

(6) Application No: PAP/2016/0367

28, Church Lane, Old Arley, Coventry, CV7 8FW

Retrospective application for the retention of detached garage/seating area., for

Mr Carl Sanders

Introduction

This application was reported to the Board at its last meeting but determination was deferred so that Members could visit the site.

The previous report is attached for convenience at Appendix A

The Site

The site is within the development boundary of Old Arley, on the edge of the Green Belt. The character of the site is a single row of terraced houses with long front gardens, and an access road to the rear that has a detached garage and long rear gardens that are very open and not separated by boundary walls or fences, and a public footpath to the rear.

The Proposal

Retrospective application for the retention of detached garage/seating area.

Background

An application PAP/2014/0251 was approved on 03 July 2014 for a single storey extension to the rear of the dwelling house, a rear dormer and front rooflights, and a partially sunken detached garage to the rear. The materials were to be facing brickwork and roof tiles to match the original dwelling house.

The front part of the garage would be of domestic scale and cut into the ground such that the flat roof element at the rear of the garage would have a flat roof to form a patio at a level equal with the existing ground level, as such the garage would fall within the limitations of permitted development.

Development Plan

North Warwickshire Core Strategy (October 2014):
NW10 – Development Considerations
NW12 – Quality of Development

North Warwickshire Local Plan 2006 (Saved Policies):
ENV11 – Neighbour Amenities
ENV12 – Urban Design
ENV13 – Building Design

Other Relevant Material Considerations

Government Advice: National Planning Policy Framework (NPPF).

Supplementary Planning Guidance: A Guide to the Design of Householder Developments (adopted 2003)

Amendments Made

Since the last meeting the applicant has proposed alterations at the site in order to address the issues raised in the previous report. Amended plans have thus now been submitted. In short the development has been reduced, through the removal of the concrete walls around the rear patio/seating area and steps.

When the Members visited the site, they were able to see the up to date situation. A note of that meeting is attached at Appendix B.

The approved plans for the building here are at Appendix C and the most up to date plans are at Appendix D.

Following the re-submission of new plans, the objectors have been re-consulted and no further comments have been received.

Observations

In light of the receipt of amended plans, Members are now asked to consider these under this retrospective application.

The works now proposed retain a taller and longer garage but with a smaller rear patio area. The main concern with the originally submitted plans was the size the walls surrounding the rear seating area. These have now been removed along with the concrete steps.

It is considered that the external appearance of the garage as it is now proposed is not out of keeping with the other domestic garages in the area. The use of the garage is clearly relating to an incidental hobby use. There is no evidence of any business use of the building.

The removal of the concrete walls surrounding the raised patio is acceptable as this is no longer considered to detract from the open character of the garden areas.

A loose gravel path has been formed along the outside of the garage to provide a pedestrian access to the rear of the garden.

Recommendation

That the application be **Granted** subject to conditions:

1. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 'DPC-28CL-001PL Revision A - A1 Landscape' received by the Local Planning Authority on 19 September 2016.

REASON

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

approved plans.

2. The new works shall be carried out with smooth rendered walls painted in a neutral colour to match the rear extension to the main dwelling house; and stone chippings to the flat roof and the pedestrian access.

REASON

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

3. The garage hereby approved shall not be used for any purpose other than for purposes incidental to the enjoyment of the dwelling known as 28 Church Lane, as such., and shall not be used in connection with any business purpose what so ever.

REASON

To prevent unauthorised use of the property.

4. No development whatsoever within Class E of Part 1, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.

REASON

To ensure the control of further development that may harm the amenity value and character of the remaining rear garden.

Notes

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
2. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal, and meetings and negotiations. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0367

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, and Plans	19 /09/16
2	Erica Levy	Notes of Site visit & photos	27/09/16
3	Case Officer	Previous Board Report	05/09/16
4	Case Officer	Site visit photographs	19/07/16

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.

Board Report of 05 September 2016

(7) Application No: PAP/2016/0367

28, Church Lane, Old Arley, Coventry, CV7 8FW

Retrospective application for the retention of detached garage/seating area, for

Mr Carl Sanders

Introduction

The application is brought before the Planning and Development Board because the retrospective application is for the retention of an existing garage and garden structure that has not been built in accordance with the previously approved plans PAP/2014/0251 dated 03 July 2014. Given that the application is recommended for refusal, authority is also sought for the service of an enforcement notice.

The Site

The site is within the development boundary of Old Arley. The character of the site is a single row of terraced houses with long front gardens, and an access road to the rear that has a detached garage and long rear gardens that are very open and not separated by boundary walls or fences, together with a public footpath to the rear.

The Proposal

The proposal is a retrospective application for the retention of a large detached garage, partially cut into the original steeply sloping garden, and formation of an elevated seating area enclosed by cast insitu concrete walls.

Background

An application PAP/2014/0251 was approved on the 3 July 2014 for a single storey extension to the rear of the dwelling house; a rear dormer and front roof lights and a partially sunken detached garage to the rear. The materials were to be facing brickwork and roof tiles to match the original dwelling house.

The front part of the garage would be of domestic scale and cut into the ground such that the flat roof element at the rear of the garage would form a patio at a level equal with the existing ground level. As such the garage would fall within the limitations of permitted development.

Development Plan

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

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

Other Relevant Material Considerations

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

Representations

Arley Parish Council – No response

A letter of support has been received saying:

"Development accords with aims of local, borough and national objectives to reduce on street parking which is chronic in this former mining village where due to age of housing no parking facilities were provided when built. Church Lane is severely obstructed by vehicles parked on roadside limiting access by large farm vehicles and rail vehicles to nearby rail access point. Development accords with aims of Arley Parish Plan and improves sustainability of local area."

A letter of objection has been received from another neighbour saying:

"The platform at the rear of this illegal structure gives views into rear bedrooms of adjacent properties. To be removed. Overall height should be reduced in line with original planning permission to reduce impact of building. Building usage to be changed to commercial as car repairs being carried out

Observations

It should also be noted that the objection received was followed up and no evidence has been provided that any commercial activity is associated with the site. As the existing rear garden is elevated, there is no greater opportunity to look into neighbouring properties than can be achieved without the raised seating area.

The garage is approximately 4 metres longer than the approved plans, and the pitch is steeper. The increase in height of 700mm results in the patio area formed by the flat roof at the rear of the garage being elevated, and walls have been formed around the perimeter of the platform. The building is formed in a single in situ concrete structure that dominates the surrounding garden landscape.





The resultant structure is not domestic in scale and massing with a garage that has a footprint that is more than four times larger than the adjacent domestic garages. The concrete walls and profiled steel sheet roofing are not domestic in character. The elevated platform and surrounding concrete walls are visually obtrusive and over dominant and do not harmonise with the domestic scale of garden buildings and open gardens characteristic of the properties in this locality. The access to the rear parcel of land is severely obstructed by the widening of the rear element of the structure, making access difficult without entering the adjoining garden.

The very open nature of the gardens in this locality is predominantly grass, without boundary fences and walls. The hard landscaping in the form of the raised patio and concrete surrounding walls are out of keeping with this distinctive local character and are not considered to positively contribute to the immediate environment, thereby adversely affecting the amenity of adjoining neighbours.

Consideration has been given to whether there are any alterations that could be made to the structure to make it more acceptable, however it is considered that the scale and the impact of the structure make it fundamentally unsuitable to its location and there are no cosmetic alterations that would remedy the harm caused by this building. The structure is so dissimilar in height, width, design and materials to the previously approved development, that it is considered to be a new building. Given the form of construction, it is considered that the only reasonable solution is total demolition.

Given this conclusion, the expediency of enforcement action needs to be considered. There is an approval here for a garage and the owner has taken a deliberate decision not to undertake the approved plans. Enforcement action seeking demolition is thus a risk that he has brought on himself. There is also a right of appeal against the issue of any refusal as well as the service of a Notice. In this case the adverse visual impact is considered to be so strong as to warrant action.

Recommendation

- a) That planning permission be **REFUSED** for the following reasons:
1. The structure is over dominant in the open gardens characteristic of the locality, such that it affects the amenity of neighbours in the enjoyment of their gardens. This is contrary to policy NW10 of the Core Strategy 2014.
 2. The structure is visually obtrusive and the building is not domestic in scale, character or materials, such that the scale, massing, height and appearance do not positively integrate with the surroundings. The materials do not respect or enhance the local distinctiveness in that the elements do not harmonise with the immediate setting to present a visually attractive environment. This is contrary to policy NW12 of the Core Strategy 2014 and saved policies ENV12 and ENV13 of the North Warwickshire Local Plan 2006.
 3. The design of the concrete structure is not considered to achieve an acceptable level of good design and appropriate landscaping that positively contributes to better places for people as required by paragraphs 56-58 of the National Planning Policy Framework (NPPF).
- b) That authority be given for the service of an Enforcement Notice which requires the demolition of the building; the removal of materials from the land and reinstatement of the garden to its original grassed surface. A compliance period of six months is considered to be appropriate.

Notes

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through considering the opportunities to overcome reasons for refusal. However despite such efforts, the planning issues have not been satisfactorily addressed. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0367

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	22/06/2016
2	NWBC	Approved plan and decision notice from the application PAP/2014/0251.	03/07/2014
3	Mr Reader	Representation	28/06/2016
4	Mr Jeavons	Representation	07/07/2016

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

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APPENDIX B:

Planning and Development Board Site Visit – 5.30pm 27 September 2016

PAP/2016/0367: 28 Church Lane, Old Arley

Present:

Erica Levy
Councillor Simpson
Councillor Bell
Councillor Reilly
Councillor L Dirveiks
Councillor N Dirveiks
Councillor Phillips

The group approached the site via the rear access road from the east.

The applicant, Mr Sanders, joined the party.

Councillors walked into the rear garden and viewed the garage from its rear aspect.

Alterations have been carried out since the matter was last reported to the Planning and Development Board. The nature of the alterations was noted – removal of some walls and the re-profiling of others, together with the removal of the concrete steps. The current building was compared to photographs of its former appearance.

The height differences between the approved structure and the ‘as-built’ structure were explained.

Erica Levy took photographs of the altered building.



The group were shown the interior of the garage, including the partially subterranean rear element of the building.



Councillors observed the nature of garden buildings in adjacent properties.

The group departed the site via the rear access road in a westerly direction.

(7) Application No's

PAP/2016/0375

43 Stanley Road, Atherstone

Outline application for the erection of one new dwelling with access from Ambien Road for

Mrs Styles

PAP/2016/0376

41 Stanley Road, Atherstone

Outline application for the erection of one new dwelling with access from Ambien Road for

Mr Smith

Introduction

Both of these applications were referred to the last Board meeting but determination was deferred to enable Members to visit the two sites. This visit has now taken place and the note of the visit is at Appendix A.

A copy of the previous report is attached for convenience at Appendix B.

Update

Additional information has been received from the applicants since the last report to Board. This includes the plan reproduced below which is the applicants assessment of the availability of off-road car parking on Ambien Road.



Additionally, the applicant has established, through a Land Registry search and correspondence with the identified owner, that the owner regards the land to be part of the adopted highway and confirms no opposition to the formation of the proposed new access points.

Observations

Members will be aware that the issues raised by the representations in these cases reflect those that the Board often has to consider – additional traffic on an existing cul-de-sac; on-street car parking and the design of proposed house(s). These matters have recently been addressed in two appeal decisions which Members will be familiar with – Southfields Close in Coleshill and New Street in Baddesley. The letters are attached at Appendices C and D.

The one in Coleshill is very relevant. The key conclusions of the Inspector are:

- that it is not unusual for there to be driveways opposite each other; for on-street car parking and for concerns about emergency access and accidents, but in the absence of substantive evidence to demonstrate that the road is not wide enough to accommodate new dwellings or to allow safe access, then a refusal reason will not be upheld - see paragraphs 15 to 18 of Appendix C.
- In terms of design then it is important to evidence “actual material harm” rather than there being just a “resistance to change” – see para 13 of Appendix C.

The decision at Baddesley in part revolved around a concern about on-street car parking. The key conclusion of the Inspector is that

- notwithstanding a strong demand for on-street car parking, there was no evidence that the proposal itself would result in additional on-street car parking – see paragraphs 16 to 19 of Appendix D.

In both of these cases there was no objection from the Highway Authority.

Similarly here the Highway Authority has not objected to either of the two current applications. Both have on-site car parking provision matching that required by the Council's standards. In these circumstances there is no substantive evidence to uphold a refusal reason at appeal. Similarly in respect of design there is no material harm. The houses may look different but that is not a reason for refusal as explicitly set out in the appeal case above.

Recommendations

That the recommendations set out in Appendix B be agreed

BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0375

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Plans showing Ambien Road car parking	21 9 16
2	The Applicant or Agent	Land Registry Title, Plan showing land maintainable at the public expense by the Highway Authority and correspondence relating to title	27 9 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.

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Planning and Development Board Site Visit – 6.30pm 27 September 2016

PAP/2016/0376

41 Stanley Road, Atherstone

PAP/2016/0375

43 Stanley Road, Atherstone

Present:

Erica Levy
Councillor Simpson
Councillor Bell
Councillor Reilly
Councillor L Dirveiks
Councillor Phillips
Councillor Jarvis

The group approached the site from Stanley Road.

The applicants for both sites joined the party.

Adam Smith passed documents to Erica Levy relating to land ownership at Ambien Road.

Councillors walked into the rear garden of number 43 and viewed the positions of the proposed new rear boundary, the footprint of the proposed dwelling and the proposed car parking positions for the new dwellings. The sloping profile of the site was noted and the proposed changes to levels were outlined.

Councillors proceeded through the hedgerow onto Ambien Road and walked in both directions, observing the layout of the road and the associated off road car parking provision.

There was some discussion of the level of protection afforded to the existing planting on the rear boundary of the properties, the relevance of loss of view, the stance of the Highway Authority, the materiality of land ownership in the ability to reach a planning decision and the location of the site in the development boundary and in an existing residential street.

A large group of residents congregated on Ambien Road. When a resident requested discussion about the land ownership issue, a brief discussion followed. Erica Levy advised the group that the meeting was solely for Councillors to see the site for themselves; it was not to debate the merits of the proposal. Erica Levy advised that residents could contact her during the working week to discuss the proposal. The residents claimed that they had evidence to counter the land ownership claims of the applicant. Erica Levy invited the submission of that evidence for her consideration. Residents were reminded that they still had an opportunity to speak against the proposals at the next meeting of the Planning and Development Board on 10 October. Residents thanked Councillors for taking the opportunity to visit the site.

The applicants were reminded of their opportunity to speak in favour of their applications at the 10 October Board meeting if they wished to.

The group departed the site, some via Ambien Road and others back through the hedge and rear garden of 43 Stanley Road.

General Development Applications

a) Application No: PAP/2016/0376

41 Stanley Road, Atherstone, CV9 2AS

Outline application for the erection of one new dwelling with access from Ambien Road, for

Mr Adam Smith

b) Application No: PAP/2016/0375

43 Stanley Road, Atherstone, CV9 2AS

Outline application for the erection of one new dwelling with access from Ambien Road, for

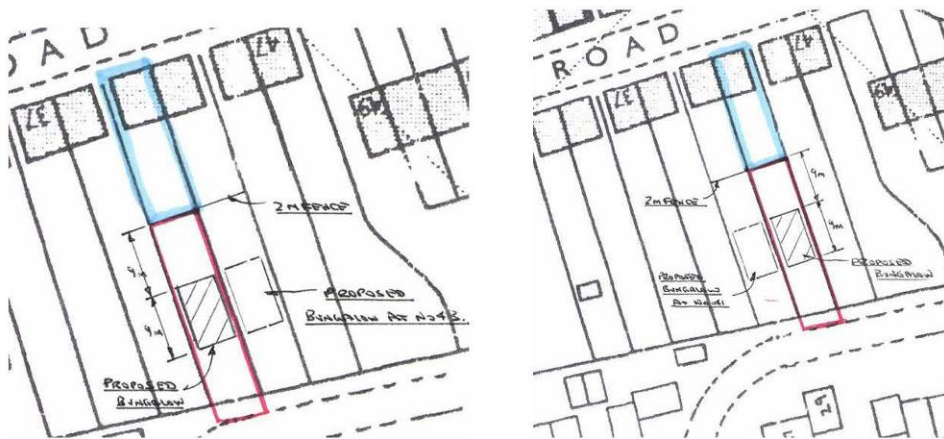
Mrs Nikki Styles

Introduction

The applications are reported to Board given concerns about a number of planning issues raised by the local Member.

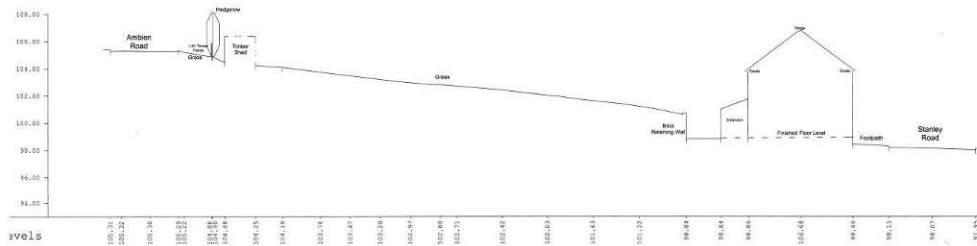
The Sites

The two application sites lie immediately adjacent to each other. They form the rear parts of gardens to properties in Stanley Road but the applications propose to take access to the new dwellings from Ambien Road. The site locations are shown below.



The boundary to Ambien Road contains a number of trees and hedgerow shrubs.

The site has a significant slope, with Ambien Road being elevated approximately 6 metres above Stanley Road. However, the nearest side of Ambien Road is 42 metres distant from the rear elevations of the properties on Stanley Road. The cross section below shows the current ground levels.



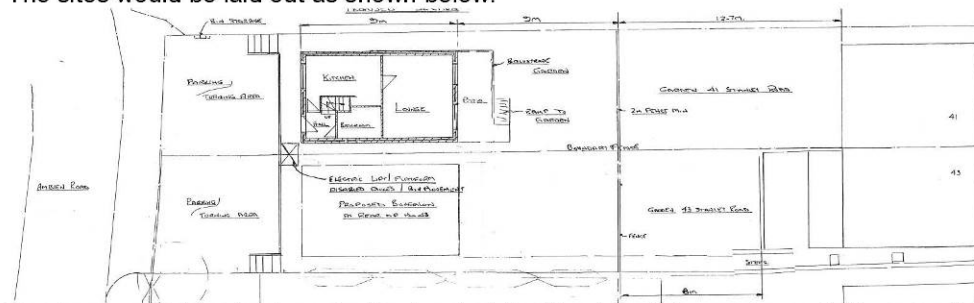
At the position where access it to be taken onto Ambien Road there is a cul-de-sac turning head. Two storey dwellings lie on the opposite side of the road, as shown in the photograph below.



The Proposals

Both applications are outline applications for a new dwelling and both propose the determination of access arrangements, the layout of the site and the scale of the development for determination in detail at this stage, with details of appearance and landscaping reserved for a future application access from Ambien Road.

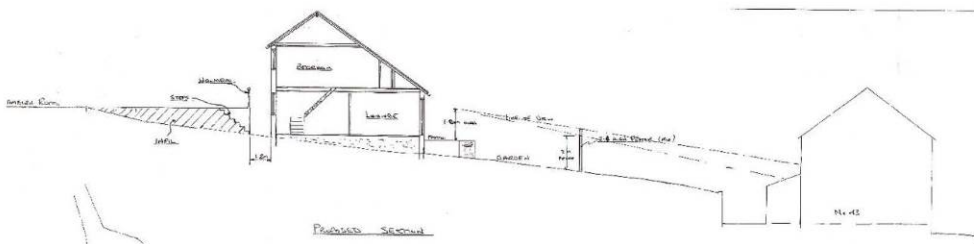
The sites would be laid out as shown below:



The land would be built up to the level of Ambien Road to create a platform for the parking of two vehicles for each dwelling. Pedestrian access to each dwelling would be via steps and a shared elevator platform for disabled and movement of heavier good/wheeled bins etc.

The ground floor of the front of each dwelling would be behind the retaining wall of the raised platform and the upper storey would appear at ground level when viewed from Ambien Road.

In recognition of the elevated site and the potential for overlooking, the rear elevation would not contain windows in the upper storey. A small raised platform would form a rear patio. The proposed cross-section would be as shown below.



Background

In respect of the application at 41 Stanley Road, there is a small area of land between the rear garden of number 41 and the land in the highway at Ambien Road for which ownership is unknown. This does not prevent the grant of planning permission; however, it does require the applicant to place a notice in a newspaper circulating in the area, to advise of the application and to afford any owner or tenant to make representations to the Council. Such a press notice has now been published correctly. No representations have been received as a direct result of this press notice.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW10 (Development Considerations) and NW12 (Quality of Development).

Other Relevant Material Considerations

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

Consultations

Warwickshire County Council Highways Authority - No objection subject to conditions (both applications)

Environmental Health Officer – No Comments (both applications)

Representations

Objections have been received from residents of both Ambien Road and Stanley Road. The concerns raised are common to both applications. The following concerns are identified:

- car parking is currently difficult and the development would lead to worse car parking
- adversely affect pedestrian safety and highway safety
- access for emergency vehicles would be difficult
- loss of privacy
- overshadowing
- adverse effect on flooding/surface water
- loss of trees/hedgerow
- access for construction purposes would cause congestion/nuisance
- change on the character of the road
- the adoption status of the road
- effect on wildlife
- the applicant’s ability to cross over the verge to reach one of the proposed dwellings.

Observations

The sites both lie within the development boundary identified for Atherstone. Atherstone is a main settlement and a sustainable location for new housing development. In this location there is no objection in principle to the development of land for the purpose of new housing. The main considerations will be an assessment of the impact of the proposed dwellings, in terms of the effect on neighbouring amenities, highway safety and local character.

The most commonly stated concern expressed by local residents relates to highway safety and the effect on car parking. Ambien Road comprises rows of traditional terraced dwellings, opening out to a small development of modern two storey dwellings at the end of the cul-de-sac. The new dwellings would access Ambien Road at the point where the modern dwellings have been constructed. At this point, the dwellings have off road parking spaces. The proposed access to the new dwellings would not interfere with access to any existing off-road parking spaces and the new dwellings would have two spaces per dwelling. Though there may be times when vehicles park in the highway, obstructing the area where access would be achieved to the new dwellings, there is no significant deficit in off-road parking.

The Highway Authority indicates that although there were initial concerns in regard to the level differences within the site, the proposed layout includes built-up sections, so that the gradient from the public highway to the vehicle hardstanding is acceptable. The vehicle hard-standings will be wide enough for two vehicles to park on, so parking provision is in accordance with adopted standards. The hard-standings will be surfaced with tarmac to prevent material transfer and drained to prevent run-off occurring. Visibility splays from the proposed vehicle access will be in accordance with guidance. It advises that the proposed development should not have a significant impact on the highway network so mitigation measures should not be required. In these circumstances the Highway Authority offers no objection subject to conditions. The development is not of such a scale that it would lead to any significant increased risk for pedestrian or highway safety.

Though these applications both propose the development of land which is land in rear gardens, the development would not present as 'back-land development'. Both plots have a frontage to an existing road. The frontages would be at a position where there are existing dwellings on the opposite side of the road and the proposed new dwellings would face the road in their front elevations.

The area contains a variety of different house types and designs. There is no prevailing character that it is important to replicate. Though the proposed scale would differ from near neighbours because of the differing heights and partly subterranean front elevations, the scale would not cause demonstrable harm to the character of the area.

Objectors to these proposals express concern about loss of privacy and overlooking. Given the sloping nature of the site, this matter requires careful consideration.

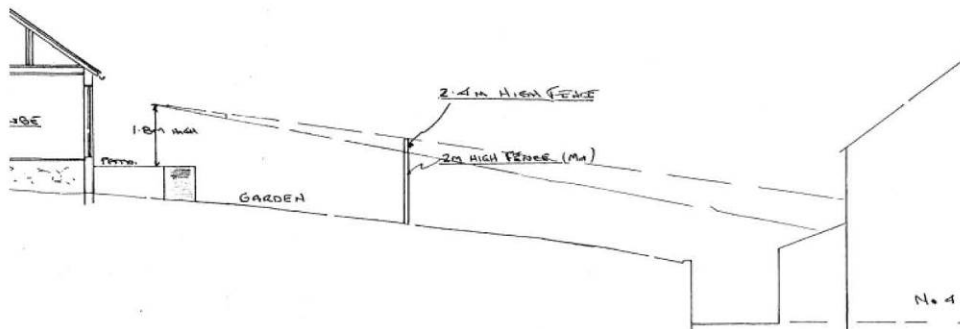
Views towards the properties on Stanley Road are shown below



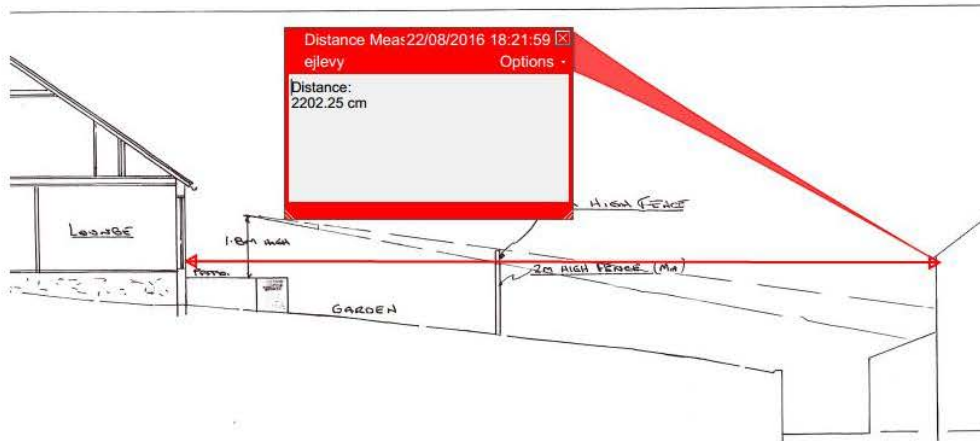


Though the new buildings would be set at a level elevated above the properties on Stanley Road, the proposed design and layout shown on the submitted plans shows that appropriately designed dwellings could be constructed whilst maintaining reasonable standards of amenity for the occupiers of existing dwellings on both Ambien Road and Stanley Road, as well as the occupiers of the proposed dwellings

The illustration below shows that, providing that a boundary is permanently maintained at a height of two metres between the existing and proposed dwellings, someone stood on the proposed patio, or in the house looking from a ground floor window, would only have a distant line of sight to the rear bedroom window of the property below.



The separation distance between the two dwellings is 22metres. Given this distance and the provision of no first floor windows or roof based windows facing Stanley Road, it is considered that the degree of overlooking and loss of privacy would be within acceptable levels.



Given that approval is sought in respect of the scale and the layout of the development, it would be important to ensure that the separation distances remained no less than those currently shown. It would be appropriate to withdraw permitted development rights for new openings, future extensions, roof alterations and the erection of garden buildings.

In respect of dwellings on Ambien Road, the houses opposite and adjacent are shown in the photographs below.



The existing dwellings are at a position elevated above the application site and are set good distances from the proposed dwellings. It is not considered that any significant loss of amenity or overlooking would result.

The proposed foul and surface water drainage arrangements are matters which can be addressed through condition attached to the permissions. It is not considered that the quantum of development would have any significant impact on surface water flooding and it is considered that sustainable drainage solutions can be designed to address the matter effectively.

Though the site contains a variety of trees and shrubs at the rear of the garden which form a boundary to Ambien Road, the trees are not primarily species of high amenity value, maturity or condition. Many are self-set sycamores or conifer trees. It is not considered that the loss of this vegetation would be so significant as to justify refusal of planning permission or warrant protection through a tree preservation order. The provision of appropriate replacement small trees and amenity planting can be addressed as a reserved matter. Informatives can be attached to advise against the felling of trees during bird nesting season. The site is not known to have any other protected species.

The effects of construction activity are short lived and capable of control through other means. The effects would not justify the refusal of planning permission. However, it is recognised that the development would be taking place in a predominantly residential area and it would be appropriate to attach a planning condition to limit the times of construction to minimise the potential for disturbance to occupiers of adjacent dwellings.

In conclusion, the sites are in a sustainable location, the developments can be achieved whilst maintaining adequate living conditions for occupiers of both existing and proposed dwellings, can be accommodated without significant harm to the character or appearance of the area and or harm to highway safety. The proposals can both be supported.

Recommendations

a) PAP/2016/0376

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

1. This permission is granted under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 on an outline approval, and the further approval of the Local Planning Authority shall be required with respect to the under-mentioned matters hereby reserved before any development is commenced:-
 - (a) appearance
 - (b) landscaping

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

2. In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of all reserved matters.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

4. The development hereby approved shall not be carried out otherwise than in accordance with the proposed plan received by the Local Planning Authority on 24 August 2016 and the topographical survey and block plan received by the Local Planning Authority on 24 June 2016.

REASON

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

5. Before the development commences a scheme for the construction of the foul and surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON

To prevent pollution of the water environment and to minimise the risk of flooding on or off the site.

6. Prior to the commencement of development details of the position and design of an electric lift and platform and details of bin storage arrangements shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall then be installed and maintained at all times thereafter.

REASON

In the interests of the amenities of the area.

7. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls and fences to be erected. The approved screen walls/fences shall be erected before the dwelling hereby approved is first occupied and shall subsequently be maintained. For the avoidance of doubt the boundary separating the new dwelling and the existing dwelling on Stanley Road shall take the form of a close boarded fence or wall of a height not less than 2 metres.

REASON

In the interests of the amenities of the area.

8. No development whatsoever within Classes A, B, C, D, E and F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 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 amenities of the area.

9. No opening shall be made above ground floor level in the rear elevation of the dwelling hereby approved, nor shall any approved opening be altered or modified in any manner thereafter.

REASON

To protect the privacy of the occupiers of adjoining properties.

10. No work relating to the construction of the development hereby approved, including works of demolition or preparation prior to operations, or internal fitting out, shall take place before the hours of 0700 nor after 1900 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays.

REASON

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

11. 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. Gates/barriers erected at the entrance to the site for vehicles shall not be hung so as to open over the public highway extent.

REASON

In the interests of safety on the public highway.

12. The unit shall not be occupied until the parking and manoeuvring areas have been laid out in accordance with the approved details and such areas shall be permanently retained for the parking and manoeuvring of vehicles. The vehicular access to the site 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 safety on the public highway.

13. The development shall not be commenced until visibility splays have been provided to the vehicular access to the site with an 'x' distance of 2.4 metres and 'y' distances of 25.0 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 safety on the public highway.

14. 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 and to clean the public highway of such material.

REASON

In the interests of safety on the public highway.

Notes

- 1) The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
- 2) You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>

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

The felling of trees should be undertaken by a competent tree surgeon in accordance with BS3998-2010 Tree work- Recommendations.

- 4) The applicant is advised that the site is located within a smoke control area, therefore only 'smokeless' fuels may be used or alternatively an exempt appliance must be installed. For further details see <https://www.gov.uk/smoke-control-area-rules>.
- 5) Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from www.ukradon.org if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. If you are building a new property then you are unlikely to have a full postal address for it. A report can be obtained from the British Geological Survey at <http://shop.bgs.ac.uk/georeports/>, located using grid references or site plans, which will tell you whether you need to install radon protective measures when building the property.

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

- 6) In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and seeking to resolve planning objections and issues. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- 7) Conditions require works to be carried out within the limits of the public highway. Before commencing such works the applicant/developer must serve at least 28 days' notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team. This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of

the works will be recoverable from the applicant/developer. The Area Team may be contacted by telephone: (01926) 412515. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days' notice will be required. For works lasting longer than 10 days, three months' notice will be required.

- 8) Section 163 of the Highways Act 1980 requires that water will not be permitted to fall from the roof or any other part of premises adjoining the public highway upon persons using the highway, or surface water to flow - so far as is reasonably practicable - from premises onto or over the highway footway. The developer should, therefore, take all steps as may be reasonable to prevent water so falling or flowing.
- 9) Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- 10) Prior to commencement of development, the applicant is required enter into an agreement with the Highway Authority under Section 59 of the Highways Act 1980. Prior to works taking place on site and following completion of the development, a joint survey shall be undertaken with the County's Locality Officer to agree the condition of the public highway. Should the public highway be damaged or affected as a consequence of the works being undertaken during the development of the site, the developer will be required to undertake work to remediate this damage as agreed with the Locality Officer.

b) PAP/2016/0375

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

1. This permission is granted under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 on an outline approval, and the further approval of the Local Planning Authority shall be required with respect to the under-mentioned matters hereby reserved before any development is commenced:-
 - (a) appearance
 - (b) landscaping

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

2. In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of all reserved matters.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

4. The development hereby approved shall not be carried out otherwise than in accordance with the proposed plan received by the Local Planning Authority on 24 August 2016 and the topographical survey and block plan received by the Local Planning Authority on 24 June 2016.

REASON

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

5. Before the development commences a scheme for the construction of the foul and surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON

To prevent pollution of the water environment and to minimise the risk of flooding on or off the site.

6. Prior to the commencement of development details of the position and design of an electric lift and platform and details of bin storage arrangements shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall then be installed and maintained at all times thereafter.

REASON

In the interests of the amenities of the area.

7. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls and fences to be erected. The approved screen walls/fences shall be erected before the dwelling hereby approved is first occupied and shall subsequently be maintained. For the avoidance of doubt the boundary separating the new dwelling and the existing dwelling on Stanley Road shall take the form of a close boarded fence or wall of a height not less than 2 metres.

REASON

In the interests of the amenities of the area.

8. No development whatsoever within Classes A, B, C, D, E and F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.

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REASON

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11. 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. Gates / barriers erected at the entrance to the site for vehicles shall not be hung so as to open over the public highway extent.

REASON

In the interests of safety on the public highway.

12. The unit shall not be occupied until the parking and manoeuvring areas have been laid out in accordance with the approved details and such areas shall be permanently retained for the parking and manoeuvring of vehicles. The vehicular access to the site 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 safety on the public highway.

13. No structure, tree or shrub shall be erected, planted or retained within 2.4 metres of the near edge of the public highway carriageway fronting the site 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 safety on the public highway.

14. 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 and to clean the public highway of such material.

REASON

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Notes

- 1) The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
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- 5) Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from www.ukradon.org if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. If you are building a new property then you are unlikely to have a full postal address for it. A report can be obtained from the British Geological Survey at <http://shop.bgs.ac.uk/georeports/>, located using grid references or site plans, which will tell you whether you need to install radon protective measures when building the property.

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- 7) Conditions require works to be carried out within the limits of the public highway. Before commencing such works the applicant / developer must serve at least 28 days' notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team. This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of

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- 10) Prior to commencement of development, the applicant is required enter into an agreement with the Highway Authority under Section 59 of the Highways Act 1980. Prior to works taking place on site and following completion of the development, a joint survey shall be undertaken with the County's Locality Officer to agree the condition of the public highway. Should the public highway be damaged or affected as a consequence of the works being undertaken during the development of the site, the developer will be required to undertake work to remediate this damage as agreed with the Locality Officer.

BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0375

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	28-6-16 24-8-16
2	27 Ambien Rd	Representation	7-07-16
3	37 Ambien Road_Crumpler	Representation	11-7-16
4	23 Ambien Road_Holland	Representation	11-7-16 18-7-16
5	22 Ambien Road_Wightman	Representation	12-7-16
6	22 Ambien Road_Wightman	Representation	12-7-16
7	9 Ambien Rd_Housden	Representation	12-07-16
8	145 coleshill Road_Wilkins	Representation	13-7-16
9	Irene Alcock	Representation	14-7-16
10	Speight & Salmon-37 Stanley Rd	Representation	19-7-16
11	Spragg_28 Ambien Road	Representation	19-7-16
12	Fraser_31 Ambien Road	Representation	21-7-16
13	Stobie_19 Ambien Road	Representation	22-7-16
14	Wood_25 Ambien Road	Representation	28-7-16
15	Environmental Health Officer	Consultation Response	14-7-16
16	Warwickshire County Council Highways Authority	Consultation Response	20-7-16

Planning Application No: PAP/2016/0376

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	28-6-16 11-8-16 24-8-16
2	Environmental Health Officer	Consultation Response	14-7-16
3	Warwickshire County Council Highways Authority	Consultation Response	20-7-16
4	27 Ambien Rd	Representation	7-7-16
5	6 Ambien Rd	Representation	7-7-16
6	Irene Alcock	Representation	14-7-16
7	Morgan 39 Ambien Road	Representation	19-7-16
8	Speight & Salmon-37 Stanley Rd	Representation	19-7-16
9	Spragg_28 Ambien Road	Representation	19-7-16
10	Properet_29 Ambien Road	Representation	20-7-16
11	Fraser_31 Ambien Road	Representation	21-7-16
12	Stobie_19 Ambien Road	Representation	22-7-16
13	Wood_25 Ambien Road	Representation	28-7-16

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.



Appeal Decision

Site visit made on 20 July 2016

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 26th August 2016

Appeal Ref: APP/R3705/W/16/3148101

Garden Land Adjacent to 19-21 Southfields Close, Coleshill, Warwickshire B46 3EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Alain Franck-Steier against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2015/0297, dated 13 May 2015, was refused by notice dated 9 February 2016.
- The development proposed is the erection of two four bedroom semi-detached dwellings with integral garages.

Decision

1. The appeal is allowed and planning permission is granted for erection of two four bedroom semi-detached dwellings with integral garages at Garden Land adjacent to 19-21 Southfields Close, Coleshill, Warwickshire B46 3EQ in accordance with the terms of the application, Ref PAP/2015/0297, dated 13 May 2015, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of development on the planning application form referred only to the site's location and the address given was inaccurate. As such, I have used the information provided on the appellant's appeal form, as this represents a more accurate and useful description of both the development and its location.

Main Issues

3. These are the effect of the proposed development on:
 - (a) the character and appearance of the surrounding area, including the Coventry Road, Coleshill Conservation Area (CA); and
 - (b) highway safety, with particular regard to parking and the free flow of traffic.

Reasons

Character and appearance of the area

4. The appeal site forms part of the gardens serving terraced properties along Coventry Road. The site fronts onto Southfields Close, a mainly 1970s cul-de-sac of detached dwellings with external garages which link the dwellings lining the opposite side of the road. The site is separated from the road by a close-

boarded fence and small grass verge. Two modern detached dwellings have been built adjacent to the site.

5. The gardens, which are separated from their host dwellings by an alleyway, fall within the CA. The boundary of the CA runs to the rear of the gardens, thus the residential properties opposite the site are outside the area. The modern dwellings adjacent to the site are within the CA. Permission was granted for these dwellings after the designation of the CA. I have been provided with the CA designation report (CADR), published in 1995, which provides information regarding the history and significance of the CA. The main areas of importance are indicated as being the recognition of the role of the Father Hudson's Society in the history of the town and its built form and the historic linear development along Coventry Road.
6. The CADR refers to the importance of the mixture of villa and terraced houses in this area, and to some of the publically visible open and landscaped spaces. However, there is no specific reference to these gardens as being of particular importance to the character of the CA. While rear gardens can form part of the character of the dwellings, the CADR is more concerned with historic quality of the Coventry Road street scene, the linear form of development and the nature, quality and relationship of buildings and spaces lining the road than any specific reference to the rear of the dwellings. Moreover, the terraces associated with the appeal site are not identified as a 'special feature' of the area.
7. The appellant has drawn my attention to other permissions on this side of Southfields Close which indicate the loss of garden space has been considered acceptable in the past. Full details of these cases have not been provided and I recognise that there has been a change in national and local policy since these schemes were determined. However, the CA has been designated since 1995 and the requirement to give special attention to preserving and enhancing the character and appearance of heritage assets is a long standing requirement. As such, this would still have been an important factor in the consideration of these applications. While I have considered this development on its own merits, previous decisions relating to these gardens are important indicators of the weight that has previously been given to their importance to the significance of the CA.
8. The site is not visible from Coventry Road. The only glimpsed view to the rear of the Coventry Road dwellings is through the entrance between Nos. 136 and 138. Here all that can be discerned are one or two garden sheds. No sense of the size or length of gardens is apparent. The gardens are more prominent from parts of Southfields Close. However, the height and nature of the boundary treatment limits views into them, particularly from ground floor windows. The limited visibility from this location, or the views of the rear of the terraced dwellings that might be achieved, are not critical to the setting or significance of the wider CA.
9. Some of the garden space closer to the 'core' of the CA would also be retained, as would any residual character resulting from the relationship between the gardens, alleyway and dwellings. The length of the remaining gardens would be roughly the same length as those retained following the development of Nos. 5, 19 and 20 Southfields Close, all of which have been built since the designation of the CA. Taking all of this together, the loss of this garden space

would not result in any individual or cumulative harm to the significance of the CA or its character and appearance.

10. In more general terms, the space is of limited visual quality, is fenced off and inaccessible. While the site may be made up of gardens, the fact that they are behind tall fences does not actually create a significant sense of spaciousness or openness. The contribution the site makes to the character of the area is relatively limited and is the result of the historic growth of the area, rather than any planned open space requirement or urban design objective. Any reduction in the perceived openness of this side of the cul-de-sac would be offset to an extent by the setting back of the dwellings from the roadside. The adjacent dwellings are similarly set back and provide a sense of the road being slightly less constrained and tight than what it currently is.
11. The proposed dwellings would differ from those around them. The houses on Southfields Close are all detached dwellings with 'linked' garages. They also all have their roof slopes and ridges perpendicular to the road. The development would be for a pair of semi-detached dwellings, with integral garages and a roof slope which faces the street. However, being different is not always the equivalent of being harmful. Paragraph 60 of the Framework is clear that decisions should not attempt to impose architectural styles or particular tastes. There is a consistency of design on the opposite side of the road but, while the dwellings adjacent to the appeal site share some characteristics with the original dwellings, they are sufficiently different to add an element of variety to the street scene. There is nothing inherently objectionable or prominent about the development which would render it incongruous to this fairly dense residential area. The introduction of some variety to this street scene would not be materially harmful to the character or appearance of the surrounding area.
12. The Southfields Close frontage is also of no particular importance to the significance of the CA. There are already examples of modern dwellings here which have been allowed in the context of CA policy and I see nothing which would suggest the difference in style between the existing and proposed dwellings could have any consequence to the character of the CA itself.
13. Policy NW12 of the Core Strategy¹ sets a high bar in terms of requiring all development to actively 'improve' the character of the settlement and the appearance and environmental quality of an area. The reasons given by the Council for conflict with this policy relate more to an apparent resistance to change than any objective analysis of material harm. In any event, in assessing whether something will lead to an 'improvement', one must first establish the baseline position. Notwithstanding its inclusion within the CA, the site is made up of unremarkable, fenced off gardens which add little to the quality of the street scene or appearance of the area. A good quality, well designed, residential development that is in keeping with the general character of the area, could lead to some small measure of improvement to the overall appearance of the area.
14. In conclusion on this matter, I find that the development would not materially harm the character and appearance of the surrounding area. Accordingly, I find no conflict with Core Strategy Policy NW12 which requires development to be of a high quality of design that positively improves the settlement's

¹ North Warwickshire Core Strategy 2014

character and appearance. I also consider that the development would have a neutral impact on the impact on the CA, thus preserving its character and appearance in line with Policy NW14 which requires development to protect and conserve the historic environment.

Highway safety

15. The dwellings on Southfields Close have a garage and space for at least one or two additional vehicles on driveways. I saw a considerable amount of off-street parking already taking place and space for more. The only on-street parking I saw related to commercial vehicles whose occupants were carrying out works on one of the existing dwellings. I acknowledge, and the submitted photographs confirm this, that there is likely to be some increase in parking demand in the evening and weekends.
16. However, the development would provide one garage space for each dwelling and enough hard standing for two off-street parking spaces each. This should provide sufficient space to ensure little risk of an increased level of on-street parking. As such, it should not exacerbate the current situation in terms of parking or manoeuvring. The marginal increase in cars using the cul-de-sac and frequency of vehicular movements is also unlikely to lead to a noticeable difference to the current situation.
17. It is not unusual for there to be driveways opposite each other in residential streets such as this, so I see no undue safety issues resulting from residents trying to access or egress their properties at the same time. Traffic in the cul-de-sac would be travelling slowly and with sufficient visibility to ensure that any manoeuvres that need to be made can be executed without any significant safety concerns. The highway authority's response to the application stated that there had been no reported accidents along Southfields Close since 1990. Therefore, there is nothing to suggest that the situation here is already unsafe. No substantive evidence has been provided which demonstrates that the road is neither wide enough to accommodate the dwellings or allow safe access by emergency vehicles.
18. The issues likely to be faced by existing and future residents of the street are typical of many residential areas and there will be an expectation of the need to be aware of cars leaving driveways and giving due care and attention to parked cars. The proposed development would not have any adverse effect on current levels of on-street parking, the free flow and manoeuvring of traffic or, as a result, highway safety. Accordingly, I see no conflict with Core Strategy Policy NW10 which, amongst other things, seeks to ensure development provides proper vehicular access, sufficient parking and space for manoeuvring.

Other Matters

19. Neither the changes to national policy regarding the definition of gardens or the Localism Act created a moratorium on housing development in gardens. Having considered all of the issues raised, I have concluded that the development constitutes appropriate development and that it meets the requirements of the Development Plan. The Framework also indicates that housing development must be seen in the context of the 'presumption in favour of sustainable development'. Therefore, the consistency with Development Plan policy means permission should be granted without delay.

20. Having considered the distances between dwellings, I am also satisfied that there would be no material harm to the living conditions of nearby residents with regard to privacy, outlook or light. Conditions can be imposed requiring obscured glass on relevant windows to ensure privacy is protected. Any disruption caused during construction can also be addressed to an extent by a condition on hours of operation. As to the potential effect on house prices, it is also a well-founded principle that the planning system does not exist to protect private interests such as the value of land or property.

Conditions

21. I have considered the Council's suggested conditions in accordance with the guidance contained in the Government's Planning Practice Guidance (PPG). Where necessary and in the interests of precision and clarity I have reworded the suggested condition. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed conditions specifying the relevant drawing as this provides certainty.
22. Conditions requiring the approval of materials and the nature of the landscaping scheme prior to commencement are necessary in the interests of the character and appearance of the area. The conditions imposed are the Planning Inspectorate's model conditions which are more precise than those suggested by the Council. A condition on the implementation of the resulting landscaping scheme is also necessary to ensure the permission is fully implemented in the interests of the character and appearance of the area.
23. Conditions on the nature and implementation of the access, parking areas and visibility are necessary in the interests of highway safety. I have accepted that the details of the materials of the driveway should be approved by the local planning authority in the interests of highway safety and adequate drainage. I have amended this condition to remove the essentially informative text relating to the expected nature of the details to be submitted and approved. In order to discourage on-street parking, a condition restricting any change of use of the garages and off-street parking areas is considered necessary. I have expanded the Council's suggested condition to reflect this.
24. In the interests of privacy, I have included a condition requiring the implementation of obscured glass as shown on the approved plans. Again, I have amended the suggested condition to include elements from the Planning Inspectorate's model condition on the opening of the windows to increase its effectiveness. The dense residential nature of the area also makes it necessary to limit the hours of construction to minimise noise and disturbance to local residents. As no demolition is required, I have removed this element from the suggested condition.
25. The PPG states that conditions restricting permitted development rights should only be made in exceptional circumstances. In this case, it would be appropriate to restrict any additional windows or openings being made in the interests of the living conditions of neighbouring occupants only. The Council have not provided sufficient justification to restrict any other type of permitted development. I have amended the suggested conditions accordingly.
26. I have not accepted the Council's suggestion to condition measures to prevent the spread of extraneous material on to the public highway. I consider this

unnecessary as mud and debris on the highway can be dealt with through other legislation such as the Highways Act 1980.

Conclusions

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

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered 4403 PL 01; and 4403 PL 06 (fence details) received by the Local Planning Authority on 15 May 2015; 4403 PL 04 REV B received by the Local Planning Authority on 1 June 2015; 4403 PL 06 REV B; 4403 PL 05 REV B, and 4403 PL 03 REV B received by the Local Planning Authority on 16 June 2015 other than as required by conditions 7 and 9.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no windows or other openings, other than those expressly authorised by this permission, shall be constructed or modified in any manner.
- 5) The garages and parking areas identified on the approved plans shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.
- 6) The building hereby permitted shall not be occupied until the ground and first floor windows and doors at the north and south facing elevations, as shown on Approved Plan 4403 PL Rev B, have been fitted with obscured glazing which shall provide a minimum degree of obscurity equivalent to privacy level 4 or higher and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. For the avoidance of doubt privacy levels are those identified in the Pilkington Glass product range. The obscurity required shall be achieved only through the use of obscure glass within the window structure and not by the use of film applied to the clear glass. Once installed the obscured glazing shall be retained thereafter.
- 7) Notwithstanding the details of landscaping shown on the approved plans, no development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping.
- 8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) Notwithstanding the details of the drive shown on the approved plans, no development shall commence until full details of the surfacing, drainage and levels of the car parking and manoeuvring areas as shown on the approved plans have been submitted to and approved in writing by the

Council. The dwellings hereby permitted shall not be occupied until the areas have been laid out in accordance with the approved details and such areas shall be permanently retained for the parking and manoeuvring of vehicles related to the use of the development.

- 10) Access for vehicles to the site from the public highway shall not be made other than at the positions identified on the approved plans, and shall not be used unless a public highway crossing has been laid out and constructed in accordance with the specification agreed in writing beforehand with the local planning authority.
- 11) No structure, tree or shrub shall be erected, planted or retained fronting the site within 2.4 metres of the near edge of the public highway carriageway exceeding, or likely to exceed at maturity, a height of 0.3 metres above the level of the public highway carriageway.
- 12) Work relating to the construction of the development hereby approved, including preparation prior to operations, or internal fitting out, shall only take place between 0700 and 1900 on Monday to Friday and 0800 and 1300 on Saturdays, Sundays or on Bank or Public Holidays.



The Planning Inspectorate

Appeal Decision

Site visit made on 18 July 2016

by **Graeme Robbie BA(Hons) BPI MRTPI**

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

Decision date: **11 August 2016**

Appeal Ref: APP/R3705/W/16/3148380

52 New Street, Baddesley Ensor, Atherstone, Warwickshire CV9 2DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Gilbert against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2015/0369, dated 1 May 2015, was refused by notice dated 9 February 2016.
 - The development proposed is described as *3no 3 bed detached houses*.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted as an outline application but with approval being sought for all matters of detail. It is clear that the application was subject to a number of revisions and amendments during its consideration and prior to its determination by the Council. Successive revisions are set out in sufficient detail to be reflective of the scope of the application as originally submitted, and have informed my decision accordingly.
3. Notwithstanding the description of the development set out above, which is taken from the application form, it is clear from the plans, accompanying details and subsequent correspondence that the proposal comprises 3no 2 bed detached houses. I am satisfied that the Council dealt with the proposal on this basis and so shall I.
4. I have also adopted the address set out on the appeal form, rather than that set out on the application form, as I consider it to be usefully more accurate and complete.

Main Issues

5. The main issues are the effect of the proposal on:-
 - The living conditions of future occupiers of the proposed dwellings, with particular reference to privacy, outlook and outdoor amenity space;
 - The character and appearance of the surrounding area; and
 - Highway safety.
-

Reasons

Living Conditions

6. The three detached dwellings would be set with the flank walls of each broadly parallel to the existing rear garden boundary of 52 New Street. This would result in them being set at an angle to the site boundary with 26 Bakers Croft to the north. Consequently certain parts of each dwelling would be closer to the adjoining property at No 26 than other parts, and the depth of the rear garden areas would also vary accordingly.
7. Although not directly facing the rear elevation of No 26, the rear elevation of plot 3, and the main outlook from that property, would be angled broadly towards No 26 across a relatively short distance. Whilst there is presently a close-boarded timber fence running along this boundary with occasional shrubs, the proposed site layout indicates only a new fence along this length of boundary. That fence may prevent direct overlooking between ground floor windows of the opposing dwellings, but it would not address inter-visibility between the rear-facing ground and first floor windows of plot 3, and the rear-facing first floor windows of No 26.
8. There would, therefore, be views from the rear of No 26, across a very limited distance, towards and across the rear of plot 3. Due to the restricted proportions of the outdoor amenity space, this inter-visibility would be across such a short distance that would, I find, have an oppressive impact upon the living conditions of future occupiers of plot 3. Whilst obscurely glazed and non-opening rear-facing roof windows on plot 3 would alleviate some direct overlooking at first floor level, this sense of being overlooked would be experienced not just from within the ground floor living areas at the rear of that unit, but also from within what little outdoor amenity space would be created.
9. Furthermore, due to the orientation of the proposed buildings with the boundary with No 26, the main outlook from the living room of each of the three dwellings would be directly towards that same close-boarded fence. Although the outlook beyond that fence would, in the case of plot 1, be relatively open along the length of Bakers Croft, plot two would look directly out on to the gable elevation of No 26, and plot 3 obliquely across the rear of the same dwelling. The result would be an oppressive and overbearing outlook that would be harmful to the living conditions of future occupiers of plots 2 and 3.
10. I have not been directed towards any standards setting out minimum space requirements for outdoor amenity areas, and I accept that the aspirations of future occupiers might be such that not everyone wants, expects or is able to cope with larger amenity areas. However, whilst the proportions of the rear gardens would vary in overall depth, they would be severely limited in places, with enclosing and oppressive surroundings in the case of plot 2 and, additionally, would also experience overlooking and a lack of privacy in the case of plot 3.
11. Therefore, for the reasons set out above, the proposal would result in unacceptable impacts upon the living conditions of future occupiers of the proposed dwellings in terms of outlook, privacy and the provision of limited

outdoor amenity space. The proposal would therefore be in conflict with policy NW10(9) of the North Warwickshire Local Plan Core Strategy (the Core Strategy) which states, amongst other matters, that development should meet the needs of residents without compromising the ability of future generations to enjoy the same quality of life that the present generation aspires to.

12. There is a greater distance between the rear elevations of dwellings on Bowling Green Close and the front-facing public face of the proposed dwellings. Combined with lower ground levels within the site and greater scope for intervening landscaping, the potential for harmful overlooking would be reduced and less significant. Although not decisive in itself, this factor lends weight to my overall conclusion that the siting and layout of the proposed dwellings, and their relationship with adjacent dwellings, would have a harmful effect on living conditions of future occupiers of the dwellings.

Character and Appearance

13. I observed during my visit to the site that there are a wide variety of building styles, sizes and built-form within Baddesley Ensor. Although no particular style of building dominates, in terms of scale the prevailing character is of two storey buildings. Even then, however, these vary significantly, from the relatively modest proportions of existing dwellings at 52 New Street, 26 Bakers Croft and the newer dwellings within Bowling Green Close to the much larger and more prominent Social Club building, adjacent to the site entrance.
14. The site is located to the rear of No 52, and is not widely visible from public vantage points on either New Road or Bakers Croft. The proposed dormer bungalows would not therefore have a prominent presence within the streetscene, and would be of an appropriate scale for a site such as the appeal site to avoid harm to the character of the area. Nor would the presence of dwellings in this "land-locked" location at the rears of properties on New Road, Bakers Croft, Bowling Green Close and Park Road fail to respond to the character or appearance of the surrounding area. Indeed, the extent of the existing rear garden at No 52 appears somewhat at odds with the surrounding area, whilst the adjacent, and relatively recent, Bowling Green Close provides a comparable context for the development of the current site.
15. For these reasons, I am unable to identify any harm to the character or appearance of the surrounding area that would arise from the proposed development. There would not, therefore, be any conflict with Core Strategy policy NW12. However, whilst that may be so, and would weigh modestly in favour of the proposal, it is not sufficient to outweigh the harm I have identified above in terms of the effect of the proposal on the living conditions of future occupiers of the proposed dwellings.

Highway Safety

16. Both main parties agree that there was no formal objection on highways grounds to the proposal, or that the proposal would not provide sufficient parking and manoeuvring space either within the site, or that could otherwise be secured by appropriately worded condition. I note too, that there were no objections to the proposal in terms of access for emergency vehicles.
17. I was able to observe during my visit to the site, which was carried out in the middle of the day, that there appeared to be strong demand for on-street

parking opposite the site entrance, evidenced by the number of vehicles parked along that stretch of the road. However, such arrangements appeared not to be out of the ordinary along the length of New Street where parking was often present on both sides of the road.

18. However, I have not been presented with any evidence to substantiate the contention that the proposal would result in additional on-street parking on New Street. Although there were vehicles parked on New Street opposite the appeal site entrance, visibility from the junction in both directions appeared to be generally good, no doubt aided by the nearby bus-stop road markings and parking restrictions in front of the social club building.
19. Whilst I am mindful of the concerns expressed by neighbours in this respect, I must also have regard to the absence of objection to the proposal on highways grounds. It has not been demonstrated that the proposal would fail to provide for proper vehicular access, sufficient parking or for the manoeuvring of vehicles, whilst conditions could secure the submission of details relating to refuse storage arrangements. There would not, therefore, be any conflict with Core Strategy policy NW10(6) in this respect. However, whilst this weighs modestly in favour of the proposal, it is not sufficient to outweigh the harm identified above in respect of living conditions.

Other Matters

20. Policy NW6 of the Core Strategy requires residential schemes of between 1 and 4 units to make provision for 20% affordable housing on-site provision, or a financial contribution towards provision in lieu of on-site provision. Although the Council initially considered the proposal on the basis of a contribution in line with the Core Strategy (for which a draft planning obligation pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) was submitted), a recent Court of Appeal judgement¹, together with updated paragraphs of the Planning Practice Guidance², reiterate that contributions for affordable housing and tariff-style planning obligations should not be sought from small scale and self-build development.
21. Consequently, whilst the provision of an affordable housing contribution would be a benefit of the scheme, the Council have confirmed that it would not be necessary to seek such provision when considered against national planning policy. As I have identified harm in relation to living conditions this matter is not a determinative factor in this case and I have not considered it further.
22. There is already a driveway access alongside No 52, leading into the main body of the appeal site. The ground level within the appeal site is lower than that within neighbouring properties on Bowling Green Close and there is an existing timber fence between the site and the rear garden areas of those properties. Further, I have no reason to believe that the level of activity associated with three dwellings of the scale and nature proposed would be excessive or out of the ordinary. Therefore, whilst details of the means of boundary enclosure and planting to mitigate any additional noise and disturbance could be secured by via condition this has not been a determinative factor in this instance.

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441.

² paragraphs 013-017, 019-023 and 031 of the Planning Practice Guidance

Conclusion

23. For the reasons set out, and having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR

(8) Application No: PAP/2016/0396

Raw Hill Cottage, Coleshill Road, Mancetter, Atherstone, CV9 2RL

Retrospective application for fences and security gates over 2m high for enclosed area which is to be used for storage of farm machinery, ex shipping container and chickens, for

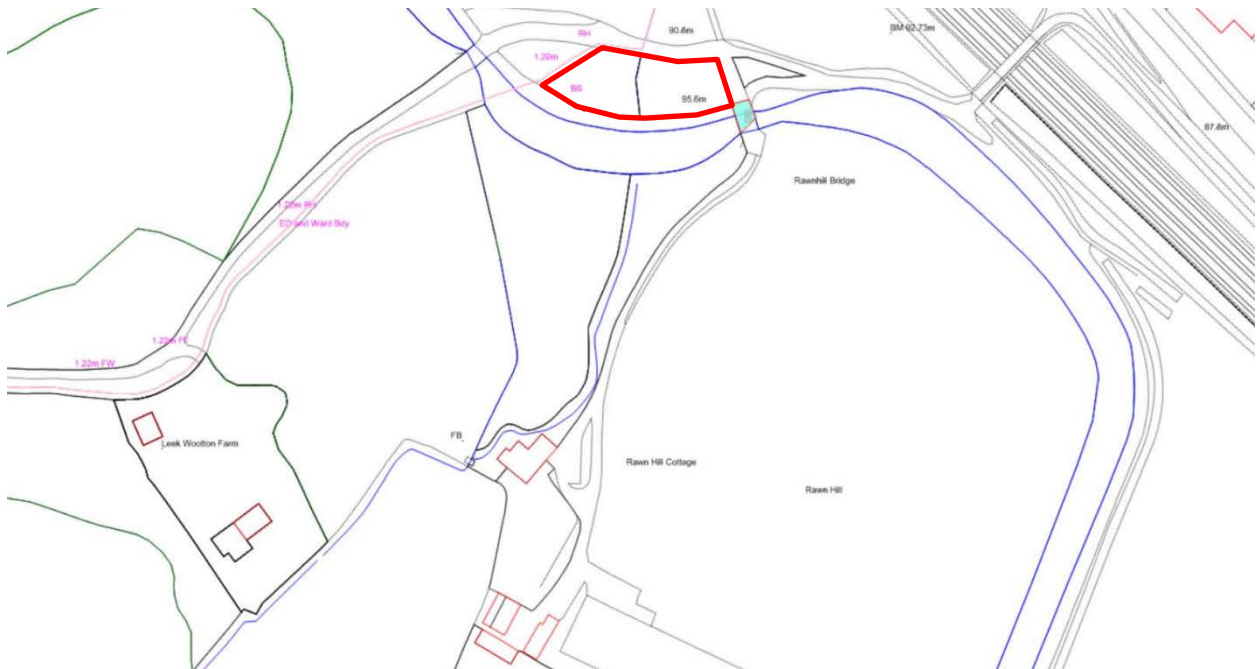
Mr William Brindley

Introduction

The application is reported to Board as authorisation is required to proceed with enforcement action if the recommendation of refusal is agreed.

The Site

The site is within the ownership of Raw Hill Cottage. It is located between the Raw Hill canal bridge and the public footpath AE99 immediately north of the Coventry Canal. It is a parcel of land subdivided from the main site comprising Raw Hill cottage and associated stables and barn. The area of land is approximately 0.101 hectares. The context of the site in the immediate surroundings is shown below:



The Proposal

This is a retrospective application for fences and security gates over 2m high for an enclosed area which is to be used for storage of farm machinery and chickens. The storage container element has been removed from the scheme and in situ at present is the fencing security gates and chickens with one small item of farm machinery.

Background

There is no previous site history except for extensions to the cottage and the provision of a barn within the curtilage of the site.

The site is limited in terms of land availability for grazing animals or for keeping chickens in order to sell eggs. This is because Rawn Hill is a regionally important geological site and so the contour of the land makes it difficult for grazing livestock. The majority of the remaining land available under the applicant's ownership is also limited to woodland. There is little to no pasture land available.

The site although not designated with a current special ecological designation as yet, is under analysis by Warwickshire Ecology as a potential wildlife site and so the applicant seeks to encourage flora and fauna on the land, particularly Rawn Hill. Therefore given the constraints on land under the applicant's ownership the application site has been selected as a parcel of land with the potential to rear chickens without impacting upon the geological site or the potential wildlife areas or any other areas of woodland under the applicant's ownership.

The applicant has provided a reasoned background to support his application and the reasons for choosing the land use is summarised as follows:

- *Initially we are only intending to keep 15 – 20 chickens. We do not wish to stock too heavily if it is not practicable to do it there. We have considered remote surveillance and we are currently evaluating what would be the most cost effective way of doing this. With no direct power source on the site currently our options are limited but we do intend to have a system in place. If it is successful initially, we would increase the flock up to the regulated max. Number of hens allowable on that size area, to qualify for “Free Range” status.*
- *As a consequence of our low stocking rate and following the recommendations of WCC Ecology Dept. We will have a small surfeit of good quality meadow hay available to crop in late summer. This will fit in with the Ecological plan. It is our intention to crop it and indeed we have started to so do this year. The machinery we have purchased consists of a tractor, mower, two hay turners and a hay baler, in addition to the machinery we already have. We have no more storage space on the main site. We cannot expand storage space further because of the restraints of the Geological preservation order and my own wish to co-operate fully with the Status of Local Wildlife site. We are, already having to store this machinery on the pasture and in the Woodland as a temporary measure. This is far from satisfactory from either the Ecological or practical point of view.*
- *The land and Cottage are currently solely accessed by (Bridge 37). There is no alternative access. The bridge is used by all of the Domestic Traffic for Rawn Hill Cottage including the Council's own Refuse Collection Trucks.*
- *We have no plans and do not intend to erect any building on the land other than small wooden chicken pens to accommodate the Chickens on the site.*

Development Plan

The North Warwickshire Core Strategy (October 2014) – NW1(Sustainable Development); NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment) and NW15 (Nature Conservation)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV4 (Trees and Hedgerows) and ENV12 (Urban Design)

Other Relevant Material Considerations

National Planning Policy Framework 2012 - (the “NPPF”)

Consultations

Warwickshire County Council as Highway Authority – No objection, as the proposed development should not have a significant impact on the public highway network.

The Canal and Waterways Trust – No assessment has been made due to the shortage of information

Warwickshire Police – No objection. Advice has been offered to the applicant on anti-crime measures

Environmental Health Officer – No comments to make

Representations

Atherstone Town Council – It was resolved to object to this application due to environmental issues, with loss of important open space and impact on the surroundings.

Mancetter Parish Council - This rural location is a Woodland Spinney notable for its wild garlic, stream and wildlife and lies beyond the development boundaries for Mancetter and Atherstone.

2. Although owned by the Occupiers of Rawn Hill Cottage it is separate from the land immediately attached to the house and outbuildings and is therefore a separate planning unit and not an integral part of the curtilage to the dwelling.

3. The Gates contravene planning legislation at over 2 metres high and the reclaimed yellow painted boarding which appears to have originally enclosed the Housing 21 complex has already attracted graffiti and looks unsightly. Unfortunately, the area has experienced anti-social behaviour but a simple gate and fence could be installed to help deter this.

4. The Track is a public Right of Way being Public Bridleway AE89 used by locals and visitors. Warwickshire County Council Rights of Way department would need to be consulted.

5. The Application is primarily being made to create a secure storage compound in the countryside. If the existing outbuildings cannot house the planned farm machinery, then have more appropriate sites with better security and access been considered by the Applicant? The Parish Council has also heard that there may be plans to store building materials on a commercial basis on this land as well as for private use.

6. Access for vehicles on a regular basis for commercial use to engage in haymaking is not suitable along this rough track with its tight bends and gradients

Summary of neighbour's objection:

- This (former) woodland spinney has been desecrated by the development that has taken place so far and created an eyesore that detracts from the landscape in this locality. It detracts from this quiet enjoyment of the countryside and is a prominent parcel of land forms a part of the attractive approach to Atherstone for visitors using the Coventry Canal and for walkers using either the canal towpath or the adjacent public footpath.
- The fence, far from leading to an enhancement of the area, has done no more than to attract graffiti both to it and to the canal and rail bridges in the near vicinity to a degree significantly worse prior to the creation of this fenced compound.
- Security of goods stored here rather than at Rawn Hill Cottage in any container or in the open would be much more vulnerable. Rawn Hill cottage contains a number of outbuildings and space about that would seem to be able to accommodate a container and outside storage much less conspicuously and more securely.
- The true motivation behind this proposal requires greater investigation. It has been openly indicated that this compound is destined to become his new contractor's compound. This requires clarification.
- The site plan suggests that ownership does not extend along the frontage of the track passing the site that leads to the newly erected gates. If this is the case, then there is no right of vehicular access to the land. Access would seem to be limited to use of the track from Manor road only so far as the turn across the canal bridge into Rawn Hill Cottage. Notice should also be served on the owners of this track.
- This enclosure is not suitable for large farm machinery to be driven on it and in my opinion would be unsafe for all of the people using this road on a daily basis. There is barely enough room for a car to get by let alone large farm machinery.
- The enclosure is very close to the Herring Road estate. Keeping chickens in this enclosure could encourage vermin. The noise from these chickens are a major concern especially if cockerels are planning on being kept there. I am also concerned about the smell from these chickens and the impact on the character of our estate by having them so close to us.

Observations

The site lies within open countryside and outside of any settlement boundary. The main issue here is the impact of the installation and proposed use of the land on the visual amenities of the area and the character of the countryside hereabouts.

The countryside in this location is defined by its rustic character being small wooded areas; unmade pathways and a public towpath on the waterway and with historical features such as the listed canal bridge and the geological site. All of these elements are intrinsic to the rural and historical character of the area.

a) The Use

An area of land for keeping chickens would normally be appropriate in a rural location however there is no other useable pasture land under the applicant's ownership and the majority of land is woodland or limited to the pasture on Rawn Hill, which has an potential wildlife interest and so has restricted limitations for pasture. The majority of land under the applicant's ownership is woodland and this would otherwise be a suitable environment for keeping chickens. The use of the land which was formerly a woodland spinney was initially intended for a storage container though this has been omitted from the scheme the land would therefore be used for keeping chickens and for storing farm machinery and implements.

The principle of this type of use might normally be acceptable in a rural location if there was a clear relationship with the host site, being the main cottage and associated farm and equestrian buildings however the parcel of land subject of this application is remote and isolated from the main site by virtue of the physical separation of land by the canal and therefore has no relationship with the host site and does not benefit from natural surveillance.

Given the isolated location of the parcel of land and the requirements to secure the chickens and machinery, this has inevitably resulted in the erection of a timber perimeter boundary formed of two metre high closed fencing and two metre high security double access and single pedestrian gates. The appearance of the fence and gates is comparable to a compound which might facilitate development and has an urbanising impact but is essentially a means of enclosure to secure chickens and farm machinery and the appearance of the land and enclosure is illustrated below:







Saved Core Policy 2 looks to only allow development outside of development boundaries which requires a rural location. Keeping chickens or storing farm machinery and implements might not be an unreasonable use in the open countryside provided it relates to the use of the host site. As there is a physical separation of the application site from the main buildings at Rawn Hill Cottage then the use of the land could not be viewed as being intrinsic to the operations at Rawn Hill and therefore the visual harm of the enclosure outweighs the principle of using the land for the purposes of open storage for agricultural machinery and keeping chickens.

There is no evidence on site to support the objectors comments that this site referred to as a compound could be put to any other use, such as a builder's compound or such like. If the Council have concerns over the potential use of the site in the future then there are appropriate enforcement powers to act if breaches take place. At the present time there are chickens on the site and a small item of machinery.

The site is also is partially laid with a loose surfacing materials and the undergrowth has been partially cleared though wild garlic does remain in places. However, the loose surfacing also has an urbanising effect as the character of the woodland spinney has changed by the nature of the land use and the introduction of the fence and surfacing.

It is assessed that an area for storing farm machinery/implements and for keeping chickens might not be an inappropriate land use if located in close proximity to the existing buildings and structures associated with Rawn Hill Cottage. However, the applicant has advised that there is currently no capacity within the existing site for keeping chickens and storing implements and machinery. The remainder of the application is therefore assessed on the design and amenity impact of the development.

b) Design

On balance, it is considered that the material impact on the scale of the fence and gates in terms of its height and appearance is excessive in scale and an adverse form of boundary treatment in terms of the oppressive materials used and therefore out of place in a rural setting because of its urbanising effects.

In this respect the installation of the enclosure could not be supported as it does not accord with saved policy ENV13 which seeks to ensure that new development "positively integrates into its surroundings". This saved policy carries weight as it accords with Policy NW10 of the Core Strategy and the NPPF advises at Paragraph 61, that decisions should address the integration of new development into the natural environment.

c) Visual amenities of the Open Countryside

Due to the scale of the fence and gates then this inevitably impacts on the visual amenities of the area and reduces the rustic character of the setting hereabouts. The fencing is directly visible as the footpath AE99 runs directly alongside the fence and although does not appear to obstruct the footway, has a direct impact by way of intrusion on the visual amenities.

The use of the land has cleared some of the woodland undergrowth and the entrance to the site is partially laid with loose surfacing which equally has an urbanising effect and therefore the character of the woodland spinney has considerably changed as a result of the use which requires the urbanising features of the fence and the ground surfacing materials.

Though the applicant is committed to working with Warwickshire Ecology for status of a wildlife site, the current installation is not considered to accord with features in a natural environment as is therefore contrary to policies NW12 and NW13 of the Core Strategy.

d) Transport Considerations

The Highway Authority has raised no objection to the application. Vehicles already use the track. The proposal would not be considered to cause an intensification.

e) Conclusion

The appropriateness of the site is considered as being unsuitable for the purposes intended because it specifically requires the retention of the robust fencing as a secure enclosure which inadvertently appears out of character in the immediate area. Otherwise it would not be possible for chickens to roam in the woodland or for open storage to occur as the area would be vulnerable without a secure enclosure. This has led to an uncharacteristic urbanising effect in the area which is considered harmful to the visual amenities, the application cannot be supported.

f) Enforcement

Given the recommendation below, the Board if it agrees to this, it will also have to consider whether it is expedient or not to authorise enforcement action. This would require the removal of the unauthorised elements of the timber closed fencing; mesh double security and single pedestrian gates, removal of hardstanding where it has been

laid and the removal of the small pedestrian bridge over the brook and any other structures within the site such as a chicken coop that may have been introduced.

The reason for such action is to reduce the impact of the enclosure and associated works on the visual amenities of the area, which presently causes an adverse visual impact. The compliance period should be three months.

There will clearly be a cost to the owner here but then the erection of the enclosure and purchase of the chickens and associated costs was implemented at the owner's risk. That cost is not considered to be substantial and neither would it have other adverse consequences. The owner has the right of appeal against both a refusal and the issue of any Notice.

Recommendation

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

The unauthorised installation of the fenced enclosure has resulted in a development that is uncharacteristic of a rural location. The scale and height of the fence and security gates has an adverse urbanising impact. It is considered that the former woodland spinney has considerably altered in character; the woodland floor has been partially covered with loose surfacing at the gated entrance to the site which is also considered to have an urbanising effect and with the enclosure, this has resulted in a detrimental impact on the visual amenities and on the rural character of the immediate area. As such, the scheme is contrary to policies NW10, NW12 and NW13 of the North Warwickshire Core Strategy 2014 and saved policies ENV13 of the North Warwickshire Local Plan 2006.

B) That authority also be **GRANTED** to the Assistant Chief Executive and Solicitor to the Council to serve an enforcement notice requiring the removal of the enclosure, hardstanding and miniature pedestrian bridge, within a compliance period of six months.

Notes

1. Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking further information. However the planning issues at this site cannot be satisfactorily addressed. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. If the applicant continues to rear chickens on the land, which is not agricultural land but essentially woodland, then they do so at their own risk without any surveillance or security. It is advised therefore that the chickens are re-located within the curtilage of Rawn Hill Cottage to benefit from natural surveillance.

BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0396

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	6/7/16
2	Crime Prevention Officer	Consultation	20/7/16
3	NWBC Environmental Officer	Consultation	25/7/16
4	Mr Atkin	Representation	29/7/16
5	WCC Highways	Consultation	29/7/16
6	Canal and River Trust	Consultation	5/8/16
7	Mancetter Parish Council	Consultation	8/8/16
8	Mr Evans	Representation	9/8/16
9	Atherstone Town Council	Consultation	23/8/16
10	Case Officer	E-mail	15/7/16
11	Case Officer	E-mail	25/7/16
12	Case Officer	E-mail	8/9/16
13	Applicant	Supporting information	3/8/16
14	Applicant	E-mail	6/9/16

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.

(9) Application No: PAP/2016/0420

Land 225m South Of Lakeside Industrial Park, Marsh Lane, Water Orton,

Gas fuelled capacity mechanism embedded generation plant to support the National Grid, for

GF Energy Ltd

Introduction

This application is now reported to the Board for a determination in principle and following Members' site visits. Members should be aware that because this development is contrary to Green Belt policy and proposes over 1000 square metres of floor space, it falls within the scope of the Department for Communities and Local Government, The Town and Country Planning (Consultation) (England) Direction 2009, which means that if the Council is minded to approve this application, then it will need to be referred to the Secretary of State who will then advise the Council how to proceed.

The initial report to Board, which recommended that Members visit the site, and written notes following Members site meetings are attached at appendix A and B respectively towards the end of this report.

The Site

The proposal occupies the north east portion of a larger triangular piece of land, bounded by a railway line to the north and south, and the M42 Motorway to the east. The site is accessed from the Lichfield Road, along a track next to the motorway and then by passing under the motorway bridge.

The application site forms part of a designated Local Wildlife Site, is open in character, but is well screened by existing mature trees and shrubs. There is an equestrian stables and paddocks on the adjoining land to the south and west and residential properties some 180 - 200 metres away to the south and east.

The location plan, showing the application site edged red and the wider land holding edged blue, is attached at Appendix 1.

The Proposal

It is proposed to construct a small, gas fuelled power station, known as a 'peaking station', to provide essential power to the national electricity grid at times of peak, local demand. The station would not run continuously, can be switched on very quickly when needed, and might operate during the morning and evening. Whilst the night time operation of the station could not be ruled out, this would only likely to be in the event of a service outage.

The site itself comprises approximately 1 hectare and the generation plant would be housed in a series of approximately 40, sound insulated containers with some 20 transformers with a welfare cabin and a switchgear cabin. A 4 metre high acoustic fence would then surround the development, with a further 2.4 metre high security fence around the perimeter and a six metre high security column at each corner. The governor kiosk would sit outside the acoustic fence, but within security fencing, with a small

substation located outside of the compound also to the north east. A plan showing the site layout is attached at Appendix 2 and illustrations of the structures are at Appendix 3.

The site would be operated remotely, would be monitored 24 hours a day and would be visited daily by an engineer.

Representations

Three letters have been received referring to the following matters in connection the proposal:

- Contamination issues.
- Unacceptable building generally in the Water Orton area.
- There will be traffic during construction work/the proposal will affect ecology and availability of open space in the area.

It is considered that the matters raised are dealt with effectively in the main body of this report.

Consultations

Highways England

It is stated that no detail in respect of either ownership of the track under the M42, or precise details of how the track will be upgraded have been provided. The applicant has been in direct discussion with Highways England about these matters, which principally concern ownership and technical detail. Despite Highways England's response, that the determination of this application should be delayed until their negotiations with the applicant are concluded, these matters are not considered so significant as to delay the Council's initial determination of this scheme.

Network Rail

The proposed development is within 10 metres of the railway and separate agreements are required with the rail authority should development go ahead. Issues will be identified as an informative on any approval.

Environmental Health (NWBC)

The Council's Environmental Health Team recommend that a pre-commencement condition is attached to any approval requiring an assessment of ground conditions, including whether remediation is required, and that any agreed remediation should then be implemented. Whilst the end use is not particularly sensitive to ground contamination issues, and the development is considered to be low risk in this regard, a condition is still considered appropriate as it is possible that the foundation for the containerised plant will need to be adapted to suit the ground conditions identified and the principle of a condition is accepted.

In addition, noise impact and air quality assessments are also recommended. There are houses some 180 metres from the proposal and the Council needs to be sure that noise and emissions from the operation of the station do not impact on the amenity of the houses, despite the sites close proximity to the M42 motorway where there are likely to

be existing high levels of background noise and particulates. Therefore, it is accepted that prior to the commencement of development noise impact and air quality assessments should be undertaken related to the effect of the proposed development on the houses and a condition is proposed in this regard. It should be noted that this development will also be subject to an Environment Agency permit which will offer further checks and measures in relation to surrounding amenity.

Warwickshire County Council

As the lead the flood authority, the County Council, via their drainage consultants, have no objections, subject to a sustainable drainage scheme and suggests an appropriate planning condition which is accepted.

The County Archaeologist states that the site lies within an area of archaeological potential and requests a planning condition is attached to any approval requiring survey work. However, the Council's Environmental Health Team has also confirmed that the site consists of made up ground as a result of the engineering works associated with the construction of the M42. Therefore, it is considered that the potential for archaeology at this site is very low and no planning condition is proposed requiring archaeological survey work.

The Rights of Way officer has stated that there are no public rights of way crossing or immediately abutting the application site and there are no objections this proposal.

The Wildlife Trust

The Trust would have expected an extended Phase 1 habitat survey to have been conducted. The applicant's ecologist has now surveyed this area and has identified that the proposal is on a designated Local Wildlife Site, implying significant adverse ecological & biodiversity impacts. There will need to be additional surveys to identify protected species and notable communities, and subsequent mitigation and/or compensation.

Development Plan

The Core Strategy 2014 – NW3, (Green Belt); NW10 (Development Considerations), NW11 (Renewable Energy), and NW12 (Quality of Development).

Saved Policies of the North Warwickshire Local Plan 2006 – ENV14 (Access Design).

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

Observations

General Policy Issues

The site lies within the Green Belt, where there is a general presumption against development that is inappropriate, except in very special circumstances.

Government and EU policy has been designed to dramatically reduce our carbon output and many of the older polluting coal power stations are scheduled to close in the next few years, and the phasing out of ageing nuclear reactors, without plans in place to build a new plants, is likely to combine to create problems with the supply of electricity.

It is generally accepted that a mix of gas, nuclear and renewable energy sources is needed to meet supply going forward.

The applicant states that:

‘to overcome energy supply issues and to stimulate investment in the Energy Market, the Energy Act 2013 sets out to establish a Capacity Market, and from August 2016 the Capacity Auction will open, closing in December 2016. This will determine the capacity of power generation the country as a whole will require. There will be a considerable shortfall between projected demand and current supply, and it is proposed by the Government that this shortfall will be made up by gas fired generating plant, with a substantial part of that being ‘peaking plant’ utilising the technology mix proposed in this application.’

Paragraph 91 of the National Planning Policy Framework states that: ‘When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.’

Whilst this proposal is not a renewable energy project, gas generation is considered to be cleaner than other fossil-fuel alternatives and forms a clear part of the Government’s energy strategy with associated wider environmental benefits.

Locational factors

The applicant has sought to find alternative sites for the proposal, but there are technical limitations in terms of the appropriate connection to the electricity grid and gas network. Finding a point where both networks intersect is essential to the project. The site is the applicant’s preferred choice, located away from residential areas and the flood zone. The applicant states: ‘that the only suitable land outside the Green Belt is within the industrial estate on the south side of Roman Way. However, this land is built up, heavily utilised and would necessitate the purchase and removal of an existing employment premises.’ Unfortunately, it is considered that the costs of the land and buildings in this scenario would render the scheme unviable and that this is not a realistic option.

Built quality, amenity, noise and emissions

By its nature the proposal will not be attractive in terms of aesthetic design, but is typical for this type of plant and equipment. The proposal is bounded by a railway line to the north, the M42 Motorway to the east and is very well screened from the existing development by a buffer existing trees and shrubs. It is considered that the visual amenity of the neighbouring development will not suffer as a result of the proposal and no additional planting is considered necessary in this regard. However, the development will be visible from within the land holding and will affect the openness of the Green Belt.

The peaking station will generate some noise and emissions. It is proposed that a condition is attached to any approval requiring an assessment of harm to neighbouring amenity as a result of noise and emissions, and that works are undertaken to mitigate any unacceptable effects identified. Given that the site is located next to the M42, where

background levels of noise and particulates will be generally higher than normal, on balance, the project is not considered to present a problem in principle in this regard.

Ecology

Members should be aware that any approval in principle will also need to be subject to the satisfactory resolution of the ecological issues at this site, as identified by the applicants Phase 1 Ecological Survey. Additional surveys are recommended to identify protected species and notable communities, in order to provide adequate baseline data for decision making. Any final approval is likely to be subject to mitigation and/or compensation for loss of habitat.

Conclusion

This scheme is relatively important, providing essential power to the national electricity grid at times of peak, local demand. There are technical limitations in terms of the appropriate connection to the electricity grid and gas network and it is important that a viable site is found. It is considered that whilst the proposal is contrary to NW3 (Green Belt) very special circumstances have been demonstrated by the applicant to override the general presumption against inappropriate development in this case.

The site is bounded by a railway line to the north and the M42 Motorway to the east and is well screened from existing residential development. Whilst there is some potential for noise and gas emissions from the site, it is considered that there will be minimal effect on neighbouring residential amenity because of the background levels from the Motorway in accordance with NW10 (Development Considerations). Nonetheless, additional survey work will be required by condition and any identified effects will then require satisfactory physical mitigation.

Recommendation

On balance it is recommended that Members are minded to approve this application in principle, subject to the identified ecological issues being successfully resolved. The application is then to be referred to the Secretary of State for the final decision to be made in accordance with the Direction 2009 (contrary to Green Belt policy).

The following conditions are proposed:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered 417_GF_DR_LP_102; 417_GF_DR_EP_103; 417_GF_DR_SP_104; STD/010; STD/011; STD/012; STD/013 rev D; STD/019; STD/021; STD023 all received by the Local Planning Authority on 19/07/2016.

REASON

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

3. Prior to commencement of development a site investigation will be carried out to assess ground conditions, the potential for contamination, and whether remediation is required. The site investigation report and chosen remediation option will then be submitted to the Council for agreement in writing. Any remediation should then be implemented, and a verification report shall be submitted to the Council within three months of completion of the remediation works.

REASON

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

4. Prior to the commencement of development noise and air quality surveys should be undertaken to establish existing levels of noise and air quality within the site and on the boundaries with the nearest neighbouring residential properties. The results of this survey work shall then be used to produce a report to assess the effects of the proposed development on noise and air quality in relation to the nearest neighbouring residential property, specifically targeting any effects on amenity, and whether remediation is required. Any remediation should then be implemented, and a verification report shall be submitted to the Council within three months of completion of the remediation works.

REASON

In the interests of residential amenity.

5. Prior to the commencement of development a detailed surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context shall be submitted and approved in writing by the Council. The scheme shall then be implemented in accordance with the approved details before the development is completed.

REASON

To ensure the satisfactory drainage of the site.

Notes

1. The applicant must ensure that the proposal does not affect the safety, operation or integrity of the railway/ Network Rail land and infrastructure. The proposal is judged to include works that may impact on the operational railway or may be within 10 metres of it and as such the applicant may need to enter into agreement with Network Rail with regard to the proposed works. The applicant is advised to liaise directly with Network Rail, Asset Protection in this regard. Contact AssetProtection LNWSouth@networkrail.co.uk

2. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

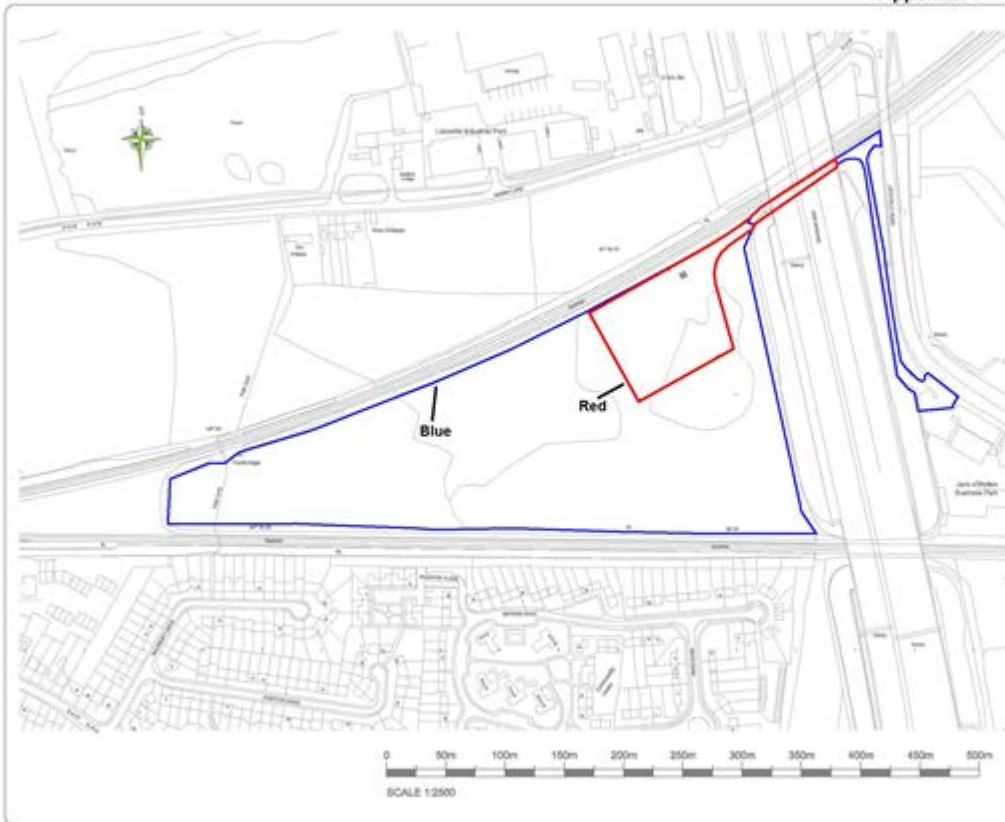
Planning Application No: PAP/2016/0420

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	North Warwickshire Borough Council	Core Strategy	2014
3	North Warwickshire Borough Council, Environmental Health	Consultation response (noise and air quality)	22 August 2016
4	North Warwickshire Borough Council, Environmental Health	Consultation response (contamination)	27 July 2016
5	Network Rail	Consultation response	26 July 2016
6	Warwickshire County Council	Consultation response (drainage)	31 August 2016
7	Warwickshire County Council	Consultation response (rights of way)	2 August 2016
8	Warwickshire County Council	Consultation response (archaeological)	
9	The Wildlife Trust	Consultation response	9 August 2016
10	Highways England	Consultation response	5 August 2016
11	Margaret Triplett	Objection letter	26 September 2016
12	David Rees	Objection letter	25 July 2016
13	Ronald Leese	Objection letter	29 July 2016
14	Peter Gittins	Email requesting an extended Phase 1 habitat survey	16 August 2016
15	Bretts Ecology	Base line ecological site audit	Received 27 Sept 2016

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

PAP/2016/0420



PLANNING PLAN

PLAN

LOCATION REPORT

PROPOSALS

NORTH WILTSHIRE BOROUGH COUNCIL

RECEIVED

19/07/2016

PLANNING & DEVELOPMENT DIVISION

PLANNING

PLANNING & DEVELOPMENT DIVISION

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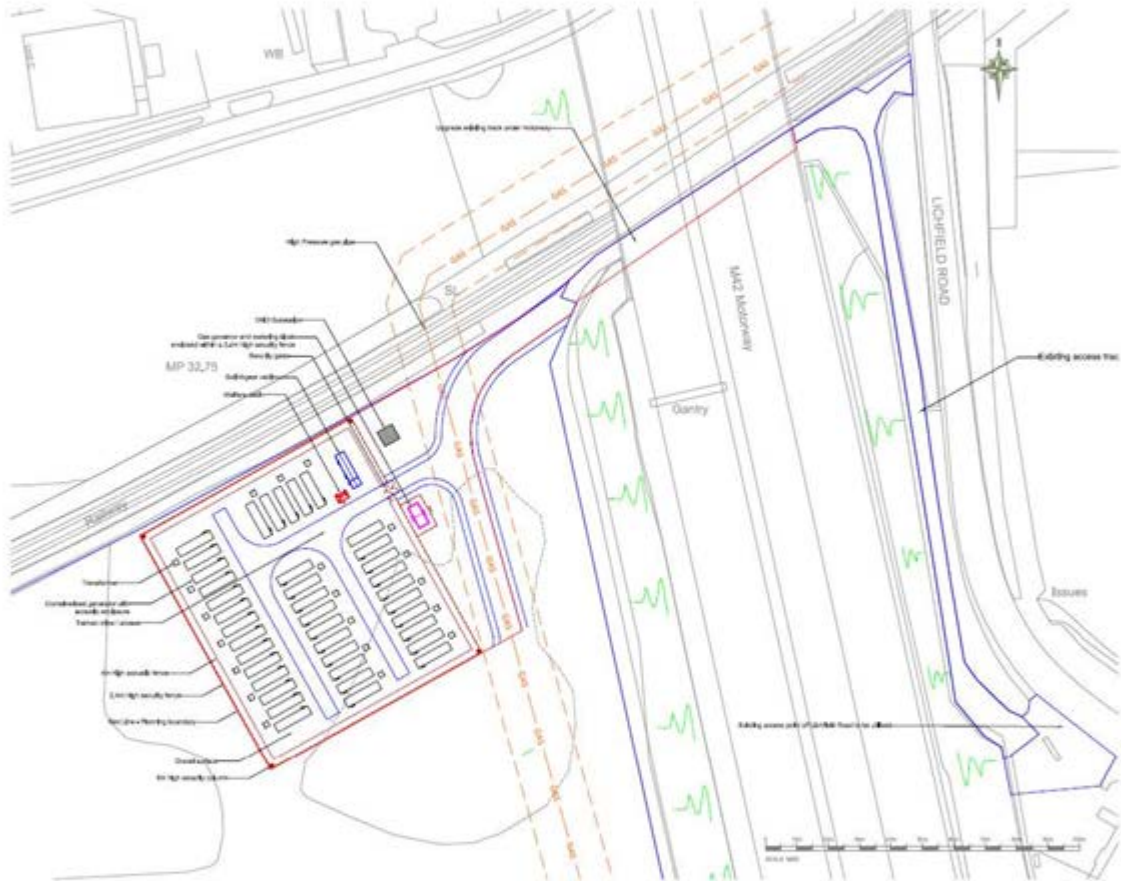
PLANNING & DEVELOPMENT DIVISION

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PLANNING & DEVELOPMENT DIVISION

Appendix 2



Appendix 3



Image of a typical bank of 3 generator canopies (from within an existing compound)



An existing site showing secured compound with internal acoustic fence and external security fence

Appendix 3 continued



Containerised switch room



Power Transformer

(10) Application No: PAP/2016/0485

21 Stewart Court, Coventry Road, Coleshill, B46 3BB

Retrospective application for retention of dual pitch gable roof and rendered finish of the building (heritage cream) and insertion of obscure glazing to two first floor gable elevation windows, for

I Jamison - Stewarts Plumbing & Heating Limited

Introduction

The application is reported to Board at it is a part retrospective application with proposed changes to the elevation, following the service of an enforcement notice given unauthorised changes have occurred to the building.

The Site

The site is within the settlement boundary identified for Coleshill and is within the High Street, Coleshill, Conservation Area. The site is located on the junction of Coventry Road with Wingfield Road. There is a mixture of two and three storey development in the immediate area and to the south of Coventry Road. To the north of Coventry Road the buildings are traditional and follow the grain of development which is carried through from the High Street. The majority of buildings are in brick whilst there are examples of rendered buildings along Coventry Road and High Street, Coleshill. The context of the site can be seen at Appendix A.

The Proposal

This is a retrospective application for retention of a dual pitch gable roof with a rendered finish for the building (heritage cream) and the insertion of obscure glazing to two first floor gable elevation windows,

Background

The application site comprises former office/workshop premises at 21 Coventry Rd. The site is 0.102 ha and the existing commercial buildings have a floorspace of 670 m² over two floors. Old maps show the site was originally a large dwelling although a workshop / office use appears to have been established prior to 1948. The current office use was established by a planning permission granted in 1985.

Planning permission was refused in 2012 for Conservation Area Consent and planning permission to demolish the building at 21 Coventry Road. However this was subsequently allowed at appeal. This appeal permission has now lapsed and so it is not possible to implement the appeal scheme.

An application in 2015 sought to re-introduce the commercial use of the building for offices, which was acceptable in principle. However, the physical changes to the building were substantial and not at all in character with the form of the pre-existing building. The application was refused in October 2015. However, following the refusal of planning permission, an appeal was lodged but this was dismissed. A copy of the appeal decision is at Appendix D. Notwithstanding this, the unauthorised changes were

carried out and an Enforcement Notice was issued. The enforcement notice requires the following:

- Reduce the eaves height and construct a dual pitched gable roof with the gable in the side elevations, to the northern half and front portion of the building, to match the eaves height and roof slope of the neighbouring property at No. 23 Coventry Road, using small clay roof tiles that best match those used on the existing roof of No. 23 Coventry Road.
- Render the front and side elevations of the building in a heritage cream render
- Install obscure glazing to the new first floor windows on the northern side elevation of the rear portion of the building.

The time for compliance would be six months from the appeal decision.

A further appeal has been lodged against this Notice. The appellant has offered an appeal under ground (a) – that planning permission should be granted for what is alleged in the notice; ground (f) – that steps required to comply with the requirements of the notice are excessive and lesser steps would overcome the objections; and ground (g) that the time taken to comply with both notices is too short.

Additionally this current application has been submitted offering a proposal which is seen by the applicant as a satisfactory solution. The appeal process has been deliberately postponed whilst the Council consider this current application.

The current proposal seeks to regularise the works carried out on the building and make further improvements to the design of the building. Therefore the proposal is part retrospective and follows a remodelling of the front and side elevations of the building including raising of a parapet, changes to fenestration and render coating to all external walls. This application also includes the addition of a pitched roof clad in clay tiles with a rendered gable above a part of the building. A montage of the proposed scheme would have the visual appearance proposed below:





Prior to the work documented above, the street façade represented two distinct buildings. To the north a building with a pitched clay tile roof and relatively low eaves clad in red brick slips. To the south a flat roofed parapeted building in similar form to that seen today albeit clad in red brick slips. Both buildings had been heavily altered but reflected the general character of the area sufficiently that they did not generate a negative visual impact upon the conservation area. Photographs of the previous appearance of the building are at Appendix B.

Development Plan

The North Warwickshire Core Strategy (October 2014 - NW1 (Sustainable Development); NW10 (Development Considerations), NW12 (Quality of Development), NW14 (Historic Environment) and NW17 (Economic Regeneration)

Saved policies of the North Warwickshire Local Plan 2006 - ENV12 (Urban Design); ENV13 Building Design) and ENV15 (Heritage and Conservation)

Other Relevant Material Considerations

The National Planning Policy Framework - (the "NPPF")
The Coleshill Conservation Area Designation Report

Consultations

The Council's Heritage Consultant has made a number of comments.

Render - The original brick slips were not particularly in keeping with the historic character of the area. There are a number of examples of render along Coventry Road including numbers 9, 25, 27, 29, 31, 33, 37 and the public houses to the north. Red brick would be preferable but if a balance can be maintained within the street scene there is no reason in this case why render cannot form part of the materials palette. However the use of a single render colour along the façade (as is seen at present) has created the appearance of a prominent linear building. This visual impact is out of keeping with the character of the area which is aligned to much smaller divided frontages. The impact is also magnified due to the building's location at the head of Wingfield Road. The submitted plans and photomontage suggest the use of two render colours, cream and mid grey to break up the façade to appear as two buildings.

Window openings - The form and detail of the window openings including the masonry sills, vertical/portrait apertures and window frames recessed back from the surface is subtle but of considerable assistance in providing integrity and assimilation with the historic character of the area. In many ways these details make a positive difference between a development that is acceptable or incongruous. It is however disappointing that the windows are of UPVC not painted timber and furthermore if they do not actually appear to be vertical sliding sashes and instead appear to be top opening faux sashes. This design lacks integrity and is discouraged in historically sensitive areas. The chosen colour of the windows is not considered to be contentious.

Roof - The form, location and finish of the roof slopes as proposed is acceptable and will serve to break up the uncharacteristic linear appearance of the building at present.

Conclusion - It is regrettable that some traditional or historic detailing was lost during remodelling such as the elaborate brick chimney. This was, however beyond the control of the local planning authority. The appearance of current and proposed building has changed. I have reached a conclusion that the appearance of the proposed building would not have an adverse impact upon the character or appearance of the conservation area. To be more accurate it would have no negative impact that would be sufficiently demonstrable to reasonably defend a refusal of permission. There is also some public benefit to be weighed in the balance in ensuring the future viability of the building for employment uses.

Representations

Coleshill Town Council – It was noted that an appeal is in process on the original application that was rejected. The Council continues to recommend refusal of this retrospective application and requests that the original roof style be reinstated.

Comments have been received from a neighbour referring to the following matters:

1) There are solar panels on the roof with a holding frame for them erected. Because the Stewarts building has an unobstructed view into our own property, it follows that at certain times of day and of the year, these solar panels reflect bright sunlight in through our back windows, as there is no obstruction at the rear of their building or yard to stop this. If these could be angled or positioned differently to avoid this happening that would be good.

2) We believe their application consisted of frosted glass for their rear windows. Because these look directly into our property, anyone in those rooms can see directly into our property through the currently plain glass. Again, because of this unobstructed view directly to our property, we believe this should be looked at.

3) There is no need to change the colour of the rendering to Heritage cream, or for the erection of a roof over part of the building. The building has been completely transformed for the better; it is a vast improvement; and the appearance as it currently stands fits in with the other rendered offices and houses on the High Street/Coventry Road and other areas of Coleshill. Due to the amount of time being spent on this application, it is a shame that the planners attention could not be turned to the appearance of other buildings instead, i.e. trying to do something about the old library which is in a prominent position on the High Street; is going to rack and ruin; I have spoken to many people in Coleshill and the majority have the same opinion.

Observations

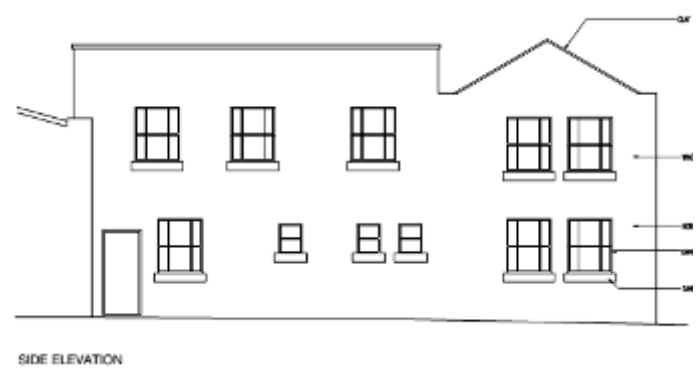
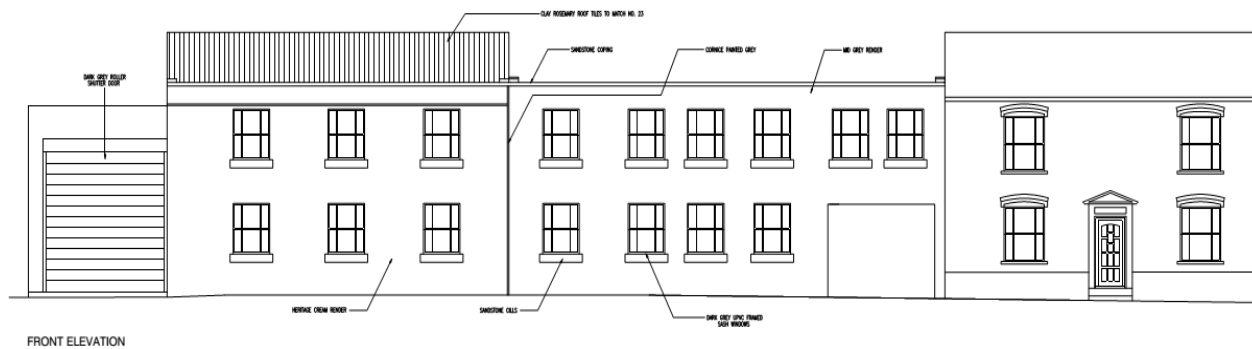
The key planning policy considerations raised by the part retrospective and proposed development revolve around the impact of the alterations and re-design on the significance of the heritage asset and the impact on amenity.

a) Design

The retrospective works carried out on the building are considered to cause a poor visual impact and are out of keeping with the character of the area, given the use of one single colour render along the façade, which considerably elongates the building and results in a horizontal massing. Photographs of the current appearance of the building are at Appendix C.

The proposed improvements to the façade are welcomed by the use of two render colours, in a cream and mid grey to break up the façade of the building which would then appear as two smaller divided frontages rather than the present massing of a single block. To help subdivide the façade further then a vertical cornice is proposed, this would be painted in grey. A horizontal cornice is also proposed at the eaves height of the neighbouring building this detail would improve the appearance of the building in the context of the neighbouring buildings along Coventry Road which have a lower eaves height.

The proposed roof pitch in terms of its form, location and finish is considered to be required to break up the uncharacteristic linear appearance of the building, as previously this section of the building did have a pitched roof prior to the unauthorised changes having taken place. It would match the ridge height to No. 23 Coventry Road and its re-design can be read in the context of the street scene illustrated below:



The form and detail of the window openings are considered to be acceptable however painted timber sash windows would have been preferred. The resulting colour of the window finish is not considered to be contentious however. It is not required to change the condition of the windows in terms of installing timber framed sash windows.

Changes to the rear elevations of the building and flat roof for photovoltaic panels are not directly visible from views in and out of the Conservation Area, thus there is no design objection to the rear treatment of the building or the alterations made to the roof, however the impact on the neighbours amenity is discussed below.

Saved policies ENV12 and ENV13 require developments to harmonise with their immediate settings, to positively integrate into the wider surroundings and to respect local distinctiveness. The proposed works would be considered in keeping with the character and distinctiveness of the Conservation Area and therefore would accord with policy NW12 of the Core Strategy and ENV15 of the North Warwickshire Local Plan, 2006.

b) Amenity

The site is bounded by both residential and commercial properties; the impact of the alterations on the existing residential properties is not considered to be significant in causing a reduction on the amenity around matters relating to light. The treatment to the rear elevations of the building is not visible from views in and out of the Conservation Area and are retained in their revised condition, that is white render and flat roof.

However, where additional or new openings have been made to the elevations this has resulted in privacy related issues to the immediate neighbour to the rear of the site. It is understood that rear windows in the building directly face towards No. 4 The Colesleys. The context of the neighbouring property with the application building is illustrated at appendix E.

It is important to recognise that windows had already existed in the rear elevations on the building. The same number of openings has been provided within the revised elevations to the rear. There is a separation distance of approximately 14 metres at an obscure angle from the nearest first floor window on the southern/rear elevation of the building to that of the rear windows in this neighbours dwelling. This separation distance would just be sufficient in order that no direct loss of privacy would result between the use and the immediate neighbour. There is also an intervening public footway and high conifers and hedgerow which offer screening between the neighbouring dwelling and the rear arrangement to the building at the application site. However it would be advantageous if the nearest two windows in the proximity of 4 The Colesleys were obscurely glazed.

It is necessary for new windows to the first floor side elevation of the building overlooking 19 Coventry Road to be obscure glazed by way of film installed on the glass. There is a short separation distant between the application site to No. 19 Coventry Road of approximately 6 metres with direct overlooking towards this neighbours rear garden area by new windows. Obscure glass or applied film to existing glass would be conditioned.

The introduction of solar panels is an acceptable form of renewable energy on the building and it is acceptable in principle to introduce renewables within the settings of Heritage Assets. However the installation of the solar panels has resulted in such angle that it is affecting the amenity of the neighbour in terms of reflect bright sunlight in through back windows to the nearest neighbouring property at 4 The Colesleys. It is therefore required that the solar panels are angled or re-positioned so as to avoid glare on the neighbouring property. Otherwise no other amenity issues have resulted following the part retrospective works and the scheme with mitigation measures would comply with policy NW10 of the Core Strategy.

In overall terms therefore given the planning background here, it is considered that the appearance of the proposed building would not have an adverse impact upon the character or appearance of the Conservation Area. There is also some public benefit to be weighed in the balance in ensuring the future viability of the building for employment uses.

Recommendation

(A) That the application be **GRANTED** subject to the following conditions:

1. The proposed alterations to the building as detailed in the plans and photomontage approved by Condition 2 shall be completed within 12 calendar months from the date of this decision notice to the written satisfaction of the Local Planning Authority.

REASON

To prevent an unimplemented planning permission in the interests of the character and appearance of the Conservation Area.

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered 26415/106D, 26415/107B, 26415/108B and the 1:1250 site location plan and the photo montage received by the Local Planning Authority on 19 August 2016.

REASON

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

3. The three first floor windows on the north facing elevation serving three directors offices (to the flat roof/rear range of the building) and the two first floor windows in the south facing elevation nearest to the return with the east facing elevation serving the rear general office (to the flat roof/rear range of the building) shall be permanently glazed with obscured glass which shall provide a minimum degree of obscurity equivalent to privacy level (4) or higher and shall be maintained in that condition at all times. For the avoidance of doubt privacy levels are those identified in the Pilkington Glass product range. The obscurity required shall be achieved through the use of obscure glass within the window structure or

by the use of film applied to clear glass and shall be maintained in that condition at all times.

REASON

To protect the privacy of the adjoining property and to prevent overlooking.

4. The new works shall be carried out in small clay tiles in dark grey to the pitched roof and part cream render and part mid grey render to the north and west elevations of the building and the installation of cornice as per the arrangement specified by Condition 2.

REASON

In the interests of the amenities of the area.

5. The Solar PV equipment installed on the flat roof of the building shall be angled so as not to cause glare to the satisfaction of the Local Planning Authority and any Solar PV equipment no longer needed for microgeneration shall be removed as soon as reasonably practicable.

REASON

In the interests of the long term amenities of the area.

(B) That the Enforcement Notice be withdrawn subject to there being confirmation in writing by the appellant that there would be no claim for costs against the Council for doing so.

BACKGROUND PAPERS

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

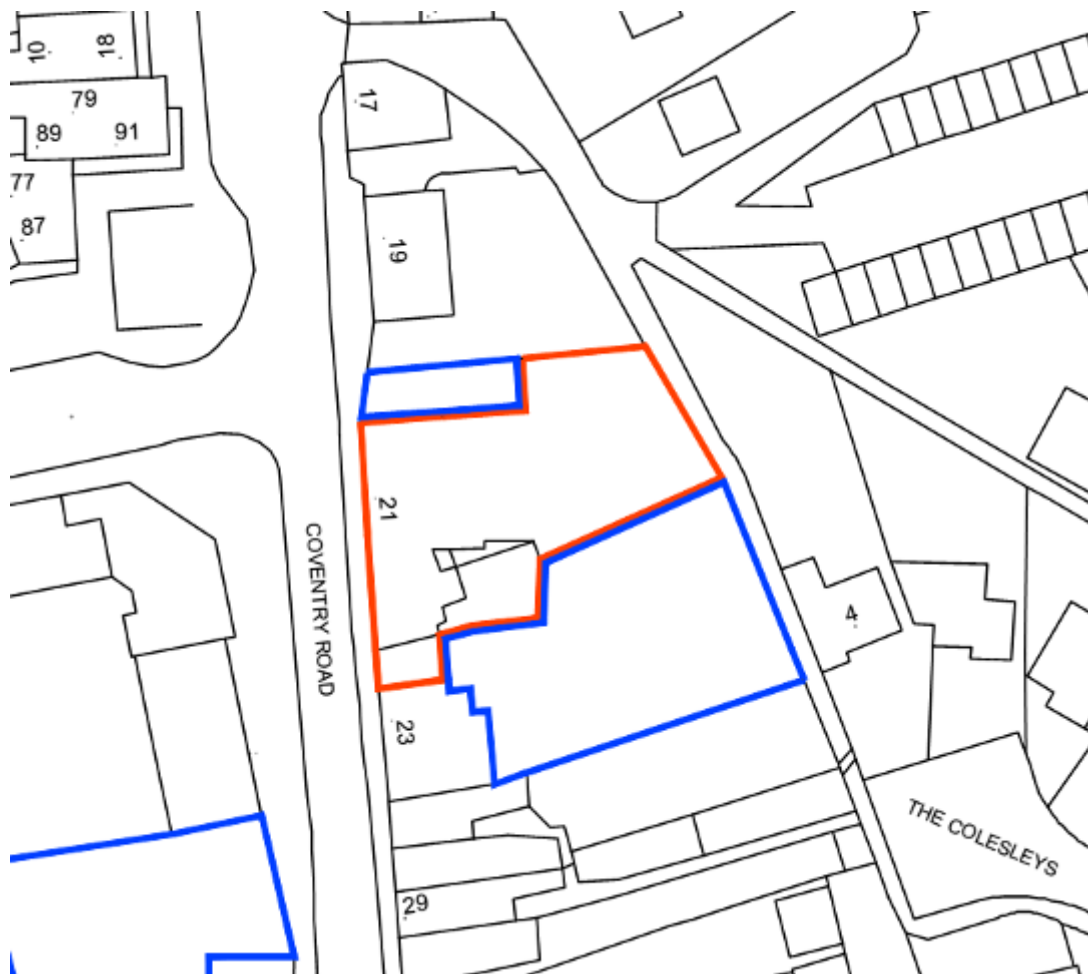
Planning Application No: PAP/2016/0485

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	19.8.16
2	Coleshill Town Council	Consultation reply	5.9.16
3	Agent to Case Officer		17.9.16
4	Agent to Case Officer		19.9.16
5	Mr Lyons	Representation	20.9.16
6	Ms Goodfellow	Representation	22.9.16
7	Agent to Case Officer	e-mail	26.9.16
8	Agent to Case Officer	e-mail	26.9.16
9	Agent to Case Officer	e-mail	26.9.16
10	Agent to Case Officer	e-mail	26.9.16
11	Heritage Consultant	Consultation reply	26.9.16
12	Case Officer to Agent	e-mail	26.9.16

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 A



Appendix B

The arrangement to the pre-existing building is illustrated in the photographs below:





Appendix C



Appeal Decision

Site visit made on 9 February 2016

by **J C Clarke BSc BTP MRTPI**

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

Decision date: **2 March 2016**

Appeal Ref: APP/R3705/W/15/3138952
21 Coventry Road, Coleshill, Warwickshire, B46 3BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr I Jamison (Stewarts Plumbing & Heating) against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2015/0485, dated 28 July 2015, was refused by notice dated 29 October 2015.
 - The development proposed is described as "Remove existing pitched roof and build up walls. Remove existing asbestos roof and install new solar panels. Provide new windows to front elevation along with external insulation and render".
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. My decision uses the description of development given on the application form, but with the word "panels" inserted in line 2 for clarity. The proposed works were in progress at the time of my site visit. This has not altered my consideration of the appeal which is based on the submitted details. Whilst the works completed to date include some variations compared to the submitted plans, for example in relation to window detailing, these differences do not affect the outcome of the appeal.

Main Issue

3. The main issue is whether or not the proposed development would preserve or enhance the character or appearance of the High Street, Coleshill Conservation Area.

Reasons

4. As required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the High Street, Coleshill Conservation Area. Paragraph 132 of the National Planning Policy Framework (the "Framework") requires that great weight be given to the conservation of designated heritage assets such as Conservation Areas.
 5. The High Street, Coleshill Conservation Area covers the commercial centre of Coleshill and has a broadly linear form along High Street and Coventry Road.
-

The appeal property is prominently visible on a main road approach into the heart of the Conservation Area. Whilst most buildings across Coventry Road to the west of the appeal site are outside the Conservation Area, the appeal premises and a line of small cottages immediately to the south are within its southern end. These cottages play an important role in defining the character of this end of the Conservation Area. Properties close to the appeal site are in a mix of residential and commercial uses.

6. A variety of building styles and materials are present in the Conservation Area. The older buildings typically have narrow frontages and pitched tiled roofs with varied ridge heights, and red brick walls although some have been rendered or painted. Most buildings date from the 18th century or later and the area has an interesting and varied built form.
7. The appeal building itself, by virtue of its long frontage, horizontal emphasis, and industrial form contrasts with the style and smaller scale of many of the buildings in the nearby parts of the Conservation Area.
8. The submitted details show that before the works subject to appeal were started the front of the appeal building was split into two main sections. One section extended along just over half of this frontage and appeared flat roofed with a parapet whilst the remaining shorter section had a pitched roof. The eaves line of the pitched roof section was lower than the front of the parapet section. The overall effect was to break up the form of the building in a way which helped it to integrate with this part of the Conservation Area.
9. The development subject to appeal has removed the pitched roof referred to above and a further pitched roof section behind this. Furthermore the height of the wall in front of the previous pitched roof section has been increased to line up with the adjacent parapet. The appearance of a flat roof now extends at the same level across the whole frontage. As a result, the building has a substantially more monolithic scale and form which fails to integrate with the more punctuated and varied style of most buildings nearby or in the Conservation Area as a whole.
10. The proposals also include the rendering of the front wall. Whilst some buildings, including some of the cottages to the south of the appeal premises, are faced in this way, due to the length and height of the appeal building the proposal would substantially alter the balance between render and red brick in this part of the Conservation Area. The proposal also includes replacement of timber framed windows and doors with powder coated aluminium frames.
11. Due to a combination of its design, massing, horizontal emphasis, materials used and prominent position the appeal proposal would cause substantial harm to the character and appearance of the High Street, Coleshill Conservation Area.
12. Under paragraph 133 of the Framework, development which would cause substantial harm to a Conservation Area should, in cases such as this where the bullet points in this paragraph do not apply, be refused unless the proposal would bring substantial public benefits that would outweigh such harm.
13. The proposal would enable solar panels to be installed in an unobtrusive way on the enlarged flat roof and insulation to be installed to the front wall. However, the evidence does not estimate the amount of solar electricity

generating capacity that would result from the appeal proposal that could not have been appropriately achieved in other ways, or the savings of energy or carbon emissions that would result from the installation of the insulation. Even if such evidence had been provided it is not clear that the resultant public benefit would have been sufficient to outweigh the harm that would be caused to the Conservation Area by the appeal proposal.

14. Whilst the appellant has stated that the rendering of the frontage is necessary to replace "slip" style facing bricks, some of which had fallen off, it is not clear from the submitted evidence that all practicable alternative ways to address this issue have been considered. In any event the rendering of the frontage does not constitute the totality of the harm that would be caused by the proposal.
15. Whilst the appeal proposal would also help bring the appeal building back into long term use, it is not clear that it forms the only way in which this could be done.
16. In summary, whilst the proposal offers material benefits these are insufficient to outweigh the substantial harm that it would cause to the character and appearance of the High Street, Coleshill Conservation Area. The proposal therefore conflicts with the provisions of Saved Policies ENV12, ENV13 and ENV15 of the North Warwickshire Local Plan 2006, Policies NW10 and NW14 of the North Warwickshire Local Plan Core Strategy 2014 and the Framework related to design and conservation.

Other Matters

17. Although relevant permissions exist to demolish the appeal building and redevelop the site, I understand that this would be with a sympathetic housing proposal which would preserve or enhance the character and appearance of the Conservation Area.
18. Although the appellant states that certain matters were agreed with Council officers this point does not outweigh my findings which are based on my reasoning set out above.

Conclusion

19. As the proposal would cause substantial harm to the character and appearance of the High Street, Coleshill Conservation Area which would not be outweighed by its public benefits, I dismiss the appeal.

Jonathan Clarke

INSPECTOR

Appendix E



Previous condition of the windows to the rear range of the building above. The separation distance is approximately 14 metres at an oblique angle from the nearest rear window to No. 4 The Colesleys shown by the red arrow.

The proposed elevation has one additional first floor opening on the southern elevation as shown by the first floor plan of the building below showing the window arrangements on the first floor of the building.

