

Agenda Item No 4

Planning and Development Board

11 January 2016

Planning Applications

Report of the Head of Development Control

1 Subject

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

2 Purpose of Report

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

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

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

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

3 Implications

3.1 Should there be any implications in respect of:

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

4 Site Visits

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

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

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 8 February 2016 at 6.30pm in the Council Chamber at the Council House.

6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at: www.northwarks.gov.uk/downloads/file/4037/.
- 6.2 If you wish to speak at a meeting of the Planning and Development Board, you may either:
- e-mail democraticservices@northwarks.gov.uk;
 - telephone (01827) 719222; or
 - write to the Democratic Services Section, The Council House, South Street, Atherstone, Warwickshire, CV9 1DE enclosing a completed form.

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
x	DOC/2015/0065 and DOC/2015/0068	#	Former Baddesley Colliery, Main Road, Baxterley, Atherstone, Approval of details required by conditions no:- 7, 11, 13 and 20 of planning permission PAP/2015/0271 dated 23/06/2015 relating to further remediation works, appearance and design details - buildings, tannoy, lighting or CCTV equipment, and noise mitigation and management plan.	General
x	PAP/2015/0631 and PAP/2015/0645	#	Blackberry Barn, Coleshill Road, Maxstoke, Retrospective application for change of use of stables to storage use, which is ancillary to the main dwelling house and site access wall	General
x	PAP/2015/0643	#	52, Station Road, Whitacre Heath, Prior Approval for Change of use of Post Office and General Store with Residential Accommodation to Residential Use Only	General
x	PAP/2015/0664	#	Ridley House, Ridley Lane, Nether Whitacre, Re-build former stable block for use as a dwelling	General
x	PAP/2015/0687	#	Ashleigh, Coventry Road, Fillongley, Residential development of 5 new dwellings, 1 detached garage and associated highways, landscaping and external works. Demolition of the "Ashleigh" garage and morning room	General
x	PAP/2015/0726	#	Oak Tree House, Main Road, Austrey, Single storey rear extension	General

General Development Applications

(1) Application No: DOC/2015/0065 and DOC/2015/0068

Former Baddesley Colliery, Main Road, Baxterley, Atherstone, CV9 2LE

Applications for approval of details in discharge of conditions 7, 8, 10, 11, 12, 13, 18, 20 and 21 of planning permission PAP/2015/0271 dated 23/6/15 in respect of remediation works; drainage details, appearance and design of buildings, tannoy and lighting systems, new tanks, additional landscaping and noise mitigation measures for

Park Top Ltd

Introduction

Planning permission was granted in June of this year to vary the 1996 planning permission for the use of this former colliery site for car distribution and storage. This 1996 permission had itself been the subject of a number of earlier variations and conditions had been discharged and work commenced such that it is now extant.

The current applications seek to discharge details under the pre-occupation conditions attached to the new 2015 permission.

Work has already commenced on implementing this permission and the Board is reminded that these outstanding conditions relate to pre-occupation and not to pre-commencement.

One of the main issues that was considered by the Board at the time of its debate on the 2015 variations, was the potential impacts arising from lighting and noise on the residential amenity of Baxterley and particularly those properties in Main Road to the south-west of the site; the Orchard at the other end of Main Road and those at the junction of Merevale Lane with the Coleshill Road. However all households in Baxterley have been notified of the receipt of these applications.

In order that the Board could better appreciate those potential impacts, the receipt of the planning applications was reported to the last meeting of the Board. The Board resolved to visit JLR's premises at Damson Wood in Solihull in order to experience very similar site operations, conditions and activities as those that are to be undertaken at Baxterley.

That visit took place after the preparation of this report and thus a separate note will be circulated at the meeting.

The Proposals

Condition 7 – This requires details of any remediation works undertaken beyond those already completed and approved in 2000, to be also formally agreed. The applicant considers that no further remediation measures are needed.

Condition 8 – This requires details of surface and foul water discharges to be agreed. Detailed plans have been submitted.

Condition 10 – This requires details of any underground and over ground fuel storage tanks to be agreed. Details of a battery and fuel store are submitted.

Condition 11 – This condition required details of the appearance and design of the new buildings at the site to be agreed. As reported to the December Board, this detail has been agreed and thus this condition has already been discharged. There were no representations received objecting to the submitted details.

Condition 12 – This requires any additional landscaping to be added over that already approved 2001 to be first agreed. As Members are aware, the Board requested that the top of the slope between Areas 6 and 7 be planted during its consideration of the application. Details have now been submitted showing a line of laurel trees along this boundary.

Condition 13 - This requires details of any tannoy systems to be installed on the site, the lighting and CCTV details to be submitted for approval.

In respect of the lighting details then the detail submitted shows that the lights are to be mounted on 8 metre lighting columns fixed with a variety of single, double and quadruple arm units. The overall site is divided into seven areas and the intensity and duration of lighting depends upon the location of each and the activity to be carried out within them. The plan at Appendix A illustrates these seven areas. Areas 6 and 7 are storage areas. It is proposed that lighting levels of 20 lux are used but that they are dimmed to 5 lux between 2200 and 0600 hours. Area 5 is the main “active” area as this is where the loading and unloading will take place and where the 24 hour working will occur. Here the lighting levels will be 100 lux over the loading area and 50 lux elsewhere. Areas 1 and 4 are also operational areas used in connection with Area 5 and the lighting here would be 20 lux throughout the day. Areas 2 and 3 are additional storage areas. The lighting here is proposed to be 20 lux but they will be dimmed to 5 lux between 2200 and 0600 hours. This dimming in areas 2 and 3 was not originally proposed but was included as a change following requests from officers. The applicant has also confirmed that all luminaries will be fixed at the horizontal such that they are not angled upwards. They have also confirmed that all perimeter lights will be fitted with shades to the rear to prevent light spillage behind the lighting heads.

In respect of CCTV coverage then seventeen camera towers are proposed ranging from seven down to four metres in height. There would be eight towers along the southern boundary of the site - see Appendix B. Of these three would be at seven metres – that is at the far west of the site; to the rear of the Orchard and at the rear of the bowling green. All cameras around the perimeter of the site and would have fixed positions such that they just view/address the perimeter fences. The others would be within the site and be able to rotate through 360 degrees. It has been confirmed that the tower at the rear of The Orchard would now be lowered from the surrounding bank down to the site level such that that camera would be two metres lower than originally proposed. The applicant has confirmed that appropriate software will be incorporated into the cameras which will allow the masking of areas outside of the perimeter fence.

There is no tannoy system proposed but there will be loud speakers attached to the CCTV camera towers at two metres above ground level. This is a security measure such that if the camera spots an intruder, the speaker can be activated to warn that he has been seen. The level of volume of this warning will need to be agreed with the Environmental Health Officer.

Condition 18 requires full details of the acoustic fencing to be installed to be agreed. Details have been submitted. The acoustic fence is proposed for the length of the southern boundary except at the rear of the former colliery offices which are now occupied by a private concern and right at the far western end of the site. The fence is to be located on a two metre bund.

Condition 20 requires details of a noise management plan to be agreed. The applicant has submitted his proposals.

Condition 21 requires details of a Site Management Plan to be submitted. The applicant has forwarded his proposals.

Representations

Atherstone Civic Society – No comments as the Society doesn't have the appropriate expertise but wishes to see the impact of the lighting reduced to minimise sky-glow. Six letters of objection have been received referring to the following matters:

- There is concern about 24 hour lighting. Some areas could be dimmed further.
- Too many lights causing pollution.
- CCTV cameras should not be capable of looking outside of the perimeter
- There is a concern about Tower 5 and its camera
- Too many gaps in the line of the acoustic fence
- The Management Plans are too general.
- The whole area is being industrialised
- Is or is there not a tannoy system proposed?

The Baxterley Parish Council – It objects raising the same issues as above with particular emphasis on the potential impacts of the proposed lighting; the CCTV cameras and noise from any speakers. It requests amendments with additional areas of the site to be dimmed and for CCTV coverage to be on-site only.

Consultations

Severn Trent Water Ltd – No objection to the foul water proposals

Environmental Health Officer – No objection following his involvement in the lighting and noise proposals which has led to revisions and subject to conditions. In respect of the remediation measures then there is still an ongoing discussion with the applicant.

Warwickshire County Council as Lead Local Flood Authority – Additional detail has been requested and there is still an ongoing discussion with the applicant

Other Consultations

The lighting issue here has been the main focus of attention throughout consideration of these applications. The Environmental Health Officer has provided advice and guidance but in view of the technical nature of the subject, outside technical consultants have been commissioned by the Council to offer wholly independent advice on the submitted proposals.

The outcome of this was the submission of a Technical Report prepared by Mouchel Consultancy Ltd.

This contains three recommendations, but overall does not offer evidence suggesting that there would be a substantive adverse impact here to warrant refusal. The recommendations refer to:

- Ensuring that the light sources are fixed horizontally such that they do not enable any upward light spillage;
- That Areas 1, 2 and 3 should be dimmed to 5 lux between 2200 and 0600 hours
- That the lights in Area 5 should be reduced too during these hours if there is no discernible activity within the area.

The full report is attached at Appendix C.

Development Plan

The Core Strategy 2014 – NW10 (Development Considerations) and NW12 (Quality of Development)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV6 (Land Resources) and ENV8 (Water Resources)

Other Material Planning Considerations

The National Planning Policy Framework 2012

ILP Guidance on Light Pollution

Observations

Members are reminded that the only issues here are those involved with the detail of the technical details submitted or as subsequently amended. The visit to Solihull, where activities and operations were taking place that will be similar to those that would be occurring at the Baxterley site, should enable Members to better understand the likelihood of any adverse impacts.

It is also necessary to remind the Board that it is dealing with matters in a planning context. There is clearly other legislation that will relate to matters that deal with the various conditions here and reference will be made to this as the report progresses. Enforcement of matters may well be the subject of these other legislative regimes and not planning legislation.

a) Lighting

This is the most significant matter that objectors have referred to.

Members are reminded that the grant of the 1996 planning permission inevitably also involved the lighting of the site and thus the principle of substantial areas of the site being lit has already been set. The key matter now is to ensure that the lighting does not cause material adverse impacts to the local community and in particular to those households closest to the site. As indicated above, this is very much a technical matter

and outside independent advice has been obtained. The Board therefore has to balance the two main interests here. These are firstly, the inevitable Health and Safety issues that arise from the permitted activities here. The lighting scheme that is approved here should not compromise this legislation if that means that the scheme prevents or prohibits the approved activity taking place. Secondly there is a need to ensure that the lighting scheme does not cause adverse impacts on nearby residential occupiers by way of glare; the spillage of light beyond the site perimeter, opportunities to see the light sources themselves and opportunities to reduce coverage wherever possible.

It is considered that significant weight has to be given to the independent advice provided by the consultant's report. This does not suggest that there is sufficient in the proposals to warrant a re-design of the whole scheme. In particular there is no call for more lighting, or indeed for there to be fewer lighting columns or for them to be at a greater height. It is noteworthy too that the overall conclusion is supported by the Environmental Health Officer when he first considered the proposals. The combined advice and recommendations of the report have been shared with the applicant and he has agreed to ensure that the light units will be fixed horizontally and that shades will be attached at the rear of the light sources around the perimeter. Additionally he has confirmed that Areas 2 and 3 will be dimmed between 2200 and 0600. As these are two areas that are closest to residential property this change is welcomed. The applicant has pointed out that Area 1 is an allocated 24 hour working area and therefore he would not agree to dimming in this Area. In respect of Area 5 – the main loading/unloading and 24 hour working area – then the applicant could not agree to accept the recommendation that the lighting be dimmed here as it is a fully operational area.

As indicated above it is necessary to balance the various interests here within the overall grant of the 2015 permission. The overall lighting scheme is acceptable and the changes agreed by the applicant are welcomed particularly as they would further lessen impacts on the main residential area to the south. It is considered that the main loading/unloading area (area 5) should be lit as proposed. There are several reasons for this. Firstly this is the area where any Health and Safety legislation is particularly of weight. It was known that this area would be lit for the night time period when the 2015 proposals were discussed. The site is furthest away from Baxterley; it lies at a lower level than the main storage areas and there are intervening buildings and trees such that the lighting columns are unlikely to be seen from the village. Whilst the applicant is unable to operate a dimming arrangement here for operational reasons, it is considered that the amenity impact of a situation where lights were dimmed and then increased is not helpful and that in any event the lights are more than likely to be on at full power for the majority of the overnight period. The applicant considers that as Area 1 will be used regularly for car storage and movement, the lighting level should remain constant at 20 lux and not be dimmed.

Overall therefore it is considered that the lighting proposals can be supported subject to conditions as set out below in the recommendation.

b) CCTV

The main concern here is not necessarily the amenity impact from the towers themselves or the principle of CCTV coverage but the potential for surveillance outside of the perimeter fence. Members are reminded that the Board is dealing with the planning impact of these cameras and in that regard there is no objection. However the relevant Development Plan policy (NW10) does refer to the amenity of neighbouring residential occupiers. The potential for surveillance is thus fairly raised as an issue. It is

considered that the proposed scheme can be accepted. There are several reasons for this. Firstly the main focus of the objectors was the CCTV tower number 5 at the rear of The Orchard. This will now be re-positioned inside the site such that it would be two metres lower. Secondly this is a case where other legislation will carry significant weight and thus give comfort to Members. The Data Protection Act and the enforcement of that by the Information Commissioner will govern the operation of the CCTV arrangements here. The Board should therefore be satisfied that the “proper controls” as referred to above are thus in place through this other legislative regime. Finally, the Board did resolve that a Liaison Group be set up to discuss operational issues arising from the use of the site, and this is clearly an appropriate place for any queries from residents to be aired and resolved, potentially including sight of the image masking system once in operation.

c) Noise

Following the involvement of the Environmental Health Officer the acoustic fencing is now proposed over a longer line along the southern boundary and it has also been raised in height. He welcomes these changes.

He also agrees that a maximum volume level for the warning speakers needs to be agreed which should balance the need to “warn” the intruder and secondly, not cause undue disturbance to residential households.

There is no objection to the other submitted management plans following re-wording to make explicit that the speed limits around the site are 5mph for transporters and 10mph for cars and that all references tie in with the planning conditions on the 2015 planning permission.

d) Drainage

The site already benefits from substantial surface water attenuation measures which were associated with the former colliery but which were upgraded and refurbished as part of the landscaping and improvement works following the 1996 planning permission. The Environment Agency controls the level of discharge from these lagoons. The opportunity is taken again with knowledge of a known occupier to further upgrade and refurbish these arrangements. The hard surfacing of the site is in fact welcomed as the surface water discharge can be fully captured through the onsite drainage system and then filtered and discharged through to the existing lagoons. The County Council as the Lead Flooding Authority has been fully involved in the vetting of this upgrade and refurbishment. At the time of preparing this report, it had not forwarded its final observations. It will be necessary to bring Members up to date at the meeting.

e) Remediation

Substantial works were undertaken following the 1996 permission, but legislation has moved on since then such that there is now a “tighter” regime. With the final occupier now known and his working operations fully understood, the Environmental Health Officer is examining the claim for the applicant that no further remediation is necessary. There is an ongoing dialogue between the parties in that the Environmental Health Officer is seeking the detailed evidence from the applicant to substantiate his claim. Members will be updated at the meeting.

f) Other Matters

There is no objection to the proposed tankage from the relevant officers and the thick laurel landscaping on the ridge between Areas 6 and 7 is appropriate as it will provide a substantial and thick landscaped belt.

Recommendations

A) That the following details are approved in full discharge of conditions attached to planning permission PAP/2015/0271 dated 23/6/15:

1. Plan number E/01/Rev F received on 15/10/15 in full discharge of condition 10.
2. Plan number 3000/A received on 15/10/15 in full discharge of condition 12.
3. Plan numbers 1142/0100/001B; 0500/0001C, 002C, 003B, 1300/001B, 002B, 003B, 1400/001B, 002A, 003B; reports 1142/001A,002A, 003A, 004A, 005B, 006C, 007B and 008B, plan numbers CC3107 Rev 02, CC8072 Rev 00 and 505RevA all received on 1/10/15, plan numbers 1300Rev P3 and the tower plan received on 15/12/15 and the speaker specification PH20A/24 received on 8/12/15 in full discharge of condition 13 subject to the following conditions:
 - i) None of the speakers hereby approved shall be used until such time as the maximum output of each has been agreed in writing by the Local Planning Authority.

REASON

In the interests of the amenities of the area

- ii) All the light sources/heads hereby approved shall be fixed such that they are horizontal to ground level.

REASON

In the interests of the amenities of the area

- iii) All of the light sources that are located around the perimeter of the whole site shall be fitted with shades at their rear such that there is no light spillage outside of the site.

REASON

In the interests of the amenities of the area

- iv) For the avoidance of doubt all lighting sources within Areas 2,3, 6 and 7 as shown on the approved plan shall be dimmed between 2200 and 0600 hours on all days, to a maximum luminance of 5 lux.

REASON

In the interests of the amenities of the area

- v) All of the CCTV cameras to be fitted along the southern site boundary shall be fixed such that their line of vision does not extend outside of the perimeter fence along this boundary.

REASON

In the interests of the amenities of the area

- vi) CCTV tower number five shall be moved inside the site such that it stands at ground level within the site.

REASON

In the interests of the amenities of the area

- 4. Plan numbers 300D; 301C, 302B, 019646/01ArevA and 03ArevB received on 15/10/15 be approved in full discharge of condition 18.
- 5. The Noise Management Plan received on 17/12/15 be approved in full discharge of condition 20
- 6. The Site Management Plan received on 18/12/15 be approved in full discharge of condition 21.

B) That subject to there being no objections from the Environmental Health Officer or the Local Lead Flooding Authority that cannot be overcome by the imposition of conditions, the details submitted in respect of condition 7 (remediation) and 8 (surface water discharge) be approved under delegated powers.

BACKGROUND PAPERS

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

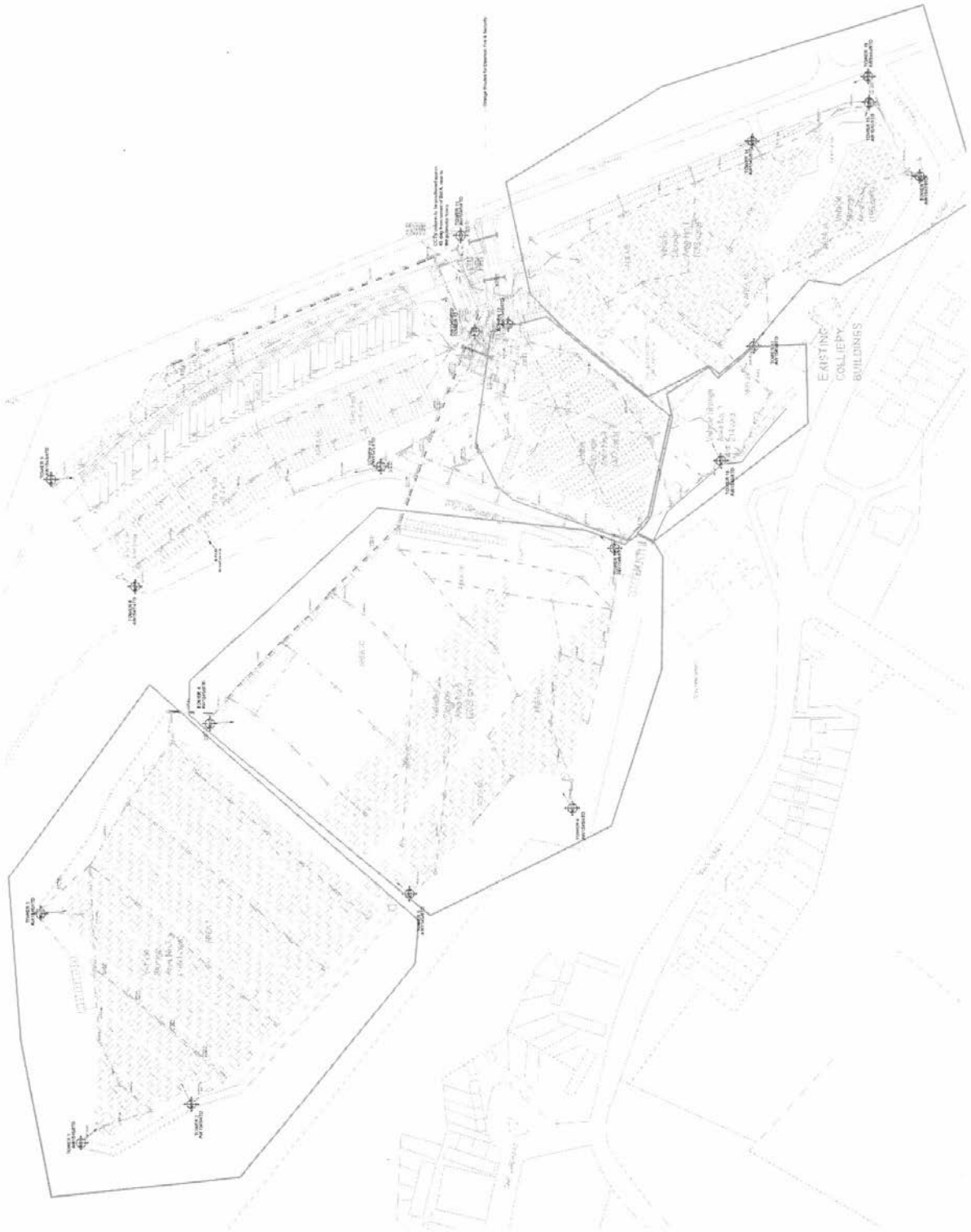
Planning Application No: DOC/2015/0065

Background Paper No	Author	Nature of Background Paper	Date
1	Severn Trent Water	Consultation	1/12/15
2	Atherstone Civic society	Representation	21/10/15
3	J Pearson	Objection	25/10/15
4	A Parker	Objection	26/10/15
5	K Sharp	Objection	8/10/15
6	D Barnett	Objection	26/10/15
7	J O'Mahoney	Objection	8/11/15
8	J and E Karim	Objection	26/10/15
9	Baxterley Parish Council	Objection	26/10/15
10	Mouchel Consultancy Ltd	Consultation	10/12/15
11	Applicant	E-mail	17/12/15

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

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

APPENDIX B





**FORMER BADDESLEY COLLIERY
MAIN ROAD, BAXTERLEY, CV9 2LE**

CAR STORAGE AND DISTRIBUTION DEPOT





ASSESSMENT OF PROPOSED LIGHTING

Report Reference	1071116_0011
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Control Sheet

Project Title	FORMER BADDESLEY COLLIERY MAIN ROAD, BAXTERLEY, CV9 2LE CAR STORAGE AND DISTRIBUTION DEPOT
Document Title	Assessment of Proposed Lighting
Document Reference	1071116_0011
Revision	Issue A – December 2015

Issue Control

	Name	Signature	Date
Author	Philip Hawtrey		December 2015
Checked	Philip Hawtrey		December 2015
Approved	Paul Donegan		December 2015
Authorised for Issue	Paul Donegan		December 2015
Issue Status	Client Issue		

Issue History

Rev.	Issue Status	Author	Date	Checked	Date	Approved	Date	Authorised for Issue	Date
A	Client Issue	Philip Hawtrey	Dec 2015	Philip Hawtrey	Dec 2015	Paul Donegan	Dec 2015	Paul Donegan	Dec 2015

Disclaimer

This Report is an appraisal of the proposed lighting at the Former Baddesley Colliery proposed Car Storage and Distribution Depot for North Warwickshire Borough Council. It may not be relied upon by any other person or by the client in relation to any other matters not covered specifically by the scope of this report. Notwithstanding anything to the contrary contained within the report, Mouchel Consulting Ltd is obliged to exercise reasonable skill, care and diligence in the performance of the services required by the client. Mouchel Consulting Ltd shall not be liable except to the extent that it has failed to exercise the reasonable skill, care and diligence so this report shall be read and construed accordingly. This Report has been prepared by Mouchel Consulting Ltd. No individual is personally liable in connection with the preparation of this report. By receiving this report and acting on it, the client or any other person accepts that no individual is personally liable whether in contract, tort, for breach of statutory duty or otherwise.

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1. Introduction

North Warwickshire Borough Council has requested that Mouchel Group Ltd carry out a desk top assessment in order to ascertain the suitability of the proposed lighting. The assessment must look at the impact on the neighbouring properties in respect to light spill, the effect on the natural environment and contribution to light pollution. The assessment must also review the design to see if a lower mounting height could be used and the impact if a lower mounting height is possible. Based on these factors the report will consequently provide recommendations whether the proposed lighting design should be approved, amended or rejected.

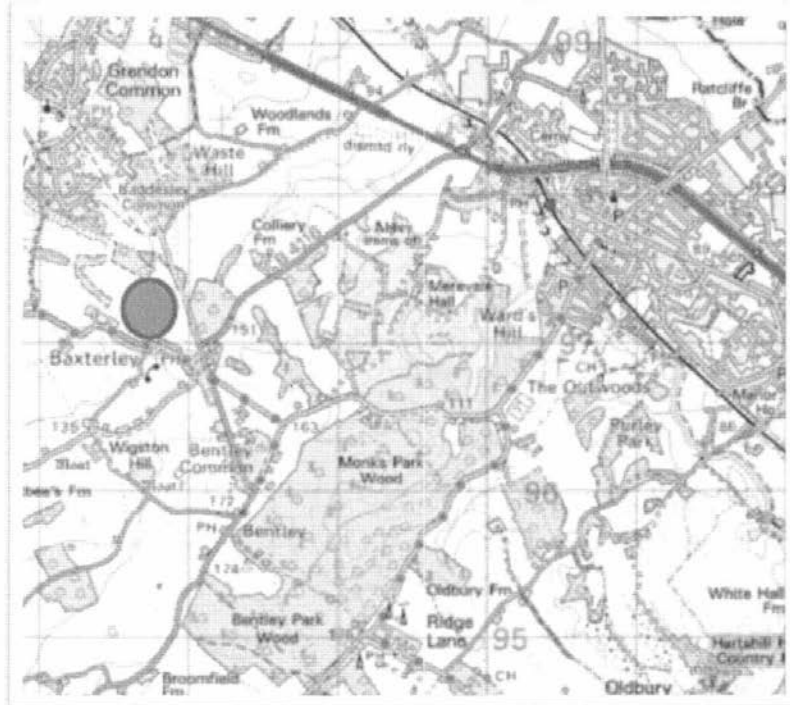
2. Location

The former colliery site amounts to around 40 hectares of open land located to the immediate north of Baxterley, between Main Road and Coleshill Road.

There is residential development along Main Road, and there is also a small group of properties at the junction of Coleshill Road with Merevale Lane to the North-East.

The main vehicular access is off the Coleshill Road. The site is generally lower than the levels of Main Road particularly to the West of the site. Much of this part of the site has been restored as community open land and the former rail-head into the site running from the Kingsbury Spur past Birch Coppice also remains.

The plan below shows the site location.



3. Purpose

The applicant has submitted a planning application to change the use of the former Baddesley Colliery to that of a Car Storage and Distribution Depot with Rail Head.

The site is a restored former colliery comprising circa 40 hectares of open land, located to the east of the village of Baxterley and to the south east of the village of Baddesley Ensur.

The nearest major town is located approximately 2km to the north east of the site.

The main vehicular access to the site is off Coleshill Road. The site is generally lower than the levels of Main Road particularly to the west of the site. Much of this part of the site has been restored as community land.

4. Lighting Design

Murwell Consulting Engineers Ltd have provided a lighting design as part of the application to North Warwickshire Borough Council. The design has been carried out in accordance with BS5489-1: 2013. The luminaires are mounted on lighting columns with an 8 metre mounting height fixed to a variety of brackets ranging from single, double and quadruple arm units. The luminaire is supplied by Urbis Lighting and the model is the Ampera Maxi Range LED.

The lighting design has been calculated using 7 defined areas, Area 5 is the main loading and unloading area that requires a high lighting level. The remaining areas are for support functions, which includes administration, maintenance and storage which require a much lower level of lighting.

The design consists of the following information taken from the calculations provided:

- Area 1: 20 lux Average, 25% Uniformity

Consisting of 46 x Urbis Ampera Maxi LED luminaires, mounted on 8 metre high lighting columns. The Ampera Maxi is a side entry luminaire with a 128 LED element, providing a lumen output of 31.85klm. The Imax intensity which has been calculated at 70, 80 and 90 degrees, results in outputs of 352.7, 17.1 and zero (cd/klm). This indicates that no light will be emitted above the horizontal. The colour temperature of the LED is 4,000K.

- Area 2: 20 lux, Average 25% Uniformity

Consisting of 20 x Urbis Ampera Maxi LED luminaires, mounted on 8 metre high lighting columns. The Ampera Maxi is a side entry luminaire with a 128 LED element, providing a lumen output of 31.85klm. The I_{max} intensity which has been calculated at 70, 80 and 90 degrees, results in outputs of 352.7, 17.1 and zero (cd/klm). This indicates that no light will be emitted above the horizontal. The colour temperature of the LED is 4,000K.

- Area 3: 20 lux Average, 25% Uniformity

Consisting of 19 x Urbis Ampera Maxi LED luminaires, mounted on 8 metre high lighting columns. The Ampera Maxi is a side entry luminaire with a 128 LED element, providing a lumen output of 31.85klm. The I_{max} intensity which has been calculated at 70, 80 and 90 degrees, results in outputs of 352.7, 17.1 and zero (cd/klm). This indicates that no light will be emitted above the horizontal. The colour temperature of the LED is 4,000K.

- Area 4: 20 lux Average, 25% Uniformity

Consisting of 62 x Urbis Ampera Maxi LED luminaires, mounted on 8 metre high lighting columns. The Ampera Maxi is a side entry luminaire with a 128 LED element, providing a lumen output of 31.85klm. The I_{max} intensity which has been calculated at 70, 80 and 90 degrees, results in outputs of 352.7, 17.1 and zero (cd/klm). This indicates that no light will be emitted above the horizontal. The colour temperature of the LED is 4,000K.

- Area 5: 50 lux Average, 25% Uniformity (Car storage Area) and 100 lux (HGV Loading Area) Average 25% Uniformity

Consisting of 185 x Urbis Ampera Maxi LED luminaires, mounted on 8 metre high lighting columns. The Ampera Maxi is a side entry luminaire with a 128 LED element, providing a lumen output of 31.85klm. The I_{max} intensity which has been calculated at 70, 80 and 90 degrees, results in outputs of 352.7, 17.1 and zero (cd/klm). This indicates that no light will be emitted above the horizontal. The colour temperature of the LED is 4,000K.

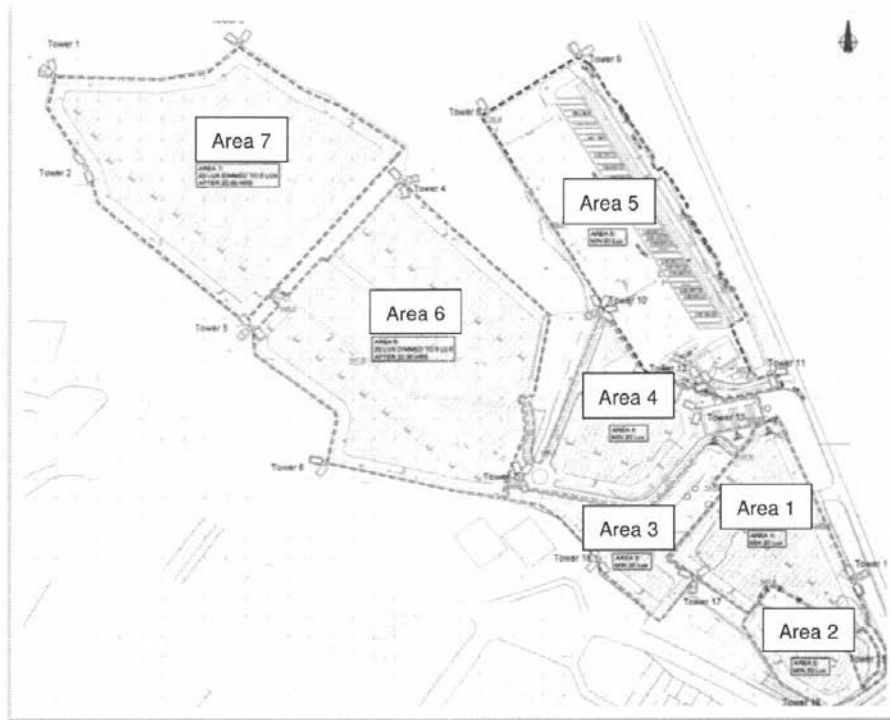
- Area 6: 20 lux Average, 25% Uniformity Dimmed to 5 lux after 22:00 Hours

Consisting of 80 x Urbis Ampera Maxi LED luminaires, mounted on 8 metre high lighting columns. The Ampera Maxi is a side entry luminaire with a 128 LED element, providing a lumen output of 31.85klm. The Imax intensity which has been calculated at 70, 80 and 90 degrees, results in outputs of 352.7, 17.1 and zero (cd/klm). This indicates that no light will be emitted above the horizontal. The colour temperature of the LED is 4,000K.

- Area 7: 20 lux Average, 25% Uniformity Dimmed to 5 lux after 22:00 Hours

Consisting of 75 x Urbis Ampera Maxi LED luminaires, mounted on 8 metre high lighting columns. The Ampera Maxi is a side entry luminaire with a 128 LED element, providing a lumen output of 31.85klm. The Imax intensity which has been calculated at 70, 80 and 90 degrees, results in outputs of 352.7, 17.1 and zero (cd/klm). This indicates that no light will be emitted above the horizontal. The colour temperature of the LED is 4,000K.

The drawing below shows the design Areas 1 to 7 and indicates the two Areas (6 and 7) where lighting levels are proposed to be reduced by 75% from 22:00.



5. General Design Comments

The design meets the requirements set out in British Standard BS 5489-1: 2013, and ensures compliance with the Institution of Lighting Professionals (ILP) "Guidance Note of the Reduction of Obtrusive Light".

The design calculations show the luminaires are tilted above the horizontal at an angle of 15 degrees. Following discussions with the luminaire manufacturer, they have confirmed that with the luminaire tilted at 15 degrees, the upward light output ratio will be 0.2%, this will show that the design does comply with the ILP "Guidance Note for the Reduction of Obtrusive Light" – Category E2 Low District Brightness Areas. The requirements as set out require no more than 2.5% Upward Light Output Ratio (ULOR).

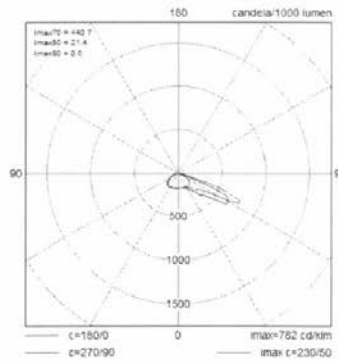
The 15 degree tilt applied to the luminaires will result in the source of light being visible at some distance from the site, which would not be the case if tilt angle was zero degrees (the luminaire installed horizontally).

It is noted that several of the objections to the application commented on this element of the design. By reducing the tilt angle to zero degrees the visibility of the light source will be significantly reduced.

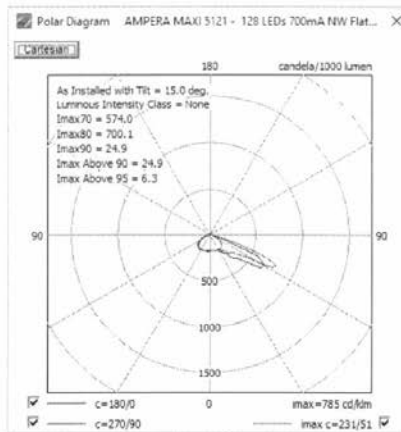
The issue identified in respect to light above the horizontal ($I_{max\ 90}$) is demonstrated in the data below. The submitted design shows an $I_{max\ 90}$ of 0.0 cd/klm whereas the correct $I_{max\ 90}$, with the luminaire at a tilt of 15 degrees, is 24.9cd/klm.

Incorrect photometric data from the submitted design:

Luminaire A AMPERA MAXI 5121 - 128 LEDs 700mA NW Flat, Glass Extra Clear



Correct photometric data, showing the luminaire installed a 15 degree tilt:



The design drawings submitted also show the extent of light spill beyond the site boundary. The vast majority shows a light spill of approximately 5 lux. However, the light spill around the boundary of Area 5 (HGV Loading and Unloading Area) is 15 lux.

The site is enclosed by mature trees on most sides which will act as a natural barrier, the entrance off "The Common" does not have the benefit of mature trees but is some distance from any habitation.

The aerial photo below shows the mature tree screening.



To put the light spill into context a full moon on a clear night will provide a level of approximately 1 lux illumination on the ground.

It is also noted that two Areas (6 and 7) will be subject to reduced lighting levels from 20 lux average to 5 lux average via a 75% reduction in lighting levels between 22:00 and switch off in the morning.

This will further reduce the light spill from these areas indicated as 5 lux on the submitted plans to less than 1.25 lux after 22:00.

6. Review of Alternative Mounting Height

The design currently utilises 8 metre mounting height luminaires, it would be possible in all areas with the exception of Area 5 (HGV Loading and Unloading Area) to reduce the mounting height to 6 metres.

In Area 5 the height would need to remain at 8 metres due to the nature of the vehicles and operations being carried out.

However, should 6 metres be selected, the quantity of lighting columns and luminaires would significantly increase, leading to an increase in the risk of collision with vehicles within the site.

Consideration would also have to be given to the positioning of the additional lighting columns, as the current layout has been optimised to use the least no of columns and minimise the number which are in close proximity to vehicles.

Reviewing the site and design selections our recommendation is to retain the proposed mounting height of 8 metres.

7. Requirements for Limiting Obtrusive Light

The site can be classified as being in a "rural, small village or relatively dark urban location" as defined in the ILP "Guidance Note for the Reduction of Obtrusive Light" – Category E2 Low District Brightness Areas (see Appendix A – Extract from ILP Guidance on Light Pollution). The obtrusive lighting (light pollution) limitations for the project are selected from Table 2 of the Guidance Note in recognition of the location of the site.

The requirements for the Environmental Zones E1 and E2 are as follows:

Table 2: Obtrusive Light Limitations for Exterior Lighting Installation

Environmental Zone	Sky Glow ULR (Max %) ^a	Light Trespass (into Windows) Ev (lux) ^b		Source Intensity I (kcd) ^c		Building Luminance Pre-curfew ^d Average L (cd/m ²)
		Pre-curfew	Post-curfew	Pre-curfew	Post-curfew	
E1	0	2	1*	2.5	0	0
E2	2.5	5	1	7.5	0.5	5

Notes: ^a - ULR, Upward Light Ratio is the maximum permitted percentage of luminaire flux for the total installation that goes directly into the sky.

^b - Ev, Vertical Illuminance in lux that is measured on the glazing at the centre of the window.

^c - I, Light intensity in candelas.

^d - Curfew – The curfew time is generally taken as 23:00, unless otherwise specified by the local planning authority.

*= From Public Road Lighting Installations Only

7.1 Curfew

The curfew applicable to E2 "Building Luminance" requires no more than an average of 5 candelas per metre square, this is approximately 75 lux, the designer has outlined the intention to light until 22:00 in Areas 6 and 7 then reduce the lighting levels to 5 lux as these areas are used for storage only.

The other Areas, 1 to 5, are not reduced in lighting level as the actual loading and distribution of vehicles is a 24 hour operation and the lighting levels need to be maintained whilst these operations are carried out.

A curfew, according to 'Table 2 note d' above, starts at 23:00, the designer has proposed to reduce the lighting from 22:00 for Area 6 and 7 as they are storage areas only and require the 20 lux lighting level during allowed working hours in this area. After 22:00 the lighting level will be dimmed to 5 lux.

The data below shows times of usage and types of vehicles allowed in each area.

Traffic and Use Restricted Movements:

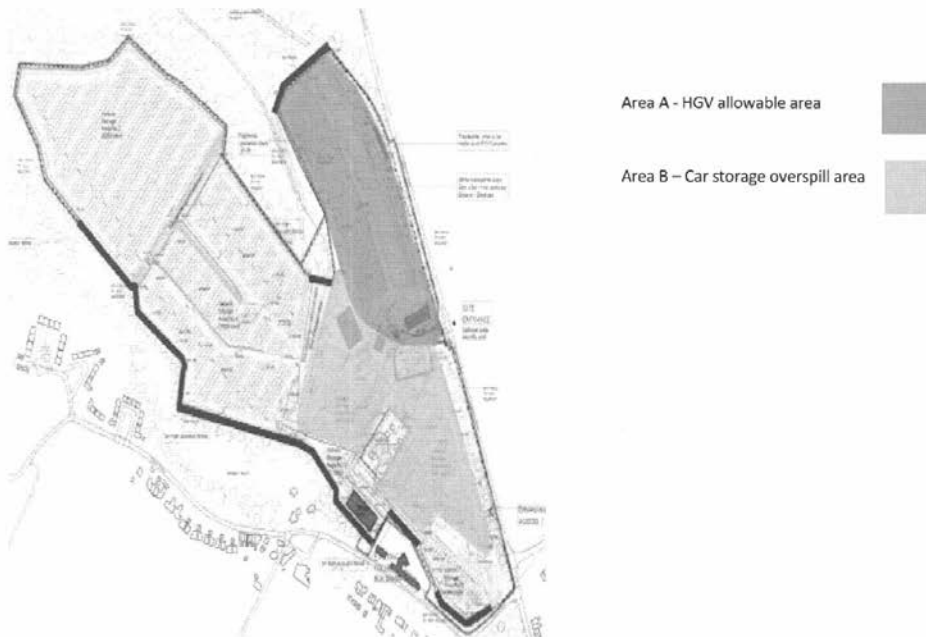
- HGV movements allowed in and out of the site on any day;

- HGV and car movements allowed inside Area A (Area 5):
 - Monday to Sunday: 06:00 to 06:00 (24-hour operation)

- Area B (Areas 1, 2, 3 and 4) may be used as follows:
 - Monday to Sunday: 06:00 to 22:00
 - Monday to Sunday: 22:00 to 06:00 as required when Area A car storage area is full.

- Movement of cars outside Area A and Area B (the rest of the site Areas 6 and 7) permitted:
 - Monday to Sunday: 06:00 to 22:00

The plan below shows the areas designated as Areas A and B above.



7.2 Sky Glow - Upward Light Ratio

Within the lighting design calculations and light spill plan S28C-115110319180 provided, it shows that the selected luminaires have an I_{max 90} Value of zero. This means that no light is emitted above the horizontal. This design indicates that the installation will not allow any light above the horizontal, therefore producing little or no 'sky glow' (Note: comments made in Chapter 5 - General Design Comments regarding the error in the provided I_{max 90} values.)

Consideration must also be given to the upward reflected light off the surface of the storage areas however by careful selection of the surfacing material this can be mitigated.

7.3 Light Trespass into Windows

The nearest neighbouring properties from the site, more specifically, with a direct line of sight to the storage areas, is a terrace of properties 87 to 101, Main Road, Baxterley which appears to be a non-residential development and therefore unlikely to be occupied during hours of darkness. Due to the distance of the properties to the proposed lighting, it is suggested that the levels of light at source and calculations provided demonstrate that the lighting would not offer any obtrusive light towards these properties.

7.4 Glare

Glare classification is a measure of how effective the installation is in minimising light emitted in directions where it is neither necessary nor desirable (BS EN 13201-2: 2003 Section 7 and Annex A). The points below need to be considered.

- In rural or suburban conditions, the obtrusive view of road lighting installations can be seen at a distance across open country.
- Light intruding into properties.
- Light when emitted above the horizontal which when scattered in the atmosphere obscures the natural sight of the stars and impairs astronomical observation.

- Light emitted above the horizontal can be regulated by restriction of the upward light output ratio.

The design submitted shows a lantern tilt of 15 degrees, from the design calculations the installation does not reach any of the G classifications.

The higher the classification the higher the impact on restriction of disability glare and the control of obtrusive light.

Table A.1 gives installed luminous intensity classes G.1, G.2, G.3, G.4, G.5 and G.6 from which a class can be chosen to meet appropriate requirements for restriction of disability glare and the control of obtrusive light.

Table A.1 — Luminous intensity classes

Class	Maximum luminous intensity in cd / klm			Other requirements
	at 70° ^a	at 80° ^a	at 90° ^a	
G1		200	50	None
G2		150	30	None
G3		100	20	None
G4	500	100	10	Luminous intensities above 95° ^a to be zero
G5	350	100	10	Luminous intensities above 95° ^a to be zero
G6	350	100	0	Luminous intensities above 90° ^a to be zero

^a Any direction forming the specified angle from the downward vertical, with the luminaire installed for use.

8. Additional Environmental Considerations

The positive element of LED lighting is that the LED luminaires produce little or no ultra violet light which may have little impact with regard to insects and bats. In this respect LEDs appears to be the best source of light for consideration within vicinity for bat habitats or foraging areas. However, an abstract published in the 'Global Change Biology: Volume 18; Issue 8 suggests that some affect may still be present even with low lighting levels:

"Despite the energy saving benefits of LEDs, their ecological impacts have not been tested. Using an experimental approach, we show that LED street lights caused a reduction in activity of slow-flying bats (Rhinolophus hipposideros and Myotis spp.). Both R. hipposideros and Myotis spp. activities were significantly reduced even during low light levels of 3.6 lux. There was no effect of LED lighting on the relatively fast-flying Pipistrellus pipistrellus, Pipistrellus pygmaeus and Nyctalus/Eptesicus spp. We provide the first evidence of the effects of LED lights on bats. Despite having considerable energy-saving benefits, LED lights can potentially fragment commuting routes for bats with associated negative conservation consequences."

It is our opinion that a bat survey should be carried out at this site.

9. Conclusions

The design submitted has considered the safety of operations within the site and selected appropriate lighting levels for each area to meet the needs of the operation being carried out. The use of columns with an 8 metre mounting height is appropriate for this installation.

9.1 Environmental Impact

The actual storage areas are appropriately lit and the lighting level reductions at 22:00 are appropriate. The curfew requirement for E2 environmental zones requires this reduction in lighting to take place at 23:00.

The design indicates a luminaire tilt of 15 degrees this will make the source of the light visible, and consideration should be made to revise the design to zero degrees to mitigate this issue.

The design submitted does show compliance with the ILP "Guidance Note for the Reduction of Obtrusive Light" – Category E2 Low District Brightness Areas. The requirements as set out require no more than 2.5% Upward Light Output Ratio (ULOR).

9.2 Disability Glare and obtrusive Light

The design does not address the issues set out below by the appropriate use of a "G Class" glare rated installation.

- in rural or suburban conditions, the obtrusive view of road lighting installations seen at a distance across open country;
- light intruding into properties;
- light when emitted above the horizontal which when scattered in the atmosphere obscures the natural sight of the stars and impairs astronomical observation;
- the design does not reach the minimum classification of G1; and
- to mitigate this a classification of at least G4 should be used.

9.3 Light Intrusion

The nearest property which abuts the site appears to be a non-residential development. The lighting design shows a light spill of approximately 5 lux in the

vicinity of the property, the acoustic barriers will have an impact on this. The recommendations in respect to Calculation Areas 1, 2 and 3 should be considered to further reduce this impact on the environment and property.

9.4 Wildlife

The environmental effect on possible local bat roosts/foraging routes should be investigated.

10. Recommendations

The design calculations have an error in respect to the light above the horizontal (I_{max90}). It is recommended that the calculations are re-visited with the error corrected. The luminaires should be installed horizontally.

The designer should also confirm the Upward Light Output Ratio (ULOR) to confirm compliance with E2 requirements of no more than 2.5% upward light.

The designer should consider the requirements of BSEN 13201-2: 2003 in respect to Clause 7 and Annex A to further mitigate any disability glare and environmental impacts.

It is noted that Areas 5 and 6, which are for storage of vehicles, will at 22:00 be subject to a reduction in lighting levels from 20 lux to 5 lux (75% reduction).

Area 1, 2 and 3 are the closest areas to any habitation and are designated as overflow areas for vehicle storage and an area for staff parking. Our recommendation is that when this area is not being used for active movements the lighting levels should be reduced to 5 lux between 22:00 and dawn switch off.

It is also recognised that in Area 5 due to the nature of the tasks being carried out a high level of lighting is required for safety reasons. This area is the furthest from any habitation, and the indicated spill light at full power is 15 lux. Consideration should be given to a control system which will allow the lighting in this area to be reduced when no movements / loading unloading are taking place in line with the other site areas.

Appendix A. Extract from ILP Guidance on Light Pollution

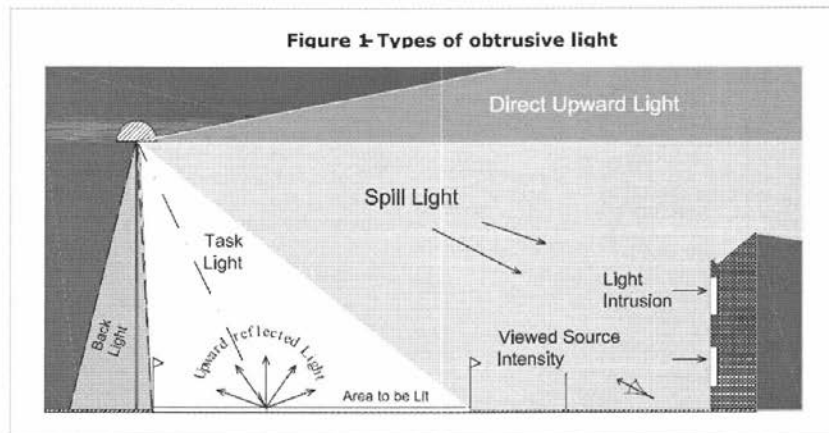
GUIDANCE NOTES FOR THE REDUCTION OF OBTRUSIVE LIGHT

“Think before you light - The right amount of light, where wanted, when wanted.”

Man’s invention of artificial light has done much to safeguard and enhance our night-time environment but, if not properly controlled, **obtrusive light** (sometimes referred to as light pollution) can present serious physiological and ecological problems.

Obtrusive Light, whether it keeps you awake through a bedroom window or impedes your view of the night sky, is a form of pollution, which may also be a nuisance in law and which can be substantially reduced without detriment to the lighting task.

Sky glow, the brightening of the night sky, **Glare** the uncomfortable brightness of a light source when viewed against a darker background, and **Light Intrusion (“Trespass”)**, the spilling of light beyond the boundary of the property or area being lit, are all forms of obtrusive light which may cause nuisance to others and waste money and energy. Think before you light. Is it necessary? What effect will it have on others? Will it cause a nuisance? How can you minimise the problem?



Do not "over" light. This is a major cause of obtrusive light and is a waste of energy. There are published standards for most lighting tasks, adherence to which will help minimise upward reflected light. Organisations from which full details of these standards can be obtained are given on the last page of this leaflet.

Dim or switch off lights when the task is finished. Generally, a lower level of lighting will suffice to enhance the night time scene than that required for safety and security.

"Good Design Equals Good Lighting"

Any lighting scheme will consist of three basic elements: a light source, a luminaire and a method of installation.

Light sources (Lamps)

Remember that the light source output in LUMENS is not the same as the wattage and that it is the former that is important in combating the problems of obtrusive light.

Most night time visual tasks are only dependant on light radiated within the visual spectrum. It is therefore NOT necessary for light sources to emit either ultra-violet or infra-red radiation unless

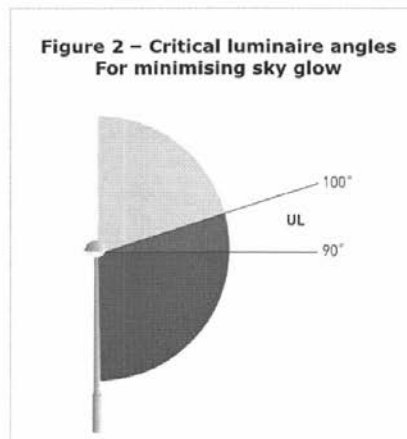
specifically designed to do so. It is also understood that light from the shorter wavelengths of the spectrum has important effects on both flora and fauna that should be considered.

Research indicates that light from the blue end of the spectrum has important non-visual effects on the health of the human body, in particular in our sleep/wake patterns. It is therefore important to appreciate that while in obtrusive light terms the use of blue light should be minimised, there are many night-time tasks such as driving and sports where to be fully awake is an important aid to safety.

Luminaires

Care should always be taken when selecting luminaires to ensure that appropriate products are chosen and that their location will reduce spill light and glare to a minimum.

Use specifically designed lighting equipment that minimises the upward spread of light near to and above the horizontal. The most sensitive/critical zones for minimising sky glow are those between 90° and 100° as shown in Figure 2 and referred to as the lower, upward light output zone (UL).



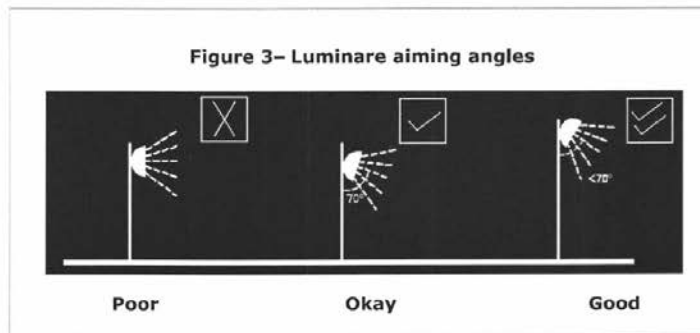
For most sports and area lighting installations the use of luminaires with double asymmetric beams designed so that the front glazing is kept at or near parallel to the surface being lit should, if correctly aimed, ensure minimum obtrusive light.

Appendices 1 and 2 to these notes gives more details of how to choose and if necessary modify luminaires.

Installation

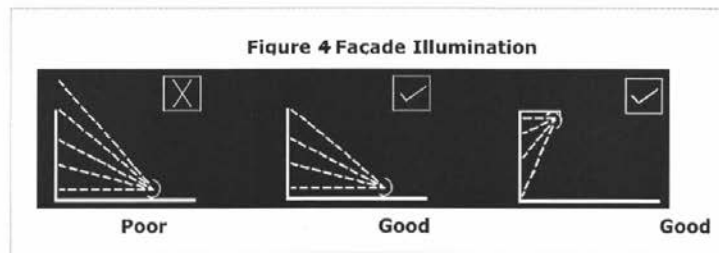
In most cases it will be beneficial to use as high a mounting height as possible, giving due regard to the daytime appearance of the installation. The requirements to control glare for the safety of road users are given in Table 3.

Keep glare to a minimum by ensuring that the main beam angle of all lights directed towards any potential observer is not more than 70° . Higher mounting heights allow lower main beam angles, which can assist in reducing glare. In areas with low ambient lighting levels, glare can be very obtrusive and extra care should be taken when positioning and aiming lighting equipment. With regard to domestic security lighting the ILP produces an information leaflet GN02:2009 that is freely available from its website.



When lighting vertical structures such as advertising signs, direct light downwards wherever possible. If there is no alternative to up-lighting, as with much decorative lighting of buildings, then the use of shields, baffles and louvres will help reduce spill light around and over the structure to a minimum.

For road and amenity lighting installations, (see also design standards listed on Page 5) light near to and above the horizontal should normally be minimised to reduce glare and sky glow (Note ULR's in Table 2). In rural areas the use of full horizontal cut off luminaires installed at 0° uplift will, in addition to reducing sky glow, also help to minimise visual intrusion within the open landscape. However, in some urban locations, luminaires fitted with a more decorative bowl and good optical control of light should be acceptable and may be more appropriate.



Since 2006 "Artificial Light" has been added to the list of possible Statutory Nuisances in England, Wales and Scotland. The monitoring of such nuisances will be the responsibility of Environmental Health Officers (EHOs) for which separate guidance is being produced.

With regard to the planning aspect, many Local Planning Authorities (LPAs) have already produced, or are producing, policies that within the planning system will become part of their local development framework. For new developments there is an opportunity for LPAs to impose planning conditions related to external lighting, including curfew hours.

The Scottish Executive has published a design methodology document (March 2007) entitled "[Controlling Light Pollution and Reducing Energy Consumption](#)" to further assist in mitigating obtrusive light elements at the design stage.

ENVIRONMENTAL ZONES

It is recommended that Local Planning Authorities specify the following environmental zones for exterior lighting control within their Development Plans.

Table 1 – Environmental Zones

Zone	Surrounding	Lighting Environment	Examples
E0	Protected	Dark	UNESCO Starlight Reserves, IDA Dark Sky Parks
E1	Natural	Intrinsically dark	National Parks, Areas of Outstanding Natural Beauty etc.
E2	Rural	Low district brightness	Village or relatively dark outer suburban locations
E3	Suburban	Medium district brightness	Small town centres or suburban locations
E4	Urban	High district brightness	Town/city centres with high levels of night time activity

Where an area to be lit lies on the boundary of two zones the obtrusive light limitation values used should be those applicable to the most rigorous zone.

NB: Zone E0 must always be surrounded by an E1 Zone.

DESIGN GUIDANCE

The following limitations may be supplemented or replaced by a LPA's own planning guidance for exterior lighting installations. As lighting design is not as simple as it may seem, you are advised to consult and/or work with a professional lighting designer before installing any exterior lighting.

Table 2 – Obtrusive Light Limitations for Exterior Lighting Installations – General Observers

Environmental Zone	Sky Glow ULR [Max %] ⁽¹⁾	Light Intrusion (into Windows) E_v [lux] ⁽²⁾		Luminaire Intensity I [candelas] ⁽³⁾		Building Luminescence Pre-curfew ⁽⁴⁾
		Pre-curfew	Post-curfew	Pre-curfew	Post-curfew	Average, L [cd/m ²]
E0	0	0	0	0	0	0
E1	0	2	0 (1*)	2,500	0	0
E2	2.5	5	1	7,500	500	5
E3	5.0	10	2	10,000	1,000	10
E4	15	25	5	25,000	2,500	25

ULR = **Upward Light Ratio of the Installation** is the maximum permitted percentage of luminaire flux that goes directly into the sky.

E_v = **Vertical Illuminance in Lux** - measured flat on the glazing at the centre of the window.

I = **Light Intensity in Candelas (cd)**

L = **Luminance in Candelas per Square Metre (cd/m²)**

Curfew = **the time after which stricter requirements (for the control of obtrusive light) will apply**; often a condition of use of lighting applied by the local planning authority. If not otherwise stated - 23.00hrs is suggested.

***** = **Permitted only from** Public road lighting installations

(1) Upward Light Ratio – Some lighting schemes will require the deliberate and careful use of upward light, e.g. ground recessed luminaires, ground mounted floodlights, festive lighting, to which these limits cannot apply. However, care should always be taken to

minimise any upward waste light by the proper application of suitably directional luminaires and light controlling attachments.

(2) Light Intrusion (into Windows) – These values are suggested maxima and need to take account of existing light intrusion at the point of measurement. In the case of road lighting on public highways where building facades are adjacent to the lit highway, these levels may not be obtainable. In such cases where a specific complaint has been received, the Highway Authority should endeavour to reduce the light intrusion into the window down to the post curfew value by fitting a shield, replacing the luminaire, or by varying the lighting level.

(3) Luminaire Intensity – This applies to each luminaire in the potentially obtrusive direction, outside of the area being lit. The figures given are for general guidance only and for some sports lighting applications with limited mounting heights, may be difficult to achieve.

(4) Building Luminance – This should be limited to avoid over lighting, and related to the general district brightness. In this reference building luminance is applicable to buildings directly illuminated as a night-time feature as against the illumination of a building caused by spill light from adjacent luminaires or luminaires fixed to the building but used to light an adjacent area.

Table 3 – Obtrusive Light Limitations for Exterior Lighting Installations – Road Users

Road Classification (1)	Threshold Increment (TI)	Veiling Luminance (Lv)
No road lighting	15% based on adaptation luminance of 0.1cd/m ²	0.04
ME6/ ME5	15% based on adaptation luminance of 1cd/m ²	0.25
ME4/ ME3	15% based on adaptation luminance of 2cd/m	0.40
ME2 / ME1	15% based on adaptation luminance of 5cd/m ²	0.84

- TI** = **Threshold Increment** is a measure of the loss of visibility caused by the disability glare from the obtrusive light installation
- Lv** = **Veiling Luminance** is a measure of the adaptation luminance caused by the disability glare from the obtrusive light installation
- (1)** = **Road Classifications** as given in BS EN 13201 - 2: 2003 Road lighting Performance requirements. Limits apply where users of transport systems are subject to a reduction in the ability to see essential information. Values given are for relevant positions and for viewing directions in path of travel. For a more detailed description and methods for determining, calculating and measuring the above parameters see CIE Publication 150:2003.

(2) Application No: PAP/2015/0631 and PAP/2015/0635

Blackberry Barn, Coleshill Road, Maxstoke, B46 2QE

Retrospective application for change of use of stables to storage use, which is ancillary to the main dwelling house and site access wall, for

Mrs Zoe Miller

Introduction

This application was referred to the last Board meeting but determination was deferred as Members requested further information on the draft Section 106 Agreement offered by the applicant.

That report is attached at Appendix A for convenience.

Observations

Members will be aware that the usual practice to restrict the use of property is through the imposition of planning conditions. In this case, Condition 5 in the recommendation to the Board would restrict the use of the building to purposes in connection with the main host dwelling and that it not be sold, let or disposed of as a separate dwelling. If it was found that there was a breach of this condition then the Council would need to consider the expediency of whether to commence enforcement action. The Council thus retains control. However as Members are aware there is a degree of discretion as the decision to take formal action rests on the test of “expediency”.

An extra control is to use a Section 106 Agreement which can be used to “restrict the development of land in any specified way”. Here the applicant is undertaking to do so as set out in Schedule one on the draft Undertaking. It says that the building shall not:

- be occupied as independent or separate residential accommodation from the main dwelling at any time;
- be used for any purpose other than for ancillary purposes to the residential occupation of the main dwelling, and
- be sold or otherwise disposed of separately from the rest of the land.

In effect this repeats the terms of the planning condition, but it carries additional weight because it is enforceable directly in the Courts. The Council would still have to produce evidence to show a definite breach of these obligations if it was to proceed to the Courts. However the additional weight is provided because the enforcement action would be directly with the Court rather than with the service of a Notice – with the possibility of an appeal to the Planning Inspectorate depending on which enforcement route is taken. Breaches of Section 106 Agreements are enforceable by way of Injunctions and the penalties for failure to comply with an Injunction are generally more severe than for other enforcement offences. The Agreement thus gives the Council an extra control and one that has the added weight of the Court as the determining Authority.

A land owner can apply to discharge a planning obligation, in a similar way to applying to carry out a development without complying with a condition. However that application would be considered by the Council and the test is whether it continues to serve a “useful” purpose. This is a wider test than the usual “planning purpose” test and whilst clearly that application could be appealed, it does provide another element of control for the Council.

The use of such Agreements is not unusual. The Council has been using this form of control for several years now. For instance applications PAP/2015/0482 at Oakfields in Nether Whitacre and PAP/2015/0540 in Corley have recently been referred to Members under the Scheme of Delegation and applications PAP/2013/0332 at 63 Birmingham Road, Water Orton and PAP/2012/0112 at Colwell in Shustoke were reported to and agreed by the Board.

In these circumstances, the Obligation together with the use of the condition not only gives the Council added control, it also gives greater choice in the way that any breach can be followed up.

The concern here as expressed by the Board is to prevent the unauthorised use of the building. A refusal would be very difficult to defend as the proposed use here is ancillary residential accommodation which is permitted development within a residential curtilage, and thus one that is supported in principle. The approaches set out here to restrict that use to purposes ancillary to the main house are as far as the Council can go without actually refusing the application.

Recommendation

That the recommendations set out in Appendix A be agreed.

(12) Applications PAP/2015/0631 and 0645

Blackberry Barn, Coleshill Road, Maxstoke

Retrospective planning and listed building applications for the change of use of stables to storage use ancillary to the main dwelling house and site access wall for

Mrs Z Miller

Introduction

This case is referred to the Board at the request of Member in view of the circumstances of the case being a breach of planning control.

The Site

A converted listed barn stands on the south side of the Coleshill Road in Maxstoke close to its junction with New End Road to the east and Castle Lane to the west. There are recently refurbished dwellings adjoining the property. The building the subject of this application is at the rear. There is a vehicular access off the road

The site is in an area of open countryside with only a few other buildings in the neighbourhood.

The general location is shown at Appendix A.

Background

In 2012 and 2013 planning permission and listed building consent were granted for the residential conversion of the barn and other courtyard ranges of buildings. The consent included the erection of a separate new building comprising a double garage and stable block at the rear together with a new vehicular access onto the road. Work commenced on the conversions and these are now complete. The separate building was also constructed but that work did not follow the approved plans.

A copy of the approved drawing for this building is at Appendix B.

The Proposals

Following investigation concerning the breach of planning control relating to this building, the owners elected to seek a retrospective planning permission to retain the works undertaken. This application represents that course of action.

The application is thus to retain the building as constructed. This is to be used for garaging and household storage with no stable use. The appearance of the building has been altered from the approved plans in the following ways:

- Rather than have two buildings – the garage and the stables – joined by a covered way, the built development now is one whole building.
- The overall height has been increased by 0.5 metres to the garage element and 0.34 metres to the rear storage element.
- External appearance changes involve removing the canopy and introducing patio doors; roof lights and a side gable window

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- Having one large single garage door rather than two.
- Slight increase in the footprint of the rear storage element by 0.25metres.

The plans showing the current building that it is proposed to retain are attached at Appendix C.

Additionally a stone wall has been added alongside the new access track into the site within the site. This is shown on Appendix C.

Photographs of the site; the conversion and both external and internal pictures of the building itself are attached at Appendix D.

In order to assist Members, the location of the building is as approved. The changes in dimension are:

	Approved	Current
Overall Footprint	109.06 sq m	112.98 sq m
Overall Volume	421.33 m3	455.95 m3
Ridge height (front garage)	5.6 metres	6.1 metres

The applicant has submitted a draft Section 106 Agreement which would retain the use of the current building as ancillary to the host dwelling. A copy is attached at Appendix E.

Representations

Maxstoke Parish Council – It objects as the description of the application and the wording in the draft Agreement in ambiguous. The building's appearance too adds to this ambiguity.

One letter of objection has been received referring to the same issue and that there is a breach of the sale covenant in that changes to the building have taken place without the consent of the vendor of the building and land

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW3 (Green Belt), NW10 (Development Considerations), NW12 (Quality of Development) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV13 (Building Design); ENV15 (Access Design) and ENV16 (Listed Buildings)

Other Material Planning Considerations

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

Observations

Members will be aware that the submission of a retrospective application is not in itself a reason for refusal. It is necessary to assess the degree of change from the approved plans and thus to consider whether they would have led, if considered at the initial submission stage, to a refusal. In this case there have been no changes to the Development Plan since the earlier approval and neither have there been changes of other material planning considerations.

Members should treat this as a new building because it is materially different to the approved one. Members should also be aware that the applicant can revert the building back to that shown on the approved plans without further reference to the Council.

The site is in the Green Belt. New buildings here are not appropriate development and thus the presumption is one of refusal. However one of the exceptions to this as outlined in the NPPF, is that replacement buildings are not inappropriate development if it is not "materially larger" than the one it replaces. Here the building is on the same site as the one approved and as can be seen from the table in the earlier part of this report it is not considered that the increase in volume and height is material (8% approximately). Moreover there is little more adverse impact on the openness of the Green Belt here as a consequence of the alterations. Additionally it is a material planning consideration of substantial weight that the Council has just recently approved a new building here. As a consequence of these matters it is considered that, given there is no change to the Development Plan, that there is no objection to the physical size and scale of the present building.

The converted barn and associated range of outbuildings are included in the Scheduled List of Buildings of Special Architectural and Historic Merit. The "listing" would extend to include the curtilage of the buildings. It was concluded that the original permission here for the separate building would also require Listed Building Consent as it is in the curtilage of the Listed Building. The current application therefore seeks a retrospective Listed Building Consent to retain the current building. The significance of the heritage asset here is the historic interest of the agricultural buildings as examples of their age and particular architectural characteristics evident both externally with stone walls and internally with substantial wooden roof trusses and vertical open spaces. The inclusion of the new separate building within the original permission indicates that there was unlikely to be any harm to this significance. Members also need to assess whether the changes to that building would increase the likelihood of harm occurring. Given that building is on the same site and not materially larger than that approved, it is considered that any additional harm would be minor and not significant enough to affect the setting of the converted range. As a consequence there is no reason to refuse the grant of the retrospective listed building consent on the grounds of its physical size, scale or location.

There are no adverse impacts affecting nearby residential occupiers as a consequence of the size or scale of the current building.

It is now necessary to look at the use of the building. It is this has given rise to the objections as it was considered to be "ambiguous". It is clear that the underlying consideration here is that the building could or might become a separate dwelling either through a subsequent application or possibly be "default" through the passage of time.

The approved use of the building is a garage and stabling. It is proposed to retain the current use of garaging and household storage. The current use is not as a dwelling. The language used in the application description and the draft Agreement is wholly a consequence of planning legislation and should not be treated as deliberately creating "ambiguity".

Members will be aware that buildings can be erected within the curtilage of any residence for uses incidental to the use of the main building as a dwelling house. This would include green houses, sheds and detached garages but can also include summer houses, garden rooms, games rooms, covered swimming pools and studios. The crucial factor is that their use is dependent on the main dwelling providing the essential residential activities. The current use of this application building falls into this category and the internal arrangements reflect that conclusion too.

Members are strongly advised not to deal with this application on speculation as to what might happen in the future. This is why the draft Undertaking is so significant and material. It obligates the owners of the property to maintain the use of the building as ancillary accommodation to the main house in perpetuity. If there is found to be a breach of the Agreement then action can be taken in the Courts by the Council. The draft Agreement requires the building "not to be occupied as independent or separate residential accommodation from the main dwelling at any time and that it be used for no purpose other than ancillary to the residential occupation of the main dwelling, or to be sold off or otherwise disposed of separately from the rest of the land". Members have agreed to this form of Agreement on other similar cases.

The wording of the draft Agreement provides more certainty than perhaps the objectors had seen at first sight. As a consequence of these matters it is considered that the use is the same as that approved and thus still remains as appropriate development in the Green Belt and that secondly, that there is no planning policy reason here for refusal.

Objectors too feel that the appearance of the building with its patio doors perhaps suggests potential alternative uses. The draft Agreement as set out above answers this possibility. Members should be aware that if the ancillary use here was a garden room or as a studio then patio doors might be likely features. The remit of the Board here is not to establish the exact actual use of the building but to establish its use within the parameters of planning legislation. In this case that is as an ancillary residential use to the main dwelling. The application accomplishes that outcome.

The alterations to the access arrangements through the addition of the walls are not considered to be so material as to adversely impact on the visual amenity of the area given that a new access has been approved here or on the significance of the heritage asset.

The possibility of a potential breach of a covenant is a matter for the individual to follow up privately and no weight at all should be given by the Board to this representation.

Recommendations

a) **PAP/2015/0631** – That planning permission be **GRANTED** subject to the completion of the Section 106 Agreement as outlined and the following additional conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 699-01 A (plan 2) received by the Local Planning Authority on 12 October 2015, and to the site location plan (plan A), and to the block plan (Plan B) received by the Local Planning Authority on 16 November 2015.

REASON

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

3. No additional opening shall be made other than shown on the plan hereby approved, nor any approved opening altered or modified in any manner.

REASON

To protect the privacy of the occupiers of adjoining properties.

4. No development whatsoever within Class E of Part 1, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 shall not commence on site.

REASON

In the interests of the amenities of the area.

5. The ancillary storage/accommodation hereby approved shall be occupied solely in connection with, and ancillary to the main dwelling at Blackberry Barn, Coleshill Road, Maxstoke, B46 2QE, and shall not be sold off, sub-let or used as a separate unit of accommodation.

REASON

To prevent unauthorised use of the property.

6. The garage space shall not be converted or used for any residential purpose other than as domestic garages.

REASON

To ensure adequate on-site parking provision.

Notes

1. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com

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

b) **PAP/2015/0645** – That Listed Building Consent be **GRANTED** subject to the following conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 699-01 A (plan 2) received by the Local Planning Authority on 23 October 2015, and to the site location (plan 3) received by the Local Planning Authority on 16 November 2015.

REASON

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

3. No additional opening shall be made other than shown on the plan hereby approved, nor any approved opening altered or modified in any manner.

REASON

To protect the privacy of the occupiers of adjoining properties.

Notes

1. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com
2. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

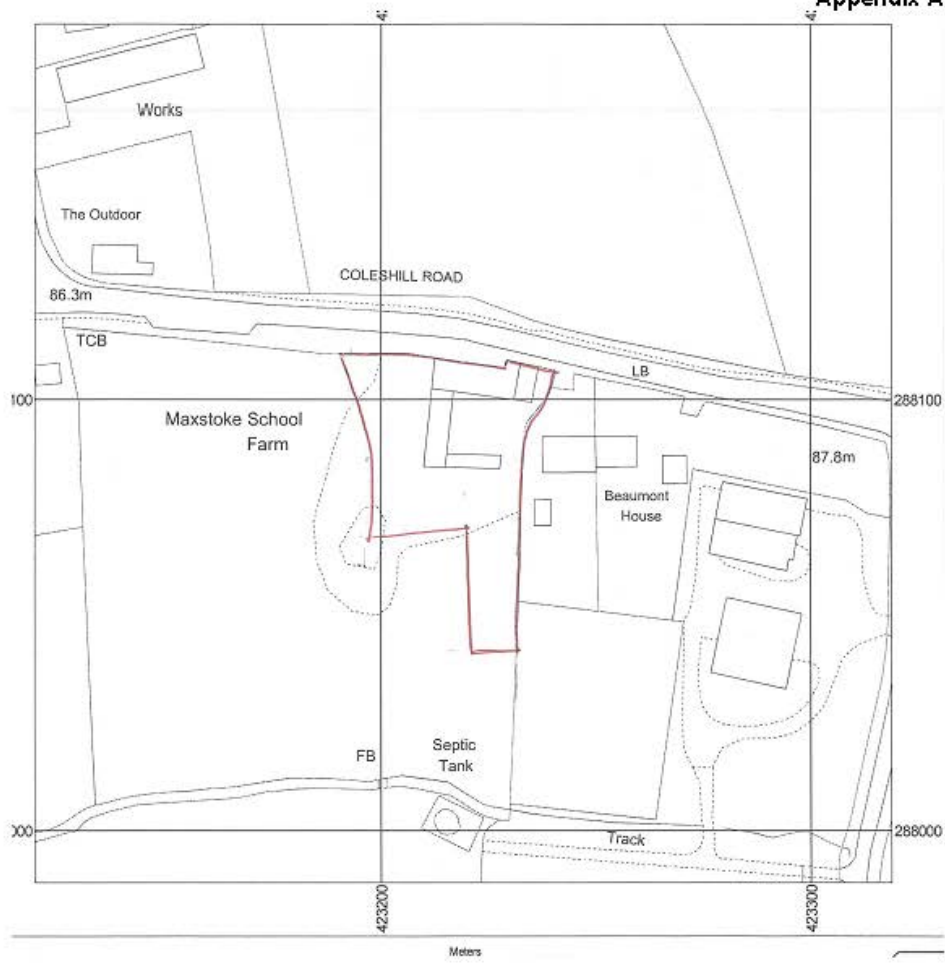
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2015/0631 and PAP/2015/0645

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	8/10/15
2	WCC Archaeology	Holding email	2/10/15
3	NWBC	Email to agent	10/10/15
4	NWBC	Email to agent	10/10/15
5	NWBC	Email to agent	10/10/15
6	Agent and NWBC	Email correspondence	15/10/15
7	Agent	Email to NWBC	22/10/15
8	NWBC	Email to agent	22/10/15
9	NWBC Solicitor	Email S106	4/11/15
10	Agent	Email S106	4/11/15
11	NWBC Solicitor and Agent	Email exchange	Oct – Nov 2015
12	NWBC and Agent	Email correspondence	10/11 – 11/11/15
13	NWBC Solicitor	Revised S106	12/11/15
14	NWBC, NWBC Solicitor and agent	Email correspondence	12/11/15 – 19/11/15
15	Agent	Email S106	3/11/15
16	Agent	Email	3/11/15
17	Maxstoke Castle	Objection (0631)	16/11/15
18	Maxstoke Castle	Objection (0645)	17/11/15
19	Cllr Simpson	Request for information	6/11/15
20	NWBC Case officer	Email consultation with Councillors	19/11/15

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

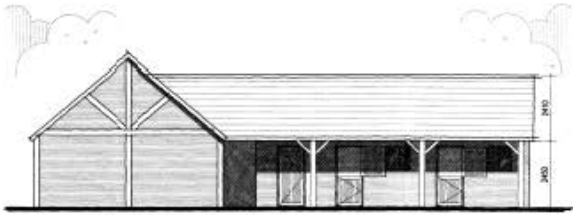
A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.



Appendix B



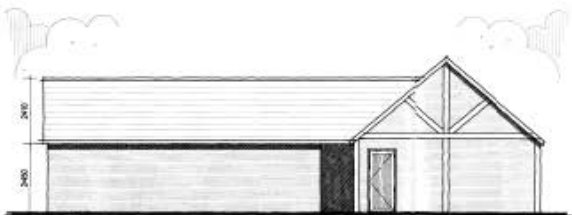
Garage North Facing Elevation
Scale 1:100



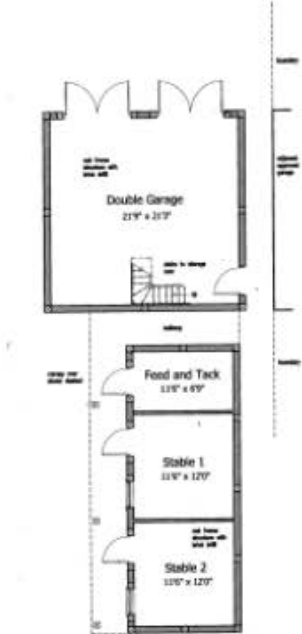
Garage West Facing Elevation
Scale 1:100



Garage South Facing Elevation
Scale 1:100



Garage East Facing Elevation
Scale 1:100



Garage Floor Plan
Scale 1:100

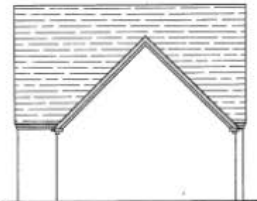
Appendix C



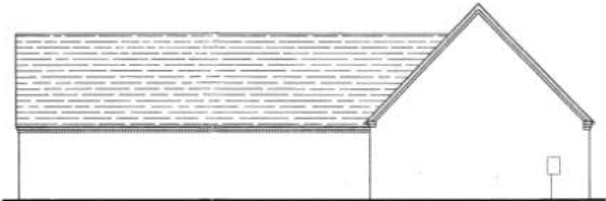
garage block
front elevation 1:100



garage block
side elevation 1:100

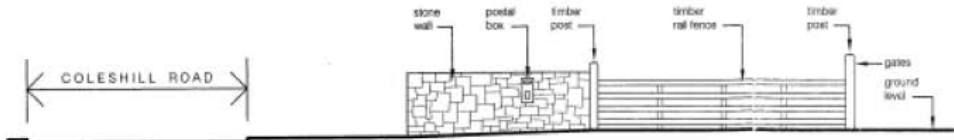


garage block
rear elevation 1:100



garage block
side elevation 1:100

block plan 1:100



site entrance
wall and fence elevation A 1:100

Appendix D



DATED 2015

NORTH WARWICKSHIRE BOROUGH COUNCIL (1)

and

ZOE MILLER AND ADRIAN KNIGHT (2)

PLANNING OBLIGATION BY DEED

Made pursuant to Section 106 of the Town and
Country Planning Act 1990, Section 111 of the
Local Government Act 1972

Relating to

Land at Blackberry Barn, Coleshill Road, Maxstoke, Warwickshire

THIS DEED is dated 2015 and made between:-

1. NORTH WARWICKSHIRE BOROUGH COUNCIL of The Council House South Street Atherstone Warwickshire CV9 1DE (the "Council") and
2. ZOE MILLER and ADRIAN KNIGHT of Blackberry Barn, Coleshill Road, Maxstoke, Coleshill, Warwickshire B46 2QE ("the Owner")

NOW THIS DEED WITNESSES AS FOLLOWS:

WHEREAS

RECITALS

- 1 The Borough Council is the Local Planning Authority for the purposes of section 106 of the 1990 Act and for the purposes of this Deed for the area within which the Site is situated and by whom the obligations contained in this Deed are enforceable
- 2 The Owner is the freehold owner of the Site
- 3 The Owner has by the Application applied to the Borough Council for permission to develop the Site in the manner and for the uses set out in the Application and in the plans specifications and particulars deposited with the Borough Council and forming part of the Application
- 4 The Council has not yet determined the application and the parties hereto enter into this Agreement in the knowledge that the Planning Permission may not be granted.

THIS UNDERTAKING WITNESSES AS FOLLOWS: -

1. DEFINITIONS AND INTERPRETATION

1.1 For the purposes of the recitals and this Agreement, the following expressions shall have the following meaning:

"Act" means the Town and Country Planning Act 1990;

"Annexe Building" means the building the subject of the Planning Application and marked "Building A" on Plan A at Schedule 2 to this Undertaking;

"Main Dwelling" means the dwelling house situate on the Land;

"Land" means the land against which this Agreement may be enforced at Blackberry Barn, Coleshill Road, Maxstoke, Coleshill, which is in the freehold ownership of the Owners and is shown for identification purposes edged in red on Plan A at Schedule 2 to this Undertaking;

"Planning Application" means the application for planning permission for change of use of stables to storage use and other uses ancillary to the main dwelling house under reference PAP/2015/0631;

"Planning Permission" means the planning permission and plans to be granted pursuant to the Planning Application.

1.2 Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any one gender shall include all genders and words denoting persons shall include bodies corporate, unincorporated associations and partnerships.

1.3 References in this Agreement to any statute or statutory provision shall be construed as a reference to the same as it may from time to time be amended, extended, modified, consolidated or re-enacted whether before or at the date of this Agreement.

1.4 Unless the context otherwise requires, reference to any clause, paragraph, subclause or schedule or appendix is a reference to a clause, paragraph, subclause, schedule or appendix of or to this Agreement.

1.5 The headings in this document are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

1.6 Where a party includes more than one person named as a party any obligations of that party shall be joint and several unless there is an express provision otherwise.

1.7 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to the Council's respective functions.

2. STATUTORY PROVISIONS

2.1 This Agreement is made pursuant to section 106 of the Act, section 111 of the Local Government Act 1972, section 2 of the Local Government Act 2000 to the intent that it will bind the Owner.

2.2 The covenants, restrictions and requirements imposed upon the Owner under this Agreement create planning obligations pursuant to section 106 of the Act and are enforceable by the Council as local planning authority against the Owner without limit of time.

3. CONDITIONALITY

3.1 Save where otherwise provided, the obligations in this Agreement are subject to and conditional upon the grant of the Planning Permission.

4. MISCELLANEOUS

4.1 Nothing contained or implied in this Agreement shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of their functions as local planning authority and their rights, powers, duties and obligations under all public and private statutes, bylaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.

4.2 If any provision in this Agreement shall be held to be invalid, illegal or unenforceable then the validity, legality and enforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.

4.3 No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the covenants undertakings obligations or restrictions contained in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants undertaking or obligation from acting upon any subsequent breach or default in respect thereof by the Owner.

4.4 Nothing in this Agreement shall be construed as a grant of planning permission.

4.5 Unless expressly agreed otherwise in this Agreement, the covenants in this Agreement shall be enforceable without any limit of time against the Owner.

4.6 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission granted (whether or not on appeal) after the date of this Agreement.

4.7 This Agreement cannot be amended or discharged without the prior consent in writing of the Owner and the Council.

4.8 In the event of the planning obligations contained in this Agreement being modified a note or memorandum thereof shall be endorsed upon this Agreement.

5. THE OWNER'S PLANNING OBLIGATIONS

The Owner covenants with the Council so as to bind the Land to observe and perform the obligations contained in Schedule 1.

6. ARBITRATION

6.1 All disputes, differences or questions arising out of this Agreement or as to the rights or obligations of the parties under it or in connection with its construction shall be referred to arbitration by a single arbitrator to be agreed between the parties or, failing agreement, within 21 days by an arbitrator to be appointed at the request of any party by the President of The Royal Institute of Chartered Surveyors as the case may be having due regard to any representations made to him as to the appropriate qualifications of such arbitrator.

6.2 The arbitration shall take place in Warwickshire and shall be in accordance with the Arbitration Act 1996 or any re-enactment or modification of such Act for the time being in force, unless otherwise agreed in writing by the Council.

7. THIRD PARTIES

A person who is not named in this Agreement does not have any right to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

8. JURISDICTION

This Agreement is governed by and interpreted in accordance with the law of England and Wales.

IN WITNESS of which this Undertaking has been duly executed as a Deed and has been delivered once dated.

EXECUTED as a DEED by
affixing THE COMMON SEAL of
THE COUNCIL OF THE
BOROUGH OF NORTH WARWICKSHIRE in
the presence of :-

Authorised Signatory

EXECUTED as a DEED by

ZOE MILLER

in the presence of:

Witness:

EXECUTED as a DEED by

ADRIAN KNIGHT

in the presence of:

Witness:

6/187

SCHEDULE 1

1. The Annexe Building shall not;
 - (a) be occupied as independent or separate residential accommodation from the Main Dwelling at any time
 - (b) be used for any purpose other than ancillary purposes in relation to the residential occupation of the Main Dwelling
 - (c) be sold or otherwise disposed of separately from the rest of the Land

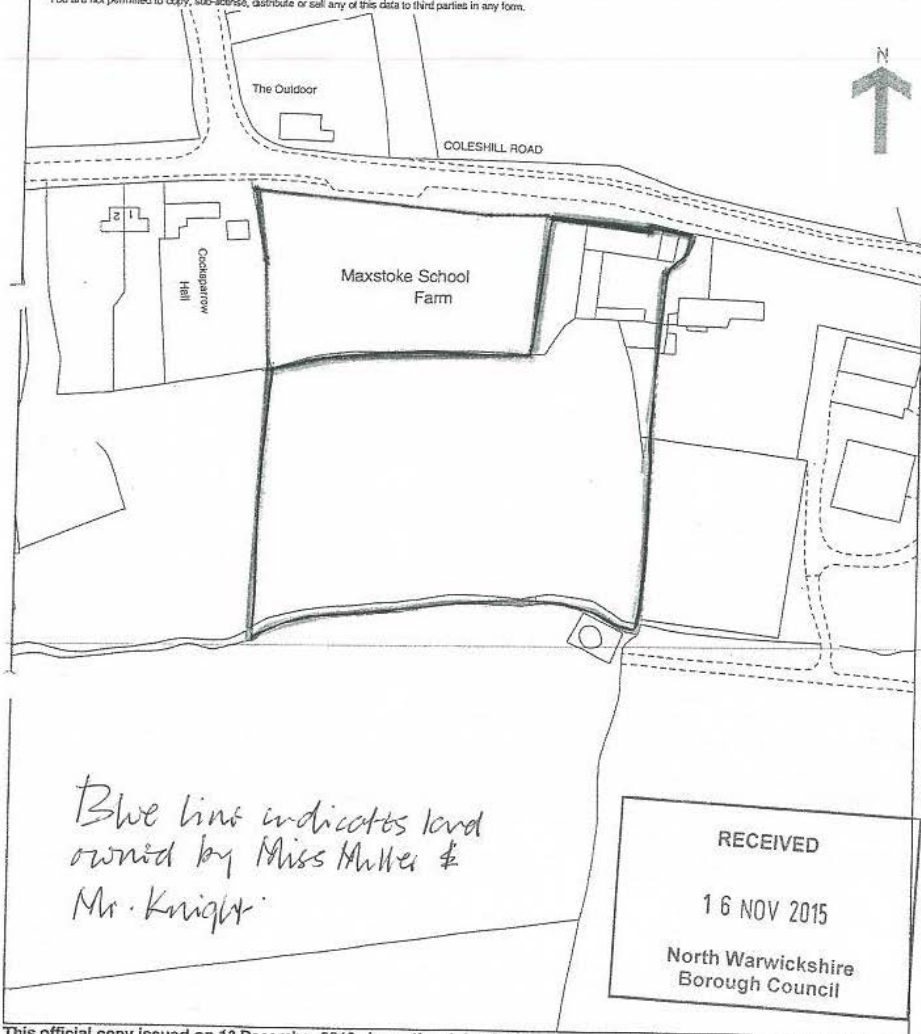
2. To pay a contribution towards the Council's reasonable legal costs on completion of this Deed, that contribution being limited to £750

Land Registry
Official copy of
title plan

Title number **WK466179**
Ordnance Survey map reference **SP2388SW**
Scale **1:1250** enlarged from 1:2500
Administrative area **Warwickshire: North**
Warwickshire



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You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.



*Blue line indicates land
owned by Miss Muller &
Mr. Knight*

RECEIVED
16 NOV 2015
North Warwickshire
Borough Council

This official copy issued on 13 December 2012 shows the state of this title plan on 13 December 2012 at 13:12:06. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).
This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.
This title is dealt with by Land Registry, Gloucester Office.

(3) Application No: PAP/2015/0643

52 Station Road, Whitacre Heath, B46 2EH

Prior Approval for Change of use of Post Office and General Store with Residential Accommodation to Residential Use Only, for

Mrs Cheryl Green

Introduction

The proposal is reported to Board at the request of a Member.

The Site

The site is a post office and licensed general store with three bedroom residential accommodation and garden. It is situated in the village of Whitacre Heath, on the west side of Station Road, 30 metres north of the junction with Cottage Lane.

The Proposal

This is **NOT** a planning application.

The proposal is an application for prior approval for a change of use of the post office and general store with residential accommodation to residential use only.

This application is not the same as an application for planning permission. It is a procedure that is set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2, Part 3, Class M that the developer must follow to ensure that the proposal qualifies as permitted development.

The Council has until 21 January 2016 to decide whether the development meets the conditions, limitations and restrictions in the Order so that development may proceed on as permitted development. The Council's assessment is thus limited to:

- (a) transport and highways impacts of the development,
- (b) contamination risks in relation to the building,
- (c) flooding risks in relation to the building,
- (d) whether it is undesirable for the building to change to a use falling within Class C3 (dwelling-houses) of the Schedule to the Use Classes Order because of the impact of the change of use
 - (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or
 - (ii) where the building is located in a key shopping area, on the sustainability of that shopping area, and
- (e) the design or external appearance of the building

The decision will rest on the interpretation of that Part of the Order and planning policies so far as relevant to the scope of the further details the Council can request.

Therefore, consideration must be confined to matters listed above.

Background

Up until 30th June 2015, when the business ceased operations, the site was a post office and general stores. The property and business were on the market for 10 months. The property was marketed through Kings Business Transfer (Kings) who the applicant advises sell themselves as leaders in the marketing and selling of Post Offices. A sales board was placed outside of the property. Kings produced sales particulars (a copy has been supplied) and assigned a personal sales negotiator with specialist knowledge of the sector to market the business. The applicant further advises that Kings use its database to match potential sellers and buyers. They advertise in leading trade specific publications and regional newspapers. Kings advertise online using the Altius Group website which is purported to receive more than 15,000 viewings a week. They also email regular newsletters to subscribers on their database.

In addition, having gone through the formal resignation process and notice period with Post Office Limited, it said that the business was for sale and stated that they would also be using their own databases to market the business and look for potential buyers. No viewings were arranged through Post Office Limited.

The business and property were valued by Kings at £225,000 and put on the market on 16th September 2014. On 22nd October 2014 an offer of £160,000 was made to run the existing business and rejected. On 27th January 2015 an offer of £170,000 was made and rejected. This prospective buyer was looking to change the use to that of Physiotherapy. At this time Kings reduced the price to 'offers in the region of £215,000'. Then on 10th March 2015 Kings marketed the business at 'offers in the region of £200,000'. The applicant indicates that the property on its own, without the business, was valued in excess of £200,000 by independent local agents.

On 21st July, after the business had closed, a conditional offer of £175,000 was received and rejected. The prospective purchaser was unsure as to the ultimate use for the property as it was subject to the outcome of negotiations with Post Office Ltd. Throughout the period there were additional regular viewings which did not result in any offers.

On 30th June 2015 the business had to close as the managers were retiring. The property continued to be marketed until 16th September 2015. However, because the existing contract with Post Office Limited had ended, a new postmaster would have to sign a new contract with very different terms and conditions. Any future contract would only compensate the Postmaster for product sales at the counter. This would result in a reduction of £1,000 per month gross income from POL as they would no longer include the Core Tier payment which was part of the previous owners contract with them. Post Office Limited represented that the pay structure of such a contract would be based on product sales as opposed to a fixed monthly payment plus product sales as had previously been paid. The retail side of the business would therefore need to be very strong. The applicant claims that the retail side of the business is very weak due to lack of local support and because of external competition from large supermarket chains and

cut price alcohol outlets in the surrounding towns. She indicates that this has caused the retail side of the business to decline over the last 3-4 years.

The applicant believes that part of the reason for not finding a suitable buyer for the business was that it was not viable or sustainable in the current economic climate, especially taking into account the revised salary structure from Post Office Ltd.

The applicant believes that the impact of not having a general store in the village is that it won't be a substantial loss as there is a general store one mile away, on the same street, which carries similar stock and in addition sells newspapers and lottery. She points out that Whitacre Heath is serviced by the following buses: on Monday Flexibus 223 runs from Whitacre Heath to Kingsbury and also Curdworth where there is a Post Office. On Tuesday Flexibus 228 runs from Whitacre Heath to Kingsbury. Both of these services are operated by West Midlands Special Needs Transport. Also, on Wednesday and Friday bus number 76 runs from Whitacre Heath to Coleshill and is operated by TJ Travel.

Development Plan

The North Warwickshire Core Strategy 2014 - NW1 (Development Considerations) and NW20 (Services and Facilities)

Other Relevant Material Considerations

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

Consultations

Environment Agency – To be reported

The District Valuer – Has been commissioned to offer an opinion on this proposal in terms of the reasonableness of the applicant's position as it relates to the viability and sustainability of the existing use of the property.

In particular he considers:

- Whether there is a reasonable prospect of the building being used to provide continuing services
- Ascertains whether the property was marketed at a realistic value and whether any of the rejected offers were reasonable offers.

The District Valuer considered the information the applicant has supplied about attempts to market the property for a continuing post office and shop use and made enquiries of the business transfer agents who acted on the applicant's behalf.

The initial marketing advice was taken by the applicant from two estate agents. The two firms valued the property at £440,000 and £450,000 respectively. The valuations comprised both the “cottage” and the “shop/Post Office”. The approach changed and the applicant looked to market the business through a business transfer agent. It is not clear if initially this was marketed separately to the living accommodation.

The applicant placed the Shop on the market with Kings Business Transfer (Kings) and

it was put on the market on 16th September 2014. The applicant stated that the both the business, and the property, were professionally valued by Kings at £225,000. Kings advise that this valuation was in terms of the business itself only.

The details of offers made for the business appear accurate. By 10th March 2015 Kings re-marketed the business at 'offers in the region of £200,000'. The applicant makes the point that this was done "even though the property on its own, without the business, was valued in excess of £200,000 by independent local agents".

Kings confirm the comments made by the applicant as regards offers for the property. Offers were made at less than £200,000 for the shop and the cottage. These were only made on an unconditional basis and may not have proceeded, but had a sum of £200,000 been offered it is Kings' understanding that the sale would have proceeded. In the District Valuer's opinion £200,000 is a low price for this shop and residential accommodation combined.

A second aspect of this is the role of the Post Office Ltd (PO). In 2013 it is a matter of public record that this branch would have received a salary from PO of around £14,000 per annum. This situation changed with the roll out of the PO's network transformation policy. The policy has driven closures of small village PO's and re-sited these counters to larger convenience stores e.g. Spar stores.

At this time the contract in respect of this shop was ended by PO and, as the applicant states, the new PO contract offered removed the salary element and the business relationship was to be 100% commission based i.e. to make up the £14,000 plus income from the PO, this shop would need to generate additional sales of the same value.

In the District Valuer's opinion, it is likely that this alone would have made this business unviable. The key point is that the PO business has now been removed from this property and there is no prospect of it returning.

Therefore the District Valuer's opinion on this matter is;

1. The applicant genuinely tried to market this property as a going concern for 12 months, with the PO business attached (albeit under threat of re-negotiation or removal by PO).
2. The applicant received offers to buy the shop as a going concern, but these were at less than £200,000 for a cottage and shop which had been valued in the market by three different valuers at between £450,000 (in 2013) and £225,000 (for just the business and not the cottage). It is not unreasonable that the applicant refused these offers.
3. The PO business has now been removed from this property and there is no prospect of it returning and because of this, the subject shop is probably not viable.
4. A "lifestyle" motivated buyer might take a view to purchase this property at a sum above what might be a reasonable sum based on profitability. However, that type of individual did not bid in this case and if they had, they would have been advised that they would be unlikely to (i) be able to service their acquisition costs/debts from profits or (ii) re-sell the property for a similar level at a later date.

Environmental Health Officer – To be reported.

Representations

Two Councillors have expressed concern at the loss of an essential local service which should be protected and retained. The concern is that if this shop premises goes there will be only one store left which is almost a mile from the centre of the village and two miles from the hamlet of Nether Whitacre.

Observations

The building qualifies for consideration under Class M of the Permitted Development Order. The shop was in use on the relevant date of 20 March 2013; the floor space to be changed does not exceed 150 square metres, the development would not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point and the building is not on article 2(3) land, in a site of special scientific interest, in a safety hazard area, in a military explosives storage area, a Listed Building or a scheduled monument.

As set out above there are only a limited number of prescribed matters that can be considered in this prior approval decision. Each of these is addressed in turn below.

- Transport and highways impacts of the development:

The use of the premises as a single dwelling house would have a much reduced traffic generation than the use of the premises as a commercial property with residential accommodation. In this respect the proposal will have a positive effect. However, this will be balanced against the need for local residents to travel further to access alternative retail and post office services. Arguably, the loss of a local shopping facility will lead to an unsustainable increased number of journeys over longer distances, albeit with the acknowledgement that such journeys could be combined with journeys that need to be made for another purpose.

- Contamination risks in relation to the building:

Whilst the comments of the Environmental Health Officer are still awaited there are believed to be no contamination risks associated with the proposed change of use.

- Flooding risks in relation to the building:

The building and its garden lie within Flood Zones 2 and 3. Whilst the comments of the Environment Agency are still awaited, it is believed that the proposal presents no increased risk from flooding as it is presently in use as a single dwelling as well as being a commercial premises. The change of use would not bring about any increased risk.

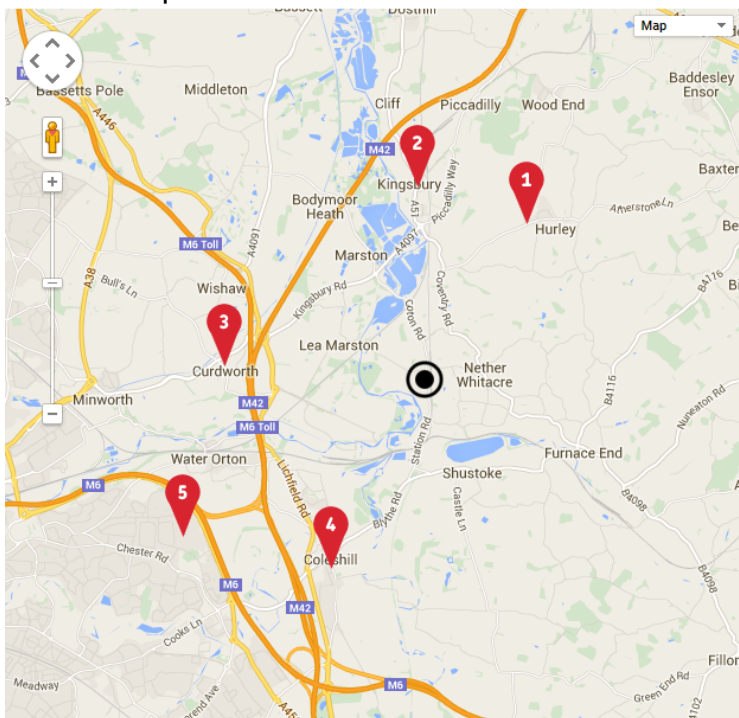
- Whether it is undesirable for the building to change to a use falling within Class C3 (dwelling-houses) of the Schedule to the Use Classes Order because of the impact of the change of use
 - (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or

(ii) where the building is located in a key shopping area, on the sustainability of that shopping area:

This is the matter which is of greatest potential concern. The loss of a village post office and shop is often undesirable because of the potential to isolate members of the community who have difficulty travelling to alternative provision in a more distant location. This is recognised in Core Strategy Policy (NW20) and in the National Planning Policy Framework. However, it is necessary to assess, on a case by case basis, whether other 'adequate' provisions exist and, importantly, whether there is a reasonable prospect of the building being used to provide such services.

Looking firstly at whether other 'adequate' provisions exist, an alternative general store exists on Station Road to the south of the application premises, however, it is 1.15km (0.71 miles) distant and does not offer Post Office facilities. A Councillor points out that the current shop meets the needs of the hamlet of Nether Whitacre too and that the alternative store would be 2 miles distant for those residents.

The application site is denoted by the double circle on the map below. The nearest alternative post offices are marked 1 to 5:



Your nearest branches are shown below, click a pin on the map or a Branch details link for more information.

Some branches close at certain times during the day (e.g. lunch hours). Please click 'Branch details' to see the opening hours of the chosen branch.

- 1 Hurley**
11 Knowle Hill, Hurley, Atherstone, Warwickshire
CV9 2JE [Map](#) | [Branch details](#)
- 2 Kingsbury**
2 Jubilee Court, Kingsbury Village, Kingsbury, Warwickshire
B78 2LL [Map](#) | [Branch details](#)
- 3 Curdworth**
33 Coleshill Road, Curdworth, Sutton Coldfield, West Midlands
B76 9EX [Map](#) | [Branch details](#)
- 4 Coleshill**
128A High Street, Coleshill, West Midlands
B46 3BJ [Map](#) | [Branch details](#)
- 5 Burtons Way**
25 Burtons Way, Smiths Wood, Birmingham, West Midlands
B36 0UG [Map](#) | [Branch details](#)

[Show more branches](#)

The nearest alternative is at Hurley (travel distance 2.8 miles) and others are available in Kingsbury (travel distance 2.9 miles), Coleshill (travel distance 2.9 miles) and Curdworth (travel distance 4 miles). For most people these distances are greater than a reasonable walking distance.

The existence of an alternative general store does lessen the loss but it is still a round trip of an additional distance of 1.5 miles to reach it. The alternative general store is arguably not adequate alternative provision however; it is not uncommon for residents living in dispersed rural communities to expect to travel to meet their shopping needs.

Now considering whether there is a reasonable prospect of the building being used to provide such services, it is material that the property has been marketed for sale as a retail business incorporating a Post Office. The marketing was by a professional agent,

with a web presence, over a reasonably long period. The District Valuer confirms that the property was marketed at a price which properly reflected its value and for an appropriate period of time, in a properly targeted fashion. A professional agent was employed and the correct target market was approached.

The detailed assessment of the District Valuer, set out above, confirms that offers made on the property were unreasonably low and that the applicant was perfectly legitimate in her decision to decline the offers. It further confirms that in light of the Post Office decision to change its funding policy there is little, if any, prospect of a post office returning or of a shop alone being viable in this location. On the basis of this expert opinion it would not be possible for the Council to argue that there is a reasonable prospect of the building being used to provide continuing shop and post office services.

Notwithstanding this it is worth noting that there is a difficulty associated with the fact that a post office is an A1 use. It can cease to operate at any time without any means for the Local Authority to intervene. Whilst it is undesirable to lose the post office function, realistically even if the prior notification is refused for the loss of the shop, there is no way of guaranteeing that it will continue to operate as a post office.

The building is not in a key shopping area and its loss would not adversely impact on the sustainability of other premises.

On this basis the change of use should be allowed to proceed.

- The design or external appearance of the building:

The applicant proposes no alteration to the external appearance of the building. It is her intention to obtain the permission for the change of use and then to sell it with permission. If the new owner proposes to make alterations to the property the responsibility for obtaining planning permission would fall to them. In any event it is likely that necessary alterations will be limited to replacing the shop front with windows and finishes of a more domestic character. Such alterations are likely to be suited to the character of the building and the area more generally.

Recommendation

That the Council confirms that the change of use is permitted development and that the change of use **may proceed**.

This is subject to any conditions that may be required by the Environmental Health Officer or the Environment Agency.

Informatives

1. The developer is reminded that development under the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2, Part 3, Class M is permitted subject to the following conditions:

(a) development under Class M(a), and under Class M(b), if any, must be completed within a period of 3 years starting with the prior approval date; and

(b) a building which has changed use under Class M is to be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as such a dwellinghouse.

2. This prior approval relates to the change of use of the premises only. Associated operational development, other than internal alteration, will require planning approval.

BACKGROUND PAPERS

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

Planning Application No: PAP/2015/0643

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	27 11 15
2	Councillor Simpson	Objection	7 12 15
3	Councillor Waters	Objection	7 12 15
4	District Valuer	Consultation Response	17 12 15

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

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

(4) Application No: PAP/2015/0664

Application No: PAP/2015/0664

Ridley House, Ridley Lane, Nether Whitacre, B46 2DH

Re-build former stable block for use as a dwelling, for

Mr Darren Freeman

Introduction

The application is reported to the Board and at the discretion of the Head of Development Control and in view of the Section 106 issue raised in the report.

The Site

The site lies within the Green Belt and is open in character with sporadic homes located in the dispersed settlement of Nether Whitacre. The site lies approximately 140 metres to the east of the junction of Ridley Lane with the Tamworth Road. Open countryside extends north, west and east of Ridley House and also to the south of Ridley Lane. The application site is on the north side of Ridley Lane.

The site comprises a detached 20th Century house with garden and accompanying outbuilding. A former stable block was present until recently and the land to the rear is a paddock area. The main dwelling lies to the east of the former stable block. There is a hard-standing, garden space and an established vehicular access onto Ridley Lane. An aerial photograph of the site is attached at Appendix A. The context of the site and its immediate surroundings is available at Appendix B. Appendix C is a photo of the former building.

The Proposal

It is proposed to redevelop the site with one detached bungalow using the existing access. The detail shows a two bedroom dwelling, one storey high that would replace the footprint of the former building and would align with the existing outbuilding and would be set back from the host dwelling. The former arrangement to the building to be replaced with the same footprint, scale and utilitarian design and the proposed layout and design is illustrated at Appendices D.

The applicant has submitted a financial appraisal of the proposal and as a consequence is prepared to offer an off-site affordable housing contribution in lieu of on-site provision amounting to £3500. This would need to be the subject of a Section 106 Agreement.

Background

The former stable block (a traditional brick and tile building dated around late 1920's) was recently demolished. It did benefit from permission for its conversion to a residential dwelling granted earlier this year under application ref: PAP/2015/0001. The building has very recently been demolished under advice from Building Control. This planning permission to convert the building to a dwelling is therefore presently void.

The applicants have therefore made this application to re-instate the former building in terms of footprint and height and to use it as a dwelling as per the recent planning permission. The applicants statement and special circumstances surrounding the matters advised by Building Control is outlined in Appendix E

The building was likely to have been first in use as a cow shed and feed store prior to a stable use. Photographs taken of the former building which stood in situ until very recently are illustrated at Appendix C.

There is scattered housing in the area and other permissions for conversion of buildings for use as dwellings have been forthcoming. Similar permissions in the immediate area are at College Farm (PAP/2013/0124) and The Limes (PAP/2012/0100), both these application sites involved conversion of existing buildings or the formation of a separate dwelling. The site at Old House Farm in Hoggrills End was permitted for a single dwelling in replacement of a builder's yard. There are several examples of single dwellings being approved in recent years within the immediate surroundings. The Whitacre Garden centre is also an example of a recent development replacing a former building (brownfield land) for use as residential.

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations) and NW12 (Quality of Development)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV13 (Building Design); HSG3 (Housing outside of Development Boundaries) and TPT1 (Transport considerations in new development).

Other Relevant Material Considerations

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

Representations

Parish Council – The Parish response is outlined at Appendix F.

Observations

The main consideration is whether the construction of a replacement building would constitute inappropriate development in the Green Belt and whether there are any special circumstances or other material considerations that might override the presumption of refusal because of any inappropriateness.

a) The Green Belt

The site is in the Green Belt. As such the control of development is to be determined in accordance with Government Guidance as set out by the National Planning Policy Framework. This states that new buildings in the Green Belt are to be treated as inappropriate development, thus carrying a presumption of refusal. As such this current application should be refused planning permission. However, the National Planning

Policy Framework defines a number of exceptions and one of these is relevant in this case.

The exception is that the replacement of a building, “provided the new building is in the same use and not materially larger than the one it replaces” need not be inappropriate.

The proposal will not have a greater impact on the openness of the green belt than the existing and not therefore be materially larger than the one it replaces. It is reasonable to compare the footprint and volume of former building with the proposed development in order to gain a simple conclusion about openness. In this case the figures are the same in terms of floor area covering 126 square metres for the existing building and that of the proposed building. The height to the highest point of the ridge is the same at 4.7 metres. In terms of impact on openness there is none beyond the recent building. In this case the replacement building would be of the same scale and footprint of the former building and would be for the same use as approved by a recent planning permission.

There is also the fall-back position for a building which could be erected here under permitted development to a similar scale under the limitations of Class E for an incidental use to that of the host dwelling, the impact on openness would be the same by a replacement building.

The point being made here is that the impact on openness would essentially be the same and given the building replaces the former which was only recently removed and retains open land surrounding the site then these factors above are considered to be material in the overall comparison of impacts on openness. It is concluded that there would be the same impact on openness in respect of the former and proposed development, with no further harm proposed.

As a consequence therefore this proposal is not inappropriate development in the green belt in terms of its impact on openness and thus the presumption of refusal does not apply. This conclusion will carry substantial weight because of the conclusion made by the exceptions of the National Planning Policy Framework.

If the Board considers otherwise and treats the proposal inappropriate development then it has to see if there are any other considerations that are relevant which would amount to the very special circumstances necessary to outweigh this inappropriateness. If this is the case then these are explored in the next section.

b) Material considerations

The material considerations with this case are considered to carry significant weight. The site benefits from a planning permission for the conversion of the former stable block for the re-use as a dwelling, this use is supported by the National Planning Policy Framework at paragraph 55 that sets out the special circumstances being that whilst new isolated homes should be avoided, there is an exception where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting. The former stable block was considered to meet the circumstances of this policy.

However the building was recently demolished following Building Control advice even though the former stable block was considered to be of a sound construction at the time of determination based on a structural survey. However its subsequent deterioration on inspection of the foundations and wall condition was not considered to be supported for

a straightforward conversion under advice from Building Control. Had the building not been removed, it would certainly have been considered by Building Control as a dangerous structure and even underpinning the former building was not considered to be a viable option for its retention. Given the building has only recently been demolished and had benefitted from permission for its use as a dwelling the impact on the proposed re-development is the same as that scheme that already had planning permission. These are the special circumstances of the case. Had the building not been demolished the permission for use as a dwelling would likely have been implemented by now, this is a material consideration that sets the site apart from any other site within the Green Belt that seeks planning permission for a dwelling.

Building Control did not consider that the applicants acted with intent to remove the building to their advantage. The building was in such poor condition that it was not feasible to retain the structure and a safe construction method could not be established.

c) Residential Use

The National Planning Policy Framework exception quoted above does not differentiate between alternative land uses, in respect of what is appropriate or not inappropriate development. Thus a residential use here is not inappropriate development.

The Core Strategy sets out that the distribution of new housing should be directed in settlements with a development boundary and development in settlements without a development boundary should be 'limited to agriculture or forestry' and for local affordable housing.

Whilst the National Planning Policy Framework also looks to existing settlements to be the location for new development, it does support other new housing in rural areas. One such case is where "the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting". This was the factor which first permitted the residential use of the former stable block under the recent approval ref: 2015/0001.

The replacement building would be considered to enhance the immediate setting given its removal has led to a detrimental loss of a building which has stood in situ for more than 90 years and the resulting demolition has affected the relationship of the built form within the site. The former single storey brick built building (stable block) was considered to form an element in the setting of Ridley House, which emphasises the rural character and location of this dwelling within the countryside. The former building should be re-instated as it is worth re-establishing it for the relationship it has with Ridley House. Therefore though the replacement building is not for the purposes of agriculture or forestry the proposal would enhance the immediate setting.

The applicant has also agreed to an off-site housing contribution. The value of that contribution takes account of the costs involved in having removed the former building and would be a contribution of £3500.

It is considered that the re-instatement of the rural building would not lead to an isolated rural building given it is not far from the main distributor road or neighbouring properties as there are sporadic dwellings within 60 metres of the application site. In the locality, a small housing scheme has been approved on the site of the former Whitacre Heath Garden Centre. The proposed building would sit in close proximity to this housing scheme.

d) Design

The building proposed is low in height and aligns with the existing out-building. Given the variety of design in the nearby area consisting of both detached and semi-detached properties, it is not considered that the design is out of keeping but reflects a simple structure of utilitarian appearance which complements the former building in terms of scale and appearance. The use of appropriate materials would be conditioned and a condition restricting further extension would retain control over the openness issue.

e) Neighbours Amity and visual amenities

The neighbour nearest to the proposal is at the host dwelling, Ridley House. The conversion would not be considered to lead to amenity issues such as loss of privacy, overlooking or light to this host dwelling. Ridley House would benefit from sufficient garden space and vehicular access and drive. The arrangement of the plot allows for a simple subdivision. No loss of light would occur as the buildings are already in situ and have a good separation between the side elevations.

There is a first floor side window at Ridley House which would have the potential to overlook the replacement building. However with sympathetic boundary treatments and landscaping, overlooking would not be considered to impact upon the privacy of the occupiers of the conversion.

f) Access

The existing access is considered to be of a sufficient width and capacity to allow for parking and manoeuvring to both Ridley House and the new build. There were no previous highway objections to the traffic movements or access arrangement associated with the conversion scheme.

Recommendation

That subject to the completion of a Section 106 Agreement containing the off-site affordable housing contribution as set out in this report, planning permission be **GRANTED** subject to the following conditions:

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

REASON

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

2. Standard plan numbers condition – the elevation, floor plan and the location plan received on 16/11/15.

REASON

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

Pre-Commencement Conditions

3. No development shall commence on site until details of the facing materials and roofing tiles to be used have first been submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall then be used on site.

REASON

In the interests of the visual amenities of the area.

4. No development shall commence on site until such time as full details of the measures to be installed to dispose of both foul and surface water have first been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall then be installed on site.

REASON

In order to reduce the risks of pollution and flooding.

Pre-Occupancy Conditions

5. The development shall not be occupied for residential purposes until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the design, materials and type of boundary treatment to be erected. Species to be used for the landscaping along the boundary shall be carried out in accordance with the details provided. The boundary treatment shall be completed before the dwelling is occupied.

REASON

In the interests of the amenities of the area.

On-Going Conditions

6. The scheme referred to in Condition No 5 shall be completed before the dwelling is occupied. In the event of any tree or plant failing to become established within five years thereafter, each individual tree or plant shall be replaced within the next available planting season, to the satisfaction of the Local Planning Authority.

REASON

In the interests of the amenities of the area.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order):

- (i) no development falling within Classes A, B, C, D and E of Schedule 2 Part 1 of that Order shall be carried out in respect of the conversion for the dwelling hereby permitted; and,

- (ii) no additional windows or doors shall be constructed on any elevation, nor any windows/rooflights or dormer windows in the roof planes, other than those expressly authorised by this permission.

REASON

In the interests of retaining the openness of the Green Belt.

8. The window arrangement on the rear elevation of the building shall be designed with top opening frames only.

REASON

In the interests of the amenities of the area and to limit access onto the land to the rear which is not residential curtilage.

Notes

1. Attention is drawn to Sections 163 and 184 of the Highways Act 1980; the Traffic Management Act 2004, the New Roads and Street Works Act 1991 and all relevant Codes of Practice. Contact should be made with the Highway Authority at 01926 412515.

2. The Council has worked positively with the applicant in this case to address the planning issues arising from this application through negotiation and requesting the submission of further relevant information thus meeting the requirements of the National Planning Policy Framework.

BACKGROUND PAPERS

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

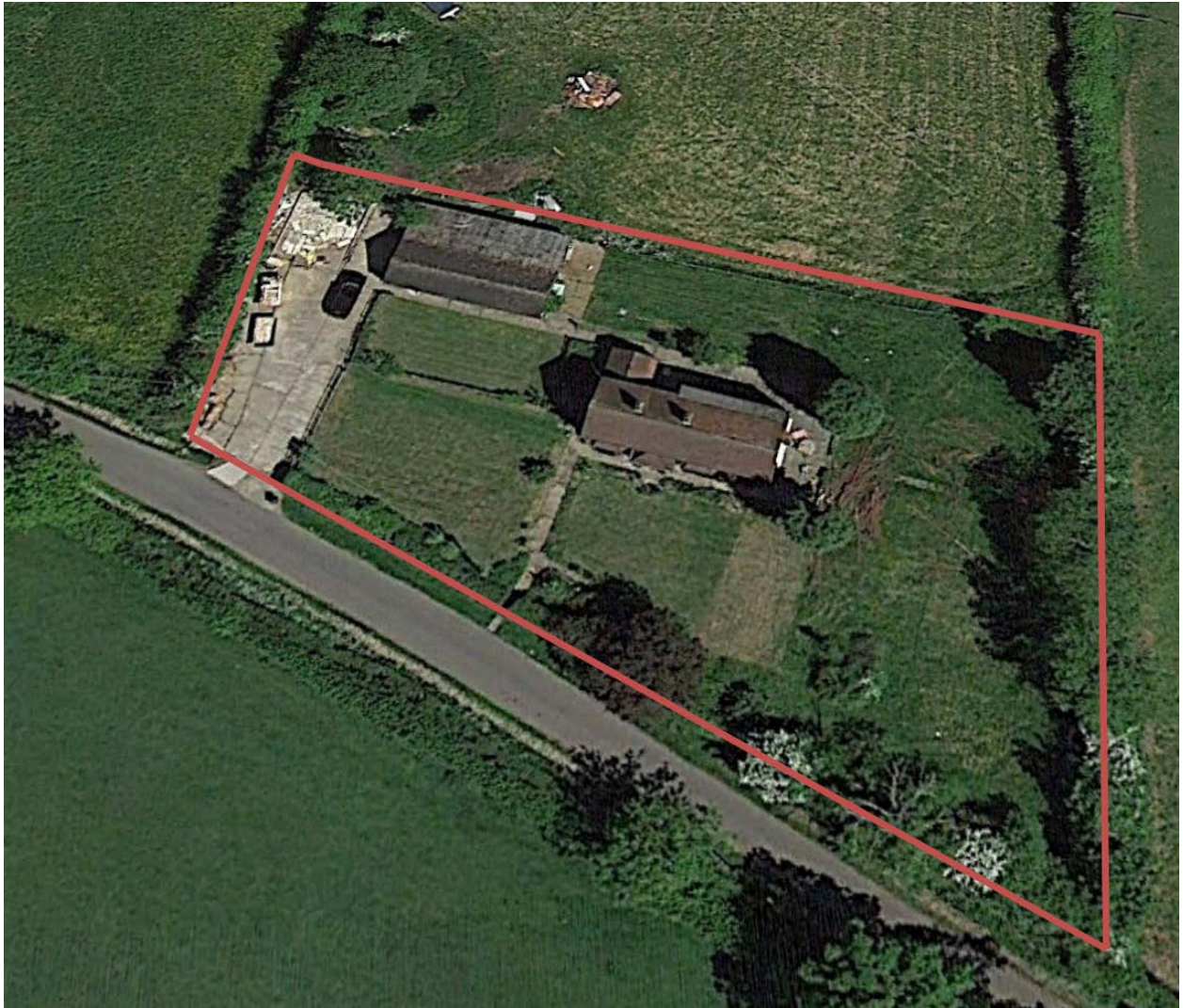
Planning Application No: PAP/2015/0664

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	16.11.15
2	Case Officer	E-mail to consultees	16.11.15
3	Consultee	E-mail reply to Case Officer	18.11.15
4	Case Officer	E-mail to applicant	25.11.15
5	Case Officer	E-mail to applicant	27.11.15
6	Nether Whitacre Parish Council	Representation/objection	30.11.15
7	Case Officer	E-mail to applicant	30.11.15
8	Applicant	E-mail to Case Officer with further supporting statement	1.12.15
9	Case Officer	E-mail to Building Control	3.12.15
10	Building Control	Representation of no objection	4.12.15
11	Case Officer	Correspondence to applicant	11.12.15
12	Applicant	E-mail to Case Officer	14.12.15
13	Case Officer	E-mail to applicant	17.12.15
14	Applicant	E-mail to Case Officer with supporting viability information	18.12.15

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

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

Appendix A



Aerial view



Recent street view with former stable block and its relationship with the host dwelling

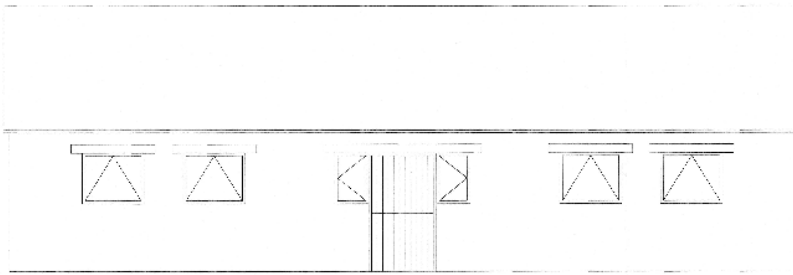
Appendix B



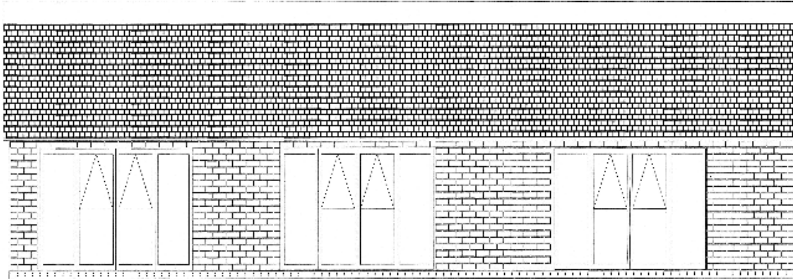
Appendix C



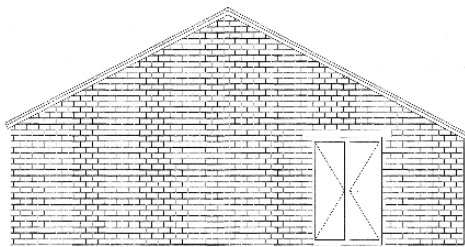
Appendix D



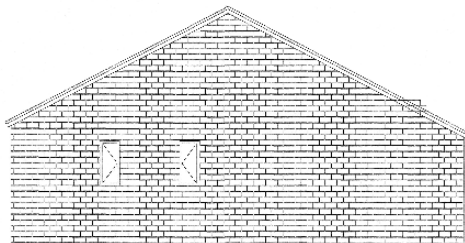
Front Elevation



Rear Elevation



Side Elevation



Side Elevation



Appendix E

This application is for the rebuild of the former stable block for use as a single dwelling. The site had planning permission (PAP/2015/0001) to knock down the lean to store at the rear and convert the existing stable block into a single dwelling in January 2015, following various surveys to show it was suitable for conversion. I would like to point out that the Structural Report done in September 2013 states that trial holes should be excavated and a detailed inspection of the foundations carried out prior to work commencing.

Special Circumstances of this Case;

Development Control came out on 7/10/15 to inspect the footings for the new part of the building at the rear. During this visit Mr Kevin Day advised that the footings of the main structure were not suitable (please refer to the Structural Report) and this too needed to come down, he told us to call him back out once the whole of the footings were completed for him to inspect again. We advised Mr Day that our planning permission was for the conversion of the stable and he said it needed to come down and we were to continue with the build to the same plans and he would come back out to check the completed excavations.

Mr Day came back out on 14/10/15 and confirmed the excavation was approved and told us to go ahead and pour foundations and to call him once the floor insulation had been installed for a further inspection.

It was at this point, 16th October 2015 the day foundations were been poured, we received a letter from Sheila Faulkner stating an alleged breach of planning control and should stop the build. We called Sheila and she visited the site that day and we explained we were doing what we had been told to do. Apparently we shouldnt have taken the advise we had paid for, we should have called Planning. I would like to point out at this point that we are the paying customers, paying for advise and a service – which we followed.

My wife spoke to the Parish Council on 20th October 2015, and was told that this was a regular occurance, which begs the questions; 1. Why did Building Control tell us to knock down the building if they knew Planning needed to approve this ? and 2. Why didnt the Planning Department make us aware that if we were told the building should be taken down we shouldnt do it and speak to them ?

We contacted Sheila 21st October 2015 as we had concerns as to the safety of the site with my young child whom was at home during half term and she agreed via email 22nd October 2015 that due to the safety aspect we could continue with the foundations to make the site safe and to avoid the walls collapsing.

Yet the 28th October 2015 we received a letter from Mr Brown stating that we had progressed beyond foundation stage and should stop building immediately or there would be court proceedings. I called Mr Brown (28 /10/15) and asked him to do a site visit to show the information he had received was untrue – he would not come out to site stating it wasnt nesassary. So we arranged for Sheila Faulkner to come out to site (30/10/15) to confirm we had done nothing wrong, as we felt a site visit was necessary – She agreed we had done nothing wrong but told us that as Mr Brown had sent us this letter we should now stop building until the matter was sorted – so yet again we followed incorrect advise.

We are the victims in this situation, and to add insult to injury we have paid to be treated in this manner. Paying £610 to Buiding Control for advise, advise we have taken and yet it appears we should not have ! This has further cost us as we have had to re apply for planning permission from the very beginning, costing another £385. Our builders whom should now be close to roof level

have had to be laid off, I had allocated 3 months off work to oversee the development again at a loss of earnings.

Mr Brown stated he wanted a new Planning Statement demonstrating the very special circumstances of this case and we therefore feel all the above shows the very special circumstances, we have copies of all correspondence from all departments should you wish copies.

General Site Information;

The site is on the northern side of Ridley Lane. There are other properties on the Lane, the nearest being just 50 meters away.

Ridley House is set back from the road behind a hedge and large gates. It has a large garden area to the side,

The former stable block has a grassed area to the front, The field directly behind the site is owned by Ridley House and a local farmer maintains it for hay.

The site lies at the edge of Whitacre Heath but beyond the village boundary, it is however, approx 10 mins walk from the village shop and is served by a regular bus service to nearby towns and is therefore in a reasonably sustainable location. Access and parking already exist and there will not be any need to increase the hard standing area.

The proposal will have no impact on the openness and visual amenity of the Green Belt which when balanced against the sustainable benefits of an energy efficient building would be a benefit overall. The building is situated within a well screened residential curtilage and the proposal is to retain the character of the original building, indeed using the same plans. The use of the building would create no harm to the openness of the Green Belt. The general design of the building is in keeping with the surroundings and there is no increase in size to the original structure. Traffic and parking will not increase and therefore not harm the Green Belt, nor will any of the works impact on the neighbours.

I would also refer to you to the Bat Survey dated 18th November 2013, stating **Test 1**. The change of use of the property would be beneficial to ensure the continued use of the property and the retention of bat roosting opportunities. The change of use of the property will have an economic benefit which will ensure that there will be a beneficial consequence for local bat populations by the retention of roosting opportunities.

Building Control Advice:

From: BUNSELL Kevin [<mailto:kevin.bunsell@nuneatonandbedworth.gov.uk>]
Sent: 23 October 2015 13:40
To: Brown, Jeff
Cc: Wallace, Fiona
Subject: Ridley House, Ridley Lane, Nether Whitacre

Jeff

Ridley House, Ridley Lane, Nether Whitacre

Further to our brief discussion yesterday, please see attached comments regarding inspection by the site BCO.

It is our opinion that the applicant did not act with an intent to remove the building to their advantage, it was that the building was in such poor condition that it was not feasible to retain the structure.

Furthermore, a safe construction method could not be established.

I hope this assists you.

Yours sincerely

Kevin Bunsell
Head of Building Control

Kevin

Comments in respect of current building at Ridley House, Ridley Lane, Nether Whitacre.

Inspection of the above site was first made on 8/10/2015, upon arrival the occupant/builder was on site and discussions took place about the foundations that had been excavated, which were of a satisfactory nature.

Further discussions also took place about the existing stables that were on site and due to be incorporated within the proposed new build/conversion, the owner/builder walked me round and showed me the structure was not built off a traditional foundation, the outer solid brick structure was built directly off a crumbling floor slab situated approx. 300mm into the ground, just below the level of the underside of topsoil.

Suggestions were made to the owner/builder about underpinning the structure in 2 metre sections to bring stability and transfer the loadings onto loadbearing sub-strata, the owner/builder said he thought that by exposing voids underneath the brick structures the many walls that were leaning out will have a high chance of collapse and would prefer to remove the stables and excavate new foundations.

The decision was left with the owner/builder as to how he would want to proceed before inspections were made, of a further foundation, that was excavated to extend his current habitable property.

Kind Regards

Kevin Day

Building Control Officer

Appendix F

Planning History

We are aware of the recent planning history on this site, including the appeal, which in our view shows that the applicants intention to pursue a dwelling on this site is not new. We have taken this history into account in our consideration of the application.

Planning permission was granted for the conversion of the stable block to ancillary accommodation in 2013 subject to conditions. Those conditions were designed to ensure that the building was used solely as ancillary accommodation and that the room arrangements were maintained at all times to prevent the creation of a self contained dwelling. The applicant lodged an appeal against the imposition of these conditions but the appeal was dismissed in September 2014. At the appeal site visit the applicants advised the Inspector that they initially wished to pursue a larger scheme for a separate dwelling.

We are also aware that earlier this year a planning application was submitted for the conversion of the stable block to a separate dwelling (PAP/2015/001). A structural survey was submitted with the application which advised that trial holes be excavated to allow a detailed inspection of the foundations. Planning permission was granted in April 2015 subject to a number of conditions.

Condition 5 of that approval states that " ... For the avoidance of doubt, this permission is for conversion of the existing building as indicated upon the approved plans...It specifically **does not grant permission for demolition and reconstruction of the building.**"

In our opinion, the position of the Planning Department could not be clearer.

Unauthorised development

Following a site inspection by a Building Control Officer from the North Warwickshire Building Control Partnership, the stable block was demolished and building work on a new dwelling has commenced. The applicant states that he was misled by the Building Control Officer who advised him that the foundations were inadequate and that they were permitted to demolish the building and re-build. He believes he was given poor advice from both Planning and Building Control.

We are extremely concerned by this situation and seek answers to the following questions:

1. Had the applicant dug trial holes to allow inspection of the foundations?
2. Did the Building Control Officer discuss solutions to make the foundations sound i.e. underpinning?
3. Did the Building Control Officer advise the applicant to discuss the situation with the Planning Department prior to demolition?

The work on the new dwelling continued to foundation level but has now ceased following a number of site visits by an Enforcement Officer and the advice from the Planning Department that work should stop and a planning application for a new dwelling be submitted for consideration.

The nature of the application

We have assessed this application and in our opinion the description of development is misleading; the applicant does not propose to rebuild the stables as a dwelling but to build a new dwelling. We note that the drawings submitted with this application are completely different to those submitted and approved with the scheme for conversion of the stable block to a dwelling (see attached plans): the roof design has been altered from two pitch roofs to a single pitch roof; the elevations are different so too is the internal layout. Furthermore, we cannot tell from the submitted drawings if the footprint of the building that has commenced is the same as that occupied by the old stable block and we seek clarification of this.

The application is for a new dwelling on a site within the Green Belt and in an isolated location outside of a development boundary. The application therefore has to be assessed against the National Planning Policy Framework (NPPF) and the Local Plan.

The NPPF states that the construction of new buildings in the Green Belt is inappropriate development. A number of exceptions are listed. One exception relates to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. This exception clearly does not apply here as the applicant is not planning to re build the stable block. Another exception relates to the complete redevelopment of a previously developed site (brownfield land) which would not have a greater impact on the openness of the Green Belt. In our opinion this exception also does not apply as it excludes land that is or has been occupied by agricultural or forestry building - in this case a stable block which would have been used to house horses, in association with the grazing of the pastureland to the rear of the site.

We therefore regard the erection of a new dwelling on this site as inappropriate development. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The applicant argues that special circumstances exist here because the new dwelling will have no greater impact on the openness of the Green Belt than the former stable block. This may be true and we accept that the previous application for the conversion of the former stable block to a dwelling, is a material consideration. However, Condition 5 of that permission was quite specific, that demolition and rebuild was not an option here. On that basis, special circumstances do not exist.

As the proposal is for a new dwelling, account also needs to be taken of the Local Plan policies NW2 "Settlement Hierarchy", NW5 "Split of Housing Number" and NW6 "Affordable Housing Provision." The application site lies outside of a development boundary and the proposal would therefore be contrary to the above policies because the proposed new dwelling is not for agricultural or forestry use and no proven local need has been given to meet the affordable housing policies required for housing outside of development boundaries.

Conclusion

We recognise that this is a difficult application to determine but after much consideration we have concluded that a dangerous precedent would be set if permission was granted for a new dwelling in the Green Belt and outside a development boundary. If the Council is minded to approve this application we would ask that the Planning Department obtains accurate drawings of the proposal. We also ask that a condition be attached which removes permitted development rights to ensure that the dwelling cannot be extended without the requirement of planning permission.

(5) Application No: PAP/2015/0687

Ashleigh, Coventry Road, Fillongley, CV7 8BZ

Residential development of 5 new dwellings, 1 detached garage and associated highways, landscaping and external works. Demolition of the "Ashleigh" garage and morning room, for

Mr James Cassidy

Introduction

This case is referred to the Board following its involvement in past decisions on this site.

The Site

This is a rectangular plot of land at the rear of Ashleigh and four other detached properties within a long frontage of similar residential property along the south side of the Coventry Road outside of the village centre. There is open countryside to the rear and on the other side of the Coventry Road. The frontage houses here are well set back from the road and have reasonably sized rear gardens.

The land is presently used as garden land by two of the frontage properties – Ashleigh and Penlan

The site is illustrated at Appendix A.

The Proposals

The existing garage and morning room on the south-east side of Ashleigh would be demolished so as to enable a new access to be constructed running from the road, alongside Ashleigh and then turning into a cul-de-sac running through the site providing access to five detached dwellings. The new access would be 5 metres wide over its first 12 metres and then there would be a gate, beyond which it would be 4 metres in width. A turning area is proposed at the end of this approach such that larger vehicles can leave the site in a forward direction. The estate road would be lit using low level bollard lights not by normal street columns.

The five dwellings would back onto the open fields beyond. Each would be provided with a minimum of two car parking spaces and a new garage would be provided for Ashleigh.

The whole development would be lowered by an average of 0.75 metres throughout its length.

Appendix B illustrates the layout and provides cross sections through the site showing the proposed levels.

The five dwellings would comprise of four one and half storey houses and one bungalow – the central dwelling in the row. The former would be 7 metres to their ridgelines and the bungalow would be 5.4 metres to its ridge.

The four larger dwellings would each have two first floor windows whereas the bungalow would only have ground floor fenestration.

A proposed street scene is at Appendix C.

An off-site affordable housing contribution of £25k is offered in lieu of on-site provision.

A number of supporting documents have also been submitted.

A Planning Statement provides an overview of the proposal by placing it in its planning policy context describing the policies of the Development Plan and the National Planning Policy Framework. It concludes that there should be no objection in principle and that as no other harm has been identified, the proposals should be supported. The Statement also provides an update since the refusal explaining how the current proposal is considered to overcome the amenity issues that caused that last refusal.

A Design and Access Statement expands on these issues with particular emphasis on the design and appearance of the proposed development.

A Tree Survey says that the site is used as garden land and that there are a number of mature and semi-mature trees most of which are on the site boundaries. These are of moderate or low quality. It is considered that the site can be developed for residential development providing the better trees are retained and provided with adequate root protection measures are in place during construction.

A Transport Statement describes the location of the public transport provision as well as referring to pre-application discussion with the Highway Authority which is said to be supportive.

A Sustainability Statement says that there are local services and facilities within a kilometre of the site and that the village has public transport links. The houses would be constructed to modern energy efficiency standards with a sustainable drainage system to be installed.

A Utilities and Infrastructure Statement includes the responses from service providers to the applicant's request for information. Severn Trent Water says that there is capacity in the existing drainage infrastructure to accommodate both foul and surface water drainage and that there is adequate mains water supply. Electricity and gas providers have not raised objections.

Background

A planning application for six dwellings on this site using the same proposed layout and access arrangements was submitted in early 2015. The Board requested that the applicant re-consider the intensity of the proposal and as a consequence an amendment was submitted proposing five dwellings.

Planning permission was refused by the Board at its September 2015 meeting for this amended scheme. The reason for that refusal was, "Notwithstanding the location of the site within the development boundary of Fillongley, the proposal is not considered to be in keeping with the character and local distinctiveness of this part of the village by virtue of it being "back-land development" not in accordance with the ribbon development

seen in this location. As a consequence it also had adverse impacts on the residential amenity that occupiers of the existing houses might reasonably be expected to enjoy. The proposal is contrary to Policies NW10 and NW12 of the North Warwickshire Core Strategy 2014”.

Appendix D is a copy of the layout and appearance of the refused proposals

The applicant has submitted a table showing the differences between the two previous schemes and that now proposed. This shows a reduction in overall footprint from the refused scheme together with a reduction in first floor front elevation fenestration.

	Original Application	Refused	Current
	6 units	5 units	5 units
Footprint (exc. Garages)	672 sq.m	611 sq.m	586 sq.m
Windows – First floor	18 (inc. 6 skylights)	15 (inc. 5 skylights)	8
Windows – Ground floor	7	14 (inc. 5 obscured)	10 (inc. 1 obscured)
Ridge Height	7.6 m	7m	7 and 5.4m

The % decrease in footprint from the refused scheme is around 4% and the reduction in overall fenestration is around 40%.

Representations

Fillongley Parish Council –It objects to the proposals on the following grounds:

- Highway safety
- This is back land development out of character with the ribbon development here.
- The houses are indistinctive
- The contribution is insufficient
- The Borough has a 7.5 year housing supply
- There are no facilities in the village
- There will be an adverse impact on residential amenity
- It will add to existing flooding issues

Twelve letters of objection have been received. The matters raised include:

- Nothing has changed since the last refusal
- It's still back-land development
- It's not in character with this part of the village.
- It's too high a density – still more than the original submission
- The design of the houses is too uniform
- There is no affordable housing and the contribution is too low
- There would be loss of important open space
- There will be access difficulties

- The access is hazardous
- This will add to flooding problems in the village
- There are no local facilities
- It will impact on residential amenities.

Two letters of support have been received referring to:

- The design is “tasteful”
- It will provide much needed housing
- The site is suitable

Consultations

Warwickshire Museum – No interest expressed.

Development Plan

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

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

Other Material Planning Considerations

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

Observations

a) Introduction

The site is not in the Green Belt. It is however within the development boundary defined for Fillongley by the Development Plan. Moreover Fillongley is identified in the Core Strategy as a Local Service Centre and as a settlement where a minimum of 30 new houses is appropriate for the settlement between 2014 and 2029. As such there is no objection in principle to this development. It is necessary to amplify this conclusion in light of some of the representations received. The first is that the housing allocation is a minimum not a maximum figure. Secondly, it is accepted that numbers will increase through recent approvals, conversions or replacements. But this only contributes to a minimum figure. Thirdly the fact that this is not a preferred site for housing sites in the settlement carries little weight as the site is already “allocated” by being within the defined development boundary. Fourthly and very significantly the preferred sites in Fillongley have not come forward and thus the longer the delay that there is in this, the greater the likelihood will be that other sites inside the development boundary or indeed outside of the boundary will be the subject of applications. This is an argument that will carry significant weight in any appeal. The Government expects Local Planning Authorities to “significantly boost” housing figures. If that is not occurring on land within development boundaries where the principle of development has always been expected then the greater the risk there is of planning decisions taking place in an ad-hoc manner. Members will be aware of the two recent appeal decisions in Austrey where notwithstanding a five year land supply; the fact the sites were outside of the development boundary and that the proposals would take the housing figures for the

village well over its minimum figure, the Inspector gave significant weight to the need to continuously approve new houses.

It is agreed that this is not brown-field or previously developed land. Whilst it is agreed that priority should be given to such land, the situation in Fillongley is that this site is in the Development Boundary and other brownfield land in the village is not coming forward for new housing.

The off-site contribution in lieu of on-site affordable housing provision meets Development Plan policy and the value of this was not a matter that was included in the refusal reason. It is considered that little has altered since then to alter position on this matter.

b) Change in Character

This particular issue carries weight. Clearly there would be new built development on this land where none exists now and thus there would be a change as a matter of fact. The key issue is whether that is material enough to warrant refusal. That change would introduce a line of five dwellings behind existing ones which is often referred to as “back-land” development. That however is not by itself a reason for refusal.

The site is inside the development boundary and rather than repeat the section above, it is necessary to emphasise that the principle of development here is accepted as Development Plan policy. Such developments have taken place throughout the Borough in similar circumstances. It is acknowledged that each case has to be determined on its own merits and here the site is not in or adjacent to a Conservation Area; there are no settings of Listed Buildings or other heritage assets to consider, the site is not identified as protected open space in the Development Plan, the development would not change the overall character or built form of the village as a whole and as will be explained later the harm caused is considered to be limited. What is being said here is that Fillongley can absorb this development without causing significant harm.

c) Highway Impacts

The representations refer to potential traffic generated from the site all emerging onto the Coventry Road and the safety issues that this would give rise to.

The demolition of the garage and a small side extension to Ashleigh enables a new access to be proposed onto the Coventry Road. It is clear from the Highway Authority's comments that the visibility at the new junction meets standard specifications; that there would be no conflict with Ashleigh retaining its own separate access and that the geometry of the access road, its turning area and the gated arrangement does not give rise to concern. The Highway Authority has made it clear that it would not adopt the new road and thus its maintenance will be a matter for the applicant and future occupiers. The County Council has been fully involved with the design of the estate layout such that it does not cause an issue where it meets the public highway. Representatives of the objectors have questioned the Highway Authority response in respect of the past application here, but there was no consequential change in that Authority's position. Indeed it was not cited as a refusal reason.

d) Amenity Impacts

It is acknowledged that there would be new development at the rear of existing houses and thus there will be some impact here on the residential amenity of existing occupiers. The Board has to evaluate whether that would be significant. It is not considered that it would be.

There are several reasons for this. Firstly the separation distances from the front elevation of the proposed dwellings of the proposed houses to the rear elevations of the existing dwellings is between 37 and 39 metres. The Council's guide in this matter is 22 or 23 metres. Secondly, the ridge heights of the proposed units are lower than a normal two storey house – 7 and 5.4 metres. Thirdly there is a reduced number of windows in the proposed front elevations. Fourthly there is a proposed ground level reduction of between 0.75 and 0.9 metres across the site thus lowering the new dwellings further. Finally a condition is recommended restricting further works to the roofs of the dwellings thus bringing future changes such as new dormers under control. The lighting here would be low level bollards not normal street lighting and the gated access is of benefit in reducing anti-social behaviour. In all of these circumstances the proposed built form would not give rise to significant or harmful loss of residential amenity.

It is agreed that the line of the internal access road would run at the rear of existing gardens and thus there would be vehicular movement along this line. The traffic from five units is not considered to be so excessive as to be considered harmful. The greatest impact would be at peak times when traffic on the Coventry Road is also likely to be at its greatest.

e) Design

The proposed dwellings are not so poorly designed as to warrant refusal and the previous refusal reason did not include such a concern even although the appearance was similar to the present.

f) Trees

The tree survey identified 24 trees on the site together within two other groups. Of the individual trees then the survey shows that only seven are of a value worthy of retention. None of the groups of trees were considered worthy of retention. The proposed layout retains all but one of the moderate quality trees as they are all in the surrounding hedgerow to the west. The retained tree would still enable the development to proceed as their root protection areas would not be affected. In these circumstances and based on the arboricultural evidence, it is not considered that a reason for refusal can be sustained. New landscaping can be conditioned.

g) Other Impacts

There is not considered to be evidence of any other harmful impacts arising from the consultation responses and none were identified as being of significance as to warrant a reason for refusal in the last application.

There is an issue over whether the current proposal is more “dense” than that recently refused. The table above illustrates that the footprint of the current scheme is just below the level of that refused plan. Objectors say that even this, in their view, is greater than the first scheme for the six units submitted when the original proposals were submitted.

The key comparison here is between the current proposals and those refused. It is agreed that fenestration levels are reduced; that ridge heights remain the same (apart from the one bungalow) and that footprint is slightly reduced. In other words there is an improvement over the scheme refused.

If there are Covenants attached to the land then the land owners should look to the content of these and take their own private legal advice. As Members are aware such Covenants are not material planning considerations.

Conclusions

Given that the site is within the defined development boundary of the village as set out in the Development Plan there can be no objection to the principle of the release of this land for new development. It is neither considered that there is sufficient weight of evidence to lead to a refusal on detailed grounds because of adverse harm. The current proposals further reduce the impact on residential amenity of existing houses since the previous refusal and this further reduces the impact of the form of development being proposed.

Recommendation

That subject to the completion of a Section 106 Agreement relating to the off-site contribution as set out in the report, planning permission be **GRANTED** subject to the following conditions:

1. Standard Three year condition
2. Standard Plan numbers condition – plan numbers 6882/19; 21B, 22C, 23B, 24, 25B all received on 9/11/15, plan number 6882/26 received on 6/11/15 and 6882/17C received on 27/11/15.

Pre-commencement Conditions

3. No work whatsoever shall commence on site until a site investigation into the nature and extent of contaminated land, based on a Phase 1 Assessment for the site, has first been undertaken and submitted to the Local Planning Authority. The investigation shall also outline measures to remediate any such contamination found as a consequence of the investigation.

REASON

To reduce the risk of pollution

4. No work shall commence on the construction of any of the dwellings hereby approved or the access arrangements including the new road, until such time as any measures consequent to condition (iii) have first been approved in writing by the Local Planning Authority. Only the approved measures shall then be undertaken.

REASON

To reduce the risk of pollution.

5. No work shall commence on the construction of any of the new dwellings hereby approved or the access arrangements including the new road until such time as a Verification Report has been submitted to and approved in writing by the Local Planning Authority. This Report shall contain the evidence to verify completion of the approved remediation works.

REASON

To reduce the risk of pollution.

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

REASON

In order to reduce the risk of flooding and pollution.

7. No work shall commence on site until such time as the measures to be installed during construction for the protection of the root systems of all of the trees to be retained as shown on the approved plan, have first been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall then be installed on the site and they shall only be removed with the written agreement of the Local Planning Authority.

REASON

In the interests of the bio-diversity of the area and the visual amenity of the site.

8. No work shall commence on the development hereby approved until such time as full details of all of the facing and roofing materials for the site and the hard surfaced areas have first been submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall then be used on site.

REASON

In the interests of the visual amenities of the area.

9. No work shall commence on the development hereby approved until such time as full details of all boundary treatments and the bollards to light the access road have first been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall then be installed on site.

REASON

In the interests of the visual amenities of the area

10. No development shall commence on site until full details of a pedestrian link from the site to the opposite side of Coventry Road have first been submitted to and approved by the Local Planning Authority.

REASON

In the interests of highway safety

Pre-Occupation Conditions

11. There shall be no occupation of any of the new dwellings hereby approved until such time as the pedestrian link required by condition (10) has first been provided in full to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety

12. There shall be no occupation of any of the dwellings hereby approved until such time as the whole of the access arrangements as shown on the approved plan including the public highway verge crossing have first been fully completed to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety

Other Conditions

13. The turning, parking and access areas as shown on the approved plan shall remain for these purposes at all times.

REASON

In the interests of highway safety.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015. No works within Classes B and C of Part One to Schedule 2 shall take place.

REASON

In the interests of retaining residential amenity.

Notes

1. The Local Planning Authority has met the requirements of the National Planning Policy Framework in this case by involvement in pre-application discussion and resolving planning issues arising with technical consultation responses.
2. UK Coal Standing Advice

3. Attention is drawn to Sections 59, 149, 151, 163, 184 and 278 of the Highways Act 1980; the Traffic Management Act 2004, the New Roads and Street Works Act 1991 and all relevant Codes of Practice. Advice and guidance on these matters and the consequent Agreements is provided by the Warwickshire County Council.

BACKGROUND PAPERS

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

Planning Application No: PAP/2015/0687

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	11/11/15
2	T Ledwidge	Objection	20/11/15
3	B Jenson	Objection	23/11/15
4	S and J Bailey	Objection	23/11/15
5	J Rooke	Objection	3/12/15
6	Warwickshire Museum	Consultation	2/12/15
7	S McIndoe	Objection	5/12/15
8	M Rabone	Objection	6/12/15
9	P Knight	Objection	6/12/15
10	R Bird	Support	5/12/15
11	S Lees	Objection	6/12/15
12	D Lees	Objection	6/12/15
13	C Rooke	Objection	3/12/15
14	A McIndoe	Objection	7/12/15
15	P Bird	Support	7/12/15
16	D Thomas	Objection	7/12/15
17	Fillongley Parish Council	Objection	6/12/15

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

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

PAP/2015/0687

NOTES

- 1) This drawing MUST NOT BE SCALED.
- 2) All dimensions to be CHECKED ON SITE and any DISCREPANCY reported to the Architect.
- 3) The site boundary shown is the best assumed legal ownership.



Proposed street elevation
1:200 @ A2



Proposed site layout
1:500 @ A2

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 DIVISION

APPENDIX C

Revisions:	APPROVAL	INFORMATION
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DESIGN/ISSUE	FOR CONSTRUCTION	
<input type="checkbox"/>	<input type="checkbox"/>	
Project NEW HOMES, REAR OF ASHLEIGH COVENTRY ROAD FILLONGLEY		
Client CASSIDY GROUP		
Drawing Title PROPOSED SITE LAYOUT APPLICATION 3		
Drawing By	AJL	PJT
Checked By		
Date	29/10/2015	Scale Various @ A3
Drawing Number	6682 / 26	Revision
BELDEN ROAD HOUSE, LANE 10/11, 10/11, THE STRAITS, TEL: 01924 334 788 FAX: 01924 334 789 WWW.GML.CO.UK		



Approved under a contract with the Department of Transport for the year 2012/13

(6) Application No: PAP/2015/0726

Oak Tree House, Main Road, Austrey, CV9 3EH

Single storey rear extension, for

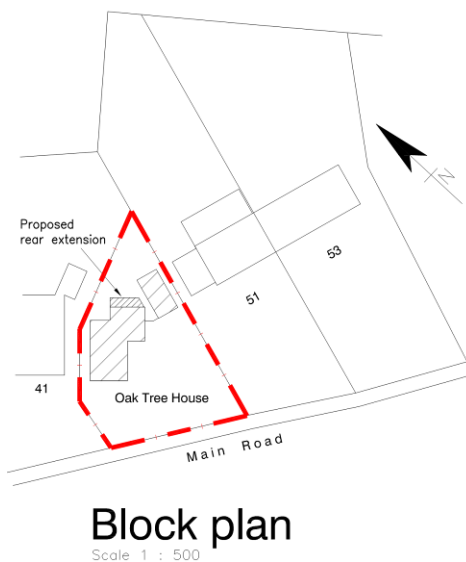
Mrs J Price

Introduction

The application is reported to the Board in accordance with the Scheme of Delegation as the applicant is a member of the Council's staff.

The Site

The site is a two storey detached dwelling house that was approved in 1998. The property lies on the east side of Main Road in Austrey within the development boundary.



The Proposal

The proposal is for a single storey rear extension that is 4.5 metres wide and projects 1.2 metres from the original rear wall so as to enlarge the existing kitchen. The proposed ridge height is 5.2 metres, matching the profile of the existing rear projection.

The materials are to match the facing brickwork and roof tiles on the existing house.

Development Plan

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

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

Other Relevant Material Considerations

The National Planning Policy Framework (NPPF)

Supplementary Planning Guidance - A Guide to the Design of Householder Developments 2003.

Representations

The consultation period expires on 21 December 2015. No comments have been received to date. Any comments received will be presented verbally at the Planning and Development Board.

Observations

The proposed single storey rear extension is modest, projecting only 1.2 metres from the original rear elevation. The roof profile is to match the existing rear projecting element of the existing house. The design and materials are in keeping with the character of the original dwelling and the local vicinity.



A new kitchen door and window are proposed to the rear, to replace those in the existing rear elevation. Four new roof-lights are proposed (two in each pitch) in the extended roof.

The proposed extension is located adjacent to the existing garage and is set away from the boundaries with the adjacent neighbours. The proposal is not considered to impact on neighbours over and above that which would be acceptable. The proposed extension is not visible from the highway.

Permitted Development Classes A, D, E, F and G of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, were removed from the site at the time of the original approval (FAP/1998/0462) approved on 17 June 1998.

It is considered that the proposal is in accordance with the National Planning Policy Framework and Development Plan policy. There is no impact on neighbours and the design and materials are in keeping with the character of the dwelling and the locality. It is therefore recommended that the proposed extension be granted subject to conditions.

Recommendation

That the application be **GRANTED** subject to the following conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 376/02 and the site location plan, received by the Local Planning Authority on 25 November 2015.

REASON

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

3. The new works shall be carried out with facing brickwork and interlocking concrete roof tiles in shape, size, texture and colour to match the host dwelling.

REASON

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

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

REASON

In the interests of the amenities of the area.

Notes

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.

2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings.
An explanatory booklet can be downloaded at:
www.communities.gov.uk/publications/planningandbuilding/partywall.
3. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

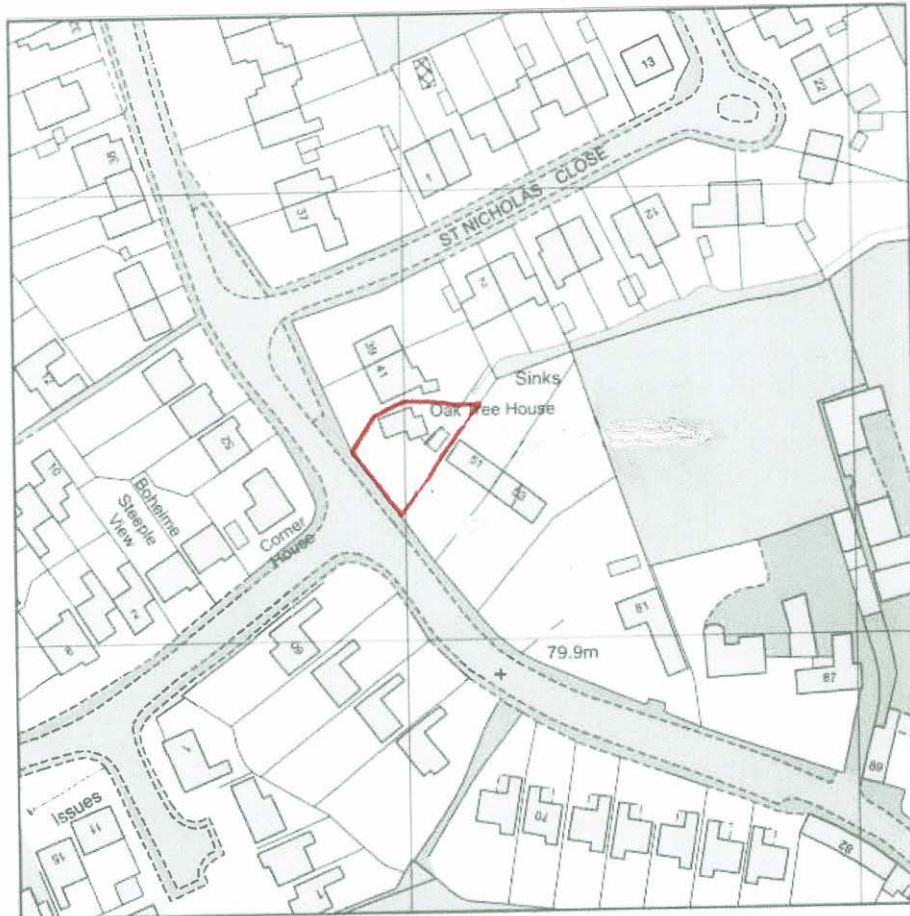
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2015/0726

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	25/11/2015

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

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



Location Plan

Scale 1 : 1250 © A4



NORTH WARWICKSHIRE BOROUGH COUNCIL
RECEIVED
25/11/2015
PLANNING & DEVELOPMENT DIVISION

Notes

PAPER 1818 1/8"

1. All work shall be in accordance with the applicable building codes and standards. The contractor shall be responsible for obtaining all necessary permits and approvals from the local authorities. The contractor shall also be responsible for ensuring that all work is completed in a timely and efficient manner.

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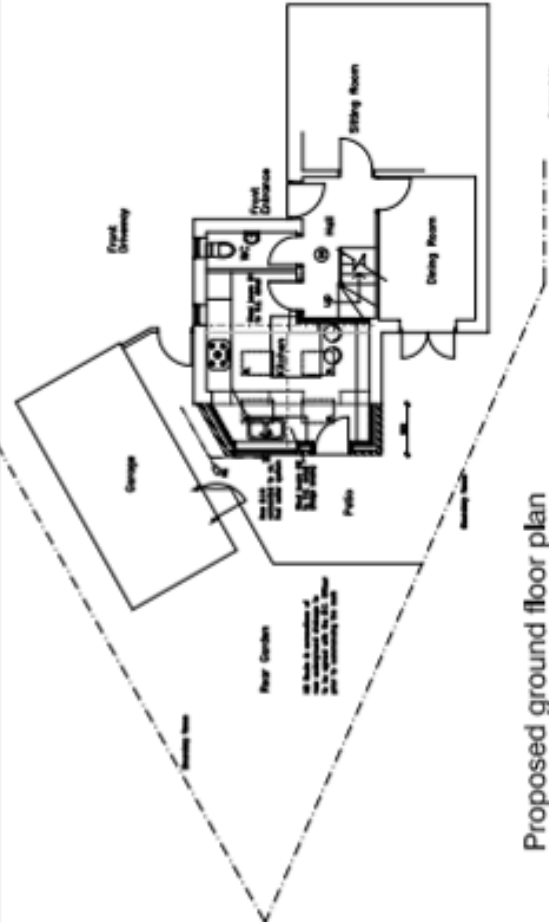
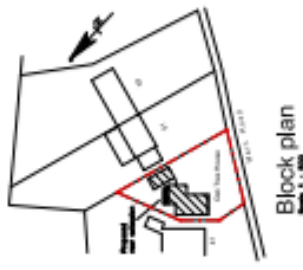
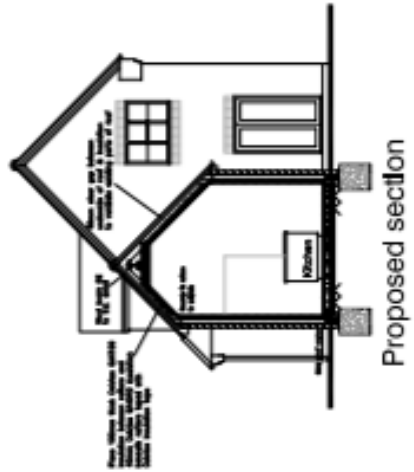
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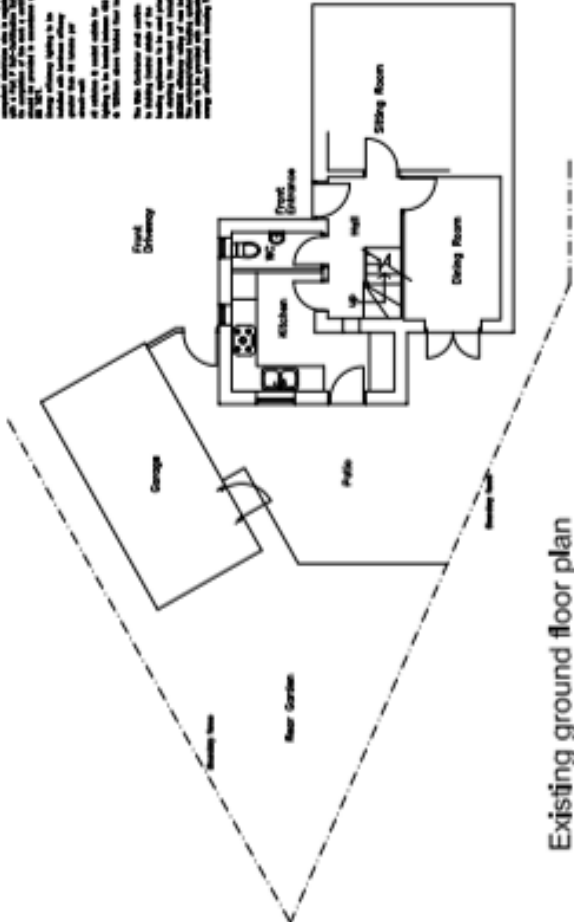
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REVISIONS
NO. 1
DATE: 11/08

Client:	Mr & Mrs Price
Address:	123 Main Street, Anytown, Anywhere, ON, S2S
Project Name:	BREAKWELL DESIGN
Project No.:	1818
Scale:	1:50 & 1:100
Date:	11/08
Drawn by:	John Doe
Checked by:	Jane Smith

Notes

REVISIONS



Proposed rear elevation

Proposed side elevation

Proposed side elevation

ALL WORK TO BE DONE IN ACCORDANCE WITH THE LOCAL AUTHORITY'S REQUIREMENTS. THE WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE DESIGN IS SUBJECT TO CHANGE WITHOUT NOTICE. THE CLIENT ACCEPTS FULL RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE DESIGN IS SUBJECT TO CHANGE WITHOUT NOTICE. THE CLIENT ACCEPTS FULL RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED.



Existing rear elevation

Existing side elevation

Existing side elevation

REVISIONS
 1. 2023.08.25
 2. 2023.08.25
 3. 2023.08.25

Client	Mr & Mrs Price	Address	100 Oak Tree House, Main Road, Andover, Hampshire, SP7 3SS
Project Name	BREAKWELL DESIGN		
Project No	100	Project No	3770
Issue No	1	Issue No	02