

## **(6) Application No: PAP/2015/0399**

**Allotments, Gun Hill, Arley,**

**Extensions to pigeon lofts and Installation of container to hold allotment equipment, for**

**Mr Campbell McKee**

### **Introduction**

The application is brought to the Board given that North Warwickshire Borough Council is the land owner.

### **The Site**

The allotment site adjoins the development boundary to the north east of New Arley. The site is accessed off Gun Hill Road between Arley and Ansley Village and has existing vegetation around its boundaries. The site contains allotments with an associated range of existing small structures. The location of the site can be view in Appendix 1. Photographs of the site can be viewed in Appendix 3.

### **The Proposal**

This application submitted is to retain one container together with an extension to the pigeon loft and also to add a further extension to the pigeon loft. The works are small in scale. The container and works to the pigeon loft will contain appropriate materials. The container would be used in order to protect equipment from theft. The relevant plans for the proposal can be viewed in Appendix 2.

### **Background**

The site has been used as an allotment for many years.

### **Consultations**

Environmental Health Officer – No comments received

### **Representations**

A neighbour has objected on the following grounds:

- The application is retrospective and the
- Plot tenant has breached the terms of his lease by extending the pigeon lofts.
- The Allotment Association is incapable of enforcing lease terms and site rules, and this leaves the site susceptible to further planning contraventions and illegal site use.
- Request refusal to prevent harm to green belt and removal of the extension.

### **Development Plan**

North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development); NW3 (Green Belt), 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**

National Planning Policy Framework 2012 (the “NPPF”)  
National Planning Policy Guidance 2014

### **Observations**

The allotment site is well established and contains space for residents to grow produce and in this case a building for keeping pigeons.

The container has been installed following recent thefts and will allow safe storage of equipment, related to the allotment site, and this use can be conditioned. The structure is to the corner of the site; small in scale and is to be painted green.

The pigeon loft has been in place for a number of years. The extension is to the front with a slight sloping roof and is of a design which that is considered acceptable. The footprint increase is small in scale.

The site lies within the Green Belt but the scale of the container and pigeon loft extensions is considered appropriate and they are of a size and scale that will not have an adverse impact upon the openness of the Green Belt. The NPPF says that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. However exceptions to this are buildings for “*outdoor recreation*” and this is considered to apply here.

Whilst a row of dwellings borders the site to the to the south on Charles Street the separation distance is around 90 metres to the nearest dwelling house. This is considered to be acceptable. Overall the proposal is not considered to result is a loss of amenity, privacy or loss of light that would result an unacceptable impact upon the neighbouring properties. The proposal complies with NW10 of the Core Strategy and to paragraph 17 of the NPPF.

With regards to the objection, then works have been undertaken before permission has been granted. However as Members are aware, planning legislation allows the submission of retrospective applications. The users of the site are aware of the restrictions, however the terms of the lease are not a material planning consideration. Conditions and notes below are proposed to control the use and highlight any future works should be discussed and agreed before construction.

Based on the above it is considered that the works can be supported.

### **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 storage container rear elevation plan; storage container front elevation plan, storage container side elevation plan, proposed site plan, detailed site plan, site location plan, west elevation plan of pigeon loft and the south elevation plan of pigeon loft received by the Local Planning Authority on 7 September 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. The storage container shall green in colour at all times. The pigeon loft shall contain timber walls painted green or brown, with felt roofing. The approved materials and finishes shall be maintained at all times.

**REASON**

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

5. The storage container shall only be used to store allotment equipment used in relation to Gun Hill Allotments, and for no other use whatsoever. The pigeon loft shall only be used to store pigeons and associated works, for no other use whatsoever.

**REASON**

In the interests of the amenities of the area.

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

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

2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. 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](http://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](http://www.groundstability.com)

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.
4. The applicant is reminded that the site is Council Owned and that before any future works take place consultation should take place with the appropriate departments within the Local Authority.



## BACKGROUND PAPERS

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

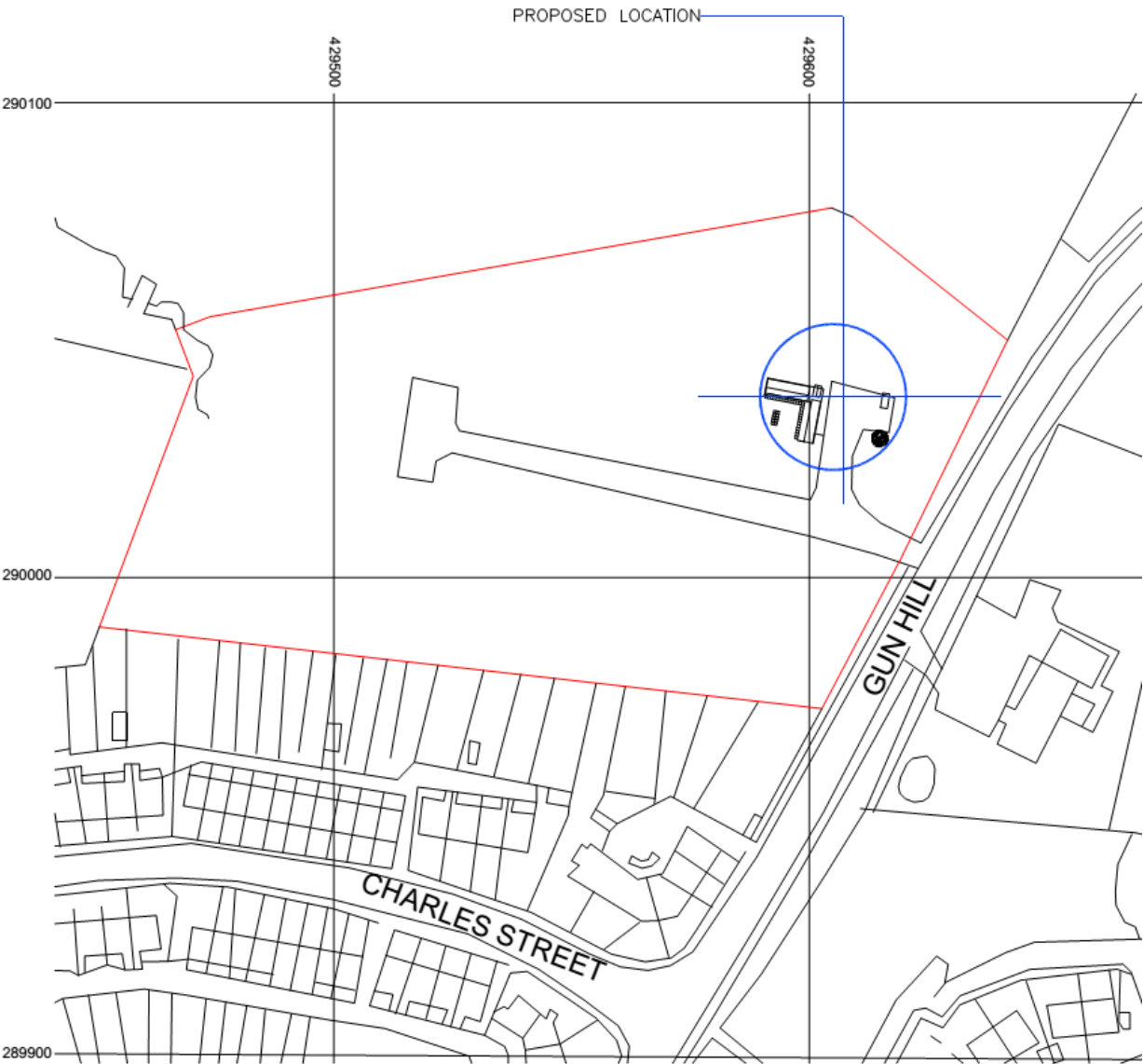
Planning Application No: PAP/2015/0399

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	30/6/15
2	Applicant	Revised drawings	2/9/15
3	Applicant	Revised drawings	7/9/15
4	Case officer	Email to applicant	4/9/15
5	NWBC Environmental health	Consultation response	4/9/15
6	Case Officer	Email to applicant	3/9/15
7	Objection – neighbour	Consultation response	16/9/15
8	Case officer	Email to NWBC Landscape Manager	16/9/15

*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.*

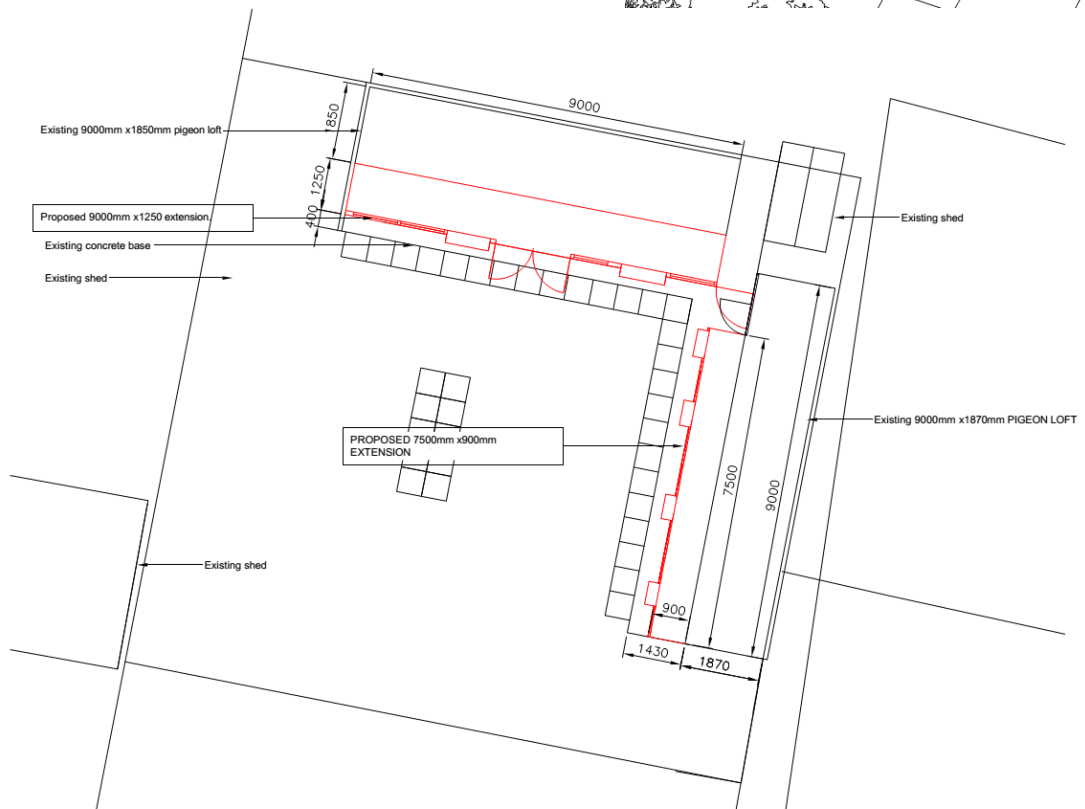
*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*

**Appendix 1 – Site Location**

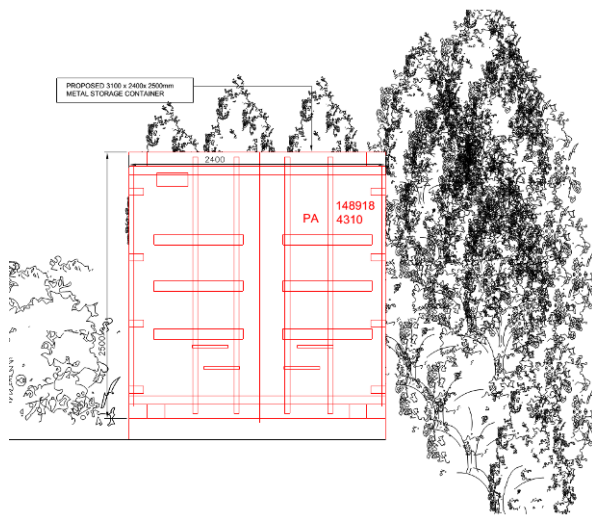
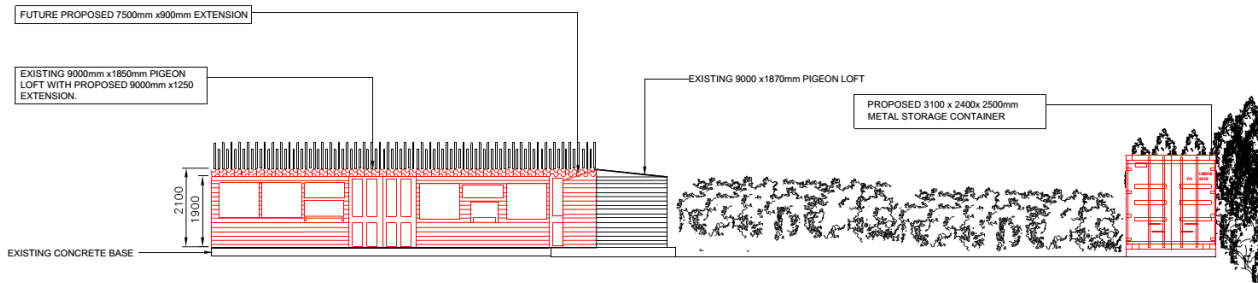
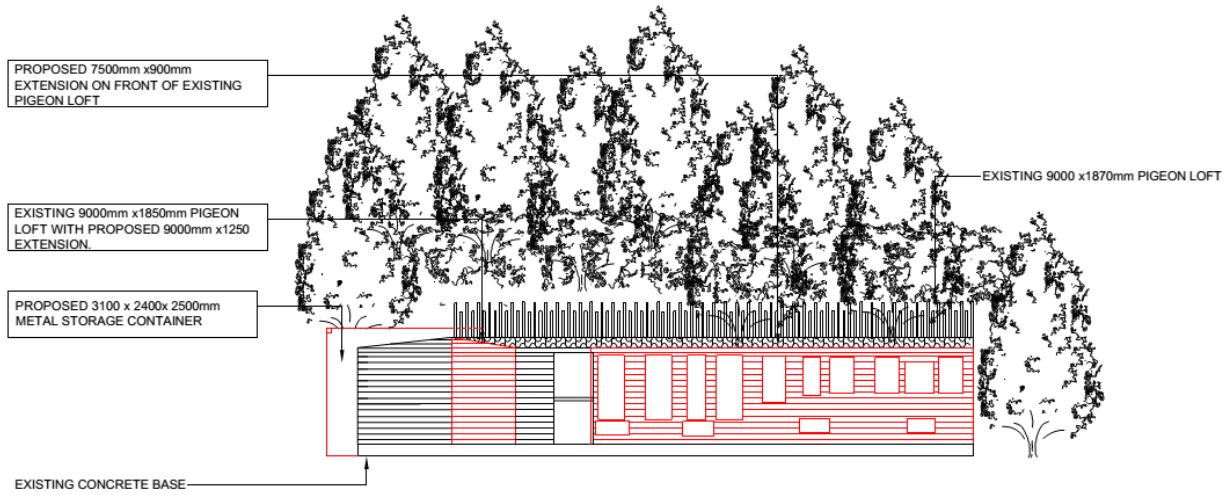


location  
SCALE 1:1250

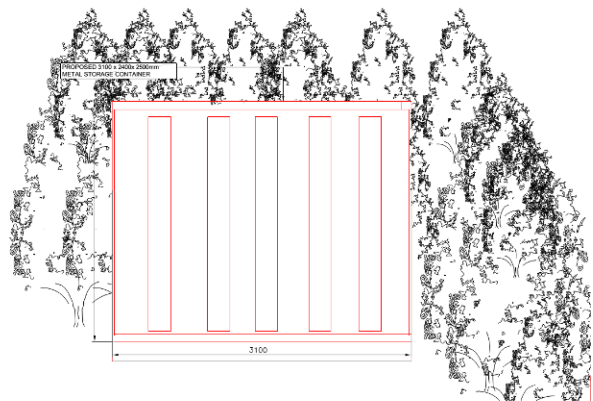
## Appendix 2 – plans



DETAILED PLAN  
SCALE 1:100



PROPOSED STORAGE CONTAINER  
SCALE 1:25



PROPOSED STORAGE CONTAINER  
SCALE 1:25



**Appendix 3 – photographs of the site**







**(7) Application No: PAP/2015/0459**

**Land South of Pogmore Spinney, Merevale Lane, Merevale,**

**Standalone solar PV array, access, associated infrastructure, landscaping and cable route, for**

**Murex Solar Ltd**

**Introduction**

The receipt of this application was reported to the last meeting of the Board and it resolved to visit the site prior to making a determination. That visit has now taken place and the matter is referred back to the Board for determination.

For convenience the previous report is attached at Appendix A. No further changes have been made to the proposal since it was submitted and the planning policy background has also not changed. That report describes the site and the proposal and so those matters will not be repeated here.

The plans and photographs attached to Appendix A will be displayed at the meeting.

**Representations**

Atherstone Civic Society - The Society objects because of the visual impact on an historic landscape and the cumulative impact with the major industrial developments on the former colliery site and its shale tip – the car distribution depot and the AD plant. The Society describes the proposal as a “brutal engineering solution without any aesthetic consideration with the only palliative being suggested that it is partially out of sight and masked by some hedgerows and trees”. The objection covers the impact on open countryside; the impact on heritage assets, the nature of the associated infrastructure, the cumulative impact, energy and financial considerations and reference to best practice. The full objection letter is attached at Appendix B.

Atherstone Town Council - The Council supports the objection of the Civic Society

One representation has been received from an Atherstone resident pointing out that the submitted photographs were taken in the summer months when vegetation is in full leaf, and that the view from Twenty One Oaks should not be lost.

All households in Baxterley village were notified of the application as well as the Baxterley Parish Council. There have been no responses received.

**Consultations**

Severn Trent Water Ltd – No comments to make

Warwickshire County Council as Highway Authority – Originally submitted an objection because of concerns about highway safety in the construction period. Additional survey work has been requested and carried out. This is now with the County Council and a further response is awaited.

Warwickshire County Council as Lead Local Flood Authority – No objection subject to conditions.

Birmingham Airport – No objection

Environmental Health Officer – No objection

## **Observations**

### **a) Planning Policy**

The site is not in the Green Belt.

Planning policy in respect of renewable energy projects is found in the Development Plan and in the NPPF. The NPPF supports the “transition to a low carbon future” and the “encouragement of the use of renewable resources” as guiding principles. It also says that “small scale projects provide a valuable contribution to cutting greenhouse emissions”. The NPPF therefore concludes that Local Planning Authorities should have a positive strategy to promote energy from renewable sources and “approve applications if their impacts are or can be made acceptable”. The relevant policy in the Core Strategy is NW11 which says that, “renewable energy projects will be supported where they respect the capacity and sensitivity of the landscape and communities to accommodate them. In particular they will be assessed on their individual and cumulative impact on landscape quality, sites or features of natural importance, sites or buildings of historic or cultural importance, residential amenity and the local economy”. This reflects the approach of the NPPF where it says that, “when determining applications local planning authorities should approve the application if its impacts are acceptable” unless material considerations indicate otherwise. The Government’s NPPG on renewable energy projects again reflects this approach. In general terms this reiterates the commitment to increasing the amount of energy from renewable technologies. In respect of solar farms the guidance identifies a number of factors which will need to be assessed. These include whether the land is greenfield or brownfield; the agricultural grading of the land, bio-diversity impacts, the effect of glint and glare, the need for additional infrastructure, the visual impact, the effect on landscape character together with the impacts on heritage assets.

The common theme running through these documents is that the presumption is in favour of the grant of planning permission unless the impacts are so great that they cannot be mitigated or made acceptable through amended plans or planning conditions. This therefore is the starting point for the assessment of this application.

It is proposed to deal with all of the matters raised in the NPPG. The most significant matters in respect of this particular case are those relating to visual impacts; to the impact on landscape character and thirdly on heritage assets. Before addressing these, a number of the other matters will be dealt with first.

### **b) Residential Amenity**

It is considered that there will be no adverse impact on the amenity that nearby residential occupiers might reasonably enjoy. This is because there is no residential property directly overlooking the site. Part of the site will be visible from the upper floors of Bentley Nursing Home in Twenty One Oaks but the impact is limited and will be mitigated by the proposed peripheral planting on that part of the site boundary which is the most visible from this property. Moreover the area of the site affected is very small



and when considered in the very wide panorama from this property, it is concluded that this is not a significant issue. The lack of any representation from residents in Baxterley, surrounding dwellings or indeed from the proprietors of the Nursing Home, support this conclusion. As such it is considered that there is no material harm arising in respect of this issue.

#### **c) Agricultural Land**

It is agreed with the evidence of the applicant that this land is Grade 3b and that part of the site at its northern end is probably at a lower value than that. As such there is no material harm arising from consideration of this particular issue. The land will also be put to pasture thus enabling some agricultural use. Members will also be aware that the proposal is reversible and time limited to some 25 years.

#### **d) Drainage**

Given the advice of the Local Lead Flooding Authority there is no objection here in principle. The condition recommended will require a sustainable drainage solution to be designed and agreed. This is in line with the applicant's intentions. Given the slope of the land; the peripheral safeguarded boundary and the spaces between the panels, there are many opportunities here to provide such a solution.

#### **e) Bio-Diversity**

There is no evidence submitted in rebuttal of the conclusions found in the applicant's own ecological survey which recommends that there is a good opportunity here to enhance bio-diversity within and around the site – the peripheral zones; the new hedgerows and trees and the introduction of pasture. Suitable conditions can protect the management of existing flora and fauna. There is no material adverse impact here to warrant a refusal.

#### **f) Construction**

The Environmental Health Officer has not raised any issues in respect of the construction management plan as set out in Appendix A. This was to be expected given the temporary nature of the construction period (12 to 15 weeks) and the fact that there are very few if any affected residential properties.

#### **g) Access Arrangements**

The Highway Authority has no concerns with the use when it is operational as traffic movements are likely to be no more or possibly less than existing agricultural traffic generation using the field gate access. The Authority's main concern is thus with the construction period because of the larger and slower vehicles using the access and its location particularly in respect of visibility to the north where there is the crest of the hill. Additional survey work has been undertaken at the request of the Highway Authority as mentioned above – speed surveys in particular. Subject to the Highway Authority's clearance it is considered that there is likely to be no objection subject to the usual conditions.

#### **h) Visual and Landscape Impacts**

The applicant's evidence concludes that the development would introduce a modern low-level engineered element into a well wooded semi-enclosed farmland landscape but without any significant change to the character of the landscape or visual impact. This conclusion needs to be assessed as members are fully aware of the significant landscape value of this part of the Borough.

This value arises from the topography of the area being located on the top of a substantial scarp slope overlooking very wide and far panoramas. The North Warwickshire Landscape Character Guidelines show that the site is in an area described as the "Baddesley to Hartshill Uplands". It defines a distinct and unified upland landscape on a steeply sloping and undulating rock scarp. It has a complex land use pattern of settlements; woodland, recreation, quarrying and associated industry and farmland. The landform too gives rise to characteristic heavily wooded areas, heath and pockets of permanent pasture in small hedged fields as well as isolated large arable fields between woodland blocks. Settlements and industry are generally absorbed by the prevailing upland character. Long views from highpoints are significant.

The definition also describes a relatively undisturbed heavily wooded landscape around Merevale Hall which has a "strong sense of unity".

The characteristics of the proposal limit its harm on the character of the landscape as set out above. This is because it is low-level containing linear elements which will have a dark matt colouring and because it is time limited. The development is reversible. The selected site also has real advantages. It is surrounded by heavy woodland and is thus within an enclosed or contained setting. It is in a field that is not on the crest of the scarp or readily visible from the north and itself is an undulating field. It therefore "sits" very well in the surrounding landscape. It is not considered that it would adversely affect the overall character of the landscape as described. It is sited in a sensitive area but the actual development would be absorbed into the landscape without material harm to that landscape.

In terms of visual impact then as indicated it would not be readily visible from the north, even several kilometres away; it would not be visible from Merevale Lane and there are no public footpaths across or in the vicinity of the site or its surrounding area. Visual impact is limited to partial views of the site from Twenty One Oaks to the south and south-east. However these are transitory and glimpsed views. They are proposed to be mitigated through hedgerow and tree planting along the site's boundaries in this corner of the development such that the site would become self-contained. Importantly the development would not be seen as a foreground feature from this road within the wide panoramic views to the north, which is perhaps the most substantial of the likely concerns. It is agreed that this particular corner of the site is presently visible from the upper floors of Bentley House but again, the mitigation measures proposed will greatly assist in lessening adverse impacts.

In conclusion therefore it is not considered that there are adverse landscape or visual impacts here to warrant there being more than minor harm.

## **i) Heritage Impacts**

This again is a significant concern. As reported in Appendix A there are three Grade 1; nine Grade 2 star and 27 Grade 2 Listed Buildings within five kilometres of the site. In addition Merevale Park is a Registered Park and there are eight scheduled monuments within the same five kilometres.

It is concluded immediately that there is no adverse impact or harm to the setting of the Atherstone Conservation Area given the separation distances and the lack of any inter-visibility.

There is also considered to be no harm to any of the Scheduled Ancient Monument Sites given the separation distances. However given that there has little archaeological fieldwork undertaken in the general area of the site and because of its proximity to the Watling Street and the 12<sup>th</sup> Century Cistercian Monastery at Merevale Abbey, the development enables archaeology fieldwork to be undertaken prior to the development commencing.

An assessment has been made by the applicant of each of the Listed Buildings referred to earlier. This involves a description of each; its landscape context and presence, its setting, views of the building and the sensitivity of the asset concluding with an assessment of the magnitude of the impact of the proposed development on the setting and significance of the asset. Of these individual assessments, none has resulted in in any impact greater than minor to moderate. This occurred in only two cases – that of the Grade 2 star Merevale Hall and the Registered Park/Garden of the Hall. All other impacts were found to be neutral or negligible because of separation distances and lack of inter-visibility or historic and architectural association or linkage. These assessments have been explored and there is nothing found to warrant any different conclusions.

Clearly the two assessments referred to above need to be examined further particularly as NPPF guidance is that harm to heritage assets has to be given substantial weight in the determination of development proposals reflecting the relevant planning legislation. The significance of Merevale Hall is as a country house with late 17<sup>th</sup> Century origins but which was rebuilt in the late 19<sup>th</sup> Century of regional architectural and historic value located on a site with a long history and within an associated garden/park/estate built in an Elizabethan style which has been preserved and well maintained together with an associated stable block. It is set in a landscaped wooded estate framed by formal gardens and standing in a hill top location with commanding views, thus being visually dominant. Given this description the Hall is sensitive to any change or interruption where focus is removed from the building itself.

The issue is thus what impact the proposal would have on this description. The applicant considers that the site may be visible from the upper floors of the Hall but that the site and development will be screened from the gardens, grounds and stables as well as the lower floors. As such there would only be minor impacts. This is agreed. The development's characteristics are helpful as to assessing the impact of the proposal on wider views looking from outside of the immediate area around the Hall, into the Hall itself. The question as set out in the final sentence above, is would the visual prominence of the Hall be diluted or lessened by the development because the eye would be drawn away from the Hall? The development is low-level with dark matt colouring and the site is surrounded by woodland blocks with new planting proposed. It is considered that the proposal would have no significant impact on this issue but that there may be some visual distraction from more distant views. However this would not be significant and thus the applicant's assessment is agreed.

It will not be surprising that the gardens and parkland of the Hall are registered by Historic England as a heritage asset. This is a 185 hectare asset containing ten hectares of gardens with the remainder as parkland. It extends to the Watling Street, the B4116 and Merevale Lane. The parkland is recognisable as such with sweeping pasture and mature trees which make a visible landscape presence but not one dominant in the landscape. The development site is outside of the Registered Park and Garden area being in the surrounding farmland. The parkland itself is very sensitive to changes or additions – views across parkland; to and from the Hall and views of post-medieval parkland and medieval monastic landscapes. The impact of the proposal on this significant asset will thus be highly important. The features of the development itself as set out previously are important factors here as are the surrounding woodland blocks. There is no impact on any of key views or vistas although the site may be visible as before over the parkland from the upper floors of the Hall and from some other locations within the park itself. The Council's saved policy ENV16 says that developments adjoining registered parks will not be permitted if they adversely affect the character and setting of the area. In these circumstances set out above, it is considered that the overall impact on the significance of the parkland asset is minor to moderate and thus there would be no adverse impact to warrant a refusal under this saved policy.

The overall conclusion therefore is that there will be impacts on the totality of the heritage assets within the area around the site but that at worst these would be minor to moderate.

Members however are also asked to consider any cumulative impacts arising from this proposal. There is only the one other solar farm at Grendon some five kilometres from the site and there are no other outstanding planning applications for such developments. It is not considered that there would be a cumulative impact here given the separation distances and the fact that the two sites are largely not inter-visible. As indicated above the south east corner of the present site will be planted and landscaped so that the development would not be seen in the foreground of any wider views looking north and the site is very largely not seen from the north looking south because of its location over the crest of the slope and the surrounding woodland blocks. There is however an issue with the other commercial uses nearby – the former colliery site and the former shale tip. These two sites are close by and are significant developments. However they are on sites that are very largely contained. The AD plant on the former shale tip is hardly visible at all from any public viewpoint and the colliery site too is surrounded by existing woodland. Members have visited both of these sites in the past and should thus be fully aware of this conclusion. The application site too as described above is self-contained. Each development is thus absorbed into the landscape with no adverse alteration to its overall character and appearance.

#### **j) Other Matters**

Birmingham Airport has not come back with any objection.

The report at Appendix A outlines the community consultation that the applicant carried out prior to submission of the application. This concluded that community benefit should preferably be in the form of a "fuel poverty" scheme for local residents. The applicant proposes to set up a Charitable Trust which would administer local projects including community projects and a local fuel poverty scheme. This would amount to £1000 a year (index linked) over the lifetime of the project. This is considered to be a benefit that weighs in favour of the application.

The Civic Society has raised the issue of a deferral asking the applicant and land owner to review the application in light of recent Government announcements on reductions of tariffs for ground based solar farms and that it is keen to give priority to brownfield land and to roof coverage rather than to sites in open countryside. Members will be aware that the application has been submitted and should be determined on its planning merits as it stands now. The government announcement has not been translated into changes to the National Planning Practice Guidance.

## **Conclusion**

The key issue here is whether the support for renewable energy projects as set out in the NPPF and the Development Plan should be set aside here because greater weight should be given to the retention of the landscape character and quality together with the significance of the heritage assets in the locality. It is agreed that the sensitivity of the site in regard to these two factors is high and that particular weight has to be given to any assessment where there is harm to heritage assets. As a consequence the judgement here is finely balanced.

Whilst the Board will need to address all impacts here, it is worth recording that it is not considered that there is significant harm arising from drainage, amenity, ecological, agricultural and construction issues either individually or when added together. The highway situation is still to be resolved. No statutory objections have been received and it is noticeable that the only objection received has a different focus entirely. The issues raised by the various consultation responses can be dealt with through planning conditions.

This therefore brings the matter back to the two key issues. There is no doubt that this is a valued landscape both at a local level but perhaps more so because of the panoramas both into and out of this upland scarp. The characteristics of the development and its actual immediate setting here are of significant weight in that the proposal is very largely a self-contained site. Whilst the Civic Society dismisses additional planting so as to enhance that self-containment, it is considered that this is a significant mitigation measure and one that is of overall benefit. These measures affect the south –east corner of the site. Had such measures been proposed over a far wider area of the site then the conclusion here may well have been different. The planting too significantly reduces the visual impact of the development being a foreground feature when views are taken looking north. There are two nearby sites that contain industrial uses but again because of the visual self-containment of these there is not considered to be any significant cumulative impact. In the case of the application site and that of the AD plant then they are not readily visible from the public's perspective and it is considered that all three would not therefore be perceived together from a visual point of view. Overall the conclusion is that with these measures there would only be minor harm to visual and to landscape character.

The heritage issue here is also of weight because of the combination of the potential impacts on a Grade 2 star Listed Building and its associated Registered Parkland. It is considered that the harm to the Listed Hall is minor because of separation distances and intervening woodland. Importantly the visual prominence of the Hall within its setting would not be harmed either when looking into the Hall from outside from different positions around it or when overlooking the Hall from the higher ground to the south when looking towards the north. Given this conclusion and that in respect of the visual and landscape impacts, it is not considered that there would be harm to the setting or significance of the associated parkland. The parkland can be seen in its wider setting because of views into the Hall and across it. Also there is the more local impact from

within the grounds itself either looking within or out of the site. There is not considered to be any significant harm to either of these concerns.

As a consequence it is concluded that the actual harm to these issues would be minor, particularly with the additional mitigation measures as proposed. In these circumstances the balance should lie in favour of the grant of planning permission.

The proposed community trust is a material consideration here but it is not seen a determining factor of significant weight. The recommendation below allows for it to be established.

### **Recommendation**

That subject to there being no objection from the Highway Authority and completion of a Section 106 Agreement to establish the Community Trust as outlined in this report, planning permission be granted subject to the following conditions and any conditions required by the Highway Authority:

### **Standard Conditions**

1. Standard Three year condition
2. Standard Plan Numbers - 1263.b/D001; 002, 003, 004, 005, 006, 008, 009, 010, 011, 012, 014, 015 and 016 all received on 22/7/15.

### **Controlling Condition**

3. This planning permission is for a period of twenty five years from the date that the development is first connected to the national electricity grid. The date of this connection shall be notified to the Local Planning Authority in writing within 28 days of it occurring. All solar arrays, their supports foundations, inverters, transformer stations, site substations, access tracks, fencing and security cameras and their supports shall be removed from the site and the land reinstated to its former arable condition within twelve months of the solar park ceasing to be operational.

### **REASON**

To reflect the temporary nature of the development and ensure appropriate reinstatement of the site.

### **Pre-Commencement Conditions**

4. No development shall commence on site until an archaeological investigation has first taken place; the contents submitted to the Local Planning Authority and the

written agreement of that Authority given that the development as approved may proceed.

#### REASON

In the interests of the potential archaeological interest in the land.

5. No development shall commence on site until a detailed surface water drainage scheme based on sustainable drainage principles and an assessment of the hydrological and geo-hydrological context of the development together with details of how the system will be maintained in perpetuity over the length of the operation have all first been submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall then be implemented on site.

#### REASON

To reduce the risk of flooding and to protect water quality

6. No development shall commence on site until full details of all of the landscaping measures to be undertaken have first been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall then be implemented on site.

#### REASON

In the interests of the visual amenities of the area.

7. No development shall commence on site until full details of the measures to be implemented on site to protect existing flora and fauna and to enhance biodiversity throughout the lifetime of then development, have first been submitted to and approved in writing by the Local Planning Authority.

#### REASON

In the interests to promoting the ecological value of the site.

#### **Other Conditions**

8. There shall be no construction work whatsoever undertaken including any delivery to the site of construction materials other than between 0730 and 1930

hours during weekdays and between 0730 and 1200 hours on Saturdays with no work on Sundays and Bank Holidays

REASON

In the interests of the residential amenity of nearby residents

9. Following the commencement of the operational use of the site, the whole of the construction compound shall be permanently removed and the site fully reinstated for agricultural purposes.

REASON

In the interests of the visual amenities of the area.

**Notes:**

1. The Local Planning Authority has met the requirements of the NPPF in this case by engaging in pre-application discussions and following through the planning issues with detailed analysis and imposing appropriate conditions.
2. Attention is drawn to the advice of the Local Lead Flooding Authority that the strategy as set out in the submitted plans needs to be revised to provide more surface water attenuation. For instance in other cases, the excavated spoil from the construction of the swale has been placed on the downslope of the swale so as to provide additional attenuation storage and once the site is decommissioned the excavated material can simply be brought forward to fill the swale.
3. Standard Radon Gas Note
4. Standard Coalfield Standing Advice Note



## BACKGROUND PAPERS

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

Planning Application No: PAP/2015/0459

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	22/7/15
2	A Whyman	Representation	11/8/15
3	Atherstone Civic Society	Objection	14/8/15
4	Birmingham Airport	Consultation	17/8/15
5	WCC Highways	Consultation	18/8/15
6	Severn Trent Water	Consultation	19/8/15
7	Atherstone Town Council	Objection	20/8/15
8	Environmental Health Officer	Consultation	2/9/15
9	WCC Flooding	Consultation	5/8/15
10	Applicant	Letter	11/9/15
11	Applicant	E-mail	23/9/15

*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.*

**General Development Applications**

**(#) Application No: PAP/2015/0459**

**Land South of Pogmore Spinney, Merevale Lane, Merevale,**

**Standalone solar PV array, access, associated infrastructure, landscaping and cable route, for**

**Murex Solar Ltd**

**Introduction**

This application has recently been received and is reported at this time for information. Given the location and size of the proposal it is recommended below that Members undertake a site visit prior to determination.

**The Site**

This amounts to some 5.2 hectares of arable agricultural land on the east side of Merevale Lane and to the north of Twenty One Oaks. The immediate surrounding area comprises blocks of woodland and other agricultural land. Whilst on the high scarp running parallel to the A5, the actual site itself slopes towards the south with a height difference of around 10 metres. The nearest residential property is located at the junction of Merevale Lane with the Coleshill Road – some 130 metres distant; Colliery Farm to the north at 350 metres and the Bentley House Care Home to the south at 400 metres. Merevale Hall is over a kilometre to the north-east. There are no public rights of way across or near to the site.

The general site is illustrated at Appendix A.

**The Proposals**

The proposal comprises a 5MW photovoltaic solar array with its associated infrastructure, landscaping and cable route to enable the export or renewable energy to the National Grid – sufficient it is said for consumption by around 1000 dwellings. It is not proposed to conduct any levelling works as the arrays will be able to be fitted directly into existing ground levels such that they face south. The rows of panels would be 3.5 metres apart and vary from 0.8 metres to 2.5 metres in height above ground level with an angle of around 25 degrees. The panels would be a matt blue-grey in colour.

The arrays would be connected via an underground cable to the National Grid on the 33Kv line to the north-west. The onsite sub-station would be located on the west side of the site close to the access. It would be 9.2 by 5.8 metres and 4.2 metres tall and constructed in colour coated steel. An associated car park would be needed together with a collection of other buildings.

There will also be a collection of inverter stations throughout the array. These would be metal clad buildings measuring 6.6 by 2.8 metres and be 2.3 metres tall.

A security fence and CCTV cameras are proposed. This would be 2.5 metres tall and be similar to deer fencing which is made of a high tensile steel mesh. CCTV cameras would be located every 60 to 70 metres around the perimeter on 4.5 high metre poles.

Access to the site for construction and maintenance once installed would be via an improved existing field gate on Merevale Lane. Construction is expected to take between 12 and 15 weeks, seven days a week, with a maximum of between 18 to 20 HGV movements a day particularly at the beginning of that period.

In this case a full planning permission is sought rather than a time limited one usually 25 years.

The developer proposes to set up a Solar Charitable Trust for the duration of the operational period of the solar array. This would be for use by the local community either for community projects or for a local residents' fuel poverty scheme. No decision has yet been made or terms of reference drawn up.

Plans at Appendices B to D illustrate the matters referred to above.

A number of supporting documents accompany the application.

A Design and Access Statement describes the appearance of the various pieces of plant, equipment and structures to be installed as well as summarising operations.

An Agricultural Appraisal describes the setting and the work done in investigating the nature of the soils across the site also looking at cropping and field conditions. It concludes that the site can be classified as Grade 3B agricultural land – e.g. “land capable of producing moderate yields of a narrow range of crops principally cereals and grass, or lower yields of a wider range of crops or high yields of grass which can be grazed or harvested over most of the year”.

An Ecological Survey describes the site as an enclosure bordered by conifer and broadleaved woodland and a species rich hedgerow. A number of recommendations are made: all boundaries need to be protected during the construction period, further badger surveys are needed but the current level of activity is not a constraint, bats may use the woodland to the east and so if these trees are to be managed further survey work is needed and all construction work should be carried out between September and February to avoid the nesting bird season. The site has good potential for bio-diversity enhancement and an appropriate plan should be drawn up.

A Flood Risk Assessment shows the site to be in a low risk area for fluvial flooding. There is a low risk of surface water flooding from the PV array but the sustainable drainage system involving the use of swales running across the slope at regular intervals is supported.

A Construction Management Plan says that the construction period would last between 12 and 15 weeks. Whilst 24/7 working is suggested there would be no deliveries on Sundays as HGV movements would operate between 0730 and 1930 during the week, with hours of 0730 to 1200 on Saturdays.. All construction traffic would use Merevale Lane and the A5. The temporary site compound would be within located in the field between the actual site and Merevale Lane adjacent to the access. The majority of the HGV movements (15 to 20 a day) would be in the first 10 weeks of the overall programme.

A Statement of Community Involvement states that apart from pre-application discussions with various Agencies, the applicant undertook a “mail-shot” to residential properties within 2 kilometres of the site as well as to Baxterley Parish Council including a response sheet. The responses are said to be supportive and there was a majority of respondents saying that any community benefit should go towards a local residents’ fuel poverty scheme.

A Heritage Impact Assessment says that the site is on the edge of the Merevale Park Estate, historically part of a 12<sup>th</sup> Century Cistercian Monastery. Very little archaeological fieldwork has been undertaken but due to the proximity of the Watling Street; the former Monastery and the medieval activity in the area, the opportunity should be taken to carry out some field work here. There are three Grade 1 and nine Grade 2 star Listed Buildings including a Registered Park within 5km of the site together with a further 27 Grade 2 Buildings and eight Scheduled Ancient Monuments. The Assessment concludes that most of these assets are located some distance away from the site so as to minimise any impact on their settings or indeed on their actual architectural and historic characteristics either individually or cumulatively. Additionally intervening topography and woodland suggests that they would be partly or wholly insulated from the effects of the proposed solar array. The overall conclusion is that only six assets or groups of assets would be affected, but that the level of harm overall would be negative/minor – there being negative or minor harm to Merevale Abbey, Oldbury Camp, The Gate House and the remains of Merevale Abbey but with negative/moderate harm to Merevale Hall and its registered parkland.

A Landscape and Visual Impact Assessment concludes that the development would introduce a modern low-level engineered element into a well wooded semi-enclosed farmland landscape. As the development would contain linear elements, the proposal would relate well to the undulating terrain and the land cover pattern. Landscape character effects would occur primarily within the 0.2 to 0.3 km distance from the site principally focused to the south/south-east. No views would be available from the principal settlements in the area. There would be some localised visual impacts during construction particularly from the upper floors of Bentley House. There are no public footpaths in the area and views from the highway network would be very limited but these at worst would be transitory glimpses. Overall the Assessment concludes that the development would be accommodated within the existing landscape structure but that there would be very limited views of it from publically accessible locations or from private dwellings. These would be reduced by on-site planting and strengthening of hedgerows.

A Planning Policy Statement sets out the planning policy background referring to the National Planning Policy Framework; the 2014 Core Strategy, the saved policies of the 2006 Local Plan and to the National Planning Practice Guidance. Other Material Planning Considerations relevant to solar arrays is referred to. The Statement concludes that the development accords with this policy background.

Appendices E to H are photographs of the actual site from just inside the access track. Appendix I illustrates the site from Twenty One Oaks.

## **Development Plan**

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW10 (Development Considerations), NW11 (Renewable Energy), NW12 (Quality of Development), NW13 (Natural Environment) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policy 2 (Development Distribution); Core Policy 3 (Natural and Historic Environment), Core Policy 11 (Quality of Development), ENV1 (Protection and Enhancement of Natural Landscape), ENV10 (Energy Generation), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Conservation) and ENV16 (Listed Buildings)

### **Other Material Planning Considerations**

The National Planning Policy Framework 2012

National Planning Practice Guidance 2014

Planning Guidance for the Development of Large Scale Ground Mounted Solar PV Systems – BRE

Solar Farm – 10 Commitments: Solar Trade Association.

### **Observations**

At this stage this report is for information so as to acquaint Members with the recently submitted application. A full determination report will be prepared in due course once full consultation has taken place with a number of relevant Agencies and the local community.

Perhaps the key issues when dealing with the application will be to assess the visual impact and the impacts on the character of the surrounding landscape. As in previous cases it is recommended that Members visit the site and its surrounds.

### **Recommendation**

That Members note the receipt of the application and undertake a site visit prior to determination.

## BACKGROUND PAPERS

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

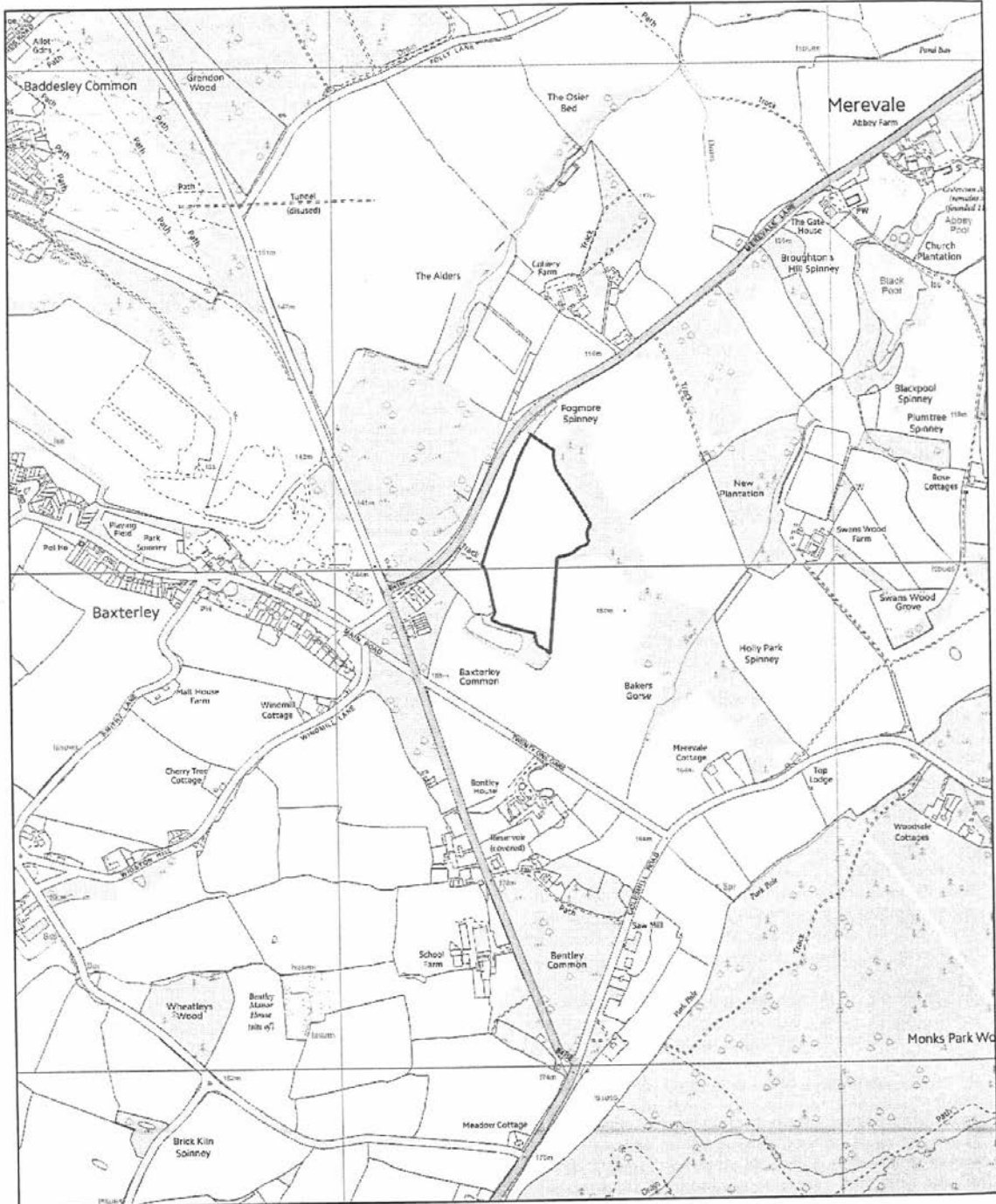
Planning Application No: PAP/2015/0459

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	22/7/15

*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.*

# MUREX - LAND AT MEREVALE LANE SOLAR SITE PROPOSED LOCATION

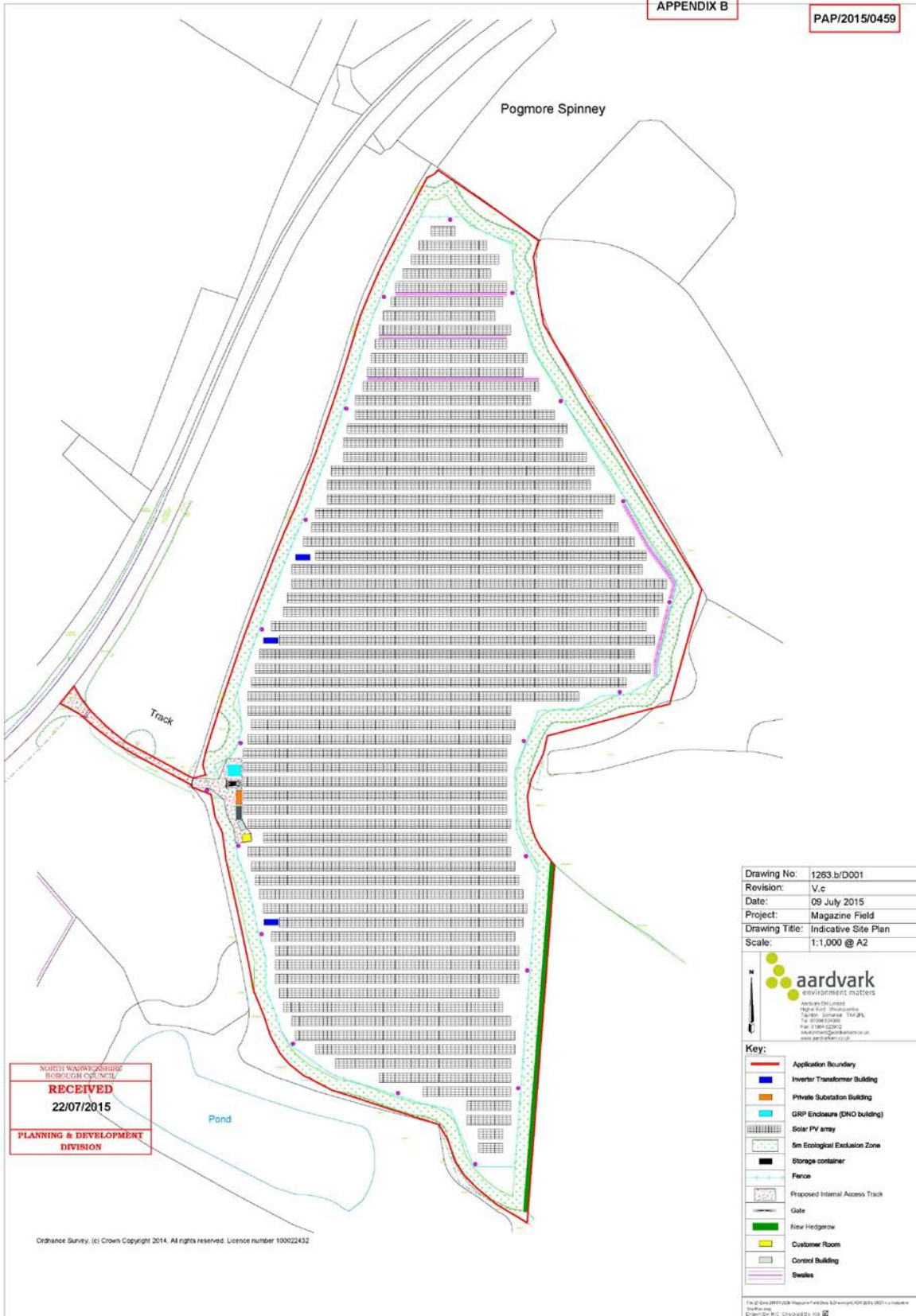


1:10,000

0 125 250 500 Meters

**Legend**  
— Site Boundary

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Drawing No:	1263.br/D001
Revision:	V.c
Date:	09 July 2015
Project:	Magazine Field
Drawing Title:	Indicative Site Plan
Scale:	1:1,000 @ A2

**aardvark**  
environment matters

Welles Hill Limited  
High Street, Woodchester  
Tisbury, Wiltshire, SN14 3PL  
Tel: 01249 830000  
Fax: 01249 822992  
aardvark@aardvark.co.uk  
www.aardvark.co.uk

**Key:**

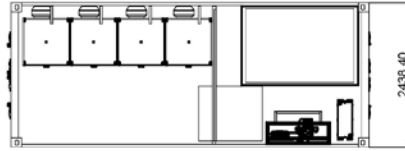
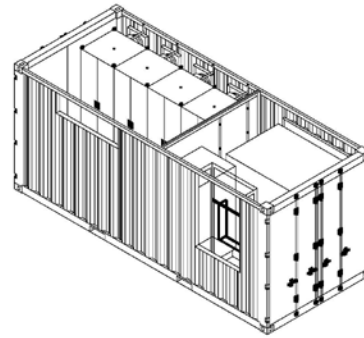
- Application Boundary
- Inverter Transformer Building
- Private Substation Building
- GRP Enclosure (DNO building)
- Solar PV array
- 5m Ecological Exclusion Zone
- Storage container
- Fence
- Proposed Internal Access Track
- Gate
- New Hedgerow
- Customer Room
- Control Building
- Swales

T:\2015\2015028\_Pogmore Field\A2\_Indicative\_Site\_Plan\_V.c.dwg  
22/07/2015 14:52  
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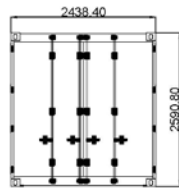




LATERAL



PLAN



FRONT

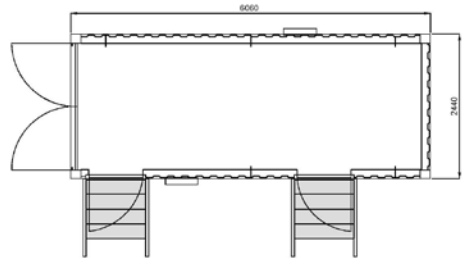
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Revision:	v.1
Date:	15 June 2015
Project:	Magazine Field
Drawing Title:	Project 3 - Magazine Field, Division and
Scale:	1:50 @ A3



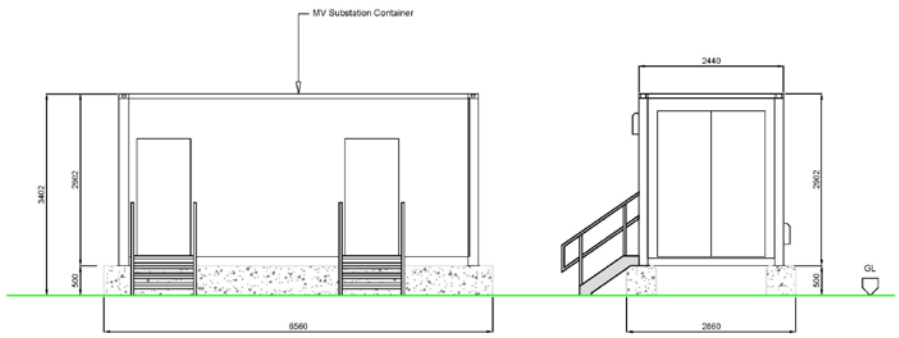
- Notes:**
- Building colour RAL 6005
  - Building will be mounted on a 500mm foundation

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FLOOR PLAN



SIDE ELEVATION

FRONT ELEVATION

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Drawing No:	1263.b\0008
Revision:	v.1
Date:	15 June 2015
Project:	Magazine Field
Drawing Title:	MV Substation Container, Elevation and Plan
Scale:	1:50 @ A3



- Notes:**
- Building colour RAL 6005
  - Building made of coated steel
  - All dimensions are indicative and in "mm".

File: 1263.b\0008.dwg - Date: 15/06/2015 11:05:00  
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 Plotted by: [Name]

PAP/2015/0459



Existing view  
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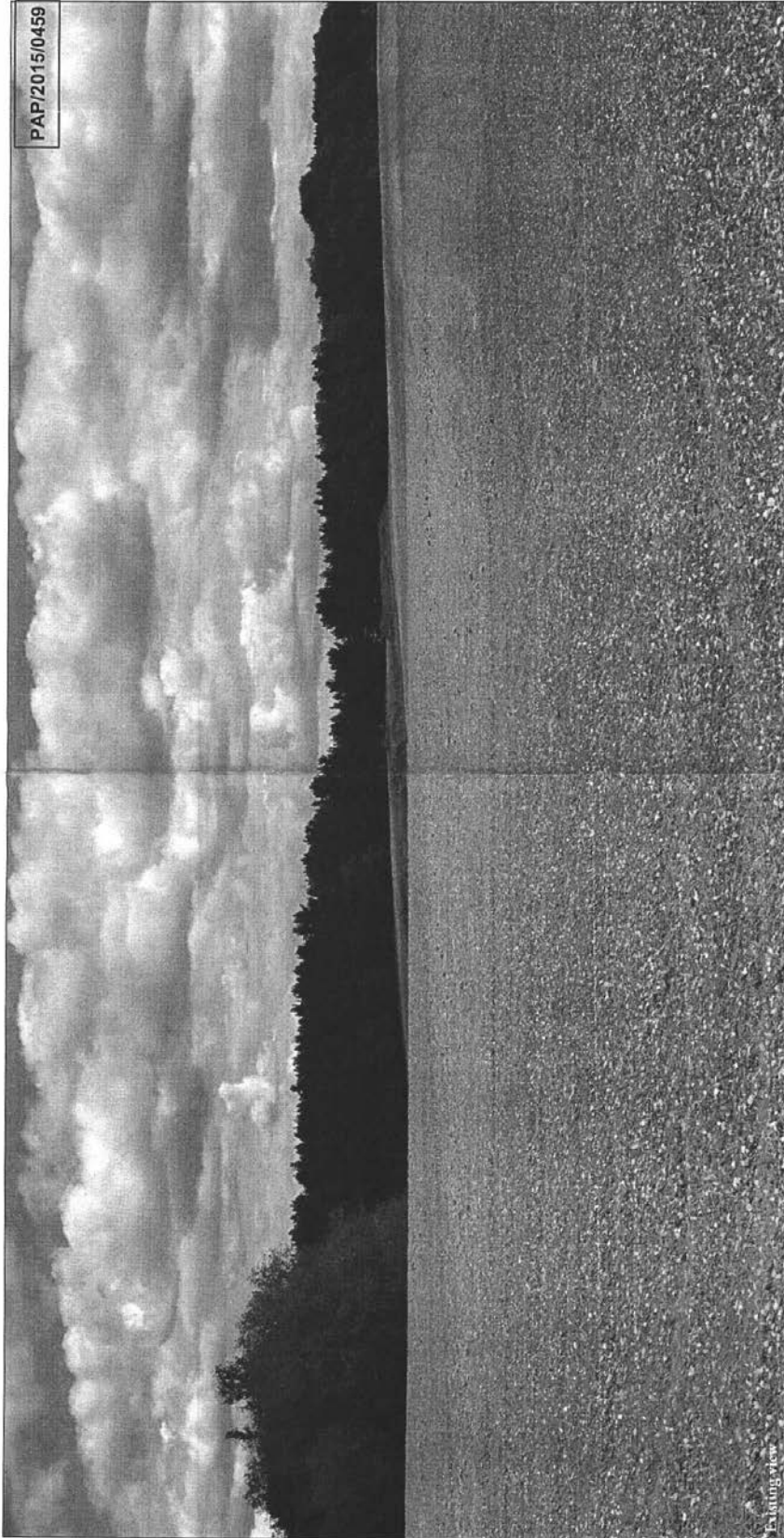
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 Location: South-western site boundary  
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 Viewer height: 1.6m  
 Viewing distance: 300mm  
 Angle of view: 60°  
 Date: 3 June 2015  
 Time: 1:00 p.m.  
 Weather: Fine

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Project: Land at Magazine Field, Merevale  
 Title: Viewpoint 1: South-western site boundary looking south-east  
 Ref: 1190/06.01 sheet 4 of 4

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PAP/2015/0459



Existing view

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Grid reference: 428307 297003  
 Location: South-western site boundary  
 Camera and lens: Canon 5Diii/50mm  
 Viewer height: 1.6m  
 Viewing distance: 300mm  
 Angle of view: 60°  
 Date: 3 June 2015  
 Time: 1:00 p.m.  
 Weather: Fine

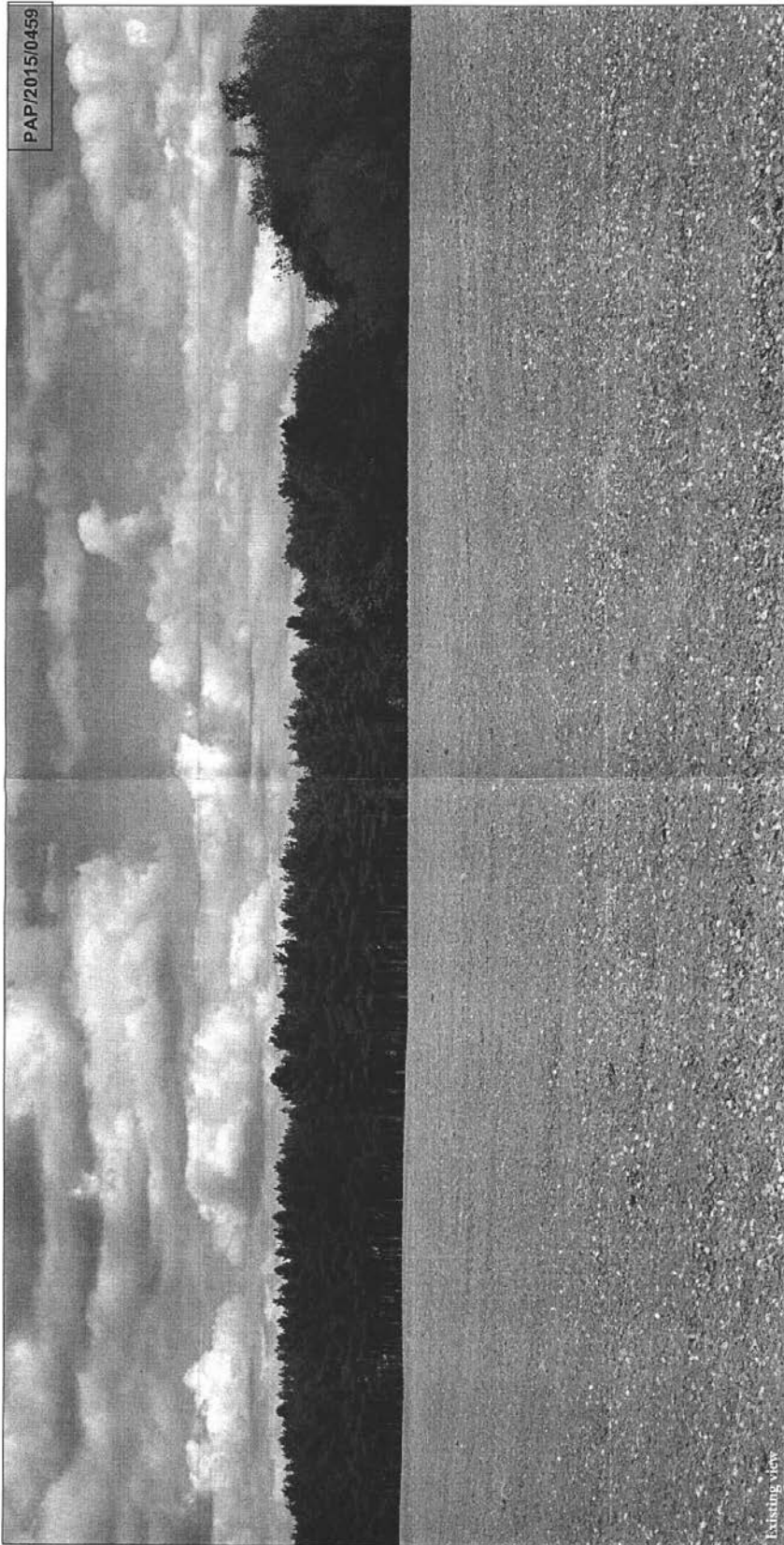
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<b>22/07/2015</b>
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Project: Land at Magraire Field, Merveale  
 Title: Viewpoint 1: South-western site boundary looking east  
 Ref: 1190/06.01 sheet 3 of 4

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Appendix F

PAP/2015/0459



Existing view

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continued on next page >

# APPENDIX G

Grid reference: 428307 297003  
 Location: South-western site boundary  
 Camera and lens: Canon 5Diii/50mm  
 Viewer height: 1.6m  
 Viewing distance: 300mm  
 Angle of view: 60°  
 Date: 3 June 2015  
 Time: 1:00 p.m.  
 Weather: Fine



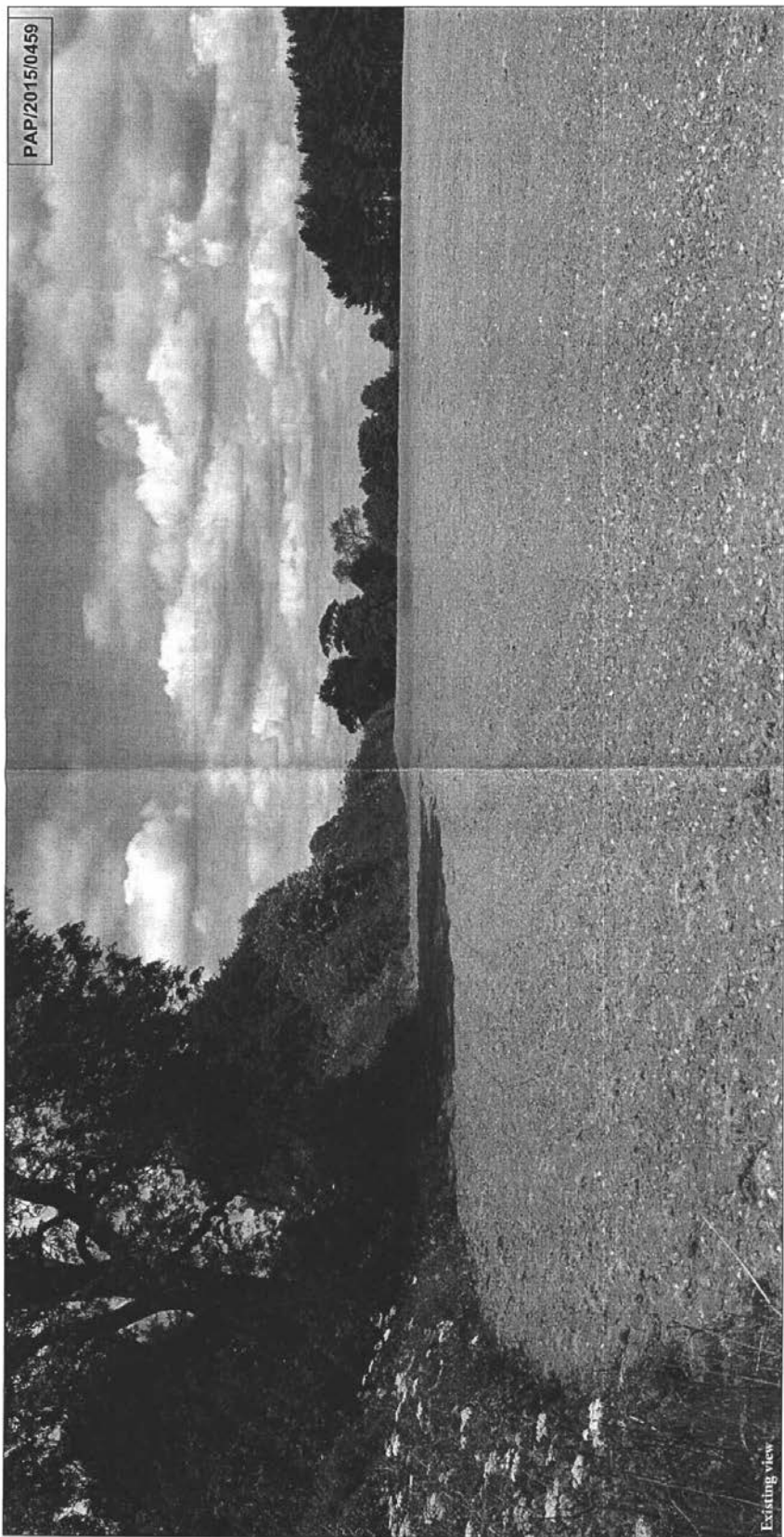
Project: Land at Magazine Field, Merevale  
 Title: Viewpoint 1: South-western site boundary looking north-east  
 Ref: 1190/06.01 sheet 2 of 4

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PAP/2015/0459



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# APPENDIX H

Project: Land at Magazine Field, Merevale  
 Title: Viewpoint 1: South-western site boundary looking north  
 Ref: 1190/06.01 sheet 1 of 4

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PLANNING & DEVELOPMENT DIVISION

Grid reference: 428307 297003  
 Location: South-western site boundary  
 Camera and lens: Canon 5Diii/50mm  
 Viewer height: 1.6m  
 Viewing distance: 300mm  
 Angle of view: 60°  
 Date: 3 June 2015  
 Time: 1:00 p.m.  
 Weather: Fine



Existing view



Appendix II

Project: Land at Magazine Field, Merevale  
 Title: Viewpoint 2: Twenty One Oaks road opposite Bentley House  
 Ref: 1190/05.02

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<b>PLANNING &amp; DEVELOPMENT</b> DIVISION



Grid references: 428440 296611  
 Location: 215m to the south of the site  
 Camera and lens: Canon 5Diii/50mm  
 Viewer height: 1.6m  
 Viewing distance: 300mm  
 Angle of view: 60°  
 Date: 3 June 2015  
 Time: 11:50 a.m.  
 Weather: Fine

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**Harbon, Amanda**

---

**From:** Judy Vero <secretary@atherstonecivicsociety.co.uk>  
**Sent:** 14 August 2015 09:33  
**To:** planappconsult  
**Cc:** Brown, Jeff  
**Subject:** PAP/2015/0459: Land south of Pogmore Spinney, Merevale Lane, Merevale

For the attention of Jeff Brown

**PAP/2015/0459: Land south of Pogmore Spinney, Merevale Lane, Merevale – Standalone solar PV array, access, associated infrastructure, landscaping and cable route**

Thank you for your consultation of 28 July 2015.

We **object** to this proposal for its visual impact on an historic landscape and the cumulative impact with two other major industrial developments on the Merevale Estate. Our reasons are as follows:

**The proposed development**

The proposed development is of a large unacceptable scale, with the installation of 19,230 photovoltaic panels on a greenfield site in open countryside. The scheme illustrates a brutal engineering solution without any aesthetic consideration. The only palliative suggested is that it would be partially out of sight and masked by some hedgerows and trees.

**The site in open countryside**

The siting of this apparatus is in a hitherto unspoilt area of the North Warwickshire countryside in an agricultural setting. It is of paramount importance that these areas are rigorously protected against all types of building, however credible their credentials. To permit such development in an historic landscape could be seen as setting precedent both locally and nationally.

Although the Merevale Estate has very limited public access, the views across it are some of the greatest attractions of North Warwickshire. Of special note is the view north across Leicestershire from the vantage point of 21 Oaks. This currently very beautiful view would be seriously damaged by the proposal. Government guidance is clear on the need to protect the landscape. *The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes.* (Planning Practice Guidance – Renewable and low carbon energy, para 010 Ref: ID 5-010-20140306, revision Ref: ID: 5-013-201503272, Mar 2015). The Council's Core Strategy reinforces this: *Renewable energy projects will be supported where they respect the capacity and sensitivity of the landscape and communities to accommodate them. In particular they will be assessed on their individual and cumulative impact on landscape quality, sites or features of natural importance, sites or building of historic or cultural importance....* ( Policy NW11)

This is an undulating landscape. Until the Warwickshire Structure Plan was abolished, it was included in its Special Landscape Area policy. In the Warwickshire Landscape Guidelines (1993), the area was described as *Arden: Wooded Estatelands: A well-wooded estate landscape characterised by a large scale rolling topography and prominent hilltop woodlands.* The North Warwickshire Landscape Character Assessment of 2010, (which has, in effect replaced the designation of SLA), states that, *A relatively undisturbed heavily wooded landscape surrounds Merevale Hall. The Hall is a prominent landmark building set within an historic Registered Park and Garden, affording long views across the Anker Valley to the north. A significant proportion of the adjacent Monk's Park/Bentley Park Wood is designated as a SSSI, reflecting*



*its Ancient Woodland qualities. The area retains a strong sense of unity.* (Character Area 4, p. 37) It is, however, acknowledged that, *the area is subject to a complex range of pressures for change*, and advises a management strategy to, *Conserve and restore the character of this distinctive upland landscape*. This would therefore suggest that solar arrays are not appropriate development for this landscape.

#### **Impact on heritage assets**

It appears that the heritage assets in the area (Merevale Hall, garden and park, church, abbey ruins, Abbey Farm, lakes, bridges, walls, etc) would not have their immediate setting damaged by the development. However, registered parks and gardens are rare and the Government's Planning Guidance, 'Conserving and Enhancing the Historic Environment' (Ref. ID:18a-049-20140306, Para 049) makes the point that, to be listed as such, *Any grade II park or garden should be exceptional. Local authorities are required to consult Historic England and The Gardens Trust on certain applications for planning permission*. As with a conservation area, the setting of a registered park and garden is important, because it provides a buffer zone between the park and the wider landscape. The park, garden and surrounding landscape is very attractive and, apart from some metal barns, is free of modern development. It retains its integrity as an historic site. The approach from the south along the B4114 would offer glimpses of the solar array which would impact on the overall impression of the heritage assets and their setting.

The Government's Planning Practice Guidance on Solar Farms also states that, *Great care should be taken to ensure that heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset.* (Ref.: ID: 5-013-201503272, Revised 2 Mar 2015)

#### **The construction and the countryside**

The engineered design of these panels and the supporting equipment covers an area of over a 5,17Ha (61,833 sq. yards). The panels have a finish of coloured aluminium which will not naturally 'weather' over time.

The siting of a number of shipping containers for apparatus, painted green would not be acceptable in any other long term planning application in the countryside. The site would be surrounded by fencing with posts at 50 metre intervals to a maximum height of 4.5 metres (13 feet) with CCTV cameras placed on the top.

The suggestion, as stated in the supporting environmental report, that the site will be mainly screened by 'unmanaged hedgerows' should not be considered as an acceptable practice. Leaf cover is seasonal and periodic cutting of hedges using the technique of 'hedge-laying' could expose the installation in the autumn and winter months.

In planning terms, the material used is particularly sensitive when developments are proposed in the countryside. Usually, materials reflect the local natural environment, with emphasis on the colour and type of brick, tiles or stonework. The proposal for an aluminium and plastic type construction with shipping containers does not accord with these principals.

#### **Cumulative impact**

The Merevale Estate is already generating electricity in the biomass plant, and we understand that another proposal is expected soon for a solar farm in the area. In addition to this a solar farm is already in existence approximately five kilometres to the northwest at Grendon.

The character of Merevale Estate to the west of the B4114 is changing on account of two major commercial uses. The largest of these is the recent consent for Jaguar Landrover, to use the former Baddesley colliery site as a centre for car distribution, operating 24/7 and generating 200 vehicle movements per day. Across the road to the north, the former shale tip site now accommodates a biomass plant which also generates electricity. It has consent for 120 vehicle movements per day, making a total of 320 vehicle movements per day extra on the B4114. Local people pleaded with the planners to allow them to have Sunday free of noise and HGVs. But this was not possible. Although, once built, the solar farm would not generate significant vehicle movements, its construction period would add further to traffic on Merevale Lane. The development would also spread an industrial character to the east side of Merevale Lane with all the installations needed to protect and service the site.

Although there is no public access to the Merevale Estate, the lanes which surround it offer attractive views and vantage points from which to admire the unspoiled Arden landscape. 21 Oaks is one of these where visiting walkers and cyclists pause to admire the views. Although some of the development will be shielded by vegetation the visible part of the solar farm will add a jarring element to the landscape, particularly in form of fencing, CCTV poles, and service buildings.

The merit of solar power is being applauded as a solution to a green and more ecologically acceptable energy supply. However, it should not be done just for its own sake, and overrule the rigorous policies which have previously protected the countryside.

There should be a step back from the rush for solar 'farms', an inappropriate label, to seriously consider where these sites are really needed and install them accordingly.

### **Energy and financial considerations**

Apart from a letter to the local residents from the applicant promoting this scheme there is no mention of its viability other than annual output of 5MWp, loosely translated into how many average houses this will serve. In comparison with other schemes, where community groups are looking into a co-operative project, the latitudes of annual output are measured from low to high according to the conditions in daylight hours.

On the occasions in the year when peak output is reached, these will be on warm summer days when fewer people need energy in their homes. Electricity cannot be 'stored'. It can only be used at the time it is generated, and in order to keep power on demand, traditional capacity will always be required on standby. Intermittent demand makes these mainstream power stations less efficient.

As a recent article in the Financial Times pointed out (3 Aug 2015), solar panels produce the most electricity at midday when the sun is strongest, and therefore at this time the price is lowest and the return to the supplier the least. It should also be noted that, although subsidies are being cut the cost of installing solar panels is falling and there is going to be keen competition between energy suppliers.

While some local residents find favour with the scheme, on the basis that there would be a financial kickback for local community projects, there are no indications of what this would be, and whether the financial reward, ethically offsets the loss of open countryside. The notion that the 'community income' could provide individual houses with further photovoltaic panels to domestic rooftops ad lib, in a rural setting, is an alarming prospect. PV panels should not be fitted to buildings in sensitive areas, especially adjacent to listed buildings or on those in conservation areas. Monetary dealings do nothing to make electricity cheaper, when the illusion is that a free source of energy is available.

It is noted that in correspondence with the applicant, the planning officer stated that there are brownfield sites in the applicant's ownership and these should be looked at. There is no mention in the application that this type of site has been considered. Nor has there been any suggestion of putting the development on a well-screened flat site in a more remote area of countryside of lesser amenity.

In its guidance, the government states, *Support for solar PV should ensure proposals are appropriately sited, give proper weight to environmental considerations such as landscape and visual impact, heritage and local amenity, and provide opportunities for local communities to influence decisions that affect them.* (Para 022 Ref.: ID: 5-022-20140306)

#### **Best practice**

If a more enlightened practice was embraced, the installation of these panels would be more widely acceptable and encouraged. The sensible target for their siting would be to integrate them into the roofs of new build and existing industrial buildings. Indeed, this is already being done by some local house builders, and farmers, who have shown that they can generate most of their electricity need from panels on barn roofs. In North Warwickshire there are numerous examples of large roof areas on local industrial parks ; some single examples far exceed the superficial area of this proposed site.

The peak measure of electricity generated is on summer days when there is a high level of daylight, but a low demand for domestic electricity. Conversely, there is a high demand during daylight hours for commercial buildings, production units and supermarkets. By necessity, they will have an energy need for plant, air conditioning and refrigeration. The design of these panels could be easily be adapted to form an integral part of a roof structure, placing them where they are directly needed..

Promoters and manufacturers of these sites should be encouraged to locate them in this manner rather than by detrimental incursion into the countryside.

A new policy proposal from Government to reduce the tariff for ground based solar PV to developers, follows on from letters to Local Authorities in Nov 2013 and again in April 2014 from the Minister of State, DECC urging Planning Officers to look carefully at applications for renewable energy projects . He said, *The main message from the Government Solar Strategy is that we are keen to focus growth of solar PV in the UK on domestic and commercial roof space and on previously-used land.*

If the Council is minded to approve this application, it is particularly important than any consent is conditioned on the complete removal of the solar farm, all its foundations, buildings and equipment and its return to its return to agriculture after the 25 years which is considered to be its operational life.

#### **Conclusion**

Atherstone Civic Society strongly urges the Planning Board to **refuse** this application. In the light of new recommendations it would preferable to **delay** any decision until such time that the industry adopts a policy of siting solar panels on brownfield sites or more suitably incorporated into suitably aspected roofs of commercial buildings.

(Patrick Woodcock and Judy Vero, 13 August 2015)

Judy Vero  
Hon. Secretary  
Atherstone Civic Society  
Tel.: 01827 712250  
Email: secretary@atherstonecivicsociety.co.uk

**(8) Application No: PAP/2015/0517**

**52, Birmingham Road, Water Orton, B46 1TH**

**Variation of condition no:3 of planning permission PAP/2010/0307 relating to allow the unrestricted occupation of the short stay respite unit/home; in respect of conversion of 2 semi detached properties residential (C3 use), into 8 bedroom short stay respite unit/home to support older adults (C2 use), for**

**Mr Hanif Shah - Elite Care Homes Ltd**

**Introduction**

The application is reported to the Planning and Development Board for determination under the Council's Adopted Scheme of Delegation at the Assistant Director and Solicitor to the Council's discretion

**The Site**

The site lies to the north of Birmingham Road within a predominantly residential area. It consists of a pair of semi-detached properties built within the last ten years with car parking to the front of the site and amenity land to the rear. There is a Nursing Home located six properties away to the west.

**The Proposal**

Planning permission was granted under ref: PAP/2010/0307 for the conversion of these two semi-detached properties into a single property with a restricted C2 use (Residential Institutions). A copy of decision notice ref: PAP/2010/0307 is attached to this report at Appendix A. Condition number 3 attached to this consent restricted this eight bedroomed property to be used for short term assisted respite care for persons over the age of 50 years old for a stay not exceeding six months.

This proposal is to vary the requirements of condition 3 to allow the buildings to be used as a residential care home without the restrictions on age or length of stay. The other conditions attached to consent ref: PAP/2010/0307 relating to the hours of deliveries; the visiting hours and the car parking area would remain in place.

**Background**

Planning permission was granted under application ref: FAP/2002/7194 in 2002 for the erection of the original two semi-detached properties.

**Development Plan**

North Warwickshire Core Strategy (October 2014) - NW1 – (Sustainable Development); NW2 (Settlement Hierarchy) and NW10 (Development Considerations)

North Warwickshire Local Plan 2006 (Saved Policies) - ENV13 (Building Design); ENV14 (Access Design), HSG5 (Special Needs Accommodation), TPT1 (Transport Considerations in New Development), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking)

## **Other Relevant Material Considerations**

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

### **Consultations**

Environmental Health Officer – He confirms that he has no comments on this variation of condition. Their previous comments on the change of use application submitted in 2010 related to concerns regarding visiting times and the hours for deliveries.

Warwickshire County Council as Highway Authority – The Council confirms that it has no objection to the proposal subject to the imposition of conditions. It states that although included within the documentation is that the development was completed on 1 January 2011, the dropped kerb footway crossing required under planning condition number 8 has not been constructed. The proposal to remove the restriction on the age of the residents and the duration of their stay will affect the highway network differently. Firstly, there will be more staff but historically the majority of staff at care homes are local and do not drive to work. The car park has a minimum of seven car parking spaces. It is not a large scale operation and there is a car park nearby and other forms of sustainable transport within walking distance. As such the proposed amendment should not have a significant impact on the highway network.

### **Representations**

Water Orton Parish Council – The Council confirms that following its Parish Council meeting which was attended by members of the public, it wishes to object to this proposal until further information is available to supply to the public regarding access and noise. They express their concern that the conditions attached to this 2010 consent with regards to the times of access and delivery to the property was appropriate for the respite care, but not for a much younger client basis who will be in care for a longer time period. They also query whether the property has ever been used for respite care for the over 50's.

246 objections have been received from local residents relating to the following matters:

- impact on the highway network and to vary this condition will cause on-street parking in a busy area;
- the building will become a Bail Hostel attracting undesirable residents including ex-offenders;
- this type of use is inappropriate in this area as it located close to a residential care home for the elderly, close to childminders and families and the route for young children walking to school;
- the buildings have never been used as a respite care home and remain empty, and
- allegations that the applicant has used this postal address to register their children into the local school.

### **Observations**

#### **a) Introduction**

The site lies within the Development Boundary for Water Orton. The Settlement Hierarchy as outlined in Policy NW2 states that Water Orton is classed as a category 3B settlement where development, within the development boundary, will be permitted where it is considered to be appropriate to its place in the settlement hierarchy. The site lies on a number of regular bus routes and within a short walking distance of rail services and many local services and facilities at Water Orton and so is classed as a sustainable location.

A material planning consideration of significant weight here is that planning permission has been granted in 2010 for the change of use of these two residential units into a restricted C2 (Residential Institution) use. The justification for this approval as contained within the decision notice was that:

*“The proposal is considered acceptable in principle given its location within a Development Boundary and suitably located for sustainable transport provision. Access and parking arrangements are considered achievable and acceptable subject to conditions, whilst the impact on neighbouring amenity is also acceptable subject to relevant controls over visiting hours, staff movements and deliveries, and further control over the type of occupant cared for at the site.”*

The key issue here is that the principle of a respite care home under Use Class C2 has been accepted under permission ref: PAP/2010/0307. This permission has been implemented as the previous semi-detached dwellings have been converted into one large building complete with a lift, fire doors, smoke alarms, passive lighting, emergency lighting and fire escapes amongst other things to enable it to be used as a Care Home. As such Members can only comment on whether the removal of the restrictions contained in condition 3 attached to consent ref: PAP/2010/0307 are acceptable.

Condition 3 restricted this C2 use to a respite home for short-term assisted accommodation for persons over the age of 50 for a period not exceeding a six months. The proposal is to remove this restriction so that the use becomes a residential care home. It is important that the following issues are addressed.

### **b) Highway Safety**

The Highway Authority states that it has no objection to the proposed variation of the condition to allow younger people to occupy the care home for a longer time period. It acknowledges that the variation of condition would affect the highway network differently. Firstly, there will be more staff, however, they state that historically, the majority of staff employed at care homes mostly do not drive to work. As such the peak period in the car park would be at shift change.

Long term care should result in more visitors to residents of the site, compared to respite use. The applicant has stated that most of the residents will leave the site to visit friends and family at their own homes and that, although visits into the care home are pre-organised, these are infrequent. However, as stated by the Highway Authority, there will be visits from social workers, doctors and other health professionals. The site may also need to accommodate regular ambulance movement, however, during non-peak times, they consider that there is sufficient space within the site for ambulances to leave and re-enter the public highway using a forward gear.

It is also stated by the Highway Authority that based on eight bedrooms, this is not a large scale operation and so there should be adequate car parking provision both on-site, off-site within a public car park and opportunities for residents and visitors to use

public transport and to walk for the proposed amendment not to have a significant impact on the highway network. The applicant has stated that they will only use six bedrooms for residents with the remaining two bedrooms used by members of staff during the night-time shifts. It is recommended that in order to address highway concerns about an increase in traffic generation and parking through the variation of condition number 3, a further condition is imposed constraining the use to the occupation of a maximum of six bedrooms.

Although the 2010 permission has been taken up, the dropped kerb has not been provided. As such the highway conditions as contained within the 2010 decision notice conditions remain and prevent the building being occupied until they have been complied with. They relate to the dimensions of the access, car parking, manoeuvring and service areas and for the visibility splays required onto Birmingham Road and the need to construct this vehicular access onto Birmingham Road. An additional highway condition is recommended relating to the existing gates which are a concern as those entering or exiting the site using a vehicle will obstruct the footway and carriageway

Issues raised by the local residents with regards to vehicles parking on the street and obstructing driveways are concerns not shared by the Highway Authority and any incidents will need to be enforced by the Local Police.

Based on the above, it is considered that the varied scheme complies with Saved Policies ENV14 and TPT3 in the North Warwickshire Local Plan 2006 relating to highway safety.

### **c) Impact on neighbouring properties**

Core Policy NW10 (Development Considerations) states that development should avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, fumes or other pollution. The original 2010 change of use application considered the potential for disturbance to neighbouring properties. Privacy and overlooking concerns were considered to be no different to that already being experienced from the existing lawful residential use. The greatest concerns were given to the introduction of a staffing need, deliveries, refuse collections and visitors. Planning conditions were attached to the change of use permission restricting the potential for night-time disturbance through restricting visiting hours and hours for receiving deliveries. These conditions will remain in place.

With regards to the proposal to remove the restrictions on this care home, the neighbouring Orton Manor Nursing Home is an example of an unrestricted Residential Care Home. It caters for 38 residents. The building at 52a and 52b Birmingham Road is considerably smaller. It will be for six residents and this can be conditioned to limit its occupation to this number accordingly. The applicant's agent has submitted a Supplementary Statement (copy appended at Appendix B) which confirms that the applicant will accept the limitations of this condition.

The building involved is a detached building with a large parking forecourt and a large rear garden. The Environmental Health Officer offers no objections to this variation of condition 3 to allow longer stays by potentially younger clients. His comments are made after an assessment on whether this variation will impact on neighbouring amenities over and above those which will be experienced from the change of use planning consent. As such, it is considered that an unrestricted residential care home of this small scale in this location will not impact on the residential amenity of neighbouring residents.

#### **d) Other Matters**

A number of the objections relate to the potential for residents of the care home to be rehabilitating ex-violent prisoners. There is a lot of concern locally that with the number of childminders operating in the area and vulnerable children and adults living in the area then these two uses will not be compatible.

The applicant is Elite Care Homes who specialise in caring for people with Mental Health issues. The care home will not be a secure unit. It will be for patients being released from hospital who require support to adjust to living in the community. This level of support may only be 2 hours per day to assist them in accessing college courses or employment or assisting in them using the bus services whilst other residents may need more support for personal hygiene etc. All residents will be striving to live independently in the community again. As the care home is not a secure unit then none of the residents will be from the Sex Offenders Register or will have complex mental health needs.

Indeed, mental health accounts for about 23% of the burden of disease in England and NHS funding for mental health has been increased by £300 million in 2014. It is considered that this small scale residential care home will provide an important service to bridge this gap between hospital and independent living whilst not being a threat to the safety of the residents living in the neighbouring area.

It is confirmed that there are no trees protected by Tree Preservation Orders on this site.

#### **e) Conclusion**

It is considered that this variation can be supported in this location subject to the imposition of two additional conditions to ensure that it does remain small in scale and that the gates erected to the frontage of the site do not cause highway safety issues.

#### **Recommendation**

That condition number 3 attached to planning consent ref: PAP/2015/0517 be **VARIED** to read as follows and with the following additional condition attached:



- 3) The buildings shall not be used for any purpose, including any other purpose in Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any statutory instrument revoking and re-enacting that Order with or without modification other than as a residential care home.

Reason: To prevent unauthorised use of the property which could lead to adverse impacts on neighbouring occupiers.

- 10) The gates located within the vehicular access to the site shall not be hung so as to open over the public highway footway, and shall not be closed during visiting hours or during shift change periods.

Reason: In the interests of highway safety.

- 11) Only six residents shall occupy the site at any one time.

Reason: To ensure that the use remains small in scale and does not impact on neighbour amenity values or cause highway safety issues.

**Notes:**

1. The conditions contained within the decision notice issued for planning permission ref: PAP/2010/0307 remain applicable for this proposal. It is important to note that conditions 6, 7 and 8 relating to highway works have not been implemented on the site. These need to be implemented before the use can occupy this building.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2015/0517

Background Paper No	Author	Nature of Background Paper	Date
1	Applicant's Agent	Planning application forms and plans	13/8/15
2	Environmental Health Officer	Consultation response	11/9/15
3	S. Wilkinson	Letter to agent	22/9/15
4	Water Orton Parish Council	Objection Letter	16/9/15
5	246 emails from local residents	Objections	7/9/15 – 24/9/15
6	Highways Authority	Consultation response	28/9/15
7	Applicant's Agent	Additional Information	28/9/15

*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.*

52A & 52B Birmingham Road Water Orton



Plan shows area bounded by: 417117.39460785,290973.98039215 417316.39460785,291218.23039215 (at a scale of 1:1250) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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Date: 14 October 2010

The Town & Country Planning Acts  
The Town and Country Planning (Listed Buildings and  
Conservation Areas) Act 1990  
The Town & Country Planning (General Development)  
Orders  
The Town and Country Planning (Control of  
Advertisements) Regulations 1992 (as amended)

**DECISION NOTICE**

Full Planning Application

Application Ref: PAP/2010/0307

**Site Address**

52a & 52b, Birmingham Road, Water Orton, B46 1TH

Grid Ref: Easting 417213.52  
Northing 291095.97

**Description of Development**

Conversion of 2 semi detached properties residential (C3 use), into 8 bedroom short stay respite unit/home to support older adults (C2 use)

**Applicant**

Ms Carole Chambers

Your planning application was valid on 8 September 2010. It has now been considered by the Council. I can inform you that:

Planning permission is **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 floor plans received by the Local Planning Authority on 17 June and 8 July 2010. For the avoidance of doubt, the parking layout plan is not approved and reference should be made to the condition(s) below.

**REASON**

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

Authorised Officer: 

Date: 14 October 2010



3. The respite home hereby approved shall not be used for any purpose, including any other purpose in Class C2 of the Town and Country Planning (Use Classes) Order 1987, (as amended), or in any statutory instrument revoking and re-enacting that Order with or without modification other than for short term assisted accomodation for persons over the age of 50, not exceeding 6 months per period of stay.

REASON

To prevent unauthorised use of the property which could lead to adverse impacts on neighbouring occupiers.

4. No deliveries or shift changes shall occur outside of the hours of 0700 to 2200.

REASON

To protect the amenities of nearby residential property.

5. Visiting hours shall not occur outside of the hours of 0800 to 2000.

REASON

To protect the amenities of nearby residential property.

6. The use hereby permitted shall not commence until full details of the provision of the access, car parking, manoeuvring and service areas, including surfacing, drainage and levels have been submitted to and approved in writing by the Council. No building shall be occupied until the areas have been laid out in accordance with the approved details. Such areas shall be permanently retained for the purpose of parking and manoeuvring of vehicles, as the case may be. The vehicular access to the site shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto the public highway.

REASON

In the interests of safety on the public highway.

7. The development shall not be occupied until pedestrian visibility splays have been provided to the access to the site with a 'x' distance of 2.4 metres and 'y' distances of 2.4 metres as measured from the rear edge of the public highway footway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway footway.

REASON

In the interests of safety on the public highway.

8. The access to the site for vehicles shall not be used unless a public highway footway crossing has been laid out and constructed in accordance with the standard specification of the Highway Authority.

REASON

In the interests of safety on the public highway.

Authorised Officer: \_\_\_\_\_

Date:

14 October 2010



9. The existing vehicular access to the site shall be closed off and the public highway footway reinstated to the satisfaction of the Highway Authority within 1 month of the new access being formed.

#### REASON

In the interests of safety on the public highway.

#### INFORMATIVES

1. Condition numbers 6, 8 & 9 require works to be carried out within the limits of the public highway. Before commencing such works the applicant must serve at least 28 days notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team. This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of the works will be recoverable from the applicant. The Area Team at Coleshill may be contacted by telephone: (01926) 412515.

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

2. The existing accesses to the site have not been built in accordance the approved drawing, 02/2626/02A, for Application No. FAP/2002/7194. A centrally positioned access no less than 5.0 metres in width should have been constructed, not two 3.0 metre accesses positioned in either corner of the site fronting the Birmingham Road (B4118). The proposed access, as shown on the drawing supplied with the application, should be widened in an easterly direction. This will allow 5 cars to park perpendicularly on the western side of the car parking area and 2 cars can park parallel on the eastern side, with manoeuvring space to the centre of the parking area. Please note also that levels to the car parking area should not exceed an 8% gradient. Also, there is no drainage from the site preventing run off on to the public highway. This needs to be addressed before occupation.
3. Section 163 of the Highways Act 1980 requires that surface water shall not be allowed to flow – so far as is reasonably practicable – from premises onto or over the highway footway. The developer should, therefore, take all steps as may be reasonable to prevent water so falling or flowing.
4. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies): HSG5 (Special Needs Accommodation), ENV11 (Neighbour Amenities), ENV14 (Access Design), TPT1 (Transport Considerations In New Development), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

#### REASONED JUSTIFICATION

The proposal is considered acceptable in principle given its location within a Development Boundary and suitably located for sustainable transport provision. Access and parking arrangements are considered achievable and acceptable subject to conditions, whilst the impact on neighbouring amenity is also acceptable subject to relevant controls over visiting hours, staff movements and deliveries, and further control over the type of occupant cared for at the site.

Authorised Officer: 

Date: 14 October 2010

The proposal is therefore in accordance with saved policies HSG5, ENV11, ENV14, TPT1, TPT3 and TPT6 of the North Warwickshire Local Plan 2006. There are no material considerations that indicate against the proposal.

#### APPEALS TO THE SECRETARY OF STATE

1. If you are aggrieved by the decision of the Local Planning Authority to grant permission subject to conditions, you can appeal to the Department for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990.
2. If you want to appeal against your local planning authority's decision, then you must do so within 6 months of the date of this notice.
3. Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, or online at [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) and [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs).
4. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
5. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
6. The Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

#### PURCHASE NOTICES

1. If either the Local Planning Authority or the Department for Communities and Local Government grants permission to develop land subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
2. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

#### NOTES

1. This decision is for the purposes of the Town and Country Planning Act only. It is not a decision under Building Regulations or any other statutory provision. Separate applications may be required.
2. A report has been prepared that details more fully the matters that have been taken into account when reaching this decision. You can view a copy on the Council's web site via the Planning Application Search pages <http://planning.northwarks.gov.uk/portal>. It will be described as 'Decision Notice and Application File'. Alternatively, you can view it by calling into the Council's Reception during normal opening hours (up to date details of the Council's opening hours can be found on our web site <http://www.northwarks.gov.uk/site/scripts/contact.php>).
3. Plans and information accompanying this decision notice can be viewed online at our website <http://www.northwarks.gov.uk/planning>. Please refer to the conditions on this decision notice for details of those plans and information approved.

Authorised Officer: 

Date: 14 October 2010

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## SUPPLEMENTARY STATEMENT

Variation of condition 3 of planning permission ref:  
PAP/2010/0307 to allow the unrestricted occupation of  
the short stay respite unit/home at 52a & 52b  
Birmingham Road, Water Orton

**CN-PLANNING**

☎: 07734 86 86 44

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🌐: [www.cnplanning.co.uk](http://www.cnplanning.co.uk)

Ref: CNP/2015/06-04

Date: September 2015

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rec'd 28/9/15



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### Introduction

- 1.1 This Supplementary Statement responds to correspondence from the Local Planning Authority (LPA) dated 18 September and received 22 September, as enclosed at Appendix 1; as well as the general points being raised in objections lodged by third parties. This Statement is designed to be read in conjunction with the aforementioned letter and the original Planning Statement ('the Statement') submitted with the application.

### Proposed wording of the condition

- 1.2 It is accepted that the suggested wording outlined in the Statement omits crucial words. This has arisen through a simple administrative error when preparing the Statement. The wording as suggested in the LPA's letter is acceptable, namely:

*"The buildings shall not be used for any purpose, including any other purpose in Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any statutory instrument revoking and re-enacting that Order with or without modification, other than as a residential care home."*

### Additional conditional control

- 1.3 5.1 to 5.7 of the Statement set out the legislative and policy parameters for use of conditions. It is noted that Planning Practice Guidance (PPG) states at section 21a, paragraph 031:

*"in deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application" and "in granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission" [my emphasis].*

- 1.4 The above guidance makes it clear that the LPA does not have the ability to address shortcomings which might exist under the existing permission. Cross reference is made here to paragraph 5.6 of the Statement where the PPG is reproduced in full. Attention is given to the key questions under the 'relevant to the development to be permitted' part of the table which states "a condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development".

- 
- 1.5 The LPA's letter correctly summarises the manner of operation, with only six residents occupying the building at any one time and the balance of two bedrooms used by members of staff during the night-time shifts. It is considered by the LPA that a condition to constrain the use as such is appropriate to address concerns about impacts on residential amenity or increases in traffic generation and parking requirements.
- 1.6 The existing permission carries no such control, allowing all 8 bedrooms to be occupied by residents. The proposed additional condition therefore could be argued to be remedying a pre-existing problem, contrary to the PPG. Notwithstanding the fact the Applicant is confident in any case that no unacceptable impacts in these respects would arise, as above; he recognises the need to maintain good relations with neighbours and is therefore willing to accept such a condition. It does still however remain the responsibility of the LPA to ensure that the condition does meet all the tests as set out in the NPPF and the PPG, so to meet its statutory obligations under Section 73 of the 1990 Act.

#### Objections received

- 1.7 The LPA has only forwarded a couple of neighbour objections and the comments from the Parish Council (PC). The following therefore responds as best as possible in the time available.
- 1.8 The PC asks how control over visiting and delivery hours can be maintained with a younger client base. It is unclear how this conclusion is reached when looking at the age profile of residents at the home, with it seemingly concluded that younger residents would need to be visited or bring about deliveries outside of the hours allowed current specified in conditions 4 and 5. The answer is quite simple – the applicant is not seeking to vary these controls. The applicant does not expect these controls to be restrictive to their operations or to their clients, and hence the LPA should similarly have confidence that the conditions would remain as effective and enforceable as they do now.
- 1.9 The PC questions, on behalf of a neighbour, whether the property has ever been used for the over 50s. It may be the case that the premises have not been fully used since their conversion from residential to the care home in 2011, but it is not necessary to 'test' each proposal before considering an alternative in the future. This hinges on the very principles of the planning system in that there is a presumption in favour of development and permission should only be withheld where the adverse impacts are significant and would lead to unacceptable impacts. The NPPF reaffirms this approach, which has been in place since the inception of the Planning Acts.

- 
- 1.10 The PC and other objections query an increase noise levels. In order to reach this point of concern, the writers make an unsubstantiated assumption – that younger residents will lead to greater noise levels. First of all there is no evidence for such a link, with it perfectly possible for the home to continue to cater for a wide range of ages – including over 50s as it does now – with a range of occupants who have different personas. Some may use the external spaces, others may not. The applicants are responsible for all occupants such that they cannot come and go as they please, nor act in an anti-social manner without consequence. Secondly the focus of this point, and indeed the overall use of the premises, cannot be the social characteristics of occupants. The Government make it quite clear that matters of prejudice, or stereotypes, are not material planning considerations and the LPA must divorce such inferences and comments from their assessment of the proposal. Finally the objectors will not have been able to appreciate the above context set out at 1.5 and 1.6 – that the proposal would operate to a lesser extent than is presently possible (i.e. 6 residents instead of 8). Whilst comings and goings related to staff would remain consistent, there would inevitably be a reduction in comings and goings related to residents. Furthermore the application seeks to omit the maximum period of stay such that the same resident might be at the home for a number of years, inevitably reducing the comings and goings associated with moving a new resident in/existing resident out.
- 1.11 It is noted from the County Highway Authority's (CHA) response that they hold a slightly different view in respect of likely vehicle movements compared to that already permitted. It is also acknowledged that a vehicle crossover has not been implemented in accordance with the 2010 permission but the applicant is willing to address this (it should be noted that the applicant only took control of the premises earlier this year). The main observations from the CHA's response is that the above reduction in potential capacity will not have been weighed into their observations, and in any case they do not consider there is a capacity issue in respect of the surrounding network or parking availability on site.
- 1.12 There should also be consideration of the original permitted use of the premises – as two 4-bed dwellinghouses, suitable for families. Such dwellings would facilitate young children to be using the external spaces and/or adolescent children coming and going in the evenings and weekends, along with any associated vehicle noise. Similarly so the dwellings could have individually changed to a House in Multiple Occupation (HMO) under Class C4 of the Use Classes Order 1987 (the UCO) allowing up to 6 unrelated persons to live as a single household – all without the need for planning permission. Arguably the disturbance effects of this type of use would be much greater than that now proposed (and controlled by conditions).

- 
- 1.13 The LPA has also forwarded the response of the Senior Pollution Control Officer (PCO) who raises no objection to the proposed variation of condition 3. The comments of the Environmental Health Officer (EHO) in respect of emergency exit routes and food preparation facilities are covered by other legislation and not constraining factors here. The lack of objection, or indeed a request for additional control, from the PCO is highly material. This not only demonstrates a lack of evidence that the proposal would lead to increased noise and/or disturbance, but also that the additional condition requested by the LPA is questionable under the NPPF/PPG tests. The applicant's willingness to agree the additional condition should therefore be afforded weight as 'planning gain' under this development.
- 1.14 Moving on to other objections received, it is noted that neighbours are reticent regarding the lack of maintenance of the garden since the properties were first built some 10 years ago. The applicant only took on responsibility of the properties in February 2015 and hence was, until these comments were made, unaware of such issues. The applicant maintains the properties in a suitable fashion and in any case former ownership and attitude of that owner(s) are not material planning considerations here. If neighbours consider there are maintenance needs then they should approach the applicant directly to discuss progressing these.
- 1.15 The matter regarding whether a tree is protected by a Tree Preservation Order (TPO) again is a maintenance issue not related to the proposal before the LPA. The applicant is unaware that this tree is protected, but the LPA may wish to clarify this in the interests of all affected parties.
- 1.16 As a closing point on noise and disturbance from a care home, the use falls within C2 of the Use Classes Order 1987 (as amended) for reason of its similarity to a conventional residential use. There is thus a general acceptance that this use is appropriate in a residential area. This is demonstrated by the existence of Orton Manor care home just a few properties away – a care home which continues to operate without harmful effects on the surrounding community.

**(9) Application No: PAP/2015/0548**

**12, Walnut Close, Hartshill, CV10 0XH**

**Works to trees protected by a tree preservation order, for**

**Miss Vicky Ironside - OCA UK Ltd**

**Introduction**

The application is referred to the Board for determination as the trees concerned are in the Council's ownership.

The application is submitted on behalf of the owner of number 12 Walnut Close, which adjoins the Council's land, requiring root severance works to be undertaken to the Council's trees.

Members are advised that the Board's remit here is to determine the application as the Local Planning Authority in accord with Planning legislation and the Development Plan and not as the owner of the trees.

**The Site**

Walnut Close is a short cul-de-sac within an established residential estate in Hartshill. Number 12 is a detached house with similar properties to the south and to its rear. Its western boundary is marked by Moorwood Lane – a public footpath – and to the north is a former railway cutting which provides footpath access to land beyond.

The property was constructed in 1994 and a single storey side extension was added to its northern side – that facing the cutting – in 2005. A detached garage also stands close to Moorwood Lane, constructed in 2001. The distance between the north side of the extension and the top of the cutting varies from around 6 metres to 4 metres.

There are five oak trees within the bank of the former railway cutting and these extend along the northern boundary of the site. They are on the bank of that cutting which is also heavily vegetated with undergrowth. Additionally a single oak tree stands on the bank close to the bridge abutments where it passes under Moorwood Lane. This tree is behind the garage referred to above and is some 16.5 metres from the closest part of the house.

All of these oak trees are on land within the Council's ownership.

The general layout described above is illustrated at Appendix A. The five oak trees are numbered T4, T5, T6, T7 and T8 and the single oak is numbered T9. Photographs are at Appendix B.

**The Proposal**

It is proposed to carry out root severance to trees protected by a Tree Preservation Order to carry out partial underpinning of the extension.

The applicant's reasons for this proposal can be summarised as follows:

- The cause of damage results from clay shrinkage subsidence brought about by the action of roots from the Oak trees. The subject property is a detached dwelling which requires partial stabilisation. The foundations of the property in the area of damage have been built at a relatively shallow depth, bearing onto shrinkable clay subsoil. The soil is susceptible to movement as a result of changes in volume of the clay with variations in moisture content and analysis of the site investigation results indicate that the soil has been affected by shrinkage. Oak tree roots are present in the clay subsoil beneath the foundations. The damage has therefore been caused by clay shrinkage subsidence following moisture extraction by the Oak trees. The mitigation measure proposed to this on-going problem is to carry out underpinning works at the property.
- The application is a precautionary measure as there is the potential for root severance given the proximity of the trees to the property, although it is anticipated that any roots encountered during underpinning works will be hair and fibrous roots only.

In order to evidence this position, the applicant has submitted supporting documentation including levels monitoring data and an Arboricultural Implications Assessment Report.

The principal damage takes the form of tapered cracking up to 5mm maximum internally and externally to the front wall at the front left hand corner. The indicated mechanism of movement is of downwards movement of the foundation to the front left hand corner of the extension. The level of damage is slight, and is classified as category 2 in accordance with BRE Digest 251 - Assessment of damage in low-rise buildings. It is evidenced that the damage occurred initially over summer 2013. Unless appropriate mitigation is undertaken it is likely that movement will be of a cyclical nature with cracks opening in the summer and closing in the winter. Seasonal cyclical clay shrinkage and swelling subsidence needs to be addressed. The conclusion from the evidence is that rather than removing the trees, root severance works are likely for underpinning works to occur.

## **Background**

The trees the subject of this application are protected by a Tree Preservation Order confirmed in 1993.

Work has been undertaken in the past on the five oaks through crown lifting.

In 2014 under application ref: 2014/0496, proposals to fell the trees within influencing distance of the dwelling at No. 12 Walnut Close were refused given the amenity value of the trees and thus the need to retain the oak trees.

## **Development Plan**

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

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows)

## **Other Relevant Material Considerations**

The National Planning Policy Framework 2012

The Town and Country Planning (Tree Preservation) (England) Regulations 2012

## **Consultations**

The Council's Consultant Arborist - His conclusion is that underpinning is appropriate. It would be really useful to lightly monitor the works with a couple of site visits. Underpinning works would not be considered to affect the trees.

The Council's Landscape Officer - No objection in principle to the proposed works in the current application provided that there is no detriment to the long-term health of the trees.

## **Observations**

As referred to in the introduction to this report, the remit of the Board in this case is to determine the application as the Local Planning Authority, in other words in accordance with the 2012 Tree Regulations and the Development Plan.

The Planning Act says that the Council should protect trees if "it is expedient in the interests of amenity to make provision for the preservation of trees in their area".

The trees, the subject of this application are included within an Order which is substantial in its geographic area and the number of trees covered. The Order was confirmed in 1993. This Order was made at the same time as the Council was considering a significant residential development in this part of Hartshill. It was considered that in order to properly plan for this development, significant areas of existing trees should be protected. These were largely on the edge of the development, marking the edge of the settlement and included areas covered by public footpaths, naturally regenerated brown field land and other woodland cover. In other words there was a substantial public amenity value and worth to retaining these trees. They had a material influence on the subsequent layout and design of the residential estate in p

In order to maintain their presence and amenity value, ownership of significant parts of the land the subject of the Order was transferred into public ownership. Subsequent management of the trees has occurred in order to maintain their longevity. The five trees, the subject of this current application are part of this whole and they retain a strong public amenity value. They are readily visible from public viewpoints in an area very accessible to the public; part of the overall design of the layout of the estate, provide a wildlife corridor and are part of a much larger whole marking a natural edge to the development. The trees are mature, in good health and have several years' longevity. As a consequence it is concluded that their retention maintains the significant strong public amenity value apparent in 1993 when the Order was confirmed.

The Development Plan says that new development should not be permitted if it would result in the loss of trees that make a positive contribution to the quality of the local environment, and that the quality, character and local distinctiveness of the natural environment will be protected and enhanced. The reason for such an approach is to protect the mature trees and rural character of the Borough. These trees were included within the 1993 Order for these very reasons. They make a positive contribution to the quality of the local landscape and to the character of this particular residential estate.



It is therefore necessary to see if there are any material considerations that might outweigh this presumption. The applicant is clearly saying that in his view the damage caused by the trees and the likelihood of that continuing requires underpinning as an immediate mitigation measure and that this will require root severance works, given the proximity of the five oak trees to the dwelling.

The evidence submitted by the applicant to support this has been examined by the Council's consultant. The underpinning works are accepted as a reasonable mitigation measure requiring root severance which is not considered to be detrimental the health and longevity of the five trees.

### **Other Matters**

Under the Tree Regulations, in some circumstances there is the potential for a claim of compensation for costs that might be incurred as a consequence of consent to undertake works to protected trees and to mitigate their influence. However under the previous application ref 2014/0496 it was established that the building work at No. 12 Walnut Close had not been carried out to take into account the presence of the trees in the first instance. The foundations for the extension extend to 450mm below ground level, and the foundations for the main house are thought to be 2.4 metres deep. In this case the reasonable steps are to underpin without a compensation claim incurred by the Council.

### **Recommendation**

That consent **be Granted** subject to the following conditions:

1. The works hereby approved as set out below shall consist only of those detailed in this consent and shall be carried out in accordance with British Standard BS 3998 "Recommendations for Tree work" and all up to date arboricultural best practice. The consent for this particular work is valid for 2 years from the date of consent.

The approved works are set out as the following:

2. The works to the trees T4, T5, T6, T7, T8 and T9 shall be limited to root severance only in the proximity of the underpinning works as detailed in the 1:1250 site location plan and the location plan showing the tree protection fencing and the Arboricultural Impact Assessment received by the Local Planning Authority on 28 August 2015.

### **REASON**

To protect the health and stability of the tree to be retained in the interests of amenity.

3. Tree protective fencing shall be erected in accordance with the details in Condition 1. There shall be no storage of any equipment or level changes in the tree protection area. The tree protection measures shall not be dismantled until

all construction related machinery and materials have been removed from site to the satisfaction of the Local Planning Authority.

#### REASON

In the interests of protecting the trees during the underpinning works.

4. No works shall commence until a detailed Arboricultural Method Statement is submitted to and approved in writing by the Local Planning Authority. This shall detail the extent of the root severance works in proximity to the engineering solution to ensure the mitigation measures can be implemented without undue impact on the Oak trees. Access shall then be afforded at all times during the excavation for underpinning works to a representative of the Local Planning Authority to monitor the works.

#### REASON

In the interests of identifying the specific works and to protect the health and stability of the tree to be retained in the interests of amenity.

#### Notes

1. Condition 3 requires tree protection fencing. The area within the Tree Protective Fencing is known as the Tree Protection Area, within which all development activity is prohibited unless otherwise specifically authorised. This includes prohibition of all excavations, cultivation, level changes and storage of materials. No mixing of cement, plaster, additives, chemicals, fuels, tar or other oil based materials, or wash-out areas should be sited within 10m of any Tree Protection Area. No fires should be lit within 20m of any Tree Protection Area. Tree Protective Fencing should be clearly marked with signs to the effect of: "Tree Protection Area no access without authorisation". (In certain circumstances and subject to approval by a suitably qualified arboriculturalist, it is possible to undertake works within Tree Protection Areas without compromising successful tree retention. All such works should be undertaken in accordance with an agreed method statement). If such protection measures are damaged beyond effective functioning then works that may compromise the protection of trees shall cease until the protection can be repaired or replaced with a specification that shall provide a similar degree of protection.
2. You are advised that when carrying out the works to the trees that nesting birds are protected and covered by the 1981 Wildlife and Countryside Act.
3. The applicant is advised that to comply with the condition relating to the protection of trees, the measures should be in accordance with British Standard BS5837-2012 - Trees in Relation to design, demolition and construction - recommendations, and BS 3998:2010 Tree work – Recommendations
4. The consent does not permit the removal/felling or pruning of the Oak trees numbered T4, T5, T6, T7, T8 or T9. Only the works set out in the decision shall be carried out.
5. The applicant/developer is reminded to seek advice from Building Control in respect of underpinning works as this consent does not approve the

underpinning works identified on plans numbered 7494250 -101 and 7494250 – 102.

6. 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

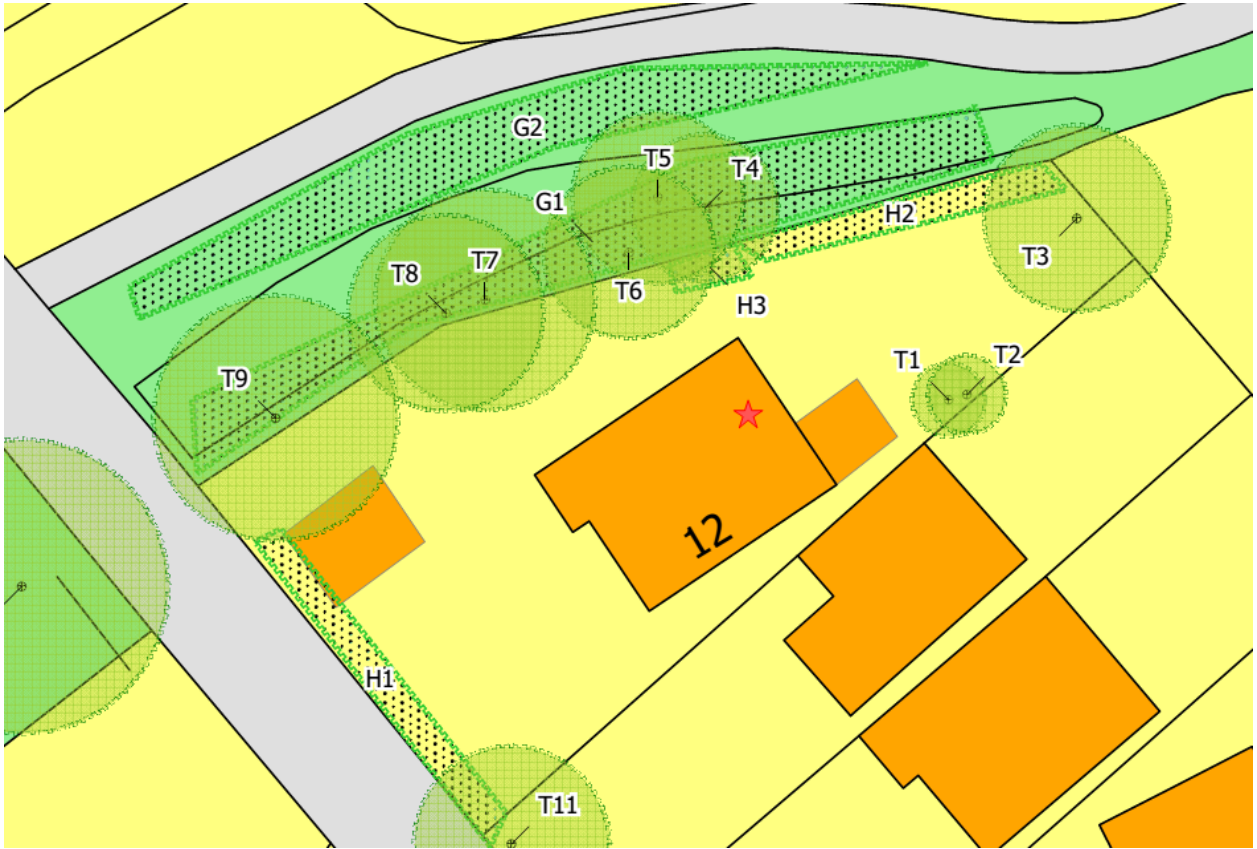
Planning Application No: PAP/2015/0548

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	28.8.15
2	WCC Forestry Officer	Consultation reply	3.9.15
3	Case Officer to Agent	Correspondence	9.9.15
3	Parish Council	Representation	17.9.15
4	NWBC Landscape Officer	Consultation reply	28.9.15

*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



**Appendix B**



**(10) Application No: PAP/2015/0550**

**Land adjacent to 10 Dog Lane, Nether Whitacre**

# **Erection of Eleven dwellings to meet identified needs and all associated works for**

## **Whiterock Homes Ltd**

### **Introduction**

This application is reported to the Board at the discretion of the Head of Development Control because there has been significant local interest in the proposals prior to submission and because the determination will rest on a finely balanced assessment of the planning merits. In this circumstance it is suggested that the Board should visit the site.

### **The Site**

This is a rectangular area of part of a much larger arable field on the north side of Dog Lane just beyond a line of semi-detached houses. It measures 0.5 hectares. There is a scatter of residential buildings opposite and the Dog Inn Public House is about 200 metres to the west. The site is generally level and is presently bounded by a hedgerow along its frontage. A new boundary would be made along the rear of the site.

Dog Lane is a small country lane with a junction to the main Tamworth Road – the B 4098 - about 800 metres to the west. To the east it is a single lane carriageway through open countryside. Nether Whitacre has around two dozen residential properties generally located on either side of Dog Lane between the site and the Tamworth Road junction.

The site location is illustrated at Appendix A.

### **The Proposals**

The proposal is for the provision of eleven new houses and bungalows of mixed tenure to meet identified local housing needs comprising six for affordable rent and five for local market sale. The applicant has worked with both the Housing Officers at the Council and with the Warwickshire Rural Housing Association to provide this scheme which matches the Parish's housing needs as identified in the Association's housing survey. The site will offer two two-bedroom bungalows, three three-bedroom and one four bedroom dwellings for affordable rent and two two bedroom and three three-bedroom dwellings for market housing.

The layout shows a single new access onto Dog Lane leading to a small curved cul-de-sac such that the proposed houses are set well back behind the existing frontage. This also enables an area of open space to be provided. The frontage hedgerow would be retained outside of the access requirements and the existing frontage trees at the eastern end of the site would be retained. Four plots next to the existing houses in Dog Lane are turned through ninety degrees and thus will stand forward of the existing building line. These would be two houses at the rear and two bungalows at the front. All eleven houses have small rear gardens and each has two car parking spaces together with space for cycle storage, refuse and recycling bins. The cul-de-sac may not be put forward for adoption as the intention is to use block paviors as surfacing materials and low level kerbs and dedicated service strips with lighting bollards so as to retain a rural appearance rather than have a full specification up to adoption standards.

The proposed layout is at Appendix B and the street scene is illustrated at Appendix C.



A number of supporting documents have also been submitted.

An Arboricultural Report describes the frontage hedgerow trees as well as those in the hedgerow on the opposite side of the lane. No tree would need to be removed to construct the access and root protection areas are advised for the remaining trees. However one of the trees – an ash – on the other side of the lane and within other ownership is recommended for felling as it is over-mature and showing signs of extensive dieback. The hedgerow itself is of good quality.

An Ecology report concludes that the site is low ecological value with the site itself being a cultivated crop. In order not to reduce bio-diversity further, the report recommends retention of as many of the trees and as much of the hedgerow as possible along with ecological enhancements. No signs were found of any protected species but the trees may have some limited use for bat foraging.

A Design and Access Statement describes how the layout and design and appearance of the housing have been arrived at identifying existing built characteristics in the area.

A Housing Needs Survey for Nether Whitacre is attached. This was undertaken in July 2014 by the Warwickshire Rural Housing Association. Over 300 survey forms were distributed and 91 were returned giving a 30% response rate which is considered to be good by the Association in its experience. Of the returns, ten indicated a need for housing – the remainder felt that they were adequately housed. Those ten were investigated further and five were assessed as in need of affordable rented accommodation – two for a two bedroom bungalow; two for a three bedroom house and one for a four bedroom house. Five were assessed as in need for open market housing – two for a two bedroom house and three for a three bedroom house. This amounts to ten new dwellings. However, since the survey was carried out, the Association has become aware of a further need and this is added to this application to make the eleven.

A Public Consultation Event took place in the Parish in June 2015. Of the 90 people who attended, 83 provided written comments. Four of these were wholly supportive and nineteen opposed the proposal. The remainder commented on specific concerns or made suggestions without giving a firm written view. The matters raised by those opposed include – it is not a sustainable location as was the Bloor development at the former garden centre site; it is green belt, it will spoil countryside, there are no amenities and there will be traffic issues.

A Planning Statement pulls together a number of planning policy issues. However it commences with an outline of how this site was selected. Significantly, it identifies a number of alternative sites that were investigated and outlines the reasons why these did not become available – see Appendix D. This explains that sites in Whitacre Heath were explored, particularly that of the ex-Serviceman's club in Station Road. However Environment Agency advice, amongst other matters, precluded its redevelopment. There were other sites looked at in the area including one suggested by the Parish Council. In short none of several alternatives looked at was available, of the right size to accommodate the identified need or they were subject to development constraints. The applicant has thus pursued the current site arguing that it meets the definition of appropriate development in the Green Belt.

## **Representations**

Members should be aware that all households in the Parish have been notified of the application.

### **Development Plan**

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development) and NW13 (Natural Environment)

Saved Policies of the North Warwickshire Local Plan 2014 – ENV12 (Urban Design), ENV13 (Building Design) and ENV14 (Access Design)

### **Other Material Planning Considerations**

The National Planning Policy Framework 2012

### **Observations**

The site is in the Green Belt and as Members are aware there are a number of steps that need to be taken when assessing the proposals against the provisions of the National Planning Policy Framework in this regard. One of these is to establish the impact of the proposals on the openness of the Green Belt and the visual impact of the development. A site visit would assist in this assessment.

In this case the balance between Green Belt policy and housing needs will be the fore of the discussion when the Board determines the application, and thus a better understanding of the setting of the site is also recommended.

### **Recommendation**

That receipt of the application is noted and that a site visit is organised prior to determination.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2015/0550

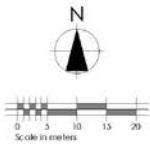
<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	28/8/15

*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.*

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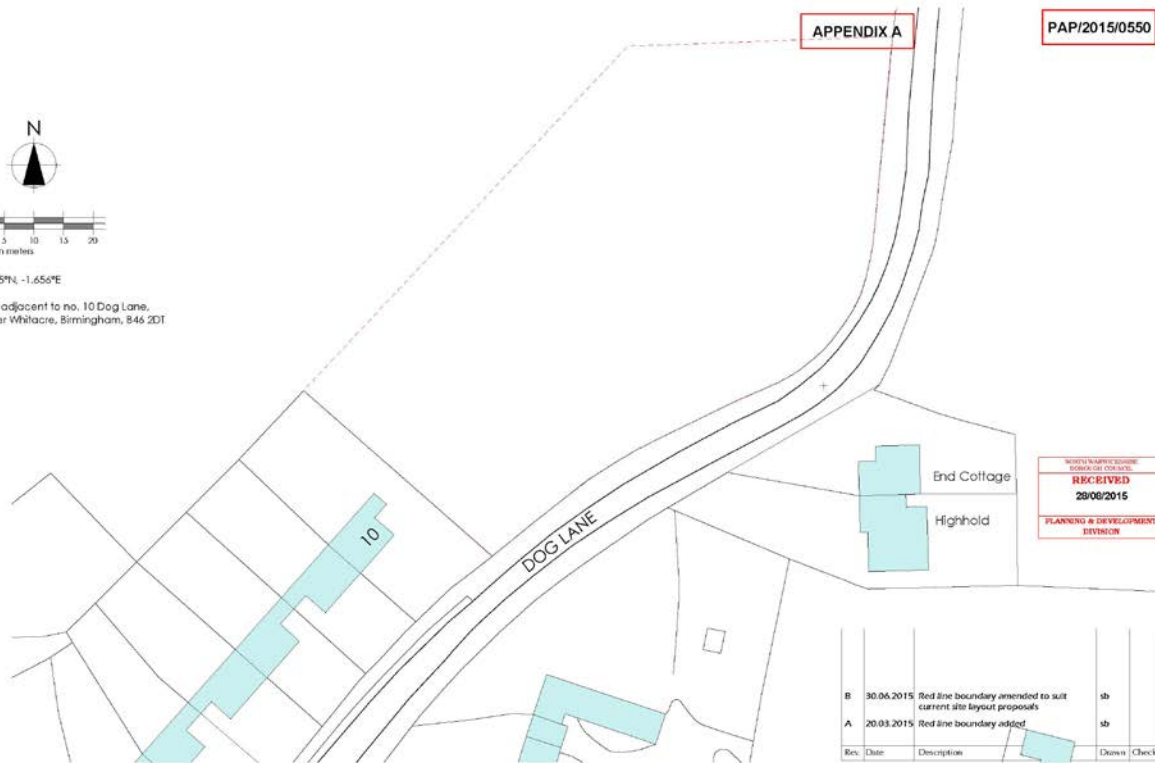
APPENDIX A

PAP/2015/0550



52.535°N, -1.650°E

Land adjacent to no. 10 Dog Lane,  
Nether Whitacre, Birmingham, B46 2DT



NOTICE AND CONTACT  
**RECEIVED**  
 29/08/2015  
 PLANNING & DEVELOPMENT  
 DIVISION

Rev.	Date	Description	Drawn	Check
B	30.06.2015	Red line boundary amended to suit current site layout proposals	sb	
A	20.03.2015	Red line boundary added	sb	

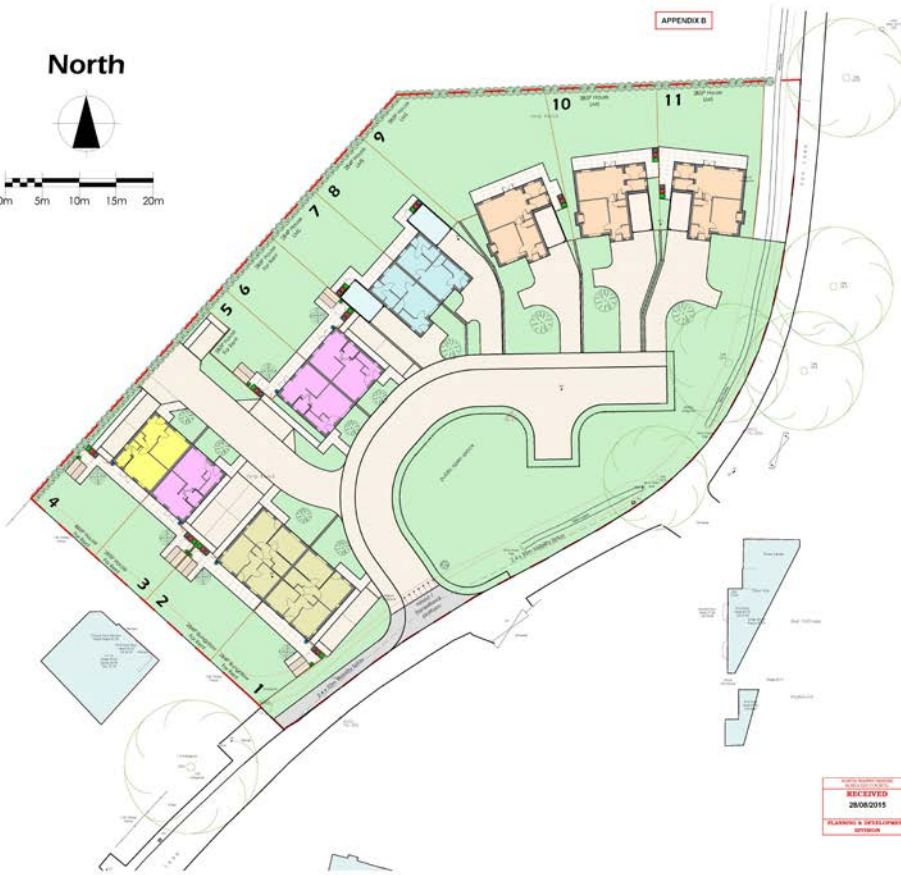
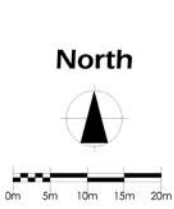


**WALKER TROUP ARCHITECTS**

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Contract	Client	Sheet Title		
Dog Lane, Nether Whitacre	Whiterock Homes	Existing Site		
Date	Scale	Drawn By	Checked By	Drawing Number
06.01.15	1:500	L. Bradley	S. Buchan	<b>1501-01B</b>



- APPENDIX B**
- FAP20150500**
- Materials**
- 1. 200mm EPS insulation for Affordable Rent
  - 2. 150mm EPS insulation for Affordable Rent
  - 3. 100mm EPS insulation for Affordable Rent
  - 4. 50mm EPS insulation for Affordable Rent
  - 5. 25mm EPS insulation for Affordable Rent
  - 6. 100mm EPS insulation for Affordable Rent
  - 7. 50mm EPS insulation for Affordable Rent
  - 8. 25mm EPS insulation for Affordable Rent
  - 9. 100mm EPS insulation for Affordable Rent
  - 10. 50mm EPS insulation for Affordable Rent
  - 11. 25mm EPS insulation for Affordable Rent
- Other Symbols**
- 1. Rain Water Gull
  - 2. Commode Bin
  - 3. Refuse Drop
  - 4. Street

**WALKER TROUP**

**1501-09G**

Housing Development of 100 Dug Lane, Heather Works

Site No: Proposed Site Layout

Site: 1501-09G

App: 1501-09G

Date: 11th June 2015

Drawn: S. Brodie

Checked: S. Brodie

**RECEIVED**  
28/08/2015  
PLANNING & DEVELOPMENT DEPARTMENT

**APPENDIX C**

**FAP20150500**



**RECEIVED**  
28/08/2015  
PLANNING & DEVELOPMENT DEPARTMENT

**WALKER TROUP**

**1501-16**

Site: 1501-16

App: 1501-16

Date: 22.06.2015

Drawn: L. Brodie

Checked: S. Brodie

**APPENDIX D**

**PAP/2015/0550**



**Planning Statement**

**For**

**Erection of 11 dwellings to meet local identified needs  
and all associated works**

**At**

**Dog Lane, Nether Whitacre**

**For**

**Whiterock Homes Ltd**

1. Scope of Statement
2. Details of pre-application advice
3. Site selection process
4. Context of site and constraints
5. Identified Local Housing Needs
6. Planning policy assessment including Green Belt
7. Visual impact on character of area
8. Impact on neighbours
9. Conclusion



## **1: Scope of Statement:**

- 1.1 This statement is written by Jayne Cashmore of Creating Homes on behalf of Whiterock Homes Ltd. The Statement accompanies an application for the erection of 11 dwellings at Dog Lane, Nether Whitacre to meet the identified needs within the Nether Whitacre Housing Needs Survey. As the development includes both open market and affordable dwellings, Whiterock Homes Ltd intend to develop the houses in conjunction with Warwickshire Rural Housing Association/Stonewater Housing Association.
- 1.2 The statement first provides detail on pre-application advice received, then provides detail on the site selection, details the site and constraints, details of the identified local housing needs, and then provides an assessment of planning policy, visual impact on character of area, and impact on neighbours.

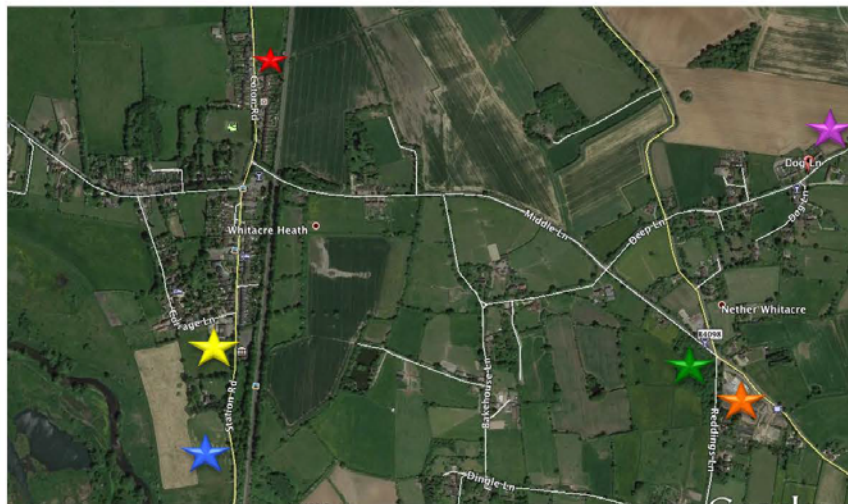
## **2. Details of pre-application advice**

- 2.1 Whiterock Homes Ltd held a meeting on 24 February 2015 with Jeff Brown and Paul Roberts of North Warwickshire Borough Council. During the meeting, various alternative sites were discussed. The method of site identification/sequential approach is set out at section 3 of this statement.
- 2.2 Subsequent to this meeting and following identification of the Dog Lane site, Whiterock Homes Ltd worked on a number of layouts and held pre-application discussions with WCC Highways. 4 alternative layouts were submitted to Jeff Brown of North Warwickshire Borough Council for consideration. On 8 May 2015, Jeff Brown advised 'On the assumption that we will be looking at supporting the scheme then the key planning issue in respect of layout will be how to balance the impact on openness with delivering a scheme that reflects local character. To this end – option D is preferred. Much will depend on the design of the houses and the quality of the open space. I would strongly recommend that you visit the Islington Crescent development in Wood End which whilst not in the Green Belt, is much admired by Members and officers alike. Let's work on trying to improve Option D'. A drawing showing feasibility layout D accompanies this application.
- 2.3 Following this advice, a visit to the Islington Crescent development was made and layout D was progressed.
- 2.4 Consultation with the local community took place in June 2015 and a Statement of Community Involvement accompanies this application.
- 2.5 A further meeting took place on 29 June 2015 at North Warwickshire Borough Council offices with Paul Roberts and Jeff Brown, to feedback on the outcome of the public consultation event. Warwickshire Rural Housing Association were also present.
- 2.6 There has been full engagement with Nether Whitacre Parish Council by the attendance of Neil Gilliver (WRHA), throughout the process including the initiation of the Housing Need Survey, drop in sessions, various site

identification discussions, including Dog Lane, all of which are recorded through the Parish Council minutes. At no time has the Parish Council objected to the potential of the identified application site in Dog Lane. The Parish Council have been very helpful and supportive at all stages of the process up to and including the Public Consultation.

### 3. Site selection process

- 3.1 As the housing need relates to Nether Whitacre Parish, it is vital that the development is provided within the Parish. There are two main settlements within the parish; Whitacre Heath and Nether Whitacre. They lie approximately 1 mile from each other. Whitacre Heath is the larger of the two villages, but both are small rural settlements with limited services. The Adopted Core Strategy policy NW2 identifies a settlement hierarchy. Whitacre Heath is identified as a Category 4 settlement and therefore arguably in locational terms, is a more sustainable settlement than Nether Whitacre. Nevertheless, whether a development is sustainable development goes significantly beyond the location of the site and it is key to consider that the identified housing needs which this development seeks to provide for relates to the entire parish of Nether Whitacre not just Whitacre Heath. Notwithstanding this, given Whitacre Heath is higher up the settlement hierarchy, sites were initially sought in the village. The sites considered in the sequential analysis are identified by the coloured markers below.



- 3.2 Ex-Servicemen's Club, Station Road, Whitacre Heath (marked yellow)

A feasibility report was carried out and is appended to this Statement (Appendix 1). The following reasons summarise why the site was unsuitable:

- No longer for sale and therefore not available

- Insufficient site size for 11 dwellings
- Within flood zone 3. The Environment Agency advised that Floor levels would have to be set 1.7m higher which would have had considerable visual impact
- Prohibitive costs of development a brownfield site related to demolition, removal of hardstanding and initial land acquisition costs
- As the site is in flood zone 3, specialist insurers would have to be used which would be considerably more costly than a site lying outside of flood zone 3

The site was therefore discounted.

At the pre-application meeting on 29 June 2015, Jeff Brown of North Warwickshire Borough Council advised that this ex-serviceman site had now been sold to another individual who had advised the Council that the Environment Agency no longer required floor levels to be set 1.7m high and advised the applicant should once again consider the site.

Clearly the ex-serviceman site is no longer available as it has been sold to another individual. In itself, the brownfield ex-servicemans site is too small to deliver the 11 dwellings needed. However, in relation to the land surrounding, since that meeting, the applicant has corresponded with the Environment Agency (Appendix 2). They clarified their initial advice still applied and that there was no change of view. Paul Gethin (Sustainable Places Team Leader at the Environment Agency) advised he had not had communication with the purchaser of Station Road. This site has therefore been reconsidered at the request of the Council but is not available, suitable or deliverable for the proposed identified housing need.

#### Land west of Station Road, Whitacre Heath (marked blue)

This site lies outside the settlement boundary of Whitacre Heath and lies in the Green Belt. It is a greenfield site. The advantage of this site over the selected site is that in locational terms it is closer to the more sustainable settlement of Whitacre Heath. Whiterock Homes Ltd met with the landowners Mr Thwaite and Ms Dowling on 30th November 2014. They were not interested in selling any land or entering into any agreement for development. The site was therefore unavailable for development and discounted.

#### Other Sites in Nether Whitacre

Other sites within the Development Boundary of Whitacre Heath were examined however none were available on a large enough scale to provide for the 11 homes needed.

It is also noted that the Water Cycle Study states that in relation to Whitacre Heath, development is not ideal due to significant constraints from flood risk.

The other main settlement within Nether Whitacre parish is Nether Whitacre and a sequential approach was again applied, initially examining brownfield sites

Garden Centre site, Nether Whitacre (marked orange)

This site was unsuitable for the following reasons:

- Fairly detached from the settlement
- The site is not for sale
- Permission has been granted for 25 dwellings. This does not provide for the identified housing need

This site is therefore not available and the identified needs are not deliverable on this site.

Gates Lane/Readings Lane, Nether Whitacre (marked green)

Following the public consultation event, the Parish Council advised Warwickshire Rural Housing Association of a further piece of land which the landowner wished to be considered for the development. Whiterock Homes and WRHA therefore considered this site and met with the landowner on 29 June 2015.

A feasibility study of this site was considered and is appended to this report. It contains financial information and therefore should be kept confidential for consideration by planning officers. However, the feasibility study demonstrated that there were higher costs of developing the land. The site is completely covered by deciduous woodland planted by the owner many years ago and these trees are between 4 and 6 metres high. There are electric overhead cables running on the same side of the road. In addition, although the site lies in close proximity to the Garden Centre site, it has a poorer relationship to Nether Whitacre than the proposed site. Therefore given the higher development costs and less desirability of developing the site, sequentially, this site is less preferable than the Dog Lane site proposed for development in this application.

- 3.3 Regard has also been given to the Strategic Housing Land Availability Assessment (SHLAA) to identify whether there are any other sites of development potential in Nether Whitacre parish. It is noted that sites within the Green Belt were not considered within the SHLAA.

There was one relevant site in the SHLAA as set out below and marked red on the above aerial plan. The SHLAA concluded that the site was not currently developable. In any instance, it was not of sufficient size to meet the required housing needs.

Council Ref	PBA ID	Site address	Site Area (ha)	Greenfield/PDL	Category	Yield	Reason why unsuitable for proposed development
WH1	97	Land At 72 Nether Cottage, Whitacre Heath	0.20	Greenfield	3	7.04	Site size too small to meet all identified need.

- 3.4 The applicants have willingly considered all alternative sites. This included reconsidering sites at the request of the Council, and most recently consideration of the Gates Lane/Readings Lane site at the request of the landowner/Parish Council, even following considerable expenditure on the Dog Lane site. A comprehensive sequential test of site selection has been carried out first of all looking at sites within the development boundary of Whitacre Heath, as an identified larger settlement in the Core Strategy, then greenfield sites near Whitacre Heath, and also brownfield sites in and near Whitacre Heath and Nether Whitacre. The only site which is available, deliverable and financially viable is the Dog Lane site which has therefore been selected.

#### **4. Context of Site and Surroundings**

- 4.1 The application site lies on the edge of the settlement of Nether Whitacre and its location is shown marked pink on the above aerial plan. Nether Whitacre is a small village of sporadic, dispersed development with no overriding defined form or character.
- 4.2 The site forms part of an existing arable field and lies within the Green Belt. The south east boundary of the application site is demarcated by a hedgerow running adjacent Dog Lane. The land is predominately level. Two mature trees lie on the south eastern boundary. A tree survey has been carried out and accompanies the application.
- 4.3 When approaching from the North, the site will form the entrance point to the village from this vantage point.
- 4.4 To the south west of the site lies a linear development of semi detached dormer bungalows. To the south east of the site lies a number of residential dwellings on the other side of Dog Lane. To the north and west lies open countryside.

#### **5. Identified Local Housing Needs**

- 5.1 A detailed Investigation into the Housing Needs of Nether Whitacre was carried out by Warwickshire Rural Housing Association (WRHA) in July 2014. Nether Whitacre Parish consists of the villages of Nether Whitacre and Whitacre Heath. A copy of the Housing Needs Survey accompanies the application submission.
- 5.2 Approximately 300 survey forms were distributed and 91 were returned, giving a 30% return rate. The Survey not only investigated the actual affordable housing need of the Parish but also studied the need for market rent level housing and open market housing. The survey identified a need for both affordable rent properties and open market properties as follows:

Affordable rent:  
2 x 2 bed bungalow for rent  
2 x 3 bed house for rent  
1 x 4 bed house for rent

Open market housing:  
2 x 2 bed house  
3 x 3 bed house

Since the publication of the document it was identified that the Housing Needs Survey missed a part of the village and the survey was extended to cover this area. This led to one additional affordable rent need for a 3 bed house. The overall need is therefore for 11 dwellings as follows:

Affordable rent:  
2 x 2 bed bungalow for rent  
3 x 3 bed house for rent  
1 x 4 bed house for rent

Open market housing:  
2 x 2 bed house  
3 x 3 bed house

- 5.3 The Housing Needs Survey was carried out by WRHA and Paul Roberts of North Warwickshire Borough Council is satisfied it is reliable and up to date evidence of the Local Housing Needs. The proposed development is specifically to provide for the identified needs within the survey.

## **6. Planning policy assessment including Green Belt**

- 6.1 Planning decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004). The Development Plan for North Warwickshire is the Adopted Core Strategy and the saved policies of the North Warwickshire Local Plan 2006.
- 6.2 Policy NW2 and Appendix C of the Adopted Core Strategy sets out a settlement hierarchy whereby development within the Borough will be distributed. The settlement of Nether Whitacre does not fall within any category identified. Paragraph 6.7 of the Core Strategy states that 'In settlements, villages and hamlets beyond these, development that provides for local housing needs and help support local services will be permitted'.
- 6.3 Policy NW5 relates to the split of housing numbers. It identifies the way in which affordable and market dwellings will be directed towards settlements. Nether Whitacre would fall within Category 5 i.e. outside of any of the identified settlements. The policy states that only affordable housing where there is a proven local need and it is small in scale and does not compromise important environmental assets will be acceptable.

- 6.4 The proposed development seeks to provide for the local housing needs that have been identified through the Nether Whitacre Housing Needs Survey of July 2014. For the reasons set out above, the village of Nether Whitacre and the application site has been selected. The identified Housing Needs incorporate a need for both affordable units (6) and market units (5). In terms of the affordable units, the provision of 6 units is considered to be small scale and the local need is proven. With regards to the market dwellings proposed (5) these would be ring fenced and marketed to local people and seek to provide for the identified local need. The homes would be advertised to local people for a three month period.
- 6.5 Paragraph 50 of the NPPF states that 'to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should [*inter alia*] identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand'. Paragraph 55 also states that 'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities'.
- 6.6 It is noted that the Affordable Housing Needs Sensitivity 2014 identifies a significant amount of affordable housing need over the Plan period. The need of affordable housing is 112 units per annum. The provision of the affordable homes is an important contribution to the overall need and most importantly delivers the identified need of Nether Whitacre parish. There are many communities who have identified need but have little certainty of that need being provided in the immediate future or is reliant on financial contributions for funding from larger developments within the Borough. In this instance, there is a willing landowner, developer and housing association, who has engaged with the Borough Council and Parish Council. They have already outlaid thousands of pounds into research of alternative sites and progressing this site to application stage. This demonstrates their commitment to identifying the most suitable and deliverable site to provide for the need. Importantly, funding is available for the development and there is certainty that the identified housing needs can be delivered without delay. This certainty of deliverability should carry significant weight.
- 6.7 One of the Core Planning Principles within the NPPF states that decision-taking should not be simply about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives. The applicants have a willingness and determination to provide for the local identified housing need within the parish. They have undertaken a thorough and comprehensive sequential appraisal and established this is the only feasible and deliverable site to provide for the need. The meeting of the housing need will enhance the vitality of the community providing local people an opportunity to live in a home that meets their needs and reside near their family.
- 6.8 Therefore the housing needs survey is a key material consideration to be taken into account in assessing the principle of development. This Statement has already verified the reliability of the survey and as such it is necessary to provide for the identified local housing needs within the parish within which the need has arisen. The Council's Housing Officer, Paul



Roberts is satisfied with the reliability and robustness of the survey. Alternative sites in Whitacre Heath have been discounted and therefore although Whitacre Heath is higher up the settlement hierarchy, in terms of meeting an identified housing need of Nether Whitacre parish, it does not automatically follow that Whitacre Heath is the most appropriate village. On the basis of the sequential site analysis carried out above, Nether Whitacre is considered to be the most suitable settlement for development to meet the identified local housing needs at this point in time. Moreover, the proposed Dog Lane development site is available and deliverable. The sequential test identifies that it is the only available and deliverable site. This cannot be overlooked in the need to provide for locally identified homes. Therefore the development is considered to meet Policy NW5 of the Core Strategy.

- 6.9 With regards to impact on the Green Belt, paragraph 89 of the NPPF identifies certain forms of development which may not be considered inappropriate within the Green Belt. Bullet point 5 states that '...limited affordable housing for local community needs under policies set out in the Local Plan'. Policy NW5 states that only affordable housing where there is a proven local need and it is small in scale and does not compromise important environmental assets will be acceptable.

Given that the development proposes the exact local housing need as identified in the Nether Whitacre Housing Needs Survey, it is considered that the development meets this exception set out in the NPPF and is not inappropriate in the Green Belt. It is noted that no other windfall sites have provided for any of the need, nor did the garden centre redevelopment proposals. In reaching this conclusion, I have had regard to the officer report in relation to the application at Eastlands Road, Fillongley (2014/0520) which sought permission for solely local identified needs and in that instance the development was considered to meet the exception set out in paragraph 89 of the NPPF.

- 6.10 If however, the Council considers that the application does not meet any of the exceptions set out in the NPPF and considers the development to be inappropriate in the Green Belt, very special circumstances must be considered. Paragraph 87 of the NPPF states that 'inappropriate development by definition is harmful to the Green Belt and should not be approved except in very special circumstances'. The NPPF goes on to state that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. It is considered that the following are very special circumstances which override the harm to the green belt, if the development is considered inappropriate:

1. The development seeks to provide for an identified local need. Both the open market and affordable housing proposed is to specifically meet an identified housing need within the parish of Nether Whitacre. The exact tenure, size and form of dwelling proposed meets that is identified as being required.
2. The NPPF is supportive of providing for local housing needs and it is appropriate that the housing needs are provided within the parish

which the need arises within. In this instance, the entire of the parish of Nether Whitacre lies within the Green Belt. Whilst the adopted Local Plan identifies a settlement boundary within Whitacre Heath, there are no sites within the settlement boundary which are available to provide for the need. There were also no brownfield sites within Whitacre Heath or Nether Whitacre which are available to deliver the housing need. As such to meet the identified need, a Green Belt greenfield site within the parish would have to be selected. A sequential test has been carried out and the proposed site is the only site which is available and deliverable to provide for the identified need.

These factors are considered to weigh strongly in favour of the development and constitute very special circumstances to override the harm by reason of inappropriateness to the Green Belt.

#### **7. Visual impact on character of area**

- 7.1 The settlement of Nether Whitacre is made up of a number of dwellings sporadically dispersed. The proposed development is sited adjacent the northern edge of the settlement and the site has been selected for reasons covered elsewhere in this statement. Policy NW13 states that 'the quality, character, diversity and local distinctiveness of the natural environment will be protected and enhanced. In particular within identified landscape character areas development will conserve, enhance and where appropriate, restore landscape character as well as promote a resilient, functional landscape able to adapt to climate change. Specific landscape, geo-diversity, wildlife and historic features which contribute to local character will be protected and enhanced'. The Design and Access Statement which accompanies the application provides details on the layout and design of the development. In visual terms, the site is currently an open field and therefore the development will have a visual impact on the character of the area.
- 7.2 The proposed development has been designed as sensitively as possibly bearing in mind the scale and size of dwellings has been dictated by the Housing Needs Survey. Plots 1 and 2 are bungalows and single storey and the first plots on entry into the development. Plots 5-11 are curved to compliment the alignment of Dog Lane and create a rounded edge to the settlement. The retention of the mature trees softens the visual impact of the development as does the creation of the open frontage and public open space around which the properties are clustered. The existing boundary treatment adjacent the agricultural field on the north eastern boundary of No 10 is a conspicuously stained timber fence. Properties are also visible on the approach to the village from the East. The proposed boundary treatments adjacent the field are simple post and wire with a native hedgerow and therefore agricultural in nature and an improvement on the existing. Accompanying the application are various visualisations from various vantage points which demonstrate that the development will not have a harmful visual impact on the character of the area.

## 8. Impact on Neighbours

- 8.1 The nearest neighbour lies to the east of the site and is No 10 Dog Lane. This property sides onto the application site and has been most recently extended under PAP/2013/0179. Based on the plans approved as part of that application, No 10 has a side facing balcony at first floor which serves a first floor bedroom. The bedroom is principally served by a large south facing window to its front elevation and therefore the patio doors serving the balcony are not the only source of light to the room. Having regard to 'A guide for the design of householder developments' SPD, the development is set far enough away to ensure that the 45 degree line is not breached from any principle habitable room windows of No 10. It is therefore considered that the development would not result in any harmful overlooking, overbearing or loss of light to No 10.
- 8.2 The properties to the south and south east are set sufficiently far to ensure that no harmful overlooking, overbearing or loss of light would arise from the proposed development.
- 8.3 With regards to the proposed development, each of the Plots 1-11 has been carefully sited so as to ensure that they do not breach the 45 degree line.

## 9. Conclusions

- 9.1 The NPPF has at its heart a 'presumption in favour of sustainable development'. It states that 'there are three dimensions to sustainable development: economic, social and environmental. Paragraph 8 of the NPPF states that the three 'roles should not be undertaken in isolation, because they are mutually dependent'. It goes on to state that the 'planning system should play an active role in guiding development to sustainable solutions.'
- 9.2 The proposed development seeks to provide for the specific needs identified within the 2014 Nether Whitacre Housing Needs Survey. Pre-application discussions have been held with various parties and a community consultation event was held. A comprehensive sequential site analysis has been carried out which has resulted in the proposed site being identified. Given the application meets an identified local need it is considered to comply with Policy NW5 and paragraph 89 of the NPPF and not be inappropriate development in the Green Belt. The application is accompanied by a suite of technical documents and plans which identify that the development is of good design, will not result in harm to highways safety, neighbours, ecology, character of area or trees. The benefits of meeting the identified local need is a key material consideration which weighs strongly in favour of the proposal and balancing up all relevant planning matters, the proposal is considered to represent sustainable development, for which there is a presumption in favour.

August 2015.

**(11) Application No: PAP/2015/0585**

**Hill Top Farm, Church Lane, Corley, CV7 8DA**

**Erection of 26 dwellings with public open space, associated highway, hard and soft landscaping and external works, for**

**Mr J Cassidy**

This application is reported to the Board at the discretion of the Head of Development Control due to the application being for a number of houses in Corley on a combined site that has been the subject of two very recent decisions – one in support of and the other against new housing development. Both of these decisions are material planning considerations in this case.

**The Site**

The site comprises two sections – the rear of the former Corley Nursery site and a paddock/field immediately to the east. The combined area is some 1.5 hectares.

The former Corley Nursery site is a rectangular site located on the north side of Church Lane at the western end of Corley. It has strong boundary hedgerows and there is a detached house and garden (Derwent House) to its immediate east which is now in separate ownership. Beyond to the east is a further detached house with a collection of outbuildings to its rear (Hill Top). The remainder of the north side of Church Lane has a bungalow (Cartref) and the Village Hall with a bowling green. Its southern side has a selection of residential property and the access to the Corley School. The paddock referred to above is surrounded by hedgerow boundaries and is at the rear of Hill Top. There is open countryside to the north and to the west.

The general location of the site is illustrated at Appendix A.

**Background**

A resolution to grant planning permission for 17 new houses on the former Nursery site was made by the Council in April 2014. This resolution will be translated into a planning notice upon completion of a Section 106 Agreement which would make arrangements for the provision of on-site affordable housing – seven out of the 17 (that is 40%). The Agreement has not yet been signed and thus the Notice has not been issued. The proposals under this resolution involved the redevelopment of the site. The former nursery buildings and other outbuildings have now been cleared. The proposed access into the site would be from Church Lane. In short the reason for the resolution to grant was that the proposal represented the redevelopment of brownfield land and provided on-site affordable housing to meet in part the identified local housing needs of Corley. A copy of the layout, the subject of this resolution is at Appendix B.

The paddock referred to above was the subject of an application for five houses in 2014. This was refused planning permission and a subsequent appeal was dismissed. In short the refusal was that the development was inappropriate development in the Green Belt causing substantial harm without planning considerations which would outweigh that harm. The appeal letter is attached at Appendix C.

## The Proposals

In short this is to extend residential development from the Nursery site into the adjoining paddock. All access would be through use of the access shown on the layout for the Nursery site thus extending the cul-de-sac. Five of the houses on the western side of the front half of the cul-de-sac within the front part of the Nursery site would be retained but the rear would have to be re-arranged in order to provide access into the extended site. The total number of houses would be 31 – five retained from the Nursery site and an additional 26. A balancing pond is proposed at the far eastern end of the site.

An overall layout and street scenes are attached at Appendices D and E.

The applicant is justifying the proposal on the need to provide the identified affordable housing need for Corley. The Housing Needs Survey of 2013 identified a need for 14 affordable homes. It is said that the Borough Council has since recorded an increase of five further affordable homes making a need for 19. The Corley Nursery resolution would if implemented provide 7 units. A further 9 are included in the current application thus making 16 in total and substantially meeting the updated overall need. As with the Corley Nursery site, all 16 of these units would be low-cost market housing.

The low cost houses would be made up of one four bedroom house; nine two-bedroom houses, four two-bedroom bungalows and two three-bedroom houses. The open market houses would be eleven five-bedroom houses and four four-bedroom houses.

The application is accompanied by a number of supporting documents.

A Transport Statement concludes that the development can be accommodated through the access arrangements supported under the 2014 Nursery proposals and that the layout can be designed to adoptable standards and enable larger vehicles to use the cul-de-sac. It is said that through pre-application discussion the Highway Authority is comfortable with the proposals. Car parking is provided on-site to a minimum of 200%. The Statement points out that there are bus stops around 300 metres from the front of the site providing public transport services into Coventry and Nuneaton.

A Utilities Statement states that there is sufficient capacity in terms of utility services for the proposal.

An Ecology Report concludes that the site as a whole has poor present ecological value but that there is an opportunity for bio-diversity enhancement through landscaping, the introduction of the balancing pond and smaller developments such as bird boxes etc. Precautionary measures need to be undertaken prior and during construction.

A Tree survey concludes that the development should not compromise existing tree and hedgerow cover provided that these boundary features are protected during construction.

A Visual Impact Assessment concludes that there would be limited visual impact.

A Sustainability Statement sets out the case for the development being considered as sustainable development under a series of different criteria.

The applicant appends the Borough Council's Housing Needs Survey of 2013 and a schedule of housing needs prepared by the Council's Housing Officers.

A Public Consultation report describes a local consultation event held in Corley in August 2015. Letters were sent to 318 households inviting people to attend this event. It is said that 40 written responses were returned. These indicate that Green Belt sites should not be built on and that there should be homes for local people. Responses were split 45% in favour and 42% against when asked if the proposed site was the “most suitable location to accommodate any housing/affordable housing needs of Corley”.

A Planning Statement sets out the planning case for the development arguing that it is appropriate development in the Green Belt under the exceptions set out in the National Planning Policy Framework. The reasons for this conclusion are provided in full at Appendix F.

### **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 - ENV4 (Trees and Hedgerows); ENV6 (Land Resources), ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design) and ENV14 (Access Design)

### **Other Material Planning Considerations**

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

The National Planning Practice Guidance 2014

The Council’s Pre-Submission Site Allocations Document 2014

### **Observations**

The application site is in the Green Belt and thus the Board will have to assess the proposals against the definitions contained in the NPPF and the decision making process that it also contains in such circumstances. The recent planning history will also play a role in the final assessment.

At this stage the matter is just reported to the Board for its information.

### **Recommendation**

That the receipt of the application be noted at this time

## BACKGROUND PAPERS

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

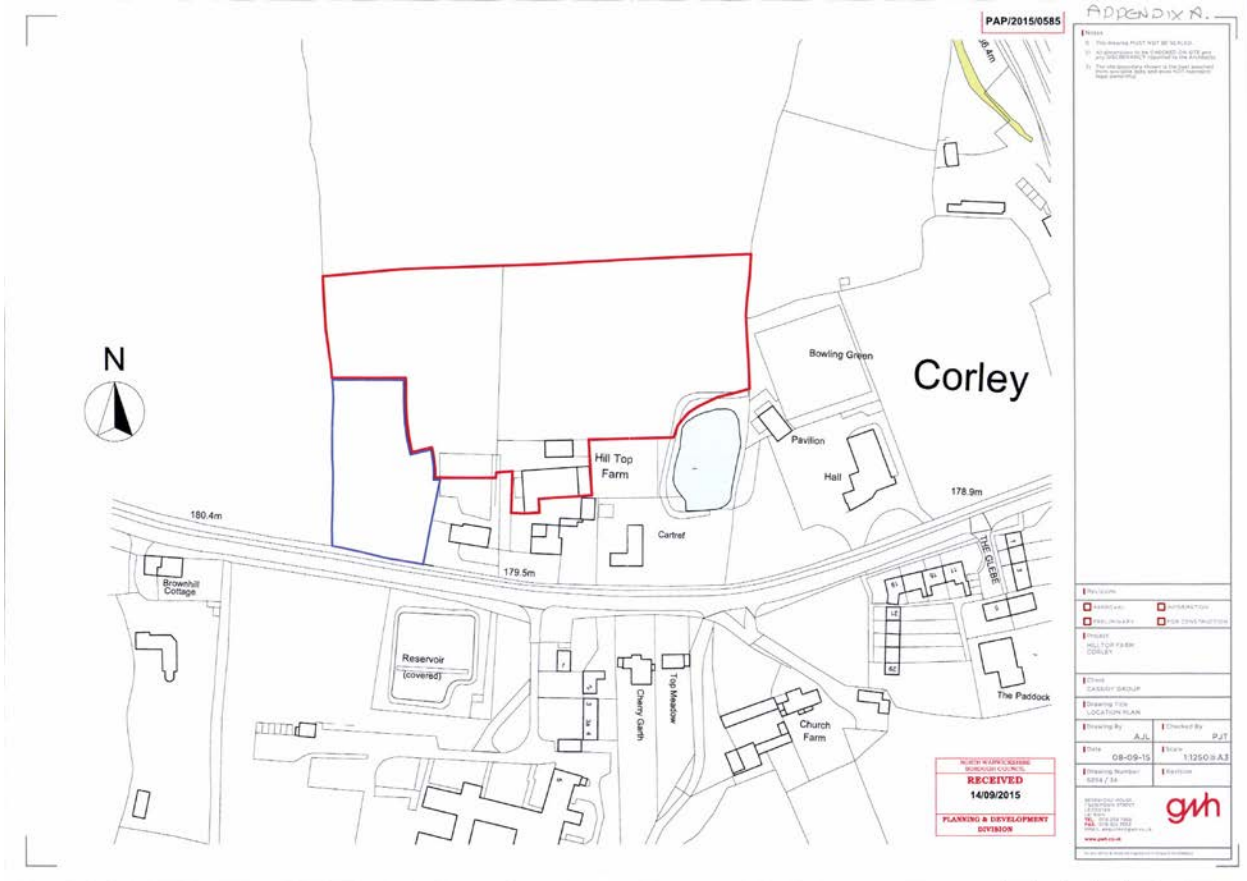
Planning Application No: PAP/2015/0585

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	14/9/15

*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





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## Appeal Decision

Site visit made on 30 September 2014

**by Stephenie Hawkins BSocSc(Hons) MPhil MSc MRTPI**

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

Decision date: 10 November 2014

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**Appeal Ref: APP/R3705/A/14/2222934**

**Land at Hill Top Farm, Church Road, Corley, Coventry CV7 8AZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Eco-Executive Limited against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2013/0541, dated 25 October 2013, was refused by notice dated 4 February 2014.
  - The development proposed is construction of 5 No eco-executive dwellings and associated access.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Eco-Executive Limited against North Warwickshire Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. I was accompanied on my site visit by representatives of the main parties. During the visit I sought confirmation of the extent of the site, which involved reference to structures associated with the property known as Hill Top Farm. A number of comments have subsequently been made by the main parties as to whether the associated structures are to remain. However, this matter does not form part of the cases of either of the main parties. Consequently, it has had no bearing on my determination of the appeal and I do not consider the interests of any party have been prejudiced by my confirmation of matters of fact on site.
4. The application form describes the existing use of the appeal site as "residential curtilage". However, curtilage is a legal concept not a use of land. The appellant describes the site as open grassland. From my site visit it appeared as a paddock in use for the grazing of a pony and goat, rather than cultivated garden land. I have determined the appeal on this basis.
5. Appeals must be determined in line with the development plan at the time the appeal decision is issued. The Core Strategy (CS) was adopted October 2014, after the application was determined but prior to determination of this appeal. The Council has supplied copies of Policies NW2 Settlement Hierarchy and NW3

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Green Belt, as relied on in their case, and have confirmed Policy ENV2 of the Local Plan, adopted July 2006, as referred to in the decision notice, is no longer relevant. I note the appellant's comment that the Core Strategy is still open to challenge. However, I am not aware that any challenge has been made or, in the event that a challenge has been made, that the operation of the plan, wholly or in part, has been suspended. Whilst this cannot be ruled out, at this time, the Core Strategy is taken as operational.

6. The Planning Practice Guidance (PPG) was updated in respect to 'Housing and economic land availability assessment' on 6 October 2014. I have sought the views of the main parties on this matter and have taken those submitted into account in determining the appeal.
7. This appeal has been determined in light of the Court of Appeal decision on 9 October 2014 to overturn the decision of Patterson J in the High Court (Ref: Redhill Aerodrome Limited and Secretary of State for Communities and Local Government, Tandridge District Council and Reigate and Banstead Borough Council [2014] EWHC 2476 (Admin)). Consequently, in considering whether very special circumstances exist to justify inappropriate development in the Green Belt, the phrase "and any other harm" in paragraph 88 of the National Planning Policy Framework (the Framework) is such that it is not restricted to harm to the Green Belt.
8. I acknowledge that there may be some shortcomings in the drafting of the decision notice. However, I consider the decision notice is sufficiently drafted to explain the Council's reasons to refuse to grant planning permission, with clarification provided within the officer's report.

#### **Main Issues**

9. In light of the above, I consider that the main issues are:
  - whether the proposal would be inappropriate development in the Green Belt;
  - the effect of the proposal on the openness of the Green Belt and the purposes of including land in it;
  - the effect of the proposal on the character and appearance of the area; and
  - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

#### **Reasons**

##### *Inappropriateness*

10. The appeal site comprises a paddock, together with an access from Church Lane. The site is associated with the property known as Hill Top Farm, which lies to the south, with the dwelling to the Church Lane frontage and barns/outbuildings to the rear. A further dwelling – Cartref – also lies to the south on the Church Lane frontage. A dwelling – Derwent House – and buildings associated with a former nursery lie to the west. There is a fence between the appeal site and former nursery. The Council has resolved to grant planning permission for residential development of the former nursery, to

deliver 17 dwellings, subject to a S106 agreement for on-site affordable housing (Application Ref: PAP/2014/0008). A bowling green, sited to the rear of the village hall on Church Lane, is to the east, and to a lesser extent a field that extends towards Tamworth Road. There is vegetation along the eastern boundary. A field also lies to the north of the appeal site, beyond a vegetated boundary. Whilst dwellings on Kingswood Avenue are further north, fields extend out to the west. Overall Corley is a village of development dispersed within open countryside. Given the site comprises a paddock and adjoins fields, I consider it forms part of the open countryside.

11. Policy NW3 of the CS is concerned with the extent of the Green Belt, over which national policy operates. I note the CS policy has changed from that within the proposed submission version, notably omitting a statement that "No changes to the Green Belt boundary will be made". However, as confirmed by the CS examining Inspector, the omission of the statement does not require the Green Belt boundary to be changed. This would be a matter for a future plan considered in due course in light of the circumstances at that time. Consequently, this appeal falls to be considered within the context of the constraint of the Green Belt.
12. The Government attaches great importance to Green Belts and the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate. The Framework sets out exceptions to this, including limited infilling in villages and limited affordable housing for local community needs under policies set out in the Local Plan. The appellant also draws attention to the exception of limited infilling or redevelopment of previously developed sites. However, the site is paddock, described by the appellant as open grassland, and I have no convincing evidence before me to suggest it could fall within the Framework's definition of previously developed land. Consequently I consider this case only falls to be considered against the exception of limited infilling in villages and limited affordable housing.
13. Neither Policy NW3 of the CS nor the Framework define limited infilling. I acknowledge that the addition of five dwellings to the village of Corley may be considered to be limited development. However, the appeal site is fairly large, agreed between the main parties as extending to 0.79ha. In addition, whilst the access would be within the built up frontage of Church Lane, the proposed dwellings would sit to the rear of the Hill Top Farm dwelling and Cartef, adjoining fields. Overall, given the size of the site, the poor relationship with the built up frontage of Church Lane and that the site is not surrounded on all sides by development, I consider it reasonable to conclude that the proposed development would not amount to limited infilling.
14. I acknowledge that the approval and implementation of application PAP/2014/0008 would alter the nature of development to the west, with the officer's report for this scheme noting an increase in the footprint and spread of the built form. However, this would not change the size of the appeal site or its relationship with Church Lane or the surrounding fields. Consequently, I do not consider that the approval and implementation of application PAP/2014/0008 would alter my conclusion that the proposed development would not amount to limited infilling.

15. Turning to the second element of the exception, the proposed dwellings would be market, rather than affordable, housing. As such the proposed development cannot be considered as limited affordable housing.
16. I note the appellant offered a financial contribution towards off-site affordable housing during the application process. Notwithstanding whether or not this is an acceptable alternative to on-site provision, if the offer still stands, there is no mechanism before me to secure it, such as a completed Unilateral Undertaking. Consequently this has had no bearing on my determination of the appeal.
17. For the reasons given above, I conclude that the proposed development would be inappropriate development within the Green Belt. According to the Framework inappropriate development is, by definition, harmful to the Green Belt. In line with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness.

*Openness and Green Belt purposes*

18. As set out above, the appeal site currently comprises a paddock forming part of the open countryside. As such it contributes to the openness of the Green Belt, which the Framework states is an essential characteristic of Green Belts. In addition, it assists in safeguarding the countryside from encroachment, one of the five purposes of Green Belts as set out in the Framework.
19. The proposal would introduce built development to the currently undeveloped appeal site. As such, it would significantly reduce the openness of the Green Belt. I accept that public views of the proposed development would be limited. However, openness is an absence of development, rather than development that is screened from view. Moreover, the proposed dwellings would be fairly substantial, including as each would be two-storey with a third-storey in the roof space. As such, even with additional landscaping to assist the proposed development to integrate with its surroundings, I consider that glimpses would be afforded from surrounding land and buildings.
20. For the reasons given above, I conclude that the proposed development would significantly reduce the openness of the Green Belt. In addition, by developing land that forms part of the countryside, it would conflict with the Green Belt purpose of safeguarding the countryside from encroachment. In line with the Framework, I attach substantial weight to this harm to openness and the purposes of the Green Belt.

*Character and appearance*

21. I note the appellant's comments that proposed development respects the locality. In this respect, I saw on my site visit that whilst frontage development may prevail, the pattern of development in the vicinity of the appeal site is fairly loose, with some views of development in depth including the existing development on the nursery site, and I note that the appeal site extends no further back from Church Lane than this site. However, whilst the proposed development may respect the locality in this respect, I consider insufficient regard has been given to the relationship between the built form and open countryside – that is, that Corley is a village of development dispersed within open countryside. In this respect, the proposed development would result in the loss of a not insubstantial part of the open countryside that

separates development on Church Lane, Tamworth Road and Kingswood Avenue. As such, it would unduly unbalance the relationship between the built form and open countryside. This would be evident in glimpses of the built form afforded from surrounding land and buildings.

22. For the reasons given above, I conclude that the proposed development would materially harm the character and appearance of the area. Whilst the Council has not brought any conflict with the development plan to my attention in this regard, it would conflict with the Framework's requirement for good design.

*Other considerations/very special circumstances*

23. The appellant sets out that the proposed development would deliver high quality housing, which is acceptable in respects of matters such as living conditions, to contribute to the Borough's housing supply. In this respect, I note the officer's report sets out an undersupply of housing land weighed in favour of the proposal. However, the Council now state that they have an adequate supply of housing land, which the appellant disputes. I have limited evidence before me in this regard and cannot therefore draw a conclusion. Nonetheless, even if there is an undersupply, I could only give it limited weight.
24. I note the appellant's argument that an undersupply of housing land means the proposal should be assessed in relation to the presumption in favour of sustainable development and the tests within paragraph 14 of the Framework, in particular that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. However, a further test is unless specific policies in the Framework indicate that development should be restricted, with a footnote referring to policies protecting sites such as those within the Green Belt. The PPG bolsters this by advising that in decision taking unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development on a site within the Green Belt. It is this context, together with the extent of Green Belt land that would be lost and the modest number of dwellings that would be delivered, that leads me to only give limited weight to any undersupply of housing land.
25. The eco-credentials of the proposal, based on Vibration Sun Technology, are not disputed by the Council and are a benefit that weighs in favour of the proposal. However, there appears to be no dispute between the parties that sustainability needs to be considered in the round and I note the appellant's emphasis on the total carbon footprint of the development. In this respect, the Council contends that Corley is not a sustainable location, with reference to the settlement hierarchy within Policy NW2 of the CS. Whilst I note the appellant's submissions in respect of Corley's position in the hierarchy, the CS has recently undergone examination and is operational. However, I cannot be certain that the Council have an adequate supply of housing land and in the event of an undersupply the Framework states that policies for the supply of housing, such as Policy NW2, should not be considered up-to-date. This aside, whilst the appellant has provided details about facilities and services, including public transport, in and around Corley, they have not provided any robust evidence of the total carbon footprint for the development. Consequently, this limits the weight that I can attach to the eco-credentials of the proposal. In addition, the



weight I can attach is limited by the modest number of dwellings that would be delivered by the proposal and that planning permission has recently been granted for a similar eco-dwelling in Corley so that it does not score as an exemplar project. Overall, at best, I can afford the eco-credentials of the proposal modest weight.

26. Planning permission has recently been granted for an eco-bungalow on Kingswood Avenue (Application Ref: PAP/2013/0164), known as the Homer House development. The appellant contends that the benefits of Vibration Sun Technology were accepted in this development. The appellant also contends that this development sets a precedent for the appeal proposal. However, I have not been provided with the full details of this development to enable me to fully assess its relevance to the appeal proposal. Moreover, from the information that is before me, it is not directly comparable. From my site visit, I saw that it relates to a small site that has a clear frontage to the street and is surrounded by development, whereas the appeal site is fairly large and has a poor relationship with the street and partly adjoins open countryside. In addition, it appears that whilst the Council may have initially resisted the Homer House development, they later concluded, taking account of site circumstances, that it was limited infilling and thus not inappropriate development in the Green Belt – that is, the context is different. Consequently, I can only give the Homer House development limited weight.
27. In addition, as noted above, the Council has resolved to grant planning permission for the residential development of the former nursery adjacent to the appeal site, subject to a S106 Agreement for on-site affordable housing. I note the appellant challenges whether or not the affordable housing should be considered as such, with reference to financial information. However, this appeal is not an appropriate channel to challenge the Council's decision and as such the appellant's submission in this respect have had little bearing on my consideration of this appeal.
28. I do not know the full details of the nursery site scheme, but the appellant has provided a copy of the officer's report. Whilst the Council found redevelopment of this site to be inappropriate development that would reduce the openness of the Green Belt, the delivery of 40% of the dwellings as affordable housing, of a type and tenure to meet local needs, was considered a significant benefit. This, together with the housing land supply position and that the site comprises previously developed land, amounted to the very special circumstances necessary to justify the harm to the Green Belt. As set out above, the proposal before me does not comprise previously developed land and would not deliver affordable housing, either on or off site, and, as such, is not directly comparable to the nursery site scheme. Consequently, I can give the nursery site scheme limited weight.
29. I have found harm to the Green Belt by reason of inappropriateness. In addition, I have found harm in respect of openness and the Green Belt purpose of safeguarding the countryside from encroachment. I accord substantial weight to the harm to the Green Belt that I have identified. I have also found that the proposed development would harm the character and appearance of the area, which weighs against the proposal. On the other hand, I can only give limited weight to the other material considerations I have reviewed above, with the exception of the eco-credentials of the proposal. However, the modest weight that I can accord this benefit would not clearly outweigh the

harm the proposal would cause. Consequently there are not the very special circumstances necessary to justify the proposal. The proposal would therefore be contrary to the guidance within the Framework.

**Conclusion**

30. For the reasons given above, the appeal should be dismissed.

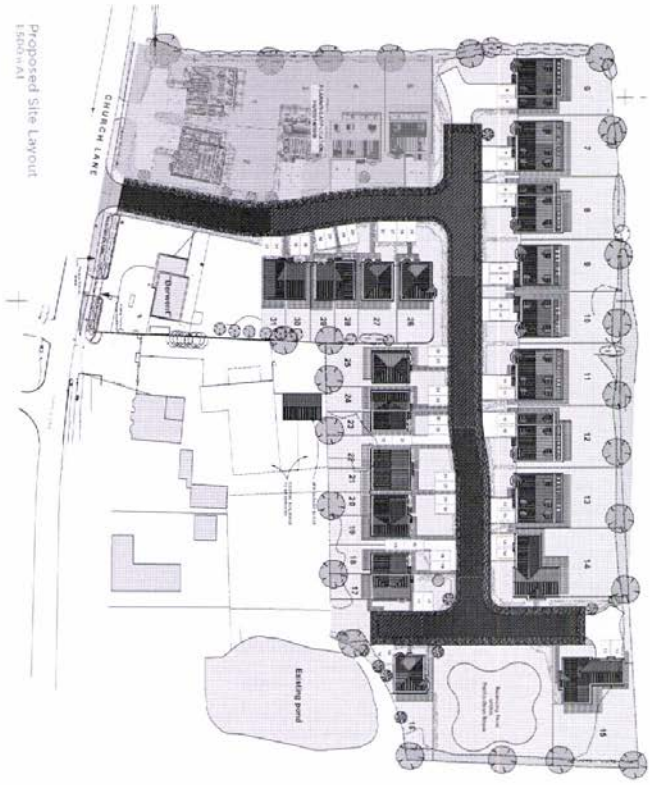
*Stephenie Hawkins*

INSPECTOR



APPENDIX E

PAP20151085



Lot and House	Year	Lot Size	House Type
1-10	1960s	16, 18, 20, 22, 24, 26, 28, 30, 32	2 Bed 1 master house
11-15	1960s	16, 18, 20, 22, 24, 26, 28, 30, 32	2 Bed 2 master house
16-20	1960s	16, 18, 20, 22, 24, 26, 28, 30, 32	2 Bed 2 master house
21-25	1960s	16, 18, 20, 22, 24, 26, 28, 30, 32	2 Bed 2 master house
26-30	1960s	16, 18, 20, 22, 24, 26, 28, 30, 32	2 Bed 2 master house
31	1960s	16, 18, 20, 22, 24, 26, 28, 30, 32	2 Bed 2 master house

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not have dividing fences which will promote greater involvement between neighbours and help with the open aspect of the development. The design has been influenced by recommendations within safer public space guidance and through input from the Warwickshire Police Architectural Liaison Officer and will meet section 60 by design standard reducing crime and disorder.

- Safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.

The design incorporates an adoptable access road which has been designed with input from Warwickshire Highways, providing safe and legible pedestrian routes. A high quality public space has been designed by the introduction of a public open space area.

Para 70 in part states to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- Ensure an integrated approach to considering the location of housing, economic uses and community facilities & services

NWBC when considering the application for 31 homes at Corley Nursery & Hilltop should take into account its central location, the improvements to the local economy through new housing, and the immediate availability of community services & facilities, all available within a short walk of the site.

Para 73 in part states access to high quality open spaces and opportunities for sports and recreation can make an important contribution to the health and well being of communities. The proposed 31 rural homes are located within walking distance of the Corley village park. The scheme has been designed to ensure that there is a direct pedestrian access providing a safe route to the public open space which is a central feature of the development

#### 9 – Protecting Green Belt Land

Para 79 states the Government attaches great importance to Green Belts, the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts and their openness and performance.

Para 80 - Green Belt serves five purposes. These are:

- To check the unrestricted sprawl of large built up areas

The proposed development is not in a large built-up area and could not be classed as unrestricted sprawl. The number of affordable units are based purely on the identified rural need and a small number of market sale houses for viability based on para 54 of the NPPC. Furthermore over half of the site already has planning permission being the Corley Nursery and the additional land to the rear of Hilltop is basically in-fill in nature between the existing Corley Village Bowling Club and Hall, two residential properties Cartref and Hilltop, and the existing Corley Nursery site. The northern boundary has a 4-6m high dense hedgerow therefore the proposal cannot be classed as unrestricted sprawl.

To prevent neighbouring towns from merging into one another

As above the proposed development should be classed as limited in-fill with well defined boundaries, also the village of Corley is some miles from the nearest town and therefore the proposal could not be classed as merging with other towns.

- The assist in safeguarding the countryside from encroachment

As above the land is in-fill in nature with existing properties or developments on three sides and large mature trees and hedgerows on the northern boundary. The proposed development cannot be viewed due to its location which has been clearly shown within our visual impact assessment, based on this the site cannot be viewed as encroaching into open countryside. Furthermore this is the most appropriate site offering the least impact on the Green Belt to develop to meet fully identified affordable housing need, and by developing this site it will prevent open countryside having to be developed and encroached upon to meet this need.

- To preserve the setting and special character of historic towns; and

The proposed development is not within a conservation area of Corley. The architecture and layout has been designed to be in keeping with the area to be attractive including an open green space. The proposed site has been chosen as it cannot be seen from the main road, is in-fill in nature, and offers the least impact on the village of Corley.

- To assist in urban regeneration by encouraging the recycling of derelict and other urban land

The proposed development of 31 affordable and market sale rural homes meets a specific identified housing need as identified within the Corley housing needs survey August 2013 (updated July 2015) by ensuring that local residents can stay within their community, this will provide greater income for the village which in turn enables facilities such as shops, public houses, schools etc all to be used to maximum effect which in turn help with regeneration within the village of Corley.

Para 81 in part states local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport & recreation; to retain and enhance landscapes, visual amenity and bio diversity. The proposed development of 31 rural homes is on a private area of land that the public have no access to. This land is defined as Green Belt however its development would provide improved access to outdoor sports & recreation as it is within 200m of Corley Village Park. The proposal retains existing mature trees & hedgerows and includes an area of landscaped open green space which will provide a visual amenity. There is also a balancing pond to be constructed as part of the proposal, this will in turn improve bio diversity on a piece of land that our ecologists have stated within their report offers limited habitat and bio diversity.

Para 84 in part states when drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development. This policy clearly states that local authorities should take account of the need to promote sustainable development. The proposed 31 homes in line with para 89 of the NPPF meet an identified need and the site is clearly within a sustainable central location as it is within 200m of the village park, hall, church and within 290m of sustainable modes of transport. Corley Parish is spread out over three areas, Corley Moor, Corley Village and Corley Ash. The proposed site is in the most suitable central location



within Corley Village offering the most efficient links to local services and facilities and therefore should be viewed as a sustainable pattern of development.

Para 85 in part states when defining boundaries local planning authorities should:

- Define boundaries clearly, using physical features that are readily recognisable and likely to be permanent

The proposed development site complies with para 85 as it has clearly defined boundaries with physical features that are permanent on three sides being the previously approved Corley Nursery development for 17 homes, the existing Corley Village Bowling Club and Hall, and two residential properties Cartref and Hilltop.

Para 87 states that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. The proposed development of 31 rural homes includes 16 (52%) affordable homes which meet a specific identified affordable housing need based on the results of the Corley housing needs survey August 2013 (updated July 2015) and 15 (48%) market sale homes. However, the site is basically split into two elements, Corley Nursery and land to the rear of Hilltop. Corley Nursery is a Brownfield site with planning permission (ref PAP/2014/0008) for 17 homes being 7 affordable and 10 market sale. This application for 31 rural homes is to increase the development from the current 17 approved to include land to the rear of Hilltop. The additional housing to that already approved consists of a further 9 (65%) affordable homes based on the identified rural housing needs of Corley Parish and 5 (35%) market sale homes for viability based on para 54 of the NPPF. As the development proposal, when taking into account the previously approved Corley Nursery site, consists of 14 further homes, 65% of which are affordable to meet the identified housing need of Corley Parish, this clearly represents the very special circumstances as set out in para 89 and as such the land to the rear of Hilltop as part of the overall application should be considered a rural exception site.

Paragraph 88 goes on to say that when considering any planning application, LPA's should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reasons of inappropriateness, and any other harm, is clearly outweighed by other considerations.

It is against this 'very special circumstances' test by which the planning application for 31 homes on the Corley Nursery & Hilltop site is considered to be fully justified. The proposed development meets a fully identified affordable housing need and therefore should be considered as meeting the criteria of very special circumstances. Furthermore we consider that development on land to the rear of Hilltop with the inclusion of the previously developed Corley Nursery site is the most appropriate site for a development to meet the housing need as it offers the least harm or impact on the Green Belt as the site cannot be viewed from the road and is land-locked with well defined boundaries and only accessible through the previously approved Corley Nursery site. As part of this application Cassidy Group have prepared a document in which we consider 20 sites within the Corley Parish and it is only land to the rear of Hilltop that offers the least harm to the Green Belt.

Para 89 states that a local planning authority should regard the construction of new buildings as being inappropriate in the Green Belt. There are six exceptions to this. The exception to which this planning application relates is exception point 5 as follows:

- Limited in filling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan.

The proposed development of 31 rural homes being 16 affordable and 15 outright sale is based on the



specific identified local housing need through the carrying out of the Corley housing needs survey August 2013 (updated July 2015). The proposed site offers the least visual impact and harm to the Green Belt compared to other potential sites within Corley Parish. Land to the rear of Hilltop including the previously approved Corley Nursery site is the only site within Corley Parish that could possibly be considered as being limited infilling. The site has development on three sides as previously stated and well defined boundaries in terms of dense hedgerows and mature trees.

Previously the land to the rear of Hilltop was subject to a planning application which was refused by the LPA and the Inspectorate as it was not considered that the land was limited in-filling. However, this point is certainly open to interpretation and debate, what is abundantly clear is land to the rear of Hilltop is the only site within Corley Parish that could in any way be classed as limited in-filling and offers the least visual impact as it cannot be viewed due to its land-locked location and therefore we believe it should be classed as limited in-filling and the most appropriate location for meeting the identified affordable housing need in terms of access, sustainability, visual impact and other harm to the Green Belt.

The proposal is further supported by para 54 of the NPPF which states that local authorities should plan for housing development to reflect local needs especially affordable housing, including through rural exception sites. The proposed development on the previously approved Corley Nursery site and land to the rear of Hilltop is either Brownfield or should constitute a rural exception site. Para 54 further states that planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs. The proposal includes 9 affordable homes (65%) and 5 market sale homes (35%). The 5 market sale complies with para 54 as they are needed for viability purposes and their construction allows for a significant development of much needed affordable homes. The 9 affordable homes that have clearly been identified within the Corley housing needs survey August 2013 (updated July 2015) could not be delivered on a stand-alone basis as this would simply not be commercially viable and can only be delivered based on para 54 with an enabling development of 5 market sale homes which only represent 35% against 65% affordable homes.

In summary of para 89, the proposed development of 31 rural affordable & market sale homes should be approved as it complies with both national and local policies summarised below.

- The proposed development site is land-locked and cannot be viewed by the public as it lies behind existing housing, buildings and well defined hedgerow boundaries
- The proposed development site represents the only site within Corley Parish that should be classed as limited in-filling in villages
- Provides much needed rural affordable housing to meet an identified local community need
- The market sale housing is required to ensure the delivery of significant additional affordable housing in compliance with para 54 of the NPPF
- The site should be classed as a rural exception site as it meets an identified rural affordable housing need
- The proposal respects and underpins para 80, the five purposes of the Green Belt
- The proposal does not represent a negative impact on the openness of the Green Belt as it is adjacent to residential properties and surrounded by mature trees and hedgerows and is in-fill
- The site represents a windfall as it provides extra housing numbers to that identified in the Core Strategy or Local Plan, both of which recognise the importance that windfall sites have in delivering the borough's housing need shortage
- The proposed development will include renewable energy which will provide wider environmental benefits

- The proposal includes a public open space and a balancing / detention pond, which will include a footpath and seating area which will encourage interaction between local residents and improve community cohesion.
- The balancing / detention pond meets the objectives of the NPPF in terms of climate change and improved habitat and bio diversity

Para 91 in part states when located in the Green Belt, for projects to proceed, developers must demonstrate very special circumstances such as increased production of energy from renewable sources. The proposed development of 31 rural homes will include renewable energy systems such as solar panels, whole house ventilation, specialist boiler & heating systems which will provide wider environmental benefits and increase energy production. Furthermore 52% of the properties will be affordable homes and will be built to achieve code level 3 for sustainable homes.

#### ~~10 Meeting the challenge of climate change, flooding and coastal change~~

~~Paragraph 94 states Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change taking full account of flood risk, coastal change and water supply and demand considerations.~~

~~Paragraph 95 states to support the move to a low carbon future, local planning authorities should:~~

- ~~plan for new development in locations and ways which reduce greenhouse gas emissions;~~
- ~~actively support energy efficiency improvements to existing buildings; and~~
- ~~when setting any local requirement for a building's sustainability, do so in a way consistent with the Government's zero carbon buildings policy and adopt nationally described standards.~~

~~Paragraph 96 states in determining planning applications, local planning authorities should expect new development to:~~

- ~~Comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and~~
- ~~Take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption~~

~~The proposed development is meeting the challenge of climate change and flooding by the following~~

- ~~Carrying out a Flood Risk Assessment, demonstrating that the proposed homes are located outside of a flood risk area~~
- ~~The use of sustainable urban drainage solutions suitable for the ground conditions to reduce the impact on surrounding drainage infrastructure~~
- ~~The construction of a sustainable above ground detention pond for the retention of storm water~~
- ~~The properties will include renewable energy including such as solar panels, heat recovery and whole house ventilation~~
- ~~52% of the properties will be affordable and built to achieve code level 3 for sustainable homes~~
- ~~The proposed development is committed to reducing the embodied energy of all new buildings erected and will be designed with a fabric first approach and will include sourcing construction materials from local~~