

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

**(Councillors Bell, L Dirveiks, Henney,  
Humphreys, Jarvis, Jenns, Jones, Lea, Morson,  
Moss, Phillips, Simpson, Smitten, Sweet and  
A Wright)**

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

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

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

## **PLANNING AND DEVELOPMENT BOARD AGENDA**

**11 JANUARY 2016**

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Monday 11 January 2016 at 6.30 pm.

### **AGENDA**

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

**PART A – ITEMS FOR DISCUSSION AND DECISION  
(WHITE PAPERS)**

- 4     **Planning Applications** – Report of the Head of Development Control.
- Summary**
- Town and Country Planning Act 1990 – applications presented for determination
- The Contact Officer for this report is Jeff Brown (719310).
- 5     **Recent Appeal Decisions** – Report of the Head of Development Control.
- Summary**
- Recent appeal decisions are reported to the Board for information.
- The Contact Officer for this report is Jeff Brown (719310).
- 6     **Heart of England Liaison Group** – Report of the Head of Development Control.
- Summary**
- The report updates the Board on the establishment of this Group.
- The Contact Officer for this report is Jeff Brown (719310).
- 7     **Proposed Changes to National Planning Policy** – Report of the Head of Development Control.
- Summary**
- The Government has published proposed changes to the National Planning Policy Framework 2012 – (the “NPPF”) - following its recent planning and housing announcements. This report recommends a number of responses.
- The Contact Officers for this report are Jeff Brown (719310) and Dorothy Barratt (719250)
- 8     **The Coventry and Warwickshire LEP: Planning Protocol** – Report of the Assistant Chief Executive and Solicitor to the Council and the Head of Development Control.
- Summary**
- This report seeks Member approval of the Planning Protocol.
- The Contact Officer for this report is Dorothy Barratt (719250).

**PART C – EXEMPT INFORMATION  
(GOLD PAPERS)**

**9 Exclusion of the Public and Press**

**Recommendation:**

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

**10 Appeal by St Modwen Development Limited Land at Jnt 10 M42 –  
Report of the Assistant Chief Executive and Solicitor to the Council.**

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

JERRY HUTCHINSON  
Chief Executive

**Agenda Item No 5**

**Planning and Development Board**

**11 January 2016**

**Report of the  
Head of Development Control**

**Recent Appeal Decisions**

**1 Summary**

1.1 Recent appeal decisions are reported to the Board for information.

<p><b>Recommendation to the Board</b></p> <p><b>That the decisions be noted.</b></p>
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**2 Background**

2.1 A number of appeal decisions have recently been handed down and these have been reported to Members as and when they arrived. It is perhaps worthwhile reviewing these decisions to see if they might inform the Board and help in future decision making.

2.2 The decisions are identified below and copies of the decisions are attached as marked:

- ... ➤ Spon Lane Grendon – removal of the condition requiring a pedestrian crossing (Appendix A)
- ... ➤ Eastlang Road, Fillongley – new housing in the Green Belt (Appendix B)
- ... ➤ Warton Lane, Austrey – ten new houses (Appendix C)
- ... ➤ Warton Lane, Austrey – four new houses (Appendix D)

**a) Spon Lane, Grendon**

2.3 This application caused substantial concern because it proposed removal of a pedestrian crossing over the A5 in connection with the Bellway Homes development. The key issue for the Board here is that, notwithstanding the strength of feeling about the desirability of having this crossing, the appeal was allowed because the Council had no technical evidence to rebut that submitted by the applicant. The Inspector had technical evidence prepared to a national specification prepared by the responsible Highway Authority in front of him. He had no similar rebuttal evidence to support the retention of the condition. In other words it is not enough to raise “concerns”; to say something is “obviously” going to give rise to problems and or that the applicant doesn’t fully understand a local situation. Paragraphs 14 and 15 of

the letter make his position very clear. This is why a subsequent award of costs was made against the Council.

- 2.4 The issue for the Board is that if it is to consider a refusal based on impacts other than policy issues – e.g. highways; drainage and noise etc. – then it has to have the relevant technical evidence on which to support such a refusal. That evidence has to be based on a recognised and accepted specification if it is to carry any weight. Planning Inspectors will always give substantial weight to the position of the relevant Statutory Agency when matters arrive at appeal. For these reasons, this is why in some cases the Council will commission outside consultants to assess an applicant's evidence or indeed that of the Statutory Agency. If the outcome is to concur with the submitted evidence then refusal would not be recommended.

#### **b) Eastlang Road, Fillongley**

- 2.5 This decision is reported even although the appeal was dismissed. This is for two reasons. The first is that the Inspector makes it explicitly clear that limited affordable housing for local community needs under policies set out in the Local Plan is not inappropriate development in the Green Belt. He goes onto to say that policy NW5 of the Council's own Core Strategy supports this approach. In other words there will be a presumption in favour of supporting such developments. Secondly in respect of Housing Needs Surveys, he concludes that the key matter it was the Council who contacted respondents of the survey in order to establish housing needs. As such there was no reason to suggest that the evidence did not lack independence. The analysis was undertaken by professional housing officers and not by local community representatives or the applicant.
- 2.6 Each case will always be considered on its own merits, but the two issues here – local affordable housing is appropriate in the Green Belt and the professional analysis of housing need – should always be material considerations of weight within the decision making process.

#### **c) The Austrey Cases**

- 2.7 Members will recall that these were two of a number of applications all dealt with together by the Board at one meeting in order to treat the matter comprehensively. The order in which decisions were taken was also agreed. Some cases were approved but not these two. The reasons for refusal centred on the adverse impacts of the new housing on the local character and distinctiveness of the area. There are a number of issues arising from the appeals against their refusals.
- 2.8 The Inspector notes policies NW2 and NW5 of the Core Strategy. He explicitly draws attention to say that the housing figures for Austrey are minimum figures and that they enable developments of no more than ten units. The proposals here were for ten and four houses. Moreover he says that the village has essential services. Given these two matters he concludes that both proposals are "sustainable developments" and thus in line with the

NPPF, there is a presumption in support of each case. In other words his starting point is the NPPF and not the Core Strategy.

- 2.9 He then goes on to say that the emerging Site Allocations Plan has limited weight and that the Neighbourhood Plan has moderate weight. In other words these are of insufficient weight to override his general conclusion above.
- 2.10 In respect of the character and appearance refusal reason he concludes that this part of Austrey is fragmented where pockets of open land, agricultural buildings and residential development “intertwine” to use his words. The sites are therefore in his view part of the village. As such he could not support the Council’s assessment that these developments would extend the village into the countryside.
- 2.11 In respect of a potential flooding issue he gives substantial weight to the submitted Flood Risk Assessments and concludes that in the absence of technical rebuttal evidence from the Council, the matter can be dealt with by planning condition, noting that the NPPF says that it is not for new developments to resolve existing problems.
- 2.12 There are a number of issues here. Firstly is the substantial weight given to the NPPF in that it even surmounts the Core Strategy. The NPPF seeks to “significantly boost” new housing and therefore if new housing proposals are “sustainable development”, then the presumption is always in favour of support. Secondly therefore, refusals have to be based on substantial issues backed up with firm evidence. This makes it very difficult for the Council if its general concern is the potential impact on rural character. Thirdly once again, as in the Spon Lane case, local concerns about issues such as access or flooding will carry very little weight unless they are backed with strong technical evidence. Hence here the flooding matter was not given any weight at all.

### **3 Report Implications**

#### **3.1 Sustainability and Environmental Implications**

- 3.1.1 The overarching weight given to the NPPF when it comes to housing proposals will make it difficult in some cases to limit environmental impacts.

#### **3.2 Risk Management Implications**

- 3.2.1 Taking the outcome of recent appeal decisions into account when making decisions on planning applications should assist the Council to minimise future appeals and the potential for additional costs.

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

## Appeal Decision

Site visit made on 3 November 2015

by **William Fieldhouse BA (Hons) MRTPI**

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

Decision date: 10/11/2015

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### Appeal Ref: APP/R3705/W/15/3129354

#### Land south of Dairy House Farm, Spon Lane, Grendon, Warwickshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Bellway Homes Limited against the decision of North Warwickshire Borough Council.
- The application ref PAP/2015/0201, dated 30 March 2015, was refused by notice dated 16 June 2015.
- The application sought outline planning permission for the erection of 85 dwellings, access and associated works with all other matters reserved without complying with a condition attached to planning permission ref APP/R3705/A/13/2203973 dated 27 March 2014<sup>1</sup>.
- The condition in dispute is No. 19 which states that: "No dwelling shall be occupied until a controlled pedestrian crossing has been provided in full across the A5 trunk road."
- The condition is stated to be necessary in the interests of highway safety<sup>2</sup>.

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#### Application for Costs

1. An application for costs was made by Bellway Homes Limited against North Warwickshire Borough Council. That application is the subject of a separate decision.

#### Decision

2. The appeal is allowed and outline planning permission is granted for the erection of 85 dwellings, access and associated works with all other matters reserved on land south of Dairy House Farm, Spon Lane, Grendon, Warwickshire in accordance with the application Ref PAP/2013/0224 dated 25 April 2013, without compliance with condition number 19 previously imposed on planning permission ref APP/R3705/A/13/2203973 dated 27 March 2014 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

#### Background

3. The original planning application seeking outline planning permission for the erection of up to 85 dwellings proposed a controlled pedestrian crossing on the

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<sup>1</sup> Planning appeal ref APP/R3705/A/13/2203973, which was allowed on 27 March 2014, relates to planning application ref PAP/2013/0224 which was refused by notice dated 13 August 2013.

<sup>2</sup> Appeal ref APP/R3705/A/13/2203973 decision letter paragraph 20.

- A5. The application was refused by the Council, but a subsequent appeal was allowed and outline planning permission granted subject to a number of conditions, one of which is that now in dispute.
4. Since the previous appeal and before making the application to remove the condition, the appellant discussed the proposed crossing with Highways England, the body responsible for safety on the A5, and carried out further technical work<sup>3</sup>. This led the appellant to the conclusion that the proposed crossing is not in fact required to serve the development, appropriate given the local road conditions, or desired by Highways England.
5. Accordingly, an application to remove the disputed condition was made. This was recommended for approval by officers, but refused by a Council Committee on the grounds that it would have a detrimental effect on road safety and be contrary to policy NW10 of the North Warwickshire Core Strategy 2014.

### **Main Issue**

6. The National Planning Policy Framework ("NPPF") and associated Planning Practice Guidance ("PPG")<sup>4</sup> make it clear that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects.
7. Having regard to these tests, and the background set out above, the main issue in the determination of this appeal is whether condition 19 is reasonable and necessary to ensure that future residents of the proposed dwellings would have safe and suitable access to employment, shopping, community, leisure and other facilities.

### **Reasons**

8. The planning permission for residential development relates to a site on the edge of the village of Grendon set back behind existing dwellings on the north side of the A5. Pedestrians and cyclists going to and from the site would do so via Spon Lane which joins the main road a short distance to the east of a roundabout junction.
9. Other than a convenience store, social club and bus stop there are no nearby services or facilities on the north side of the A5 in the vicinity of the appeal site. However, there are a number of local facilities, including a primary school, bus stop, playing field, pharmacy, and village hall, on the south side of the A5 within reasonable walking distance. The bus stops provide access to regular services to reach employment opportunities and a wider range of shops and facilities in nearby towns.
10. For these reasons, and because the proposal included the provision of a controlled crossing on the A5 and a travel plan, the previous appeal Inspector concluded that, whilst it is inevitable that some trips would be undertaken by car, local facilities and services would be accessible by a range of sustainable types of transport. That conclusion, of course, was based on the information available at the time; there is now additional, highly relevant evidence in the

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<sup>3</sup> Technical Note (M-EC, March 2015) and Road Safety Audit (Waterman Aspen, February 2015).

<sup>4</sup> NPPF paragraph 204 and PPG ID-21a.



form of the recent technical reports provided by the appellant and the responses to them from Highways England and Council officers.

11. There is an existing crossing point on the A5 close to the junction of Spon Lane that consists of dropped kerbs, tactile paving and a central refuge. The evidence suggests that this is not heavily used, there being a total of 50 crossings on the day of the appellant's survey, most of which were by passing motorists who stopped on the south side of the road and crossed to access the convenience store. Data from the local highway authority shows there have been no personal injury accidents involving pedestrians or cyclists on the A5 between January 2008 and December 2014.
12. The proposal has the potential to generate a total of 150 pedestrian and cycle trips each day<sup>5</sup>, some of which would no doubt be by school children. A number of these trips would be undertaken to access the convenience store and bus stop on the northern side of the A5, but it is likely that many would involve crossing the main road.
13. The proposal could, therefore, generate a significant increase in the number of pedestrian movements across the A5 compared to the present, although the numbers would still be limited. Given this, and the safety record, there is little evidence to demonstrate that existing crossing facilities need to be upgraded. Highways England has confirmed that the number of crossings by pedestrians and cyclists would not be so great as to justify replacing the existing central refuge with a controlled crossing<sup>6</sup>.
14. It is possible that the nature of the existing central refuge, which is limited in size and offers little protection, acts as a deterrent to pedestrians and cyclists crossing the busy road, and that this would also be the case for future residents of the site. However, there is no substantive evidence that I have been provided with to indicate that an improved facility would make a significant difference to the number of trips that would be made across the road or materially affect the choice of modes of transport made by future residents.
15. For the above reasons I am not persuaded that the disputed condition is necessary to provide safe and suitable access for future residents. Moreover, the technical evidence before me indicates that, due to constraints associated with the existing road layout and conditions including the proximity of the roundabout, the length of the nearby bus layby, numerous private access points, and on street parking, it would not be possible to provide a controlled crossing close to the junction of Spon Lane that would meet relevant design standards and not compromise the safety of users of the A5.
16. The Council has questioned, at the appeal stage, whether there is sufficient evidence contained in the appellant's technical reports, and suggested that further time is needed to consider the matter. However, this does not appear to have been raised during consideration of the planning application, and I have seen nothing to indicate that officers of the local highway authority or Highways England are concerned. I am satisfied that there is sufficient, robust evidence before me to determine this appeal.

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<sup>5</sup> M-EC Technical Note tables 4 and 5.

<sup>6</sup> Highways England letter dated 1 June 2015.

17. Whilst core strategy policy NW10 post dates the NPPF, the latter document is a material consideration. There is no significant conflict that I can see between policy NW10 and the advice in the NPPF that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe<sup>7</sup>. The evidence clearly indicates that would not be the case here.
18. In light of the above, it would be neither necessary nor reasonable for road safety reasons to insist on the provision of a crossing before any of the approved dwellings are occupied, or indeed in connection with that development at all. Neither would it be appropriate to vary the condition to require other potential actions to be taken, such as changes to the speed limit, altering the size of the existing central refuges, or providing a footbridge. There may well be better crossing facilities elsewhere along the A5, but I have considered the proposal before me on its own particular merits in the context of the evidence provided and relevant local and national planning policies.
19. I conclude on the main issue that condition no. 19 is neither reasonable nor necessary to ensure that future residents of the proposed dwellings would have safe and suitable access to employment, shopping, community, leisure and other facilities. The proposal would, therefore, be consistent with the objectives of national policy and core strategy policy NW10 which seek to encourage sustainable forms of transport, promote healthier lifestyles for the community to be active outside their homes and places of work, and maintain and improve the provision of accessible local and community services.
20. A number of concerns have been raised by local residents. However, in so far as these are about road safety and accessibility, I have considered them in relation to the main issue above, and none of the other matters raised alter my overall conclusion.

### **Conclusion**

21. For the reasons set out above, I conclude that the appeal should be allowed and the condition deleted.

*William Fieldhouse*

INSPECTOR

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<sup>7</sup> NPPF paragraph 32, 3<sup>rd</sup> bullet point.

## Appeal Decision

Site visit made on 8 September 2015

by **R C Kirby BA (Hons) DipTP MRTPI**

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

Decision date: 15 October 2015

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**Appeal Ref: APP/R3705/W/15/3087232**

**Eastlang Road, Fillongley CV7 8EQ**

- 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 James Cassidy, Cassidy Group (UK) Limited against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2014/0520, dated 30 September 2014, was refused by notice dated 14 April 2015.
  - The development proposed is described as 2 No 4b6p houses, 2 No 3b5p houses, 11 No 2b4p houses, 9 No 2b4p bungalows, 3 No 3b5p bungalows including associated highways, external works, landscaping and boundary treatments.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Cassidy Group (UK) Limited against North Warwickshire Borough Council. This application is the subject of a separate Decision.

### Procedural Matter

3. During the course of the planning application the scheme was amended, and it is the amended scheme that the Council determined. It is on this basis that I have determined the appeal.

### Main Issues

4. The appeal site is located within the West Midlands Green Belt. Accordingly the main issues are:
  - whether the proposal would constitute inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - the effect on the openness of the Green Belt and its purpose; and
  - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

### *Whether inappropriate development?*

5. The appeal site comprises a grassed field that is roughly triangular in shape, enclosed on 2 sides by mature landscaping, beyond which is a recreation ground and playground to the north and agricultural fields to the east. To the south and west is residential development in Church Lane and Eastlang Road. The appeal site extends to 1.31 hectares and the proposal is for 27 dwellings, comprising 21 affordable homes and 6 market homes. Access would be from Eastlang Road and public open space would be provided upon the site.
6. The Framework establishes that new buildings within the Green Belt are inappropriate unless, amongst other things, it involves limited infilling in villages. Whilst there is no definition within the Framework of 'limited', 'infilling' or 'village', it is clear from the inset map within the North Warwickshire Borough Council Local Plan that the appeal site is located outside of, but adjacent to the development boundary for Fillongley. Accordingly, for planning policy purposes the site is located within the countryside.
7. Having regard to the above, the relationship of the site to existing residential development and the size of the appeal site relative to neighbouring development, I do not concur with the appellant that the scheme would result in limited infilling in the village. Although Policy NW3 of the North Warwickshire Local Plan Core Strategy (Core Strategy) establishes that infill boundaries in the Green Belt will be brought forward to indicate where limited infill and redevelopment would be permitted, I have not been provided with evidence that this is applicable to Fillongley at this time.
8. However, the Framework makes it clear that limited affordable housing for local community needs under policies set out in the Local Plan is not inappropriate development in the Green Belt. This is supported by Core Strategy Policy NW5 which allows for small scale affordable housing schemes outside of development boundaries, providing that there is a proven local need and that important environmental assets are not compromised.
9. There have been a number of Housing Needs Surveys (HNS) within Fillongley; the first published in April 2009 identified a need for 10 dwellings comprising both rented and shared ownership units. A survey published in January 2014 also identified a need for 10 units of accommodation based on respondents who left contact details. A 'potential need' was also identified, although this could not be verified as respondents did not leave their contact details. Due to the size of this 'potential need', a further survey was undertaken with the appeal site identified as a possible site. The appellant undertook this second survey, although the responses were sent to the Council so that it could identify the housing need for the Parish. This time over 40 respondents left their contact details and the Council translated the survey results in June 2014 as there being a need for 27 new homes in the Parish.
10. I note that the appellant has undertaken similar HNS with the support of the Council in different Parishes and that the results have been accepted. Be that as it may, it is clear from the Council's decision notice that it did not consider that a proven local need for the housing had been demonstrated in this case. The Council and Parish Council question the validity of the most recent survey, considering that it lacked independence as the appellant's details were included on the questionnaire. Also, as a specific site was identified, this could have raised respondents' expectations. Moreover, the Council questions the increased housing need that this survey

identified in the space of a few months, and consider that this casts doubt on whether there is a proven local need.

11. Whilst noting these concerns, I understand that it was the Council who contacted the respondents of the survey to establish the housing need for the Parish. The Council have accepted a similar developer partnership approach in HNS elsewhere and I have no reason to doubt that the findings of the most recent survey lack independence. Indeed I find that the results confirm the 'potential need' that was identified within the January 2014 survey. On the basis of the evidence before me, I am therefore satisfied that it has been demonstrated that there is a local community need for affordable housing in the area.
12. However, the proposed scheme is not exclusively for affordable housing. It includes 6 market units. There is no provision within development plan policies for this housing mix within the countryside, nor is there provision within Green Belt policy within the Framework. There would therefore be conflict with the objectives of Policy NW5 of the Core Strategy and the Framework. Given my findings and the nature of the proposal it is not necessary for me to establish whether the scheme would be 'small in scale' or result in 'limited affordable housing'.
13. In light of my findings above, as the proposal is not exclusively for affordable housing, the scheme would result in inappropriate development in the Green Belt. Inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances.

#### *Openness and purpose*

14. Openness is an essential characteristic of Green Belts, as is their permanence. Green Belts serve five purposes, one of which is to assist in safeguarding the countryside from encroachment. The addition of built development on the existing undeveloped site would have an effect on openness, in that it would be significantly reduced. The proposal would also extend the built development of Fillongley into the countryside which would conflict with the purpose of including land within the Green Belt. These matters would be harmful to the Green Belt and carry significant weight in my overall decision.
15. The proposal would be harmful to the openness of the Green Belt and would conflict with the purpose of including land within it. This brings the scheme into conflict with the environmental asset objective of Policy NW5 of the Core Strategy, and national Green Belt policy. Whilst the existing mature landscaping would contain the site, this would not mitigate the harm identified.

#### *Other considerations*

16. The Framework establishes that substantial weight should be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
17. There is dispute between the main parties as to whether the Council can demonstrate a 5 year supply of deliverable housing sites. The Council have produced evidence that there was a 7.6 years supply of housing land in March 2015. I have not been provided with substantive evidence to cast doubt upon this figure, and accordingly I find that the Council's policies for the supply of housing are up-to-date.

18. Notwithstanding my findings above, the proposal would provide much needed affordable housing in a Borough which has identified the provision of affordable housing as one of its main priorities for the future. I have no reason to doubt the appellant's submission that the scheme can be delivered. I note that there are no technical objections to the scheme. These matters carry considerable weight in favour of the proposal. The proximity of the site to local services and facilities, including the recreation ground weighs in the scheme's favour, and attracts moderate weight in my overall decision.
19. The provision of 6 market houses would make a contribution, albeit small, to the Government's objective of significantly boosting the supply of housing. However, given my findings above in respect of housing land supply, this number of dwellings could be constructed upon sites where there would be no conflict with development plan policies. Accordingly this matter only attracts limited weight in my decision.
20. I acknowledge that Paragraph 54 of the Framework supports local planning authorities considering whether to allow some market housing to facilitate the provision of significant additional affordable housing to meet local needs. However, there are currently no development plan policies to support this approach, nor is such an approach supported as an exception to new buildings in the Green Belt. Whilst noting that the appellant considers that the scheme would not be viable if the 6 units of market housing were not provided, I have not been provided with evidence to demonstrate this. I am therefore only able to attach limited weight to these matters.
21. There would clearly be economic benefits associated with the scheme, including the support future occupiers would give to local businesses and services. However this would be so regardless of where the new houses were built and thus this carries limited weight.
22. I do not doubt that the proposed scheme would be of a high quality design or that renewable energy features would be incorporated, which would make a positive contribution to the environmental and social roles of sustainability. Again, such benefits could be achieved regardless of where the housing was built and as such these matters are only neutral in my decision. I attach similar weight to the retention of mature trees/hedgerows and the proposed landscaping contributing to biodiversity on the site, as it is likely that the undeveloped nature of the site would have a similar effect.

## **Conclusion**

23. I have considered the matters cited in support of the proposal, including Officer support for the scheme. However, I conclude that even when taken together, these matters do not outweigh the totality of the harm to the Green Belt, which is the test they have to meet. Consequently very special circumstances do not exist to justify inappropriate development in the Green Belt. The release of a site within the countryside and the Green Belt for new housing is not justified in this case.
24. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

*R C Kirby*

INSPECTOR

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## Appeal Decision

Site visit made on 28 September 2015

by **Tom Cannon BA DIP TP MRTPI**

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

Decision date: 26 November 2015

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**Appeal Ref: APP/R3705/W/15/3016570**

**Warton Lane, Austrey CV9 3EJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by David, Heather and Owen Ensor against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2014/0302, dated 11 June 2014, was refused by notice dated 10 March 2015.
  - The development proposed is outline planning permission for up to 10 dwellings.
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### Decision

1. The appeal is allowed and outline planning permission is granted for up to 10 dwellings at Warton Lane, Austrey CV9 3EJ in accordance with the terms of the application, PAP/2014/0302, dated 11 June 2014, subject to the conditions set out in the Schedule of Planning Conditions attached hereto and forming part of this decision.

### Procedural Matters

2. The application is in outline with all matters reserved for future determination except access.
3. Owen Ensor was added to the list of applicants during the determination of the original application. I have therefore included his name in the formal decision.

### Application for costs

4. An application for costs was made by David, Heather and Owen Ensor against North Warwickshire Borough Council. This application is the subject of a separate Decision.

### Main Issues

5. The main issues in this appeal are (i) whether or not the proposal accords with development plan policies concerning the provision of new housing; and (ii) the effect of the development on the character and appearance of the area.

### Reasons

#### *Development plan*

6. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* and section 70(2) of the *Town and Country Planning Act 1990* (TCPA) require that

applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan currently comprises of the *North Warwickshire Local Plan Core Strategy 2014 (CS)*.

7. Policy NW2 of the CS sets out a settlement hierarchy for the distribution of development within the Borough. I understand that the position of settlements within the hierarchy, and the level of growth which has been apportioned to them have been influenced by, amongst other things, their size, needs, and range of services and facilities. It would appear that the purpose of this policy is therefore to distribute development in a sustainable way, which achieves a balance between maintaining the vitality of communities and protecting the intrinsic character and beauty of the countryside. This is emphasised in Strategic Objective 1 of the CS, which aims to secure a sustainable pattern of development reflecting the rural character of the Borough.
8. Austrey is defined as a category 4 settlement in Policy NW2, where development will be limited to that identified in the CS, or through a neighbourhood or other locality plan. Policy NW5 of the CS states that a minimum of 40 dwellings should be provided in Austrey on sites of no more than 10 units.
9. On the basis of the evidence put before me in this appeal, it would appear that planning permission has been granted for a total of 65 dwellings, within and on the periphery of Austrey. The proposed development in combination with the current appeal Ref: *APP/R3705/W/15/3019478* could add up to a further 14 dwellings to this total.
10. Although the scheme would exceed the 40 dwelling figure in the CS, this is a minimum requirement for the village of Austrey. It would also involve the development of a small site of no more than 10 units. Moreover, Austrey is a settlement of approximately 1000 people with a number of essential services including, a general store/post office and primary school with pre-school nursery. In addition, the village benefits from a public house, village hall, playing pitches and two churches. I also understand that it is well served by public transport with a regular bus service to Tamworth, Lichfield and other nearby settlements.
11. For these reasons, the appeal development, when combined with existing commitments on other sites in the village, would represent a sustainable form of development which would be commensurate to the size of, and level of service provision in Austrey. The proposal would therefore broadly accord with the objectives of the settlement hierarchy set out in Policy NW2, and the overall aims of Policy NW5, to deliver sustainable patterns of development. As such, it would comply with the adopted development plan in this regard.
12. The emerging *North Warwickshire Pre-submission Site Allocations Plan 2014 (ESAP)* has, as the title suggests is yet to be submitted for examination. Given its stage of preparation I therefore only attach limited weight to the ESAP. Whilst I recognise that the appeal site is not included as a potential housing site in the emerging plan, in view of its current status, this does not weigh against the proposal. Nor does the fact that planning permission has been granted on possible future allocations in the ESAP affect the above conclusions.



13. It has also been put to me that allowing this appeal would be contrary to the *National Planning Policy Framework* (the Framework) principle of accommodating development in a genuinely plan-led way. However, it would appear that the Council has already set a precedent in this respect by granting planning permission on other sites in the village which have not been included as potential allocations in the ESAP.
14. The Pre-submission Draft of the *Austrey Neighbourhood Plan 2015* (EANP) is also at an early stage of preparation, only having gone out for consultation in February 2015. Therefore, given its current status and absence of evidence regarding any unresolved objections to its relevant policies, I only attach moderate weight to the EANP in this case.
15. I am mindful that Policy AP11 of the EANP states that development will be limited to 3 specific sites plus any windfall sites as outlined in Policy AP12. The 3 specified sites are those identified in the ESAP, which the Council has confirmed have planning permission. Policy AP12 allows for windfall development if it meets certain criteria including where: "*it relates to small scale development of no more than 5 dwellings, it adjoins the existing building line, or relates to an "infill" site.*"
16. Whilst the appeal scheme would provide more than 5 dwellings, it would be positioned between existing residential development. Consequently, it could be argued that the scheme represents an "infill" site which adjoins the built form and therefore broadly accords with this criterion of the EANP. As a view would need to be taken in respect of the scale and location of future development proposals, allowing this appeal would not therefore undermine the policies of the EANP.
17. I therefore conclude that the appeal scheme would accord with development plan policies concerning the provision of new housing. In such circumstances, the Framework paragraph 14 presumption in favour of sustainable development means, granting permission for development proposals which accord with the development plan without delay. In this regard, the appeal scheme accords with Policy NW12 of the CS which requires that, amongst other things, all development proposals must demonstrate a high quality of sustainable design that positively improve the individual settlement's character, and the appearance and environmental quality of an area.

#### *Character and appearance*

18. The appeal site lies in the open countryside, on the western edge of Austrey, at the junction of Warton Lane and Newton Lane. It comprises of a large, roughly rectangular field, which is currently split into two separate parcels of grazing land. There is a gradual fall in levels across the site, with the land occupying a slightly elevated position in relation to the highway.
19. I recognise that relatively high density modern housing development, which forms part of the central core of the village, is concentrated on the eastern side of Warton Lane. However, the settlement pattern becomes more fragmented on the western side of the street, where pockets of open land and residential development intertwine.
20. Despite the dispersed nature of the built form in this area, due to the circular nature of Warton Lane and the adjoining street, Bishops Cleeve, which link

back onto Main Road, this area still has the impression of forming part of the village. Consequently, one does not have the sense that the appeal site is on the periphery of the settlement, nor does it demark the transition between the built up character of the village and the adjoining countryside as the Council suggests.

21. The land is situated between existing residential development in Warton Lane in the form of 'Manor House' and 'No 18 Warton Lane'. I recognise that the latter is a substantial detached property, which is set well back from the road and occupies a large landscaped plot. Nonetheless, given its position and the presence of existing domestic outbuildings to the rear of the main house, the proposed development would extend out roughly in line with the built form and residential curtilage of this property.
22. Existing development to the north-east is more tightly spaced, with development stretching back from Warton Lane, beyond the rear boundary of the appeal site. This includes, Manor House, Dovecote Grange and several barn conversions which all appear to be in residential use. Therefore, subject to its detailed layout and design, matters which would be determined at reserved matters stage, the introduction of up to 10 dwellings on the land would be broadly compatible with both the quantum and structure of existing development in the immediate vicinity. As such, the appeal scheme would not represent an overly dense or visually intrusive expansion of the settlement. Nor would it encroach out markedly into the surrounding open countryside.
23. A native hedgerow currently extends along both the Warton Lane and Newton Lane frontages of the site. In combination with the landscaped front gardens of adjacent plots, the hedgerow makes an important contribution to the verdant character of this part of the village. I am mindful that a section of the hedgerow would be removed to provide a new vehicular access onto Warton Lane, and for the provision of a new footway specifically requested by the Parish Council to provide a link between the settlement and the public open space to the west of Austrey. Nevertheless, the prominent section of hedgerow at the road junction would be retained. Moreover, a replacement hedgerow would also be planted behind the required visibility splays on Warton Lane and new footway. Therefore, the appeal development would largely retain the soft, landscaped character of this part of the village.
24. I recognise that other than adjacent to the junction with Warton Lane, Newton Lane does not currently have a formal public footway. Nevertheless, only a relatively short section of this footpath would immediately adjoin the road. It would also be positioned directly opposite built development on Newton Lane, before it is re-routed behind the existing hedgerow. Consequently, the proposed footway would not unduly impact on the semi-rural character of Newton Lane.
25. Concerns have also been raised regarding potential future occupiers seeking to reinforce the boundary with Newton Lane through the erection of new fencing. However, details of appropriate boundary treatments would form part of any reserved matters application. Nor would the slightly elevated position of the site increase the developments visual impact or prominence, as it would merely represent a continuation of the existing built form on this side of Warton Lane, which is raised above the highway.

26. For the above reasons, the density, scale and appearance of the proposed development would preserve the character and appearance of the area, and the setting of the edge of the village. It would therefore demonstrate a high quality sustainable design, and broadly accord with the requirements of Policy NW12 of the CS. The scheme would also align with the core planning principles of the Framework, to always seek to secure high quality design, take account of the different roles and characters of different areas, and recognise the intrinsic character and beauty of the countryside.

## **Other Matters**

### Planning Obligation

27. Policy NW6 of the CS states that schemes of between 1 and 14 units will be required to provide 20% affordable housing. This should be delivered either on site or through a financial contribution. A completed and signed *Unilateral Undertaking* (UU) has been provided securing on-site affordable housing in accordance with the above requirement.
28. On the 28 November 2014, the *Written Ministerial Statement* (WMS) was published which set out national policy on S106, including setting a threshold beneath which affordable housing contributions should not be sought. The appeal scheme falls under this ceiling. However, following the High Court's judgement in *R (on the application of West Berkshire District Council and Reading Borough Council) v SSCLG* [2015] EWHC 2222 (Admin) on 31 July 2015, the policies in the WMS must not be treated as a material consideration in development management. The main parties have in the appeal have both commented on this matter. Consequently, *Section 38(6)* of the TCPA applies, requiring that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
29. The supporting text to Policy NW6 of the CS identifies a significant demand for affordable housing, partially due to a clear disparity between income and house prices/market rentals across the Borough. The aim of this policy, through the delivery of affordable housing on all new residential developments is to therefore address this shortfall in demand. Thus, the proposed contribution would satisfy the 3 tests in *Regulation 122 of the Community Infrastructure Regulations* (CIL), as it would be necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development.
30. In September 2015 the *Department for Communities and Local Government* (DCLG) was granted permission to appeal the 31 July 2015 judgement. I understand that the hearing into the appeal by DCLG has been listed for 15 March 2016. Therefore, at the time of writing, the judgement and declaration order stands. As such, I must make my decision based on the Court's Order and evidence before me, which is that there is a development plan policy requirement for the provision of on-site affordable housing. I therefore conclude that the proposed obligation is necessary to make the development acceptable in planning terms.
31. Although reference has been made in the officer report to other proposed developer contributions, it has been confirmed by the Council that these other

obligations are no longer sought. I have therefore determined the appeal on this basis.

Other issues

32. The appeal site is located in flood zone 1, an area with a minimal risk of flooding from river or sea. However, given the known flooding issues in the northern part of Austrey a drainage strategy and Flood Risk Assessment (FRA) has been submitted. This demonstrates that, subject to the imposition of appropriate conditions and provision of an effective surface water drainage system, the appeal development would not increase the risk of flooding in the area.
33. The phase 1 Ecological Survey identifies that the site is of 'low to moderate' ecological value. Therefore, based on the evidence put before me, the removal of a section of hedgerow along the Newton Lane frontage is unlikely to have a significant impact on biodiversity. Moreover, its replacement with a more species rich hedgerow could potentially offer ecological enhancement in the longer term. As such, the appeal development would not materially affect biodiversity on or near the site.
34. Concerns have been raised by local residents regarding, amongst other things, the safety of the proposed access and the increase in traffic generated by the scheme. However, given that appropriate visibility splays can be provided, and the development would only represent a modest increase in the number of vehicle movements, subject to the imposition of conditions, I see no reason why such matters should cause significant harm.
35. I have also considered the resident's argument that the grant of planning permission would set a precedent for other similar developments. Nevertheless, no directly comparable sites to which this might apply were put forward. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
36. I understand that the Council can demonstrate a five year supply of deliverable housing land. Nevertheless, the Framework is clear that local planning authorities are required to boost significantly the supply of housing regardless of their housing land supply position. The appeal scheme would make a modest contribution to the supply of housing in the Borough and would therefore accord with the Framework's policies in this respect.

**Conditions**

37. I have considered the conditions suggested by the Council and the appellant in light of advice in paragraphs 203 and 206 of the Framework and the Planning Practice Guidance (PPG).
38. In addition to the standard commencement condition that also requires the written approval of reserved matters to be obtained, it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord in respect of the proposed access arrangements. To preserve the character and appearance of the area, it is necessary to restrict the number and height of the proposed units and require details of the proposed finished floor levels to be submitted. For similar reasons, the specification and maintenance of a replacement hedgerow along Warton Lane and Newton Lane is also needed.

39. In respect of highway safety, it is necessary for the required visibility splays to be conditioned, together with details of the width and surfacing of the new access prior to occupation. In the interests of pedestrian safety, the new footpath link, including its width and surfacing shall be provided. Also for reasons of highway safety, the existing access shall be closed prior to occupation, and a construction management plan submitted for approval, specifying an area for the parking and loading/unloading of construction vehicles, and measures to ensure that mud and debris is not deposited on the highway. To protect the living conditions of nearby residents, it is also necessary to condition hours of construction/demolition work.
40. To ensure that the site is adequately drained, and to restrict any potential for flooding of adjacent land, conditions requiring the development to be carried out in accordance with the submitted Flood Risk Assessment, and details of the specification and maintenance of the proposed drainage system, including the submission of overland flood flow routing in the event of a system failure are necessary. For similar reasons details of permeable paving are also required.
41. The Council has requested that details of an on-site turning area are secured by condition. However, layout is not a matter for determination in this appeal. I have not therefore imposed this condition.

#### **Overall Conclusion**

42. For the reasons set out above, and having regard to all other matters raised I conclude that the appeal should succeed.

*T Cannon*

INSPECTOR

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### **Schedule of Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, hereinafter called "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The site access arrangements and new footpath link shall be carried out in accordance with the following approved plan: 14/39 03J.
- 5) The development hereby approved shall comprise of no more than 10 residential units, none of which shall be more than two storeys in height.
- 6) No development shall take place until precise details of the finished floor levels of the development in relation to a nearby datum point have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.
- 7) No development shall commence until details of the specification and maintenance over a period of 5 years of the approved replacement hedgerow have been submitted to and approved in writing by the local planning authority. The replacement hedgerow works shall be carried out in accordance with the approved details within the first planting season following the removal of the existing hedgerow in accordance with the agreed maintenance and implementation programme. The completed scheme shall be maintained in accordance with the approved scheme of maintenance.
- 8) No dwelling shall be occupied until visibility splays have been provided for the new access from Warton Lane with an 'x' distance of 2.4 metres and a 'y' distance of 43 metres, as measured from the near edge of the public highway. The visibility splays contained therein shall remain free of any structure, enclosure or obstruction to visibility over a height of 0.6 metres from ground floor level.
- 9) No dwelling shall be occupied until the new access from Warton Lane has been constructed with a width of no less than 5 metres and surfaced in a bound material for a minimum distance of 7.5 metres, as measured from the near edge of the public highway.
- 10) There shall be no means of vehicular access to the site other than in the position identified on the approved plan: 14/39 03J which shall be retained thereafter.
- 11) No development shall take place until details of the width and surfacing materials to be used in the construction of the footway on Newton Lane have been submitted to and approved in writing by the local planning authority. The footway shall be provided in accordance with the approved details prior to the first occupation of the development.

- 12) Prior to the first occupation of the development, the existing vehicular access serving the site off Warton Lane shall have been closed and the kerb and footway/verge have been reinstated in accordance with the standard specification of the Highway Authority. Development shall be carried out in accordance with the approved details.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - Parking, turning and loading/unloading of construction/demolition vehicles;
  - demolition and construction working hours; and
  - wheel washing facilities.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 14) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment (FRA) by Opus ref: JB-0715.00 R14 dated 19 February 2015. The rate of surface water run-off generated by the site shall be limited to discharge at no more than the existing greenfield rate as agreed with Seven Trent Water and detailed in the FRA. The attenuation of surface water on site shall be to the 1 in 100 year flood event standard plus an allowance of 30% for climate change, using SuDS as proposed in the FRA.
- 15) No development shall take place until a fully labelled network drawing, with corresponding detailed network calculations, showing all dimensions of all elements of the proposed drainage system including control devices and structures have been submitted to and approved in writing by the local planning authority. The drainage system shall be carried out in accordance with the approved details.
- 16) No development shall take place until modelled results for critical storms, including as a minimum 1 year, 30 year, and 100 year + 30% cc events of various durations using a submerged outfall for modelling, have been submitted to and approved in writing by the local planning authority.
- 17) In the event that the drainage network is to be adopted, evidence of an agreement with the adopting body shall be submitted to the local planning authority prior to the occupation of the first dwelling.
- 18) No development shall take place until evidence of how overland flood flow routing can be achieved in the event of system failure has been submitted to and approved in writing by the local planning authority. This should include details of hydraulic modelled flow routes with depths/velocities of the flow.
- 19) No development shall take place until detailed design drawings and calculations for the disposal of foul and surface water sewage have been submitted to and approved in writing by the local planning authority. No sewage discharge shall be in operation until the approved works have been completed.

- 20) No development shall take place until a Maintenance Plan detailing how the approved surface water system will be maintained shall be submitted to and approved in writing by the local planning authority. The completed scheme shall be maintained in accordance with the approved scheme of maintenance.
- 21) No development shall take place until detailed drawings showing plans and sections of the proposed permeable paving have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.



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## Appeal Decision

Site visit made on 28 September 2015

by **Tom Cannon BA DIP TP MRTPI**

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

Decision date: 26 November 2015

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**Appeal Ref: APP/R3705/W/15/3019478**  
**Warton Lane, Austrey CV9 3EJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Owen Ensor against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2014/0301, dated 9 June 2014, was refused by notice dated 10 March 2015.
  - The development proposed is outline planning permission for up to 4 dwellings with details of means of access from Warton Road.
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### Decision

1. The appeal is allowed and outline planning permission is granted for up to 4 dwellings with details of means of access from Warton Road at Warton Lane, Austrey CV9 3EJ in accordance with the terms of the application, PAP/2014/0301, dated 9 June 2014, subject to the conditions set out in the Schedule of Planning Conditions attached hereto and forming part of this decision.

### Procedural Matter

2. The application is in outline with all matters reserved for future determination except access.

### Application for costs

3. An application for costs was made by Mr Owen Ensor against North Warwickshire Borough Council. This application is the subject of a separate Decision.

### Main Issues

4. The main issues in this appeal are (i) whether or not the proposal accords with development plan policies concerning the provision of new housing; and (ii) the effect of the development on the character and appearance of the area.

### Reasons

#### *Development plan*

5. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* and section 70(2) of the *Town and Country Planning Act 1990* (TCPA) require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The

development plan currently comprises of the *North Warwickshire Local Plan Core Strategy 2014* (CS).

6. Policy NW2 of the CS sets out a settlement hierarchy for the distribution of development within the Borough. I understand that the position of settlements within the hierarchy, and the level of growth which has been apportioned to them have been influenced by, amongst other things, their size, needs, and range of services and facilities. It would appear that the purpose of this policy is therefore to distribute development in a sustainable way, which achieves a balance between maintaining the vitality of communities and protecting the intrinsic character and beauty of the countryside. This is emphasised in Strategic Objective 1 of the CS, which aims to secure a sustainable pattern of development reflecting the rural character of the Borough.
7. Austrey is defined as a category 4 settlement in Policy NW2, where development will be limited to that identified in the CS, or through a neighbourhood or other locality plan. Policy NW5 of the CS states that a minimum of 40 dwellings should be provided in Austrey on sites of no more than 10 units.
8. On the basis of the evidence put before me in this appeal, it would appear that planning permission has been granted for a total of 65 dwellings, within and on the periphery of Austrey. The proposed development in combination with the current appeal Ref: *APP/R3705/W/15/3016570* could add up to a further 14 dwellings to this total.
9. Although the scheme would exceed the 40 dwelling figure in the CS, this is a minimum requirement for the village of Austrey. It would also involve the development of a small site of no more than 10 units. Moreover, Austrey is a settlement of approximately 1000 people with a number of essential services including, a general store/post office and primary school with pre-school nursery. In addition, the village benefits from a public house, village hall, playing pitches and two churches. I also understand that it is well served by public transport with a regular bus service to Tamworth, Lichfield and other nearby settlements.
10. For these reasons, the appeal development, when combined with existing commitments on other sites in the village, would represent a sustainable form of development which would be commensurate to the size of, and level of service provision in Austrey. The proposal would therefore broadly accord with the objectives of the settlement hierarchy set out in Policy NW2, and the overall aims of Policy NW5, to deliver sustainable patterns of development. As such, it would comply with the adopted development plan in this regard.
11. The emerging *North Warwickshire Pre-submission Site Allocations Plan 2014* (ESAP) has, as the title suggests is yet to be submitted for examination. Given its stage of preparation I therefore only attach limited weight to the ESAP. Whilst I recognise that the appeal site is not included as a potential housing site in the emerging plan, in view of its current status, this does not weigh against the proposal. Nor does the fact that planning permission has been granted on possible future allocations in the ESAP affect the above conclusions.
12. It has also been put to me that allowing this appeal would be contrary to the *National Planning Policy Framework* (the Framework) principle of accommodating development in a genuinely plan-led way. However, it would

appear that the Council has already set a precedent in this respect by granting planning permission on other sites in the village which have not been included as potential allocations in the ESAP.

13. The Pre-submission Draft of the *Austrey Neighbourhood Plan 2015* (EANP) is also at an early stage of preparation, only having gone out for consultation in February 2015. Therefore, given its current status and absence of evidence regarding any unresolved objections to its relevant policies, I only attach moderate weight to the EANP in this case.
14. I am mindful that Policy AP11 of the EANP states that development will be limited to 3 specific sites plus any windfall sites as outlined in Policy AP12. The 3 specified sites are those identified in the ESAP, which the Council has confirmed have planning permission. Policy AP12 allows for windfall development if it meets certain criteria including where: *"it relates to small scale development of no more than 5 dwellings, it adjoins the existing building line, or relates to an "infill" site."*
15. The appeal scheme would deliver up to 4 dwellings and be positioned between existing built development. It could therefore be argued that the scheme represents an "infill" site which adjoins the built form and thus accords with this criterion of the EANP. Consequently, allowing this appeal would not undermine the policies of the EANP.
16. I therefore conclude that the appeal scheme would accord with development plan policies concerning the provision of new housing. In such circumstances, the Framework paragraph 14 presumption in favour of sustainable development means, granting permission for development proposals which accord with the development plan without delay. In this regard, the appeal scheme accords with Policy NW12 of the CS which requires that, amongst other things, all development proposals must demonstrate a high quality of sustainable design that positively improve the individual settlement's character, and the appearance and environmental quality of an area.

#### *Character and appearance*

17. The appeal site lies in the open countryside, on the western edge of Austrey. It comprises of part of a larger field, which is situated between an existing farm complex at New House Farm and an electricity sub-station and water pumping station.
18. I recognise that relatively high density modern housing development, which forms part of the central core of the village, is concentrated on the eastern side of Warton Lane. The settlement pattern also becomes more fragmented on the western side of the street, where pockets of open land, agricultural buildings, utility structures and residential development intertwine.
19. However, despite the dispersed nature of the built form in this area, due to the circular nature of Warton Lane and the adjoining street, Bishops Cleeve, which link back onto Main Road, this area still has the impression of forming part of the village. Consequently, one does not have the sense that the appeal site is on the periphery of the settlement, nor does it demark the transition between the built up character of the village and the adjoining countryside as the Council suggests.

20. Although the existing utility buildings immediately to the north of the site are relatively modest, they are served via an existing access driveway and area of hardsurfacing which adds to the quantum of development on the adjoining land. Together with No 18 Warton Lane further to the north, these structures consolidate the built form on the western side of the lane.
21. Directly to the south of the appeal site are a varied range of agricultural buildings. Despite their agrarian character, they are sizeable structures and are viewed in conjunction with the substantial farmhouse and neighbouring cottage further to the south. As such, the development of the appeal site for housing, which consists of a small gap between existing built development, would not therefore represent a visually intrusive expansion of the settlement. Nor given the modest depth of the land would it result in an unsympathetic incursion into the open countryside.
22. The scheme seeks to provide up to 4 dwellings on the land, with the illustrative plans indicating that the development would consist of two detached, and a pair of semi-detached properties. Although the proposed level of built development would clearly exceed that of the sub stations to the north, given its proximity to the existing farmhouse and extensive range of agricultural buildings which extend out into the open countryside to the south and west, the proposed development is unlikely to appear overly dense or visually intrusive within the surrounding environs. Moreover, the indicative layout suggests that a significant proportion of the site would be utilised as private gardens and incidental green space, thereby increasing the sense of openness within the development. I therefore conclude that, on the basis of the evidence before me, the quantum of development proposed in this appeal can be accommodated without causing undue harm the established structure and character of the area.
23. Native hedgerow and tree planting currently extends across part of the site frontage. In combination with adjacent landscaping, it helps contribute to the verdant character of this part of the village. I am mindful that the existing access arrangements would be altered to provide for the proposed vehicular access. However, it would appear that only a small amount of the existing vegetation would need to be removed to allow for the requisite vehicle crossing and visibility splays. Thus, the soft, landscaped character of Warton Lane would be largely retained as a consequence of the proposed development.
24. For the above reasons, the density, built form and appearance of the proposed development would preserve the character and appearance of the area, and the setting of the edge of the village. It would therefore demonstrate a high quality sustainable design, and broadly accord with the requirements of Policy NW12 of the CS. The scheme would also align with the core planning principles of the Framework, to always seek to secure high quality design, take account of the different roles and characters of different areas, and recognise the intrinsic character and beauty of the countryside.

## **Other Matters**

### Planning Obligation

25. Policy NW6 of the CS states that schemes of between 1 and 14 units will be required to provide 20% affordable housing. This should be delivered either on site or through a financial contribution. A completed and signed *Unilateral*

*Undertaking* (UU) has been provided requiring 1 of the new dwellings to be affordable. Whilst this technically exceeds the policy requirement, it is broadly consistent with the overall aims of Policy NW6.

26. On the 28 November 2014, the *Written Ministerial Statement* (WMS) was published which set out national policy on S106, including setting a threshold beneath which affordable housing contributions should not be sought. The appeal scheme falls under this level. However, following the High Court's judgement in *R (on the application of West Berkshire District Council and Reading Borough Council) v SSCLG* [2015] EWHC 2222 (Admin) on 31 July 2015, the policies in the WMS must not be treated as a material consideration in development management. The main parties in the appeal have both commented on this matter. Consequently, *Section 38(6)* of the TCPA applies, requiring that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
27. The supporting text to Policy NW6 of the CS identifies a significant demand for affordable housing, partially due to a clear disparity between income and house prices/market rentals across the Borough. The aim of this policy, through the delivery of affordable housing on all new residential developments is to therefore address this shortfall in demand. Thus, the proposed contribution would satisfy the 3 tests in *Regulation 122 of the Community Infrastructure Regulations* (CIL), as it would be necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development.
28. In September 2015 the *Department for Communities and Local Government* (DCLG) was granted permission to appeal the 31 July 2015 judgement. I understand that the hearing into the appeal by DCLG has been listed for 15 March 2016. Therefore, at the time of writing, the judgement and declaration order stands. As such, I must make my decision based on the Court's Order and evidence before me, which is that there is a development plan policy requirement for the provision of on-site affordable housing. I therefore conclude that the proposed obligation is necessary to make the development acceptable in planning terms.
29. Although reference has been made in the officer report to other proposed developer contributions, it has been confirmed by the Council that these other obligations are no longer sought. I have therefore determined the appeal on this basis.

#### Other issues

30. The appeal site is located in flood zone 1, an area with a minimal risk of flooding from river or sea. However, given the known flooding issues in the northern part of Austrey a drainage strategy and Flood Risk Assessment (FRA) has been submitted. This demonstrates that, subject to the imposition of appropriate conditions and provision of an effective surface water drainage system, the appeal development would not increase the risk of flooding in the area.
31. Concerns have been raised by local residents regarding, amongst other things, the safety of the proposed access and the increase in traffic generated by the scheme. However, given that appropriate visibility splays can be provided, and

the development would only represent a modest increase in the number of vehicle movements, subject to the imposition of conditions, I see no reason why such matters should cause significant harm.

32. I have also considered the resident's argument that the grant of planning permission would set a precedent for other similar developments. Nevertheless, no directly comparable sites to which this might apply were put forward. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
33. I understand that the Council can demonstrate a five year supply of deliverable housing land. Nevertheless, the Framework is clear that local planning authorities are required to boost significantly the supply of housing regardless of their housing land supply position. The appeal scheme would make a modest contribution to the supply of housing in the Borough and would therefore accord with the Framework's policies in this respect.

### **Conditions**

34. I have considered the conditions suggested by the Council and the appellant in light of advice in paragraphs 203 and 206 of the Framework and the Planning Practice Guidance (PPG).
35. In addition to the standard commencement condition that also requires the written approval of reserved matters to be obtained, it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord in respect of the proposed access arrangements. To preserve the character and appearance of the area, it is necessary to restrict the number and height of the proposed units together with details of protection measures for existing trees and hedgerows.
36. In respect of highway safety, it is necessary for the required visibility splays to be conditioned, together with details of the width and surfacing of the site access prior to occupation. Also for reasons of highway safety, a construction management plan shall be submitted for approval, including an area for the parking and loading/unloading of construction vehicles and measures to ensure that mud and debris is not deposited on the highway. To protect the living conditions of nearby residents, it is also necessary to condition hours of construction/demolition work.
37. To ensure that the site is adequately drained, and to restrict any potential for flooding of adjacent land, conditions requiring the development to be carried out in accordance with the submitted Flood Risk Assessment, and details of the specification and maintenance of the proposed drainage system, including the submission of overland flood flow routing in the event of a system failure are necessary. For similar reasons details of permeable paving are also required.
38. The Council has requested that an on-site turning area is secured by condition. However, layout is not a matter for determination in this appeal. It has also been suggested that an undefined buffer zone is provided with the adjacent pumping station. Given the lack of clarity regarding this requirement, and the fact that, there is nothing to suggest in the evidence before me that a buffer zone could not potentially be accommodated within the future layout of the development, I have not therefore imposed this condition.

**Overall Conclusion**

39. For the reasons set out above, and having regard to all other matters raised I conclude that the appeal should succeed.

*T Cannon*

INSPECTOR

### Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, hereinafter called "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The site access arrangements shall be carried out in accordance with the following approved plans: 14/39 05 and 14/39 04F.
- 5) The development hereby approved shall comprise of no more than 4 residential units, none of which shall be more than two storeys in height.
- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 7) No dwelling shall be occupied until the existing access from Warton Lane has been widened/remodelled so as to provide access with a width of no less than 5 metres and surfaced in a bound material for a minimum distance of 7.5 metres, as measured from the near edge of the public highway.
- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - Parking, turning and loading/unloading of construction/demolition vehicles;
  - demolition and construction working hours; and
  - wheel washing facilities.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 9) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment (FRA) by Opus ref: JB-0715.00 R14 dated 19 February 2015. The rate of surface water run-off generated by the site shall be limited to discharge at no more than the existing greenfield rate as agreed with Seven Trent Water and detailed in the FRA. The attenuation of surface water on site shall be to the 1 in 100 year flood event standard plus an allowance of 30% for climate change, using SuDS as proposed in the FRA.



- 10) No development shall take place until a fully labelled network drawing, with corresponding detailed network calculations, showing all dimensions of all elements of the proposed drainage system including control devices and structures have been submitted to and approved in writing by the local planning authority. The drainage system shall be carried out in accordance with the approved details.
- 11) No development shall take place until modelled results for critical storms, including as a minimum 1 year, 30 year, and 100 year + 30% cc events of various durations using a submerged outfall for modelling, have been submitted to and approved in writing by the local planning authority.
- 12) In the event that the drainage network is to be adopted, evidence of an agreement with the adopting body shall be submitted to the local planning authority prior to the occupation of the first dwelling.
- 13) No development shall take place until evidence of how overland flood flow routing can be achieved in the event of system failure has been submitted to and approved in writing by the local planning authority. This should include details of hydraulic modelled flow routes with depths/velocities of the flow.
- 14) No development shall take place until detailed design drawings and calculations for the disposal of foul and surface water sewage have been submitted to and approved in writing by the local planning authority. No sewage discharge shall be in operation until the approved works have been completed.
- 15) No development shall take place until a Maintenance Plan detailing how the approved surface water system will be maintained shall be submitted to and approved in writing by the local planning authority. The completed scheme shall be maintained in accordance with the approved scheme of maintenance.
- 16) No development shall take place until detailed drawings showing plans and sections of the proposed permeable paving have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.



**Agenda Item No 6**

**Planning and Development Board**

**11 January 2016**

**Report of the  
Head of Planning Control**

**Heart of England Liaison Group**

**1 Summary**

1.1 The report updates the Board on the establishment of this Group.

<p><b>Recommendation to the Board</b></p> <p><b>That the Board select a Member to represent the Borough Council on this Group.</b></p>
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**2 Background**

2.1 Members will recall that in resolving to grant a planning permission for a hotel at the Heart of England premises in Fillongley off the Meriden Road, a local Liaison Group was to be established. This would enable a dialogue to occur between the representatives of the Company and the local community on matters of common interest.

**3 Observations**

3.1 An initial meeting has taken place between the various parties and Terms of Reference have been agreed. The first full meeting is likely to take place later this month.

3.2 The representatives on the group have been agreed too and there is one place reserved for an elected Member of the Borough Council. This report requests that the Board now selects a Member, perhaps together with a substitute.

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

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

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

## **Agenda Item No 7**

### **Planning and Development Board**

**11 January 2016**

#### **Report of the Head of Development Control**

#### **Proposed Changes to National Planning Policy**

## **1 Summary**

The Government has published proposed changes to the National Planning Policy Framework 2012 – (the “NPPF”) - following its recent planning and housing announcements. This report recommends a number of responses.

### **Recommendation to Board**

**That the Council responds to the proposed NPPF changes as set out in this report together with any representations that the Board might wish to add.**

## **2 Background**

2.1 The Government published the NPPF in 2012. Its announcements on planning and housing issues set out in the recent Housing and Planning Bill in order to further promote new housing and particularly new starter homes, have necessitated a review of the NPPF. The proposed changes are the subject of a recent consultation paper.

## **3 The Proposals**

3.1 There are four main areas of proposed change:

- Broadening the definition of affordable housing,
- Increasing housing density around commuter hubs,
- To further increase housing numbers through supporting new settlements; requiring development on brownfield land, ensuring houses are delivered, and
- Supporting the delivery of starter homes.

Each of these is now taken in turn and observations given.

### **a) Affordable Housing**

3.2 The NPPF definition of “affordable” housing revolves around needs that are not met by the market. The Government proposes to widen this so that it includes access to home ownership too through recognising the “aspirations”

of people. The proposals are therefore to broaden the definition. As such the Government is focussing on a statutory duty for “starter” homes being sought on larger housing sites. The recent Bill defines starter homes as new dwellings for first time buyers under 40; sold at a discount of at least 20% of market value and less than a price cap of £250k outside London. The Government has published a draft Equalities Assessment alongside these proposals. The Government is seeking comments on the broadened definition and whether there are likely to be impacts on people with protected characteristics under the Equality Act 2010.

### Observations

- 3.3 Planning and Housing Officers agree that there is a wide range of needs within the community that should be addressed. On larger sites we have secured rented, shared ownership and low cost market housing. The concern with this proposal is that developers may prefer to only provide this one type of accommodation instead of a range of housing. When considering the proportions, Government needs to consider that it is equally important to provide for a range of house types on most sites. There is a fear that these other tenures will be “squeezed out”.
- 3.4 Moreover the cost of £250,000 is very high as a cap to the cost of housing. The average costs of houses within and close to the Borough are as follows:

	All Homes	Detached	Semi	Terraced	Flats
Atherstone	216,084	324,119	173,439	142,140	118,757
Coleshill	306,061	428,000	258,950	244,209	305,445
Tamworth	192,738	282,034	166,078	139,754	124,770
Nuneaton	182,783	282,778	161,785	120,405	110,489

*Information from Zoopla website*

- 3.5 As it can be seen the average price of a house in the general market is below and in some instances well below £250,000. It is therefore unclear what is meant by “starter home” as the existing stock already caters for many types of starter homes, if it is considered that it is the size of the property that defines “starter home”. Indeed assisting people to get on to the housing market through the existing housing stock would encourage greater movement in the housing ladder. This may lead to better provision of the family homes that is being aspired to in the consultation document. An alternative could be that the average cost of housing is determined locally.

### b) Commuter Hubs

- 3.6 The NPPF enables Local Planning Authorities to set appropriate densities to suit their own circumstances – usually through Local Plan / Core Strategy policies. The Government considers that there are significant benefits in encouraging development around new and existing commuter hubs - reducing travel distances etc. It sees increased densities as being appropriate here too. It is thus proposing that higher density development here should be required in plan-making and when taking planning decisions. A hub is defined

as a “public transport interchange” and “a place that has, or could have, a frequent service to that stop”. A frequent service is seen as being every 15 minutes during normal commuting hours. It is suggesting that densities to 40 dwellings to the hectare would be appropriate.

### **Observations**

- 3.7 Increasing density around hubs both new and existing is generally supported. However sustainable developments are not solely down to the provision of transport because a wide range of services and facilities is considered to be necessary to ensure that the area is truly sustainable. The proposal might just result in large housing estates around these hubs.
- 3.8 Prescribing a minimum density should be the way forward. For our town centres we have used 50 dwellings per hectare (dph) and 30 dph elsewhere (Unless specific site issues mean that this needs to be set aside). 40 dph would be on the low side if there is to be a real commitment to ensuring that the most is achieved out of the land available. A high density closer to the hub will also ensure that the transport services are viable.
- 3.9 The way density is calculated also needs to be common across the board. Currently we use a gross to net ratio on outlines / allocations in the following way:
- 100% - less than 0.2 hectares
  - 90% - sites between 0.2 and 1 hectare
  - 75% - sites over 1 hectare
- We have worked very closely with adjoining boroughs, districts and city. The way density is calculated is different in virtually every local authority. This makes it hard to compare like with like.
- 3.10 The HS2 Interchange station and the proposals around UK Central are for a garden city style development. This is generally envisaged to be low density and will not make the most of the site to maximise the amount of housing. By ensuring that development is of a specific minimum density, so maximising the use of the land, especially as the site lies within the Green Belt would be fully supported. However there are likely to be indirect impacts, especially if unsuitable approach roads become heavily congested by “commuters” from outside of the “hub”.
- 3.11 It is unclear whether it is envisaged that a distance from the hub would also be used.
- 3.12 Within the definition it states “or could have in the future”. What timescales would be used to determine this? To truly make the hubs sustainable this needs to be provided at the outset. We have a station, Polesworth Station, which only has a parliamentary train once a day to keep the station open. Is it envisaged that this could be one of these hubs as potentially it could have a service in the future?

### **c) New Settlements, Brownfield Land and Delivery**

- 3.13 The NPPF recognises that large scale developments may be provided through new towns or urban extensions. It wishes to strengthen this support when identified in locally led plans. It is also suggesting that Green Belt could be designated around them.
- 3.14 The NPPF prioritises brownfield land for new housing. The recent Bill sets out the Government's intention to require Local Planning Authorities to publish and maintain registers of brown field land suitable for housing developments. These would be seen as a vehicle for the grant of planning permission for new houses in principle – in essence a presumption in favour or almost an allocation. The Government is seeking 90% of these with a housing planning permission by 2020.
- 3.15 The Government is also keen to support smaller house builders and to encourage smaller sites both in urban and rural areas (where they might be more appropriate) - that is to say sites of up to ten houses. This would be achieved through more identified sites within settlements as well as suitable sites on the edge of settlements.
- 3.16 The Government has made it very clear again that whilst there has been an increase in planning permissions granted for new housing and increased building out of these permissions, there is still a big shortfall in the number of houses needed and the additions now being made. The Government therefore is proposing a "housing delivery test". If there is a significant under-delivery the Government would expect other sites to be brought forward even if they are not identified in an adopted plan. In some cases, the Local Planning Authority would be required to review its Local Plan.

### **Observations**

- 3.17 We already work with developers to consider new settlements. It is therefore unclear why the National Government feels it needs to intervene. With the rise in housing numbers, the consideration of new settlements either at village or town level is increasingly being considered.
- 3.18 It is also unclear why there is a need to establish Green Belt around these new settlements. A settlement needs to grow over a number of years / decades for it to take shape. They are not quick fixes to the housing crisis and need to be planned for today even if they do not start on site for many years. This makes it almost impossible to determine a Green Belt boundary today that will stand the test of time. It would be better to have a clear plan to incorporate open public spaces within the developments that mean that development can organically grow rather than being confined by an artificial boundary.
- 3.19 If Green Belt designations are going to be allowed around these new settlements which lie away from conurbations where Green Belts have traditionally been designated then the whole thinking behind Green Belts

needs to be re-thought. What about other towns and villages that have grown and do not want to merge with the adjoining built up area, could they designate Green Belt?

- 3.20 The planning system already has the presumption in favour of development in sustainable locations. It is the latter point that is important here. Not all brownfield land is in the right place to ensure that development that makes places is sustainable and creates long lasting communities. Planners fully support the development of brownfield sites over green-field but it is the viability of these sites that is the barrier to their development. What would be better, is if there was a way to combine brownfield and green-field so that a development of a sustainable greenfield site is allowed if an unsustainable brownfield site is also reclaimed.
- 3.21 The main concern over the approach being advocated is that it may be at the expense of small businesses which need the small low rent alternatives to be able to survive.
- 3.22 The number of units can not solely be the determinant. It needs to be based on size of site. A proposal could come in for 10 extremely large detached houses so would fall within this definition. The site could provide double the number of homes if not more.
- 3.23 It is unclear if the small sites being referred to here are exclusively brownfield or not. Clarification is required.
- 3.24 Support is given to the idea of allowing brownfield sites to come forward that are adjacent to existing settlement boundaries.
- 3.25 Our current update of the SHLAA will not consider sites of less than 5 houses so it is difficult to see how an allowance can be provided for initially within the five year housing supply. The only way would be to look at the past trends to try and give some indication of future provision. As this has not been something that has been specifically monitored, it is difficult to see how a calculation could be made that is meaningful.
- 3.26 It is difficult to understand why the NPPF needs to go into the development of small sites and the criteria that should be used to assess such sites. Planning should be positive and pro-development. That is the essence behind the NPPF. Local circumstance's and issues determine whether a site is suitable for development or not.
- 3.27 Looking solely at statistics it is difficult to come to a conclusion that because there have been so many refusals, this is the reason why the NPPF needs to step in. It would be interesting to see how many of those applications then get resubmitted and approved. This leads to a conclusion that it is the use of better architects and designers that are required to ensure that good design is incorporated into these small schemes so that approval can be given first time round.



- 3.28 The planning system can only allocate sites that owners and developers say are available and deliverable, as assessed through the SHLAA and local plan process. The proposals suggest however that we should allocate even more land by some other owner / developer who says their site is more deliverable. Flexibility within a Plan is already part of the process and Inspectors are very clear that this needs to be provided. If circumstances change on a site and it does not come forward then a review of the plan is required. Making the review a quicker process would be a much better way forward.
- 3.29 On the one hand the consultation is encouraging new settlements to be brought forward. However these large sites can take some years to come to fruition. By making this suggestion, large scale sites or new settlements will not be encouraged as the relevant local authority will see that it is providing “x number of houses” on the large site or in the new settlement but of course this is not coming forward quickly enough because most builders want to maximise profits and drip feed the market so therefore an additional amount of housing is required to be provided.
- 3.30 Expected delivery should not be based on the housing trajectory. This is provided at the time of the Local Plan examination and is correct at that time but it changes as the Plan progresses and circumstances change on the sites included within it.
- 3.31 Surely the five year housing supply is the best determinant of under-supply. The LPA is already looking at this and developers use this to submit applications that they feel are sustainable if there isn’t a five year housing supply.
- 3.32 It appears that what is really being suggested is that all Plans should plan for a greater number than the housing requirement to ensure that under delivery can be catered for. But we are already expected to do this through the flexibility factor – Stratford-on-Avon DC Examination. Maybe what is required in the NPPF is that it needs to be made more explicit that a buffer of additional sites above the housing requirement is required to ensure this flexibility.

#### **d) Starter Homes**

- 3.33 In order to strengthen its commitment to the delivery of starter homes, the Government is proposing the following:
- Unviable or underused commercial and employment land should be released for starter homes unless there are “significant and compelling evidence to suggest that it should be retained for employment use”. In the case of unused commercial land, there would be a three year limit on safeguarding that land.
  - Exception sites for starter homes would now include underused brownfield land. Only defined areas of refusal could be used.
  - Unlet commercial units in town centres should be converted to starter units.

- Rural exception sites for starter homes as well as for other tenures more associated with affordable housing provision.
- Neighbourhood Plans should identify sites for starter homes in their settlements – including sites within the Green Belt.
- The residential development of brownfield land in the Green Belt for starter homes. This may involve a lessening of the openness test.

## **Observations**

- 3.34 If starter homes are now part of the affordable housing definition then surely they then fall within the rural exceptions policy. The only thing that needs changing is the perpetuity issue. If perpetuity is no longer an issue for starter homes then should this be changed for all tenures?
- 3.35 However the Borough Council would be concerned at this loss of perpetually affordable housing. A local community is often willing to accept an exception to the rule if there is a lasting legacy to the local community. Without that legacy it is difficult to see if sites would come forward.
- 3.36 There are some grave concerns over the freeing up of unviable and underused employment land for housing. There is evidence to suggest that it is the quality of employment sites that needs to improve. In its current state it may be unviable but with the right investment it could be commercially viable. At the same time some of these sites are important starter sites for businesses or are good low rental sites that can employ a number of people locally. Not all employment land can be provided for on industrial estates / business parks and not all sites are clean and well presented. Those on industrial estates / business parks are often out of the reach of many companies.
- 3.37 The figures quoted suggest that there is such a large amount of undeveloped land and yet two recent studies show that there is only between 1 and 3 years supply of employment land within the Coventry / Warwickshire sub-region and West Midlands. The need is therefore to improve and protect these sites and not encourage them to be used for housing.
- 3.38 The provision of services and facilities in a rural area is important to ensuring that settlements remain sustainable. If starter homes are included in the affordable housing definition then an applicant can argue the case for the exception rule to apply to the redevelopment of sites – but would these not be the brownfield sites that would be covered elsewhere? This seems very detailed for the NPPF.
- 3.39 Support is given to the idea of starter homes being part of a mixed development. However there is concern at the prospect of commercial units being converted into homes (whether these be starter or otherwise). Permitted Development rights already allow retail units to be converted to residential.

- 3.40 We agree that starter homes should not be sold for five years. However the concern is how this will work and be monitored without being staff resource intensive. What happens if the person's work moves and they need to move – does the house then stand empty until the five years is up as they are not allowed to sub-let? Could a solution be that it is sold to the Parish Council / RSL or Local Authority at the original price?
- 3.41 There is no objection to the local community supporting the provision of starter homes.
- 3.42 It is difficult to understand why it is only starter homes that may not have an impact on the openness but other types of housing or development could, even if it were on the same footprint. If this is what is being suggested then a full review of the Green Belt policy and where it is designated needs to take place, rather than this piecemeal erosion of the Green Belt by the back door. It would be better to be upfront and clear what exactly is allowable and what isn't. A starter home that is then sold in the open market at a later date is just a house so why can't market housing or other forms of affordable housing take place?
- 3.43 The data that is quoted does not make any distinction about whether these brownfield sites are in sustainable locations. We have some small and large brownfield sites throughout the Green Belt but some at a distance from the nearest settlement. It is purely encouraging the use of the motor car.

#### **4 Report Implications**

##### **4.1 Equalities Implications**

- 4.1.1 There is likely to be a consequence of broadening the definition of “affordable housing” if developers wholly focus on starter homes and not on other tenures. Additionally the benefit of starter homes may not become available to larger sections of the community if the value is set too high for the area.

##### **4.1.2 Environment and Sustainability Implications**

- 4.2.1 Progressing up to date planning policies for the Borough is important in ensuring that development takes place according to the strategy set out by the Borough Council. However these changes may weaken the ability of the Council to protect its rural character.

The Contact Officers for this report are Jeff Brown (719310) and Dorothy Barratt.

#### **Background Papers**

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

Background Paper No	Author	Nature of Background Paper	Date
	DCLG	Consultation	December 2015

## **Agenda Item No 8**

### **Planning and Development Board**

**11 January 2016**

**Report of the Assistant Chief Executive  
and Solicitor to the Council and Head of  
Development Control**

**The Coventry and Warwickshire LEP:  
Planning Protocol**

#### **1 Summary**

1.1 This report seeks Member approval of the Planning Protocol.

#### **Recommendation to Council**

That the Planning Protocol be approved.

#### **2 Background**

2.1 This report seeks Member support for an updated Planning Protocol which will take over from the 2012 Protocol.

#### **3 Observations**

3.1 The Planning Protocol has been updated and now focusses much more on employment proposals. There is nothing in essence that cannot be supported. The Planning Teams already deal with enquiries and applications in the way described as closely as they can.

3.2 The Protocol is generally supported by Coventry City and Warwickshire Districts.

#### **4 Report Implications**

##### **4.1 Human Resources Implications**

4.1.1 There should not be any direct implications of this Protocol on staff resources as employment applications are positively considered at present.

##### **4.2 Environment and Sustainability Implications**

4.2.1 The CWLEP aims to drive economic growth, remove the barriers to growth and create high value jobs. The Planning Protocol sets out how Local Authorities will support growth through the planning system. With an aim to deliver high quality sustainable development in a streamlined, consistent and collaborative way across Coventry and Warwickshire.

The Contact Officer for this report is Dorothy Barratt (719250).

## The Coventry and Warwickshire LEP: Planning Protocol

The CWLEP aims to drive economic growth, remove the barriers to growth and create high value jobs. The Planning Protocol sets out how Local Authorities will support growth through the planning system. We aim to deliver high quality sustainable development in a streamlined, consistent and collaborative way across Coventry and Warwickshire.

In line with the aim to remove barriers to growth all Local Authorities will provide an accessible pre-application service in an endeavour to ensure that potential showstoppers and fundamental policy constraints relating to proposed development are identified before the application is formally submitted.

The Local Planning Authority will commit to:

- 1) Continue to move forward to adopt their current Local Plan to ensure up to date policies are in place. *(Measurable)*  
  

*Measure: Local Planning Authorities to deliver up to date policies in accordance with their adopted Local Development Scheme (LDS). Each Local Planning Authority to prepare an annual report on progress of the Local Plan preparation against LDS timelines.*
- 2) Prioritise the formulation of a Joint Strategy for the whole of the sub region, taking into account the differing characteristics and constraints of the local authorities. This Strategy would be formally adopted and would set out a co-ordinated framework to guide development across the sub region.
- 3) Deliver a pre-application service free of charge for employment (B Class) sites only (excluding residential, retail and leisure uses) providing the information submitted to the authority meets the pre-application service standards, in order to promote development and investment.
- 4) Retain the same case officer throughout the process (pre-application to application to discharge of conditions) where possible and ensure the case officer is readily available to be contacted.
- 5) Prioritise all employment (B Class) applications (excluding residential, retail and leisure uses) to increase the opportunity for investment and jobs in appropriate and sustainable locations.
- 6) Processing all employment (B Class) applications within the statutory time limit or sooner, and work positively with developers to achieve approval of their application with the minimum amount of pre-commencement conditions. Local Authorities will seek to reduce the number of refusals and loss of appeals. *(Measurable)*

### Measures:

- Performance of each Local Planning Authority against DCLG timeframes.
- Six monthly reporting on the number of employment (B Class) planning applications refused or withdrawn.
- Six monthly reporting of the number of pre-commencement conditions for employment (B Class) applications.
- Six monthly reporting on the number of appeals and the outcomes of appeals for employment (B Class) planning applications compared to officer recommendations.

- 7) Working with developers to encourage local employment both pre and post construction on major applications through the use of planning conditions or legal agreement. (*Measurable*)

Measure: Annual reporting regarding planning applications where permit conditions or legal agreements have resulted in the employment of local people.

The Developer will commit to:

- 1) Provide the necessary information, in line with the pre-application service standards in order that a comprehensive and informed response can be provided.
- 2) Undertake pre-submission consultation with local communities and stakeholders in accordance with the Council's Statement of Community Involvement.
- 3) Provide a high quality planning application in line with the advice received at pre-application stage, including all the necessary plans, illustrative and context material and supporting statements identified at pre-application stage.
- 4) Ensure the proposals take into account key policy and strategic issues at the outset.
- 5) Identify a principal point of contact for communication.

**Agenda Item No 9**

**Planning and Development Board**

**11 January 2016**

**Report of the  
Chief Executive**

**Exclusion of the Public and Press**

**Recommendation to the Board**

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

**Agenda Item No 10**

**Appeal by St Modwen Development Limited Land at Jnt 10 M42 -**  
Report of the Assistant Chief Executive and Solicitor to the Council.

Paragraph 3 – by reason of the financial and legal implications

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