retention of change of use of land from agricultural to dog training/exercising, including new access, car park and siting of moveable field shelter and dog agility course equipment, for**

**Mr Stephen Hammon - Heart Of England Promotions**

### Introduction

This application was reported to the January Board meeting but determination was deferred for a site visit. That took place and the matter was referred to the February meeting but a decision was again deferred so as to enable an independent view to be taken on the safety of the proposed new access position.

That has now been undertaken and the matter is referred back to the Board.

The February report is attached for information at Appendix A.

### Additional Information

Members will recall that on the advice of the Highway Authority, the applicant proposed a new access into this land, as the existing was not considered suitable for continued use. The new access was to be further around the bend in Wall Hill Road. At their site visit Members expressed concern about the visibility splays to this new access. As a consequence an independent assessment was requested. This has now been received.

It is attached in full at Appendix B.

The report concludes that the existing access is below standard and that increased traffic generated by the use makes this unsafe. The proposed access is considered to be a betterment over the existing, however it too has limitations in respect of visibility. A better proposal would be to locate the replacement access some 20 to 25 metres further east along Wall Hill Road in order to optimise visibility.

The applicant has submitted an amended plan accordingly.

The Warwickshire County Council as Highway Authority has been consulted on this further amendment and its comments will be reported at the meeting.

# APPENDIX A

## Recommendation

That provided the County Council has no objection, planning permission be GRANTED subject to the conditions as contained in Appendix A and with subsequent alterations to accommodate the new plan numbers and others requested by the County Council.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0060

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	Site Visit	Note	4/2/17
2	Head of Development Control	Letter	8/2/17
3	MEC	Report	10/3/17

*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.*

**(4) Application No: PAP/2016/0060**

**Great Chapel Field, Wall Hill Road, Chapel Green, Fillongley,**

**Retention of change of use of land from agricultural to dog training/exercising, including new access, car park and siting of moveable field shelter and dog agility course equipment, for**

**Mr Stephen Hammon - Heart Of England Promotions**

## **Introduction**

This application was reported to the January meeting of the Planning and Development Board. Councillors resolved to visit the site prior to determination. The visit is scheduled to take place on 4 February.

A copy of the previous report to Board is attached as Appendix 1.

The recommendation remains unchanged and Members are again invited to determine the application.

# APPENDIX A

## BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0060

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	28 01 16 1 11 16

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

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

## APPENDIX 1

Application No: PAPI/2016/0060

Great Chapel Field, Wall Hill Road, Chapel Green, Fillongley,

Retention of change of use of land from agricultural to dog training/exercising, including new access, car park and siting of moveable field shelter and dog agility course equipment, for

Mr Stephen Hammon - Heart of England Promotions

### Introduction

The application is reported to Board for determination in light of the receipt of representations and in recognition of the planning history of proposals presented by the applicant in this vicinity.

### The Site

The site is a roughly rectangular field situated to the south of the M6 at Chapel Green Fillongley. It is bordered to the west by Meriden Road and to the south and east by Wall Hill Road. The Heart of England Conference and Events Centre lies to the south on the opposite side of Wall Hill Road and is in the same ownership as the applicant. The residential properties Moor House, Moor House Lodge and Moor House Bungalow all lie in the vicinity of the application site on the opposite side of Wall Hill Road. The site is shown in the plan extract below.

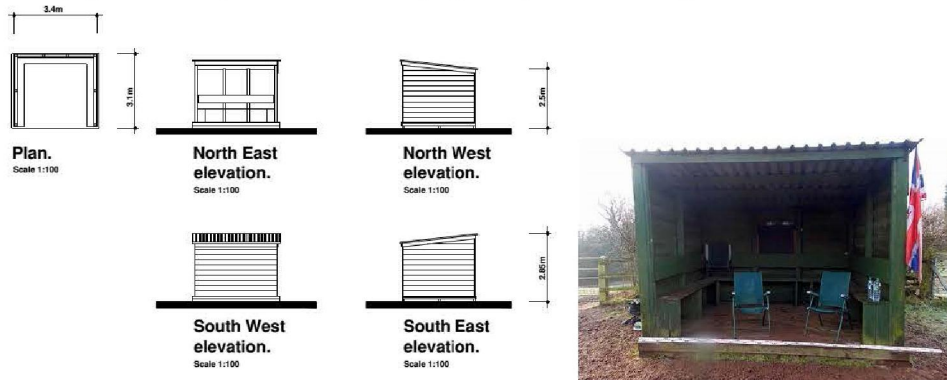


## The Proposal

The application is partly retrospective and partly a proposal for new works. The change of use of land from agricultural to dog training/exercising commenced without the benefit of planning permission in late 2015.

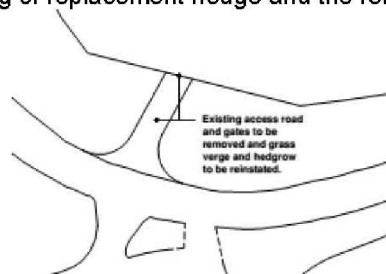
The proposed element of the application is the formation of a new access and car park and the siting of a moveable field shelter and dog agility course equipment.

A small, open fronted, timber shelter is proposed, with the design shown below:



The shelter is the same as the one currently positioned close to the existing entrance. It would be removed from that position and relocated close to the proposed new entrance and the union flag would be removed from it.

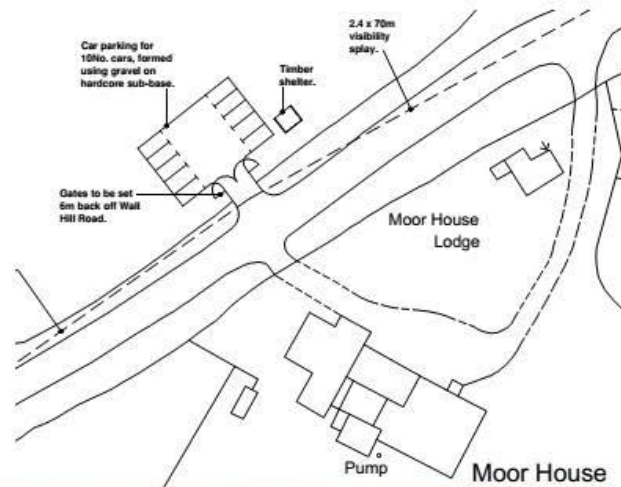
The existing access shown below, would cease to be used and the land would be reinstated with the planting of replacement hedge and the reinstatement of the verge





## APPENDIX A

An alternative access would be formed further along Wall Hill Road at the position shown below (into the hedgerow on the left hand side of the image)



The images below show the agility equipment positioned within the site. They also show the fencing that has been erected to separate the dogs from the public footpath which passes along the northern edge of the site.





## **Background**

Since September 2015 the field has been rented out to a dog trainer/behaviourist who lives locally. She subsequently erected a small open-fronted timber shelter or pavilion at the southern edge of the field (with a flagpole) and set up a moveable suite of equipment for a dog agility course at the northern end. This was ready for use by 1 0 October 2015. The tenant then advertised the field as a dog agility course via her Facebook pages and set up a closed group called 'Coventry Agility Fun' to promote its use. It is described as a group for pet dog owners to encourage their dogs to have some fun on the agility course. The trainer is a qualified NASDU instructor (National Association of Security Dog Users) with qualifications in canine behaviour and learning and certificates in dog handling and training.

## **Development Plan**

North Warwickshire Core Strategy (October 2014) - NW1 (Sustainable Development); NW3 (Green Belt), NW10 (Development Considerations) and NW12 (Quality of Development)

## **Other Relevant Material Considerations**

Government Advice: National Planning Policy Framework - (the "NPPF").

## **Consultations**

Warwickshire County Council Highway Authority - No objection subject to conditions

Rights of Way Team, Warwickshire County Council - Public footpath M295 runs along the northern boundary of the application site. It is noted that fencing has been provided to protect public footpath users from any disturbance by dogs. The Rights of Way team therefore has no objection in principle to the proposals but request that the requirement to maintain a fence to protect the public footpath, set back at least 3 metres from the boundary, is stated as a condition on any consent, if granted. Any consent should also carry an advisory note stating that public footpath M295 must remain open and unobstructed at all times.

Environmental Health Officer – Suggests that it would be appropriate to specify a maximum number of dogs on site at any one time. He expresses concern at the prospect of large congregations for activity such as dog shows but does not offer an objection in principle.

## Representations

Letters of objection have been received from Fillongley and Corley Parish Councils and from five local residents. The concerns include the following:

- The land should not be lost from agricultural production.
- Nearby residents will suffer loss of amenity due to noise, traffic and parking issues.
- Training of dogs will inevitably require shouts/calls/whistles all of which will cause nuisance to neighbours. The use would be too close to residential properties.
- The objectors note that the applicant likens the proposed use to horse riding and take issue that horse riding not at all akin. The objectors point out that horse riding is a country activity which involves calm and quiet treatment of the animals involved. By contrast (and based on the 'taster' event held on the land) the type of dog training involves high pitch whistles and screaming and shouting from those attending. The dogs are really enthusiastic, and will constantly bark with excitement.
- The provision of a car park would adversely affect the openness of the Green Belt.
- The bright blue jumps etc. are left out constantly and are clearly visible from inside surrounding properties and are inappropriate development within the Green Belt, harming its openness and visual amenity.
- The "Shelter" and flag pole also add to the clutter and is inappropriate.
- The style of temporary urban fencing to cordon off the public footpath is inappropriate in this location due to its inappropriate visual impact.
- Dogs off the lead may be intimidating to walkers using the public footpath path.
- The achievable visibility splays are inadequate and below standard and the new access would be close to a blind bend and have a lack of visibility to the T-junction. Residents are concerned about the volume and speed of traffic using Wall Hill Road.
- There is concern that the permission would lead to other clutter such as signs and lighting which would change the character and appearance of the area and other activity such as the use of a generator that would be a disturbance to local residents and the provision of other facilities such as toilets.
- There are adequate dog training and agility centres for use by the general public within 2 miles – Corley Training Centre in Highfield Lane and regular Saturday morning sessions at Fillongley Village Hall, so there is no necessity to construct a third venue.
- If permission is granted the Council is requested to attach conditions limiting the character of the use to the use applied for only (i.e. not a general recreational use) and to limit hours of operation.
- Concern is expressed that any controlling conditions will not be adhered to.

## Observations

The site lies within the Green Belt. Paragraph 79 of the National Planning Policy Framework (NPPF) sets out that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Paragraph 80 indicates that the Green Belt serves five

## APPENDIX A

purposes, including assisting in safeguarding the countryside from encroachment. Paragraph 81 sets out that Local Planning Authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access and to provide opportunities for outdoor sport and recreation. Paragraph 87 establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 89 establishes that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt, with exceptions, including provision of appropriate facilities for outdoor sport and outdoor recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

A dog training use is reasonably regarded as an outdoor sport/recreation. It is a use which facilitates access to the countryside and is in accord with the Green belt policy of the promotion of access to outdoor recreational opportunity. It is a use which requires the use of open land and is akin to other recreational and animal related uses that are commonly located in rural areas. Indeed, there are other established dog related uses in the locality of the application site which have been referred to by the objectors.

The application needs therefore to be assessed in relation to the impacts that would result from the grant of planning permission, including the impacts on openness, visual amenity, highway safety and residential amenity.

In terms of the impact on openness and the visual impacts from the proposed development, the site is enclosed by hedgerow and trees on all sides. The dog agility equipment is situated on the lower part of the land at the foot of the embankment for the M6 motorway. Whilst the equipment is primarily blue in colour, it is low level and occupies only a relatively small part of the overall site. It is of a quantity which could be considered reasonably required for the training/exercise of dogs and it is considered that it does not cause an undue intrusion into the openness of the area or any significant harm to visual amenity of the area, even given that a public footpath passes through the site. However, there would be potential for increased harm to openness and increased harm to visual amenity if the quantity, scale or extent of the equipment was increased. For that reason, if permission is granted, it would be appropriate to place conditional limits on the location, extent and scale of the dog training equipment used at the site. The siting of dog agility or other dog training equipment would be most appropriately limited to the northernmost fifth of the site, adjacent to the M6 motorway embankment, where it would cause least visual intrusion and where it would concentrate activity away from the nearby dwellings. It would also strike an appropriate balance between ensuring that the use of the land remained open and in keeping with the rural character of the land, whilst ensuring that the site enjoys a beneficial use. To ensure that the equipment remained of an appropriate scale, with limited visibility, it is considered that a height limit of 2 metres would be appropriate.

Though the application proposes the formation of a new vehicular access, it also proposes the closure and reinstatement of an existing access. The existing access is visible from both Wall Hill Road and the main Meriden Road. It is elevated and contains a relatively long hard surfaced route across a wide verge. The proposal would remove the hard surfaced route and reinstate the verge to a grassed surface and would remove the gateway and reinstate a hedgerow in the gap. Though the new access position would necessitate the loss of some roadside hedge it would be limited to the loss of the gateway alone because visibility splays can be achieved within the highway. The existing roadside tree would remain. The new access would arguably be less visually prominent than the existing access and its use would, with the limitations suggested by



the Highway Authority, be less hazardous to highway safety. There is therefore no objection to the formation of a replacement access.

The timber shelter is of a modest size and limited height, being only 3.1 metres high at its tallest point, it will have very limited visible behind the hedgerow boundary following the removal of the union flag. It is considered that the shelter is reasonably necessary for the activity as it affords a small amount of shelter and can be used for administrative tasks. It is not a storage building, as suggested by some objectors. It is considered to be the provision of appropriate facilities for outdoor sport and outdoor recreation, which will not substantially harm the openness of the Green Belt and will not conflict with the purposes of including land within it. The small scale shelter structure is therefore appropriate development in the Green Belt.

The proposed car park is possibly the element of development which has the greatest potential for adverse impact on the openness of the Green Belt, however, the extent of the car park is limited to 10 spaces and would be surfaced with a low key gravel finish. The parking would sit behind a roadside hedge which would provide some visual screening. It is considered that the transitional nature of this relatively small number of parked vehicles would not cause undue harm to openness. With a conditional requirement for additional tree planting to supplement the hedgerow fronting the length of the site which adjoins Wall Hill Road, the car parking area would not cause undue visual intrusion.

Residents and Parish Council's express the concern that the grant of planning permission for this use of the land would inevitably lead to other associate development – advertisements, toilet facilities, overnight stopping caravans, lighting etc. It is agreed that there would be potential for the development of the activity to lead to other more harmful visual impacts and detrimental change in the rural character of the land. For this reason it would be appropriate to attach conditions which introduce controls over such matters. A condition limiting the operation of the site to daylight hours only will obviate the need for the installation of exterior lighting and the removal of permitted development rights for temporary uses of land and some minor developments (means of enclosure and CCTV cameras), together with a requirement for approval of all signs, advertisements or flags, would be appropriate.

It is considered appropriate to place a limit on the number of dogs for dual reasons. Firstly, it is appropriate to limit the number of dogs on the land at any one time in order to limit the likelihood of disturbance from noise, and secondly, it is necessary to limit the number of vehicular movements to and from the site for highway safety reasons.

In respect of concerns about noise, it should be recognised that the land lies immediately adjacent to the M6 motorway and that there is consequently a higher background noise level than would be found in countryside locations more remote from the motorway. With the limit on the number of dogs on site at any one time the Environmental Health Officer does not object to the development. It is considered that the effect on residential amenity of nearby properties would not be so significant that it would justify the refusal of planning permission.

In terms of highway safety, the location of the proposed access will provide better visibility splays, and the gradient of the access will be an improvement compared to the existing access. Parking provision will be for 10 vehicles, and the applicant has also agreed to limit the use to 10 vehicle visits per day. As such, the highway authority considers that proposed parking should be acceptable. The proposed access to the site

will also be wide enough to provide two way traffic flows. Capacity on the highway network should not be an issue. Therefore, the Highway Authority's response to the amended details is one of no objection subject to conditions.

Given that the use has already commenced and that the use of the existing access is deemed to be unsafe, it would be appropriate to require the cessation of the dog training activity until such time as the replacement access is completed to the satisfaction of the Local Planning Authority in writing. It is further appropriate to require the permanent closure of the existing access at the same time.

Whilst it is recognised that the dog training use would alter the experience of walkers using the public footpath, it should be noted that the Rights of Way Officer does not object to the use of the land providing that an appropriate fence is erected in an appropriate location. Whilst the Heras fencing may have been an appropriate temporary solution to the enclosure of the land, it is of an urban character and not in keeping with this rural location. It would be appropriate to make the replacement of this fencing a conditional requirement of any planning permission granted.

On balance the use may be supported, with restrictions, as an appropriate development in the Green Belt.

## **Recommendation**

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

1. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 01 Rev E received by the Local Planning Authority on 1 November 2016 and the plan numbered 355/216/02 received by the Local Planning Authority on 28 January 2016.

### REASON

In order that the development is carried out in accordance with the appropriate plans.

2. The use hereby approved shall not operate at any time until the replacement access and car park have been completed and the existing access has been closed to the satisfaction of the Local Planning Authority in writing, in consultation with the Highway Authority.

### REASON

In the interests of highway safety.

3. The use hereby approved is for the training and/or exercising of dogs only. It shall expressly not be used for any other purpose whatsoever. The number of dogs on site at any given time shall not exceed ten and the site shall not be used for the purpose of dog shows or competitions.

### REASON

In the interests of the amenities of the area.

## APPENDIX A

4. Prior to the commencement of development the design and appearance of the proposed entrance gates and any associated fencing shall be submitted to and approved by the Local Planning Authority in writing. The approved details shall be implemented in full and maintained as such at all times thereafter.

### REASON

In the interests of the amenity of the area and in the interests of highway safety.

5. Prior to the commencement of development a scheme for additional tree planting to supplement the hedgerow along the length of the site where it adjoins Wall Hill Road and for the specification of the new section of hedgerow shall be submitted to and approved by the Local Planning Authority in writing. The approved scheme shall be planted in full within the first available planting season following the construction of the car park. In the event of any tree or plant failing to become established within five years thereafter, each individual tree or plant shall be replaced within the next available planting season to the satisfaction of the Local Planning Authority.

### REASON

In the interests of the amenity of the area.

6. The siting of dog agility or other dog training equipment shall be limited to the northernmost fifth of the site, adjacent to the M6 motorway embankment. With the exception of the northernmost fifth of the site and the approved car park nothing whatsoever shall be stored, sited, constructed, displayed or parked on any other part of the site. The height of the dog agility or other dog training equipment shall not exceed 2 metres.

### REASON

In the interests of the visual amenity of the area, in the interests of residential amenity and to maintain the openness of the Green Belt.

7. The approved car park shall be formed using gravel on a hardcore base and shall not have a bound finish, with the exception that it shall be constructed from a bound material for a distance of 6.0 metres, as measured from the near edge of the public highway carriageway. The use shall not operate at any time unless the car park is available for the parking and manoeuvring of vehicles.

### REASON

In the interests of the amenity of the area and in the interests of highway safety.

8. The parking of cars and other vehicles shall be confined to the car park only and shall not be parked or stored at any other position within the site at any time.

### REASON

In the interests of the amenity of the area.

## APPENDIX A

9. The use hereby approved shall not operate between the hours of sunset and sunrise on any day. For the avoidance of doubt, sunset and sunrise shall be taken to be the times specified for Birmingham, UK, by the HM Nautical Almanac Office (<http://astro.ukho.gov.uk>). The site shall not be used for the purpose of overnight stays at any time.

### REASON

In the interests of the amenity of the area.

10. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), no signs, flags or advertisement may be displayed without the express written consent of the Local Planning Authority.

### REASON

In the interests of the amenity of the area.

11. No development whatsoever within Classes A and F of Part 2 and Class B of Part 4, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.

### REASON

In the interests of the amenity of the area and to maintain the rural character and appearance of the area.

12. Within two calendar months of this permission details of a fence to replace the temporary Heras fencing alongside the public footpath shall be submitted to and approved by the Local Planning Authority in writing. The replacement fence shall be sufficient to provide for the safety of users of the public footpath, shall be of a design and appearance in keeping with the rural setting of the site and shall be erected at a position which is set back at least 3 metres from the boundary of the footpath. The approved replacement fencing shall be erected and the temporary fencing removed from the site within one calendar month of the approval of details and shall be maintained as such at all times thereafter.

### REASON

In the interests of the amenity of the area, to maintain the accessibility of the public footpath and to protect users of the public footpath.



## APPENDIX A

13. Access for vehicles to the site from the public highway (Wall Hill Road C63) shall not be made other than at the position identified on the approved drawing, number 355 / 216 / 01 Rev E, providing an access no less than 5.0 metres in width for a distance of 20.0 metres, as measured from the near edge of the public highway carriageway. Gates hung within the access shall not be hung so as to open within 6.0 metres of the near edge of the public highway carriageway.

### REASON

In the interests of highway safety.

14. The access to the site for vehicles shall not be used unless a public highway verge crossing has been laid out and constructed in accordance with the standard specification of the Highway Authority. The vehicular access to the site shall be surfaced with a bound material for a distance of 6.0 metres, as measured from the near edge of the public highway carriageway, and shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto the public highway.

### REASON

In the interests of highway safety.

15. The development shall not be commenced until visibility splays have been provided to the vehicular access to the site, passing through the limits of the site fronting the public highway, with an 'x' distance of 2.4 metres and 'y' distances of 70.0 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

### REASON

In the interests of highway safety.

16. No more than 10 vehicles shall visit the site per day (20 vehicle movements).

### REASON

In the interests of highway safety.

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

### REASON

In the interests of highway safety.

# APPENDIX A

## BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0060

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	28 01 16 1 11 16
2	Warwickshire County Council Highways Authority	Consultation Response	3 3 16 31 10 16 3 1 17
3	Warwickshire County Council Footpaths	Consultation Response	29 2 16
4	Environmental Health Officer	Consultation Response	25 2 16 10 11 16
5	Corley Parish Council	Representation	21 11 16
6	Fillongley Parish Council	Representation	23 11 16
7	Hooke	Representation	23 11 16
8	Shipleigh	Representation	29 2 16 22 11 16
9	Y McHugh	Representation	29 2 16 22 11 16
10	M McHugh	Representation	29 2 16 22 11 16
11	Burrin	Representation	17 11 16

*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.*

The Colmore Building  
10 Colmore Circus  
Queensway, Birmingham  
B4 6AT

T: 0121 262 4045  
group@m-ec.co.uk  
www.m-ec.co.uk



Offices also at **Ibstock, Milton Keynes, Nottingham and Leeds**

Consulting Development Engineers

**Proposed Development Site - Land at Wall Hill Road, Fillongley, North Warwickshire  
Transport Technical Report  
March 2017  
Our Ref: 22867/03-17/NB**

**Introduction**

Mewies Engineering Consultants Ltd (M-EC) has been commissioned by North Warwickshire Borough Council (NWBC) to produce a Transport Technical Report, providing an assessment of the highways issues involved with planning application PAP/2016/0060, located at Land at Wall Hill Road, Fillongley. The proposed development for application PAP/2016/0060 consists of the 'retention of change of use of land from agricultural to dog training/exercising, including new access, car park and siting of moveable field shelter and dog agility course equipment'.

The purpose of this report is to examine the existing and proposed access points, including visibility splays and accident data. A summary will also be provided, including a recommendation as to which access point should be utilised for the proposed development.

An inspection of the proposed site accesses was undertaken on Tuesday 21<sup>st</sup> February 2017, between 08:30am and 09:30am. During the site inspection, the weather conditions were dry, although the roads were damp. The documents and drawings submitted as part of the application have been reviewed, including the responses of the Highway Authority dated 03<sup>rd</sup> March 2016, 31<sup>st</sup> October 2016, and 29<sup>th</sup> December 2016.

**Existing Access**

The existing access is located approximately 50m south-east of the Wall Hill Road/Meriden Road (B4102) junction, and serves the permitted agricultural use at the site. The access measures 3.3m in width, with a 5.6m wide dropped kerb fronting the access. The access is currently only wide enough for one-way vehicle movements, and there is evidence of vehicles overrunning the verge at the dropped kerb, which may be evidence of two vehicles trying to pass each other within the access. The access is also gated, with the gates set back 19.2m from the edge of the carriageway.

During the site visit it was noted that there does not appear to be a car parking area provided within the site. This could result in visitors parking along the carriageway or highway verge. The response from the Highway Authority dated 03<sup>rd</sup> March 2016 indicates that '*it appears that vehicles are parking on the access and/or either side of it, looking at the visible tyre tracks*'. Tyre tracks were also visible along the highway verge during our site inspection. Vehicles parking along the highway verge could further reduce the visibility splays available at the existing access.

**Visibility Splays**

On inspection, visibility splays of 48m could be achieved to the right (north-west) of the access, to the junction of Wall Hill Road/Meriden Road (B4102). Visibility splays of 42m can be achieved to the left (east) of the access, when measured at a height of 1.05m and measured to the near edge of the carriageway. Visibility to the left is obstructed by the embankment, which also restricts forward visibility of vehicles waiting in the carriageway, to turn right into the site. The forward visibility splay is restricted to approximately 72m.

At the access, Wall Hill Road is subject to the National Speed Limit (60mph) which would require visibility splays of 215m in both directions, when measured 2.4m back from the edge

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Mewies Engineering Consultants Ltd Directors: E Mewies BEng(Hons) CEng MICE MCIWEM, A Bennett BSc(Hons) MCITM MITS





of the carriageway. It is acknowledged that vehicle speeds are unlikely to be as high as 60mph at the existing site access, due to the close proximity of the Wall Hill Road/Meriden Road (B4102) junction, and the general alignment of the carriageway reducing vehicle speeds. Despite this, supporting information has not been submitted as part of the application, to demonstrate that the existing level of achievable visibility is in accordance with actual vehicle speeds.

#### Accident Data

A review of CrashMap indicates that there have been no recorded Personal Injury Accidents (PIAs) within the vicinity of the existing access, during the most recent 5-year period (2012-2016). The most recent PIA recorded within the vicinity of the existing access occurred in 2006 at the Wall Hill Road/Meriden Road (B4102) junction, and was classified as 'serious'.

#### Summary

The existing access is considered to be below standard, as the visibility splays do not accord with standards for the National Speed Limit (60mph). The access is also not wide enough to enable two vehicles to pass each, without overrunning the highway verge. It also appears that parking is not provided within the site, which could, and appears to have, lead to vehicles parking along the highway verge.

It is likely that the proposed development will generate an increase in vehicular trips compared to the permitted agricultural use. The increase in vehicular trips will intensify the use of a below standard access, which could be detrimental to public highway safety.

#### Proposed Access

According to drawing no. 355/216/01 Rev. E, submitted as part of the application, the proposed new access will be located opposite an existing access into Moor House, approximately 105m to the north-east of the existing access. The proposed access will measure 5m in width enabling two vehicles to pass each other, with gates set back 6m from the edge of the carriageway. As part of the proposals, the existing access shall be closed, with the verge and hedgerow reinstated.

A car parking area shall also be provided, that can accommodate up to 10 vehicles, with sufficient space within the parking area for vehicles to manoeuvre and re-enter the public highway carriageway using a forward gear. The 'Board Report - 6 February 2017' indicates that a condition shall be applied, so that the number of dogs on the site at any one time shall not exceed 10, in the interests of highway safety. This is to ensure that the level of parking provided is sufficient to accommodate the proposals.

#### Visibility Splays

Drawing no. 355/216/01 Rev. E demonstrates that visibility splays of 70m shall be provided at the proposed access, when measured 2.4m back from the edge of the carriageway. It is assumed that the 70m visibility splays have been approved, as they are in accordance with Design Manual for Roads and Bridges (DMRB) standards for 30mph speeds. However, vehicle speed data was not provided to support the reduction in speed limit, or visibility splay distance. It is acknowledged that the bend to the north-east of the site will reduce vehicle speeds, which appeared to be approximately 25-30mph. Vehicle speeds approaching from the south-west appeared to be higher, as vehicles gained speed after joining Wall Hill Road from Meriden Road (B4102). Vehicle speeds appeared to be approximately 30-35mph.

Whilst visiting the site, the verge margin fronting the boundary hedgerow measured 2.2m wide therefore, visibility splays have been measured 2.2m back from the edge of the carriageway, rather than the required 2.4m. visibility splays of 105m could be achieved to the left (north-east) of the access, when measured 2.2m back from the edge of the carriageway. A

forward visibility splay of 90m could be achieved, for vehicles waiting in the carriageway to turn right into the site.

Visibility splays of 50m could be achieved to the right (south-west) of the proposed access. The visibility splay was obstructed by the boundary hedgerow and the horizontal alignment of the carriageway. The existing hedgerow will have to be set further back within the site or removed, to achieve the visibility splay of 70m, as indicated on drawing no. 355/216/01 Rev. E.

On further inspection of drawing no. 355/216/01 Rev. E, the visibility splay measured to the right (south-west) of the proposed access appears to have been measured to the centreline of the carriageway. Visibility splays are required to be measured to the near edge of the carriageway. If measured to the near edge of the carriageway, visibility splays of 55m would be available. Should Manual for Streets 2 (MfS2) formulae be used to calculate the required visibility splays, a 55m visibility splay would accord with vehicle speeds of 36mph, which is comparable with vehicle speeds witnessed during the site inspection.

#### Accident Data

A review of CrashMap indicates that there have been no recorded PIAs within the vicinity of the proposed access, during the most recent 5-year period (2012-2016). The most recent PIA recorded within the vicinity of the proposed access occurred in 2008 at the bend to the north-east of the proposed access, and was classified as 'slight'.

#### Summary

Vehicle speed data was not provided to support the provision of 70m visibility splays. In order to achieve visibility splays of 70m, it appears that the visibility splay measured to the right (south-west) of the proposed access, has to be measured to the centre of the carriageway, rather than the near edge. If measured to the near edge, visibility splays of approximately 55m would be achievable.

The proposed access will enable two vehicles to pass each without obstructing the carriageway or overrunning the highway verge. A parking area that can accommodate up to 10 vehicles will also be provided within the site.

#### Summary

Both the existing and proposed accesses are considered to be below standard, as the achievable visibility splays are not in accordance with the posted National Speed Limit (60mph). Additional speed data has not been submitted for reduced visibility splays to be accepted therefore, visibility splays of 215m would be required. At the existing access, visibility splays of 48m can be achieved to the right (north-west) of the access, towards the Meriden Road (B4102)/Wall Hill Road junction. Visibility splays of 42m can be achieved to the left (east) of the access, and the forward visibility splay is reduced to approximately 72m.

Visibility splays of 70m have been approved at the proposed access, without the submission of supporting speed data information. A speed survey should have been undertaken, to establish the 85th percentile speed of vehicles, and determine whether the level of visibility that is being proposed at the new access is acceptable. There are also concerns that visibility splay measured to the right (south-west) of the proposed access, are measured to the centre of the carriageway, rather than the near side edge. If measured to the near side edge, a visibility splay of approximately 55m is achievable.

A Road Safety Audit (RSA) should have been carried out at the proposed access, to support the provision of reduced visibility splays. The RSA would also identify any other concerns with the proposed access. According to DMRB, Volume 5, Section 2, HD 19/15, a Road Safety Audit should be carried out for all new access points onto the highway.





Having reviewed both accesses and undertaken a site visit, the proposed access is considered to be a betterment than the existing access, as the visibility splays achievable at the proposed access are greater than those that can be achieved at the existing access. The boundary hedgerow at the proposed access should be set further back within the site, to provide greater visibility splays and ensure that the hedgerow does not overgrow and obstruct visibility splays.

### Conclusion

Having undertaken a full assessment of the existing and proposed accesses, the proposed access is considered to be a betterment than the existing access. Despite this, it is recommended that the proposed access is located approximately 20m-25m further east along Wall Hill Road, to optimise the level of achievable visibility. This would enable greater visibility splays to the right (south-west) of the access to be provided, where vehicle speeds appeared to be higher.

Report Prepared By:

.....  
Ben Malin  
Transport Engineer

Report Approved By:

.....  
Neil Benison B.Sc (Hons) IEng MICE  
Director

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## **Agenda Item No 6**

### **Planning and Development Board**

**12 June 2017**

#### **Report of the Assistant Chief Executive and Solicitor to the Council**

#### **Submission of Coleshill and Austrey Neighbourhood Plans for Adoption**

### **1 Summary**

- 1.1 This report informs Members of the progress of the Coleshill and Austrey Neighbourhood Plans and seeks approval to adopt in accordance with section 16 of the Neighbourhood Planning (General) Regulations 2012.

#### **Recommendation to the Board**

**That the Coleshill and Austrey Neighbourhood Plans be adopted and form part of the Development Plan.**

### **2 Consultation**

- 2.1 Councillors Bell, Henney, Farrell, Ferro, Ingram and Jones have been sent a copy of this report for comment. Any comments received will be reported verbally at the meeting.

### **3 Background**

- 3.1 The Localism Act 2011 introduced a mechanism for local communities to produce neighbourhood plans. Once a neighbourhood plan is 'made' it becomes part of the statutory development plan for that area and will be used, alongside local and national planning policy and guidance, to determine planning applications. There are now 9 designated Neighbourhood Plan areas within the Borough.
- 3.2 The Regulations were amended in October 2016 and this now means that following a successful referendum, the Neighbourhood Plan has to be made, which means "adopted", within 8 weeks of the date of the referendum

### **4 Coleshill and Austrey**

- 4.1 Coleshill and Austrey are the third and fourth Neighbourhood Plans to be formally examined by an Independent Examiner and go forward to referendum. There is a requirement that 51% of those who vote must support the document for the Borough Council to consider adopting the Plan.
- 4.2 The referendum took place on Thursday 4 May and the results are as below

*Coleshill Neighbourhood Plan*

<b>Question: Do you want North Warwickshire Borough Council to use the Neighbourhood Plan for Coleshill to help it decide planning applications in the neighbourhood area?</b>	<b>Votes Recorded</b>	<b>Percentage</b>
Number cast in favour of a <b>Yes</b>	1658	82%
Number cast in favour of a <b>No</b>	267	13%

*Austrey Neighbourhood Plan*

<b>Question: Do you want North Warwickshire Borough Council to use the Neighbourhood Plan for Austrey to help it decide planning applications in the neighbourhood area?</b>	<b>Votes Recorded</b>	<b>Percentage</b>
Number cast in favour of a <b>Yes</b>	314	87.5%
Number cast in favour of a <b>No</b>	41	11.5%

- 4.3 There is clearly good support for the Plan and it is recommended that the Plans be adopted.

## **5 Finance and Value for Money Implications**

- 5.1 The Borough Council can claim up to £25,000 for each Neighbourhood Plan – the first payment of £5,000 was made following designation of the neighbourhood area. A second payment of £20,000 is made once the date for referendum has been set following a successful examination. These payments recognise the amount of officer time supporting and advising the community in taking forward a Neighbourhood Plan. They will also cover the cost of the referendum and will assist in producing the Plan.

## **5.2 Legal and Human Rights Implications**

- 5.2.1 The process conforms to the legal requirements for Neighbourhood Plans.

## **5.3 Human Resources Implications**

- 5.3.1 Staff time is expected to be provided by the Borough Council to support and advise the Parish Council and community in taking forward a Neighbourhood Development Plan.

## **5.4 Environmental and Sustainability Implications**



5.4.1 Each Neighbour Plan will need to consider the effects of the Plans contents in terms of environmental and sustainability issues in accordance with the relevant regulations.

## 5.5 Links to Council's Priorities

5.5.1 The designation of the Neighbourhood Plan Designation Area will have links to the following priorities;

1. Enhancing community involvement and access to services
2. Protecting and improving our environment
3. Defending and improving our countryside and rural heritage

The Contact Officer for this report is Sue Wilson (719499).

## Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
1	Coleshill Neighbourhood Plan Team and Coleshill Town Council	Neighbourhood Plan	2017
2	Austrey Neighbourhood Plan Team and Austrey Parish Council	Neighbourhood Plan	February 2017

**Agenda Item No 7**

**Planning and Development Board**

**12 June 2017**

**Report of the  
Head of Development Control**

**Car Boot Sales**

**1 Summary**

- 1.1 This report brings Members up to date following the Board's request to look into the management of car boot sales in the Borough.

**Recommendation to the Board**

**That the report be noted and that officers are requested to continue discussion with the operators.**

**2 Background**

- 2.1 Following a request from the Chairman that a note be brought to the Board about car boot sales in general, the Board resolved that it would be appropriate to hold a meeting with the main operators who run these events in the Borough. That meeting has now taken place.

... For convenience a copy of the initial report is at Appendix A and a note of the meeting is at Appendix B.  
...

**3 Observations**

- 3.1 The meeting was constructive and as can be seen, sought agreement on how these events could be managed so as to reduce any adverse impacts particularly on local residents.

- 3.2 There are two areas of particular note. Firstly, the operators did agree that it would be a good idea for them to remain in contact with the Parish Councils in whose areas they operate. In this way it was agreed that any concerns and issues could be addressed directly rather than through the Borough Council. Secondly, the option of having more "permanent" sites was raised. In this scenario a planning permission could impose conditions which could be enforced if expedient thus enabling the Council to take a more formal role. Additionally the operators considered that this would mean that they didn't have to "rotate" between different sites and that with the longer period – say 28 days- they could invest in better on-site management etc.

- 3.3 It was agreed that a further meeting be held at the end of the year to see the results of the measures agreed in the note.

- 3.4 Members should note that recently a community protection warning notice was served under the Anti -Social Behaviour, Crime and Policing Act 2014 on the organisers of the eboot car boot sales (Hams Hall and,Lea Marston). The notice relates to the burning of waste at the car boot sale sites and requires the operators to cease the burning of waste or permitting the burning of waste at all the sites they operate in North Warwickshire and to store all waste awaiting disposal in lockable containers and that all waste removed from site must be removed by a registered waste carrier.
- 3.5 Failure to comply with this warning notice will result in a Community Protection Notice being served and if this is not complied with prosecution proceedings will be applied for.
- 3.6 Members are asked whether they consider that the option of more permanent sites should be explored further with the operators and the Parish Council's most affected on a without prejudice basis.

**4 Report Implications**

**4.1 Financial and Value for Money Implications**

4.1.1 None at this time.

**4.2 Environment and Sustainability Implications**

4.2.1 Seeking better communication between the affected parties to better manage these events should seek to minimise adverse impacts

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

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

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>

**NOT FOR PUBLICATION**  
by virtue of paragraph 6  
of Part 1 of Schedule 12A to the  
Local Government Act 1972

**Agenda Item No 7**

**Planning and Development Board**

**5 September 2016**

**Report of the  
Head of Development Control**

**Car Boot Sales**

**1 Summary**

- 1.1 This report provides a summary of the planning legislation in respect of car boot sales for the information of Members.

**Recommendation to the Board**

**That a small group of Members invite the three market operators to a meeting in order to see how the local impacts of these events can be reduced.**

**2 Background**

- 2.1 There are several car boot sales happening throughout the Borough during any one year. From time to time there are concerns expressed about the impact of these events by the local community. This opportunity is taken to set out the planning legislation in respect of this type of event.
- 2.2 As Members are aware there are widespread rights granted by the General Permitted Development Order in respect of developments that may continue without the need to submit a planning application. In effect the Order grants planning permission in these cases. On such class of development covered by permitted development rights is that of the temporary use of land – i.e. Part 4 of Schedule 2 to the 2015 Order as amended. Herein the use of any land for the holding of a market is permitted for not more than 14 days in total in any calendar year. This however does not apply if that land is within a curtilage of a building. Hence land can be used for 14 days in a calendar year for the holding of markets without the need to submit a planning application. Although this is a grant of planning permission for the 14 days, there are no conditions attached to it.
- 2.3 Members may also have seen notifications about forthcoming car boot sales being sent in particular to Parish Councils. These are NOT requirements of planning legislation. Under the Miscellaneous Provisions Act 1982, 28 days' notice of a proposed market has to be given to the Local Market Authority. That Authority can only take action if it considers that its ancient charter

markets would be affected by the proposed market. This is NOT therefore a planning matter.

- 2.4 However that notification is very useful as it enables the Council as Local Planning Authority to give notice itself of forthcoming markets to various Agencies and local communities. In our case, officers pass on these forward dates to the local Parish Councils; to the Highway Authority, the Police and to County Trading Standards as well as internally to Environmental Health colleagues. Those Agencies can then react as they see fit under the legislation available to them.
- 2.5 So in planning terms there is very little in the way of control here. There was an attempt about twenty years ago to persuade the Government to amend the permitted development rights for such events. The response was that these sales provided farmers with a source of diversification and thus income as well as attracting people into rural areas so as to sustain local businesses. It was considered that the number of 14 represented a reasonable balance between those objectives and limiting adverse impacts on local communities. Given recent changes to the Permitted Development Order in extending permitted development rights for all types of development, it appears unlikely that these particular rights for markets would be tightened.

### **3 Current Car Boot Sales**

- 3.1 At the present time during 2016, notifications suggest that there are several sites (around six) that have been or will be used for car boot sales – these are concentrated around Lea Marston; Middleton and Over Whitacre. These all have easy access from the neighbouring urban area and hence their attractiveness. These same sites are regularly used and have been so now for a significant number of years. There are only two or three land owners involved and there are three main market operators using these sites.

### **4 Some Planning Issues**

- 4.1 There are some common issues that often arise and these are usually focussed on planning matters
- 4.2 The first is that the permitted development rights refer to "markets" and not to car boot sales. A market has been defined in law as a place where people come together to buy and sell goods and planning case-law evidences that car boot sales would be treated as a market. It is also clear that there is no distinction between "commercial" car boot events and "charitable" events. They are all markets for the purposes of planning legislation.
- 4.3 The second is the misunderstanding about the number of fourteen events. This figure is the number of events that can take place before a planning application is required. It is NOT a rule that says that anything more is illegal and it is certainly not an indication that should an application be submitted for more, that there should be an automatic refusal.

The third is that some sites are very close to each other and thus the issue expressed is that some communities "suffer" because they may have the impacts of such events locally for 28 or 42 days in a year. The permitted development rights relate to "land", not to Parishes or communities or to addresses. The accepted interpretation of this in planning terms is that land is defined by "planning units" – e.g. the red line in a planning application. This means that if a different field is used later in the year, even a neighbouring field, then that is a different "planning unit" provided that it is physically defined as a separate area of land. Both fields thus benefit from the 14 day figure. In other words the General Permitted Development Order does not refer at all to cumulative impacts.

4.4 The fourth is that there are often suggestions that more than 14 events have taken place. When comparing the diaries of the complainant with that of the market operator, the common difference between the two is almost always a disputed date where the operator says that the event was called off very early because of bad weather, but the complainant says that people were present on site. It is true that these events are often called off quite early in the day – six or seven in the morning. The issue from a planning point of view is to assess whether a "market" took place on that day. The fact that people were on the site is NOT evidence of a market. Legal advice has been sought on this matter in view of the frequency of this issue coming up. For a market to occur there has to be an exchange of goods for money. That exchange therefore constitutes trading. Hence if the Council is to dispute a date, it has to have robust evidence of trading taking place. Members will know that changes of use have to be material for development to take place. Hence trading has to be "material" for it to count as one of the 14 days. This would mean significant exchanges of goods over a significant proportion of the day. Hence some early trading in the day followed by cancellation of the event with no trading during the remainder of the day would not constitute a material change in the use of that land.

4.5 Finally, there are often concerns expressed about event paraphernalia left on the site during the week – e.g. cones and more particularly portable toilets. In the first instance the days on which these are present cannot be counted as one of the event days. Event days are only when a "market" takes place – i.e. trading. Moreover this equipment is more than likely not to amount to "development" in planning terms as it is not fixed into the ground, is moveable and is temporary. More fittingly, there is an argument that it constitutes "storage" and thus is a material change of use of the land from agricultural to a mixed use of agriculture and storage. This is not at all a clear cut issue as the determining factor is whether there is a "material" change in the use of the land. Given that fourteen events can take place on the land and that this equipment is moveable, temporary and takes up usually only a small part of a much larger field, it is extremely difficult to establish a material change involving storage. There is a fall-back position too as the agricultural use of land can involve temporary fences, field markers, trailers and equipment being left on the land.

## 5 Other Legislation

- 5.1 There is also a significant overlap here with other legislation and thus many other Agencies are involved.
- 5.2 County Trading Standards will deal with matters such as counterfeit and stolen goods being sold at these events.
- 5.3 Environmental Health Officers will look at a range of issues – noise; litter, bonfires after events and the food hygiene concerns. Licensing might also become involved if there is the sale of alcohol or the playing of music.
- 5.4 The Highway Authority will have concerns about any new or changes to access points as well as to trespass onto the highway verges – e.g. for advertisements displayed on verges and on highway signs.
- 5.5 The Police in addition to looking at general order matters will be involved potentially in obstructions on the highway – e.g. cars parked on verges and the general flow of traffic.
- 5.6 The Assistant Chief Executive (Community Services) advises that the rating position on car boot sales is not straight forward. Although the District Valuer is notified of forthcoming events he has to take a decision on whether they become rateable. The suggestion is that they have to be on a greater scale than the fourteen days for this to happen.

## 6 Planning Options

- 6.1 The Council as a Local Planning Authority therefore has very little direct control over car boot sales. Indeed this is reflected throughout the country where there is very little in the way of case-law or experience on which to draw. If the Council has robust evidence that there have been more than fourteen events in a calendar year then it can issue an Enforcement Notice if it is expedient to do so. Case-law suggests that if a Notice is served because 15 or 16 events have occurred then it may not be upheld at appeal. This is because the two extra events would be unlikely to give rise to significant environmental adverse impacts over and above the 14. A Notice served where there have been say more than 20 events and there can be shown to be real adverse impacts, would be on stronger ground. The whole matter revolves around the evidence to show “expediency” and it is not just a “number” issue.
- 6.2 An alternative is to look at the withdrawal of permitted development rights through an Article 4 Direction. This however is not as attractive as it might appear as it carries significant considerations. Firstly there is the issue of how widely geographically to draw the Direction. The wider the area the more difficult it would be to have any Direction upheld. Clearly a Direction affecting one field could result in “field-hopping” but a Direction covering a Parish would clearly affect the rights of a number of land owners. Secondly, the

withdrawal of these rights is NOT a ban. All it means is that any person wanting to operate a market has to submit a planning application. The Council then has to determine that application. The Direction removing such rights would be a material consideration of some weight but a refusal for any car boot sale at all would be extremely unlikely to be upheld at appeal. Additionally if that application was for the use of land previously used for sales, it would again be difficult at appeal to defend a refusal. Thirdly, there is a real issue if a Direction is made in one area of the Borough then others will seek equivalent treatment. A Direction is only to be made in exceptional circumstances and carries consequences as set out shortly. Whilst each case is dealt with separately the Council would be under pressure to potentially make more than the one Direction. Finally and most significantly, the consequence of any Direction is that it carries the opportunity for the land owners to seek compensation should any subsequent planning applications be refused. This is because the Council has withdrawn their planning "rights" as given to him by Parliament.

## 7 **Conclusions**

- 7.1 There was a spate of car boot sales in the Borough during the 1980's and 1990's when up to around ten different sites were operating. That has focussed down now to just the four or five regular sites run by just three operators on land owned as we understand it by just two land owners. Because of the very limited scope of the relevant planning legislation, the Council is reliant on other Agencies to address adverse impacts. However of course these may well have other priorities. Moreover it is not possible for officers to visit every site on every day a market operates or to be present at six or seven in the morning to establish when events might be called off. In this respect Parish Councils may be able to help with appropriate legal advice. However as indicated above, an additional one or two events are almost certainly not going to attract a Planning Inspector's concern.
- 7.2 It is acknowledged that this summary is not helpful in responding to local concerns. The recommendation is thus a possible way forward in seeking the cooperation of the market operators.
- 7.3 As an aside Members will know that two or three of the regular sites might well be affected by the construction of HS2.

## 8 **Report Implications**

### 8.1 **Financial and Value for Money Implications**

- 8.1.1 There are always costs implications if the Council pursues enforcement proceedings and there is a subsequent appeal. An Article 4 Direction can result in compensation payments.



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

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

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>

## North Warwickshire BC

### Car Boot Sale Meeting

Monday 8<sup>th</sup> May 2017 – 5pm

#### Minutes

Present: Councillors Reilly and Sweet with J Brown and James Taroni, Andrew Walsh, Andrew Green Annie Green and one other

1. JB outlined that the Chairman of the Council's Planning and Development Board had asked a note on car boot sales to be reported to the Board. This was done and the Board had resolved that a meeting be set up with Members and the main car boot operators in the Borough in order to discuss concerns that had been expressed locally about these events.
2. Councillor Reilly indicated that the purpose of the meeting was not to be negative as these events were established business operations. Members wanted to better understand how they are managed and to see if there were improvements that could be made to lessen some of the concerns raised by local communities.
3. The operators were pleased to be involved. Between them they covered the main event sites in the Borough - Furnace End and Nuneaton Road, Ansley, together with those in Lea Marston and Middleton
4. A number of issues were then discussed.

Parking - This was to do with customers parking on nearby roads and grass verges rather than using the on-site car parks. This caused congestion and safety issues. The operators explained that they too did not like this. The reason was not that there was an on-site parking shortage, but that visitors did not want to pay the entry charge – normally £1. The operators were therefore losing money and the congestion was being blamed on them. The operators would welcome any moves that any Agency could make to help on this issue. It was agreed that the Police did not see this as a priority but shortly WCC would be taking over parking matters and there would be likely to be more traffic wardens as a consequence. Also Councillor Reilly agreed to take up the matter with the Police in the interim, perhaps to give one event particular attention over a couple of weeks so as to deter off-site car parking.

Recording of Events – Clearly planning legislation allowed for 14 events in a calendar year before a planning application was necessary. Experience had shown that the local communities were counting events and that at times there were dis-agreements between their "count" and that of the operators. This difference was always generally of the order of one or two disputed days. The operators explained that the biggest issue they have is when cancel any event because of bad weather – rain or snow. "Booters" would turn up very early as usual – from 0500. In general terms the gates would be open to customers at around 0800. A decision to cancel would be taken as early as possible. If this was say at 0830, it would still not avoid customers arriving after cancellation. If an event was cancelled the site had to remain open so that customers could turn round and "booters" could leave.

Operators did sometimes cancel the night before. However they were always reluctant to cancel as often the weather improved mid-morning and customers in any event would still be setting out to visit the event. Members accepted that there were some real operational issues here as expressed by the operators. These were not “ticketed” events and visitors as well as “booters” could not be identified. In order to provide some common ground it was agreed that if an event was running at 0900 hours then it would count as one of the 14.

End Times – The operators explained that these events generally finish around 1300 and that by 1400 they are generally over. Clearing up the sites then takes place and generally everything is finished by 1600 to 1700 hours.

Post Event Clearance - The operators explained that they did their very best to pick up litter but if it was windy there could be difficulties and because of off-site parking they could not “pick” all of the local road verges. They all agreed that this was something that needed to be under their control. They did say that fires were sometimes started to burn rubbish, particularly cardboard, but this was not common place. They too wanted to re-cycle waste. It was agreed that on-site fires should not be used to dispose of waste or other material arising from the event.

Sites when not in use – It was agreed that the fewer cones left on site the better particularly if there were tracks across the site.

5 It was agreed that we would give the operators the contact details of the Parish Councils affected so that they could attend their meetings and better explain their operation and how these are managed together with some of the difficulties involved.

6. It was agreed that we should have a follow-up meeting at the beginning of December to see what transpires throughout the year.

7. Because of the difficulties involved with recording events and the parking situations at certain events, the option of finding more “permanent” sites was raised. A planning permission could be submitted say for two sites in the Borough to be used for 28 days each. Planning controls could be imposed by condition but the operators could invest in the site and also not need to swop sites. This option was something that perhaps could be followed up. This was going to be more pertinent to the Lea Marston sites because of HS2, which would remove several of them and greatly affect traffic routing.

## Agenda Item No 8

### Planning and Development Board

12 June 2017

Report of the  
Head of Development Control

Tree Preservation Order  
Blytheways, Blythe Road, Coleshill

#### 1 Summary

- 1.1 The purpose of this report is to inform members that an Emergency Tree Preservation Order has been made.
- 1.2 An outline planning application has been submitted for up to 50 dwellings at Blytheways on Blythe Road, Coleshill – reference PAP/2017/0157. The Council's Tree Officer has considered the tree report as submitted with the application and recommended that a number of trees should be protected.
- 1.3 Delegated Authority was thus sought to protect nine trees - two oak and seven silver birch. They are identified on the plan in Appendix A. An Emergency Order was made on 15 May 2017 see Appendix B. The Tree Officer's assessment is at Appendix C. The Board is asked to confirm the action taken

#### **Recommendation to the Board**

**That the Board confirms the action taken in the making of an Emergency Tree Preservation Order for Blytheways, Blythe Road, Coleshill, in respect of two oak trees and a group of seven Silver birch trees, for the reasons given in this report. Any representations received as a consequence will be referred to the Board at a later date, when it considers whether to confirm the Order or not.**

#### 2 Observations

- 2.1 Blytheways is a large 1950's detached house set back from the road and within a large garden on the east side of Blythe Road just to the north of its junction with Church Hill. The house and garden comprise the northern part of the site. The southern portion contains several other outbuildings together with a tennis court, a small orchard and a paddock. In total it amounts to 1.2 hectares and extends eastwards towards a public footpath marking the boundary with open countryside. To the north is a frontage of other large detached houses set in large gardens, with trees. To the south there is a residential property and the former town Grammar School now converted to offices. There is residential property on the opposite side of the road. The site has two road frontages but the main access is presently off the Blythe Road, although there is a small gated access off Church Hill. The site slopes from

south to north with a drop of around ten metres and has a number of trees throughout.

- 2.3 A tree survey has been submitted with the outline application. This has identified a large number of trees in the site, with a number of trees to be retained but a large number would also be removed. The Councils Tree officer is in general agreement with the report, apart from Silver Birch Trees along the boundary to The Hawthorns on Blythe Road. The two oak trees and one silver birch which form part of the Order are proposed to be retained as part of the development.
- 2.4 The trees identified for retention should therefore be protected for their current amenity value being close to the Conservation Area; being on the edge of the settlement and where they can benefit the appearance of the proposed housing layout. Selected photographs of the trees can be viewed in Appendix D.

### **3 Report Implications**

#### **3.1 Legal and Human Rights Implications**

- 3.1.1 The owners of the land and the adjacent property have the opportunity to make representations to the Council before any Order is confirmed as being permanent. The Order was made on 15 May 2017 and interested parties have until 22 June 2017 to make representations. The Order will have to be confirmed within six months of it being made.

#### **3.2 Financial and Value for Money Implications**

- 3.2.1 There is no implication in the making of the Order however there are circumstances whereby compensation can be claimed if the Order is confirmed.

#### **3.3 Sustainability and Environmental Implications**

- 3.3.1 The trees to be protected exhibits high amenity value for both the present and the future.

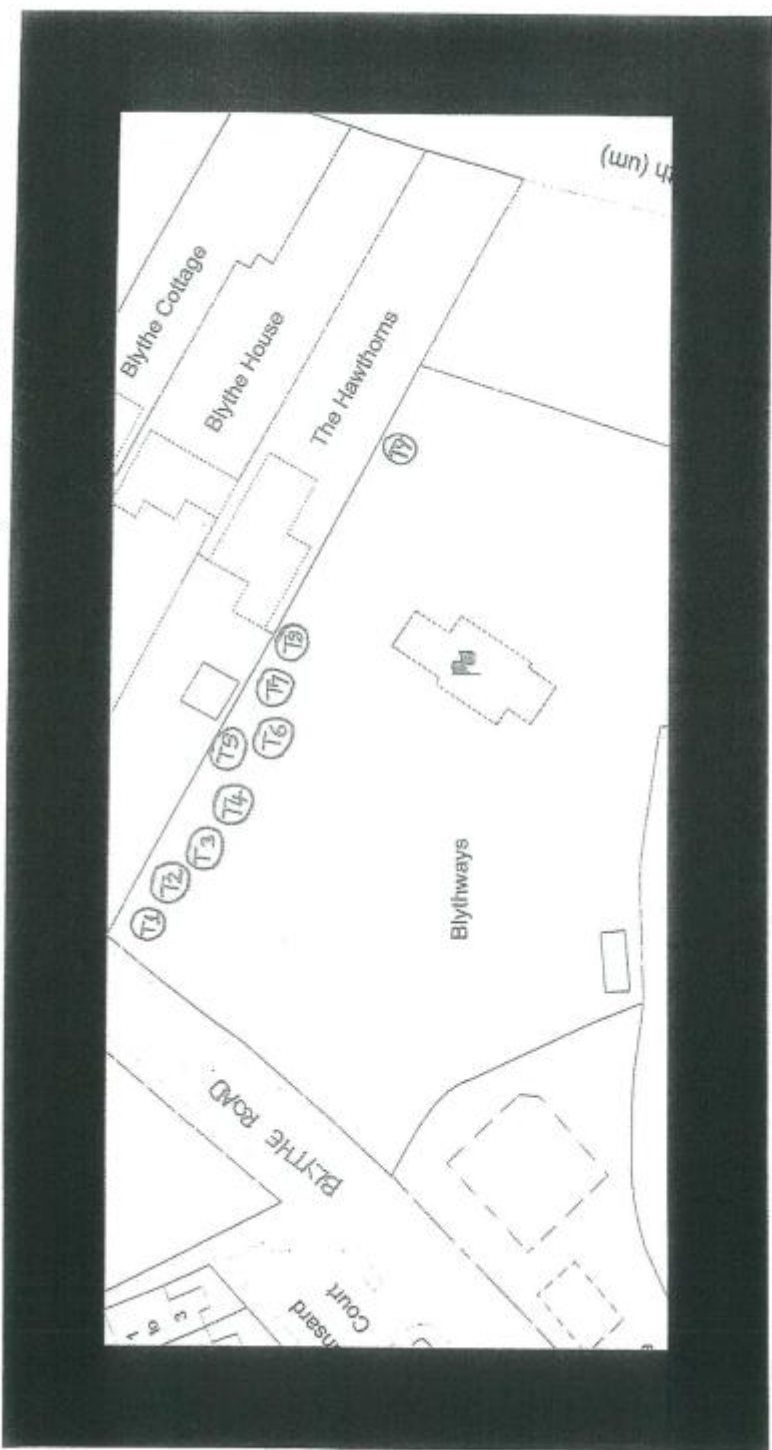
The Contact Officer for this report is Ian Griffin (719446)

## Background Papers

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

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
TEMPO Evaluation,	NWBC Tree Officer	TEMPO	25 April 2017
TPO Order	Council Solicitor	Copy of TPO and letter to relevant parties	15 May 2017

Blythways, Blythe Road, Coleshill, B46 1AH.



Date: 05.06.17  
Scale: 1:825

North Warwickshire  
Borough Council

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**Appendix B – TPO Order – 15 May 2017.**

Schedule 1, Specification of trees

**Trees specified individually**

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	
T2	Silver Birch	All the trees T1 to T9 are located on the land known as Blythways along the boundary with the adjacent property known as The Hawthorns as indicated on the attached map.
T3	Silver Birch	
T4	Silver Birch	
T5	Silver Birch	
T6	Silver Birch	
T7	Silver Birch	
T8	Silver Birch	
T9	Oak	

**Trees specified by reference to an area**

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

**Groups of trees**

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
NONE		

**Woodlands**

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		





## Town and Country Planning Act 1990

### North Warwickshire Borough Council

(Blythways, Blythe Road, Coleshill)

### Tree Preservation Order, 2017

The North Warwickshire Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

#### Citation

1. This Order may be cited as the North Warwickshire Borough Council (Blythways, Blythe Road, Coleshill) Tree Preservation Order, 2017.

#### Interpretation

2.—(1) In this Order "the authority" means the North Warwickshire Borough Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2011.

#### Effect

3.—(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

#### Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 15 day of May 2017

The Common Seal of the North Warwickshire Borough Council  
was affixed to this deed in the presence of -



N. 15/17  
5487

.....  
The Designated Officer  
Signed on behalf of the North Warwickshire Borough Council

**CONFIRMATION OF ORDER**

This Order was confirmed by the North Warwickshire Borough Council without modification on  
the            day of  
OR  
This Order was confirmed by the North Warwickshire Borough Council, subject to the modifications  
indicated by            , on the    day of

.....  
The Designated Officer  
Signed on behalf of the North Warwickshire Borough Council

**DECISION NOT TO CONFIRM ORDER**

A decision not to confirm this Order was taken by North Warwickshire Borough Council on  
the            day of

.....  
The Designated Officer  
Signed on behalf of the North Warwickshire Borough Council

**VARIATION OF ORDER**

This Order was varied by the North Warwickshire Borough Council on  
the            day of  
by a variation order under the reference number  
a copy of which is attached

.....  
The Designated Officer  
Signed on behalf of the North Warwickshire Borough Council

**REVOCACTION OF ORDER**

This Order was revoked by the North Warwickshire Borough Council on  
the    day of

.....  
The Designated Officer  
Signed on behalf of the North Warwickshire Borough Council



**IMPORTANT – THIS COMMUNICATION MAY AFFECT YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (TREES PRESERVATION) (ENGLAND)  
REGULATIONS 2012**

**NORTH WARWICKSHIRE BOROUGH COUNCIL  
(Blythways, Blythe Road, Coleshill)  
TREE PRESERVATION ORDER 2017**

**THIS IS A FORMAL NOTICE** to let you know that on **15<sup>th</sup> May 2017** we made the above tree preservation order. A copy of the order is enclosed. In simple terms, no one is allowed to cut down, top or lop without our permission the trees described in the 1<sup>st</sup> Schedule of the order and shown on the map.

This Order has been made to protect trees described in the 1<sup>st</sup> Schedule of the order and shown on the map. A planning application has been presented to North Warwickshire Borough Council ("the Council") for the development of the site, it is understood that a number of the trees within the 1<sup>st</sup> Schedule are detailed for removal. An inspection was undertaken by the Council's Green Space Officer (Trees). His TEMPO assessments indicate that the trees within this area definitely merit protection. The majority of the trees within the area are within the view of the general public and provide an environmental benefit to the site as a whole. The trees are semi-mature to mature in age class; they do add a considerable value to the edge of town environment which is important in terms of public amenity and the setting of the location in general. The Tree Preservation Order is to protect the remaining trees on the land that are noted within the 1<sup>st</sup> schedule of the order in the interest of public amenity.

The order came into force, on a temporary basis, on **15<sup>th</sup> May 2017**, and will remain in force for six months. During this time we will decide whether the order should be given permanent status.

People affected by the order have a right to object or make comments on the tree covered before we decide whether the order should be made permanent.

If you would like to make any objections or comments, please make sure we receive them in writing by **22<sup>nd</sup> June 2017**. Your comments must meet regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (a copy is attached). Please send your comments to the Solicitor to the Council at the address detailed below. We will carefully consider all objections and comments before deciding whether to make the order permanent.

We will write to you again when we have made our decision. In the meantime, if you would like any more information or have any questions about this letter, please contact Andrew Watkins, North Warwickshire Borough Council, The Council House, South Street, Atherstone, North Warwickshire, CV9 1DE, telephone 01872 719212.

Dated: 15<sup>th</sup> May 2017

Signed:   
Council's authorised officer

on behalf of North Warwickshire Borough Council, The Council House, South Street, Atherstone,  
North Warwickshire, CV9 1DE

**COPY OF REGULATION 6 OF THE  
TOWN AND COUNTRY PLANNING (TREES PRESERVATION) (ENGLAND)  
REGULATIONS 2012**

Objections and representations

- 6(1) Subject to paragraph (2), objections and representations:
- (a) shall be made in writing and:
    - (i) delivered to the authority not later than the date specified by them under regulation 5(2)(c); or
    - (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;
  - (b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and
  - (c) in the case of an objection, shall state the reasons for the objection.
- 6(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.



TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 25/04/2017 Surveyor: ANDREW WATKINS.		
Tree details	Tree/Group No:	Species: OAK
TPO Ref (if applicable):	Location: BLYTHEWAYS, BLYTHE ROAD, COLESHILL	
Owner (if known):		

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- |                     |                         |
|---------------------|-------------------------|
| 5) Good             | Highly suitable         |
| 3) Fair             | Suitable                |
| 1) Poor             | Unlikely to be suitable |
| 0) Dead             | Unsuitable              |
| 0) Dying/dangerous* | Unsuitable              |

Score & Notes (5) TREE IN GOOD HEALTH, SHOWING GOOD SIGNS OF CANOPY POTENTIAL. MINIMAL DEADWOOD WITHIN CANOPY. NO FRUITING BODIES NOTED AT THE TIME OF INSPECTION.

\* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (In years) & suitability for TPO

- |           |                 |
|-----------|-----------------|
| 5) 100+   | Highly suitable |
| 4) 40-100 | Very suitable   |
| 2) 20-40  | Suitable        |
| 1) 10-20  | Just suitable   |
| 0) <10*   | Unsuitable      |

Score & Notes (4) NO REASON TO BELIEVE THAT SPECIMEN WILL NOT MEET RETENTION SPANNED.

\*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- |   |                     |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees  | Highly suitable     |
| 4) Large trees, or medium trees clearly visible to the public       | Suitable            |
| 3) Medium trees, or large trees with limited view only              | Suitable            |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable     |
| 1) Trees not visible to the public, regardless of size              | Probably unsuitable |

Score & Notes (3) TREE LOCATED TO REAR OF PLOT.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes (2) TREE FOLLOWS THE FORM OF THIS GENUS AS EXPECTED.

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes (3) TREE IS LOCATED WITHIN LOCALITY THAT IS CURRENTLY WITHIN AN APPLICATION FOR MAJOR DEVELOPMENT.

Part 3: Decision guide

- |       |                       |
|-------|-----------------------|
| Any 0 | Do not apply TPO      |
| 1-6   | TPO indefensible      |
| 7-10  | Does not merit TPO    |
| 11-14 | TPO defensible        |
| 15+   | Definitely merits TPO |

Add Scores for Total:  
17

Decision:  
WORTHY OF PROTECTION

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 05/05/2017 Surveyor: ANDREW WATKINS

Tree details  
 TPO Ref (if applicable): Tree/Group No: 1 Species: OAK  
 Owner (if known): Location: BLUTHWAYS, BLYTHE ROAD, COLESHILL, BL6 1AH

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead Unsuitable
- 0) Dying/dangerous\* Unsuitable

Score & Notes: 5) SPECIMEN OF GOOD FORM, WELL ESTABLISHED IN THIS POSITION.

\* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10+ Unsuitable

Score & Notes: 2) NO REASON TO BELIEVE THAT TREE WILL NOT MEET OR EXCEED STATED RETENTION SPAN.

\* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Score & Notes: 4) CLEARLY VISIBLE TO HIGHWAY AND FOOTPATH.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes: 2) TREE OF LIMITED NUMBER WITHIN THIS LOCATION AND THE BOROUGH AS A WHOLE.

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes: 3) SITE IS TO BE POTENTIALLY DEVELOPED. TREE WILL BE TO THE FRONT OF ACCESS ROUTE TO SITE.

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-10 Does not merit TPO
- 11-14 TPO defensible
- 15+ Definitely merits TPO

Add Scores for Total:  
16

Decision:  
MERITS TPO

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 05/05/2017		Surveyor: ANDREW WATKINS	
Tree details		Tree/Group No: 2-8	
TPO Ref (if applicable):		Species:	SILVER BIRCH
Owner (if known):		Location:	BLYTHWAYS, BLYTHE ROAD, COLESHILL, B46 1AH

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- |                     |                         |
|---------------------|-------------------------|
| 5) Good             | Highly suitable         |
| 3) Fair             | Suitable                |
| 1) Poor             | Unlikely to be suitable |
| 0) Dead             | Unsuitable              |
| 0) Dying/dangerous* | Unsuitable              |

Score & Notes 3) TREES OF GOOD QUALITY, ALL SHOWING GOOD SIGNS OF REGENERATIVE GROWTH.

\* Relates to existing context and is intended to apply to severe irreparable defects only.

b) Retention span (in years) & suitability for TPO

- |           |                 |
|-----------|-----------------|
| 5) 100+   | Highly suitable |
| 4) 40-100 | Very suitable   |
| 2) 20-40  | Suitable        |
| 1) 10-20  | Just suitable   |
| 0) <10*   | Unsuitable      |

Score & Notes NO REASON TO BELIEVE TREES WILL NOT MEET STATED RETENTION FIGURE.

\*Includes trees which are an existing or near future nuisance, including those closely overgrowing their context, or which are significantly negating the potential of other trees of better quality.

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- |   |                     |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees  | Highly suitable     |
| 3) Large trees, or medium trees clearly visible to the public       | Suitable            |
| 3) Medium trees, or large trees with limited view only              | Suitable            |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable     |
| 1) Trees not visible to the public, regardless of size              | Probably unsuitable |

Score & Notes 4) CLEARLY VISIBLE FROM HIGHWAY AND FOOTPATH.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes 2) TREES GROWING TO GENUS AND SPECIES EXPECTATIONS. TREES FORM A GROUP OF HIGH AMENITY VALUE.

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify.

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes 3) TREES ARE LOCATED TO THE FRONT OF THE SITE THAT IS POTENTIALLY TO BE DEVELOPED.

Part 3: Decision guide

- |       |                       |
|-------|-----------------------|
| Any 0 | Do not apply TPO      |
| 1-6   | TPO indefensible      |
| 7-10  | Does not merit TPO    |
| 11-14 | TPO defensible        |
| 15+   | Definitely merits TPO |

Add Scores for Total:

14

Decision:

DEFENSIBLE.

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 25/04/2017 Surveyor: ANDREW WATKINS.		
Tree details	Tree/Group No: 9	Species: OAK
TPO Ref (if applicable):	Location: BLYTHWAYS, BLYTHE ROAD, COLESHILL.	
Owner (if known):		

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- |                     |                         |
|---------------------|-------------------------|
| 5) Good             | Highly suitable         |
| 3) Fair             | Suitable                |
| 1) Poor             | Unlikely to be suitable |
| 0) Dead             | Unsuitable              |
| 0) Dying/dangerous* | Unsuitable              |

Score & Notes 5) TREE IN GOOD HEALTH, SHOWING GOOD SIGNS OF CANOPY POTENTIAL. MINIMAL DENDROD WITHIN CANOPY, NO FRUITING BODIES NOTED AT THE TIME OF INSPECTION.

\* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- |           |                 |
|-----------|-----------------|
| 5) 100+   | Highly suitable |
| 3) 40-100 | Very suitable   |
| 2) 20-40  | Suitable        |
| 1) 10-20  | Just suitable   |
| 0) <10*   | Unsuitable      |

Score & Notes 4) NO REASON TO BELIEVE THAT SPECIMEN WILL NOT MEET RETENTION SPANNOTED.

\*Includes trees which are an existing or near future nuisance, including those clearly overgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- |   |                     |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees  | Highly suitable     |
| 4) Large trees, or medium trees clearly visible to the public       | Suitable            |
| 3) Medium trees, or large trees with limited view only              | Suitable            |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable     |
| 1) Trees not visible to the public, regardless of size              | Probably unsuitable |

Score & Notes 3) TREE LOCATED TO REAR OF PLOT.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- |  |
|--|
| 5) Principal components of arboricultural features, or veteran trees     |
| 4) Tree groups, or members of groups important for their cohesion        |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| 2) Trees of particularly good form, especially if rare or unusual        |
| 1) Trees with none of the above additional redeeming features            |

Score & Notes 2) TREE FOLLOWS THE FORM OF THIS GENUS AS EXPECTED.

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- |                               |
|-------------------------------|
| 5) Immediate threat to tree   |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree   |
| 1) Precautionary only         |

Score & Notes 3) TREE IS LOCATED WITHIN LOCALITY THAT IS CURRENTLY WITHIN AN APPLICATION FOR MAJOR DEVELOPMENT.

Part 3: Decision guide

- |       |                       |
|-------|-----------------------|
| Any 0 | Do not apply TPO      |
| 1-6   | TPO indefensible      |
| 7-10  | Does not merit TPO    |
| 11-14 | TPO defensible        |
| 15+   | Definitely merits TPO |

Add Scores for Total:  
17

Decision:  
WORTHY OF PROTECTION



Appendix D – Images of trees under TPO

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**Agenda Item No 9**

**Planning and Development Board**

**12 June 2017**

**Report of the  
Head of Development Control**

**Tree Preservation Order, Herring  
Road, Atherstone**

**1 Summary**

- 1.1 This report brings the Board up to date following deferral of this item at the May Board, in respect of confirmation of this Order.

**Recommendation to the Board**

**That the Emergency Order made on the 17 March 2017 in respect of land off Herring Road, Atherstone be confirmed subject to the removal of alder trees from the schedule of trees and that the correct address is added to the citation in the Order.**

**2 Background**

- 2.1 In short, an Emergency Tree Preservation Order was made on 17 March in respect of an area of land off Herring Road in Atherstone. Following a period of consultation a report was brought to the May Board recommending confirmation of the Order. Representations from the owner of the land were heard in person at that meeting. The Board heard that due to the emergency nature of the case, some trees were included which might not warrant protection because of their stability. The Board thus deferred confirmation for further investigation on site.

- ... 2.2 A copy of the previous report is attached at Appendix A.

The Council's Tree Officer did then subsequently meet the owner on site. The owner was requested to provide a full arboricultural survey of the condition of the trees, but he has to date declined to undertake this work. The Tree Officer however is satisfied, on his own assessment, that some of the trees are unstable being close to the stream. These are all alder trees.

**3 Observations**

- 3.1 In light of this further assessment, it is considered that the Order can now be confirmed, but that it be varied so as to remove all reference to alder trees.

**4 Report Implications**

#### 4.1 Financial and Value for Money Implications

4.1.1 There will be no cost to the Council in confirming the Order. In certain circumstances there may be a claim for compensation for loss or damage caused or incurred as a result of a refusal to consent works to a protected tree or as a consequence of conditions attached to the grant of consent to undertake tree works.

#### 4.2 Environment and Sustainability Implications

4.2.1 The trees to be mentioned in the Order are mature and have longevity such that they continue to provide a public amenity in an area of the town that is well used for its recreational value.

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

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

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>

## Agenda Item No 8

### Planning and Development Board

15 May 2017

Report of the  
Head of Development Control

Tree Preservation Order  
Herring Road, Atherstone

## 1 Summary

- 1.1 This report considers representations submitted in response to an Emergency Tree Preservation Order made on this land and recommends that the Order is confirmed.

### Recommendation to the Board

**That the Emergency Tree Preservation Order made on 17 March 2017 in respect of land off Herring Road, Atherstone be confirmed.**

## 2 Background

- 2.1 A report was brought to the Board in April requesting confirmation of action taken to make an Emergency Tree Preservation Order on land off Herring Road in Atherstone following the removal of trees. The Board confirmed that action and sought a further report once the period allowed for representations to be made has expired. The Order was made on 17 March and representations had to be submitted before 21 April. A copy of the Order is at Appendix A.

- 2.2 One representation has been received in the time period and this is from the owner, Mr Bailey, and it is attached at Appendix B. He has been notified that this matter is on the agenda and has been given the opportunity to speak to the Board.

## 3 Observations

- 3.1 The representation covers a number of points.

Firstly, the former state of the site is described and the reasons for its clearance are explained. In response Members are advised that the Council's reasons for making any Tree Preservation Order do not prevent or interfere with the general maintenance of or the good stewardship of land. The Order itself does not prevent such actions from continuing here.

- 3.2 Secondly, the point is made that the site is not considered to be well used by the public. This is disputed. Whilst the path across the site is not shown on the designated footpath map, it is well used as is evidenced on site with a

## APPENDIX A

well-worn path connecting Westwood Road with the canal footpath. Local Members and a local resident testified to its regular use when the Board considered the matter of the Emergency Order.

3.3 Thirdly, the point is made that the trees do not provide a public amenity. This again is disputed due to the location on the edge of the town; its connectivity with the countryside beyond, its accessible location and its public visibility as a backdrop to the town from a variety of public viewpoints.

3.4 Fourthly, it is claimed that the trees are not significant to warrant being protected. Prior to the Order being made the Council's Tree Officer visited the site and inspected the trees. His conclusions are recorded and these are attached at Appendix C. The record follows a recognised methodology and was undertaken by a qualified officer. It thus carries significant weight.

...

3.5 Fifthly, there is reference as to how the Order was made. Members should be aware that there was more than one request for intervention at this site. This was not confined to one source. Additionally the matter would have been unlikely to be progressed had the Tree Officer's report concluded differently and finally the Board took the decision to confirm the action taken to make an Emergency Order and it was thus not made by any individual. It could have concluded differently.

3.6 Finally, there is reference to compensation and to liability. Members are aware that the Tree Regulations enable an Order only to be made if it is "expedient in the interests of amenity to make provision for the preservation of trees and woodlands". This is the determining criterion in the making of any Order. That was satisfied here. The report to the April Board made it clear that compensation may be payable in certain circumstances should an Order be confirmed. The decision to make an Order is thus not the basis for such a claim. This implication of making an Order is repeated here and the Board may have to consider this eventuality at some point if the Order is confirmed.

3.7 In conclusion, it is not considered that the Board should re-consider this Order.

## 4 Report Implications

### 4.1 Financial and Value for Money Implications

4.1.1 There will be no cost to the Council in confirming the Order. In certain circumstances there may be claims for compensation for loss or damage caused or incurred as a result of a refusal to consent works to a protected tree or as a consequence of conditions attached to the grant of a permission to undertake tree works.

### 4.2 Environment and Sustainability Implications

**APPENDIX A**

4.2.1 The trees are mature and have longevity such that they can continue to provide a public amenity in an area of the town that is well used for its recreational value.

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

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

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>

## Agenda Item No 8

### Planning and Development Board

15 May 2017

Report of the  
Head of Development Control

Tree Preservation Order  
Herring Road, Atherstone

## 1 Summary

- 1.1 This report considers representations submitted in response to an Emergency Tree Preservation Order made on this land and recommends that the Order is confirmed.

### Recommendation to the Board

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## 2 Background

- 2.1 A report was brought to the Board in April requesting confirmation of action taken to make an Emergency Tree Preservation Order on land off Herring Road in Atherstone following the removal of trees. The Board confirmed that action and sought a further report once the period allowed for representations to be made has expired. The Order was made on 17 March and representations had to be submitted before 21 April. A copy of the Order is at Appendix A.

- 2.2 One representation has been received in the time period and this is from the owner, Mr Bailey, and it is attached at Appendix B. He has been notified that this matter is on the agenda and has been given the opportunity to speak to the Board.

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## APPENDIX A

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## 4 Report Implications

### 4.1 Financial and Value for Money Implications

4.1.1 There will be no cost to the Council in confirming the Order. In certain circumstances there may be claims for compensation for loss or damage caused or incurred as a result of a refusal to consent works to a protected tree or as a consequence of conditions attached to the grant of a permission to undertake tree works.

### 4.2 Environment and Sustainability Implications

**APPENDIX A**

4.2.1 The trees are mature and have longevity such that they can continue to provide a public amenity in an area of the town that is well used for its recreational value.

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

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

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>

**Agenda Item No 10**

**Planning and Development Board**

**12 June 2017**

**Report of the  
Chief Executive**

**Exclusion of the Public and Press**

**Recommendation to the Board**

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

**Agenda Item No 11**

**Breaches of Planning Control - Report of the Head of Development Control**

Paragraph 6 – by reason of the need to consider the legal implications

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