

4) Application No: PAP/2014/0031

Priory Farm Karting Circuit, Priory Farm, Robeys Lane, Alvecote, B78 1AR

Variation of condition no: 3 of planning permission ref PAP/2012/0301 granted on 29/10/2013, to increase the number of karts allowed to operate at any one time from 12 to 30.

for Mr Bertram J Hodgetts

Introduction

This application is referred to the Board at the discretion of the Head of Development Control given the Board's previous interest in the site and because representations have been received from adjoining Local Planning Authority Members.

The case was reported to the September meeting but determination was deferred in order that Environmental Health Officers from both the Tamworth and North Warwickshire Borough Council could be present at a future meeting, to answer questions relating to noise issues. In the interim, a site visit was organised whereby Members from both Authorities were invited to attend whilst the applicant "test" drove a variety of different karts. These included those which the applicant wishes to use as well as karts that had previously been used on the circuit. Members listened to the karts from the trackside as well as on the other side of the B5000. An Environmental Health Officer from Tamworth was present throughout the visit

The Site

The site is located at Priory Farm and comprises an existing karting circuit track and two ancillary buildings used for the reception of visitors and storage and maintenance of karts and equipment. An earth bund has been constructed along the south west boundary of the existing circuit facing the B5000.

The Tamworth golf course and an industrial estate lie further to the west with open farmland extending to the north, with Robeys Lane to the east. There is open land to the south which slopes down to the B5000. There are residential properties at the adjacent Priory Farm House and on the opposite side of the B5000, within the Stonydelph estate in Tamworth. There are mature trees and hedgerows along the western boundary of the site extending along the open land boundary with the B5000. To the south east of the Priory Farm Karting complex there is a small wooded area adjacent to the B5000 and Robeys Lane.

The site is within open countryside but is close to the edge of the urban area of Tamworth. The nearest residential dwelling to the track itself, apart from the dwelling at Priory Farm House, is some 210 metres to the south.

Background

Planning permission was first granted for a karting facility here in 1994. This permission was time limited and expired in 1999. A further permission was granted in 1999 for the permanent use of the site for karting. A condition attached to this permission limited the number of karts that could operate on the site at any one time to no more than six. Permission was granted in 2012 which allowed an increase in the number of karts to twelve. This was subject to a condition to require karts to conform with the noise level requirements stipulated by the RAC / Motor Sport Association. Permission was then granted for the installation of external lighting for the existing track circuit subject to a condition that this is not illuminated after 10pm. These planning permissions currently authorise the karting use on the site and govern its operation.

A further permission was granted in October 2013. This permits the extension of the track circuit, provision of additional parking spaces and the formation of a two metre high bund along the south west boundary of the track circuit. This would be achieved by increasing the height of an existing bund and forming a new bund alongside the new section of track. This permission also limits the number of karts to 12 (condition 3); restricts the noise level requirements to those stipulated by the RAC / Motor Sports Association (condition 5), and sets out approved operating hours – 0930 to 2100 on Mondays to Thursdays, 1030 to 2030 hours on Fridays and Saturdays, and 1030 to 1630 on Sundays and Bank Holidays (condition 6).

The karting track circuit has recently been extended and works have been undertaken to form a new earth bank and to raise the height of the existing bank. Conditions attached to the permission granted in 2013 however required further details to be submitted and approved prior to the commencement of the development. These have not been complied with, thus the development works recently undertaken are not considered to be authorised by this extant permission.

The previous operator of the karting circuit left the site shortly after the grant of the permission in 2013. The site has been vacant and the karting circuit unused since their departure. A different operator now wishes to recommence karting activities but considers that an increase in the number of karts is necessary to sustain a viable business. The land owner has thus submitted this current application

Land owned by the applicant which adjoins the karting site hosts temporary uses, including occasional car boot sales, under the provisions for the temporary uses of land within the Town and Country (General Permitted Development) Order 1995, as amended. A legal agreement under Section 106 of the 1990 Planning Act was entered into with the permission granted in 2013. This restricts the use of adjoining land within the ownership of the applicant at times when the karting use is operating.

The report received by the Board when it determined the planning application in October 2013 is attached for information at Appendix A.

The Proposal

The applicant intends to implement the works authorised by the permission granted in October 2013, but is seeking to vary the permission by requesting a variation to condition 3, which currently limits the number of karts to a maximum of twelve to allow upto thirty karts to be operated.

The applicant contends that it is not simply the number of karts, but the overall noise impact that will result from the karting use that is the important environmental consideration. The prospective operator will run quieter, less powerful karts and the noise emitted by these will be significantly below the maximum noise level allowed under the existing permission or the extant permission. The use of the quieter karts will mean that even with more karts operating on the track at the same time, the overall noise impact would be significantly less than the overall noise impact that would result from the operation of twelve karts that emit noise at or close to maximum level allowed. No variation is proposed to other provisions of the extant permission, including the hours of operation which will remain unaltered.

The applicant has submitted noise assessment reports to support this argument. These have been appraised by environmental health officers at this Council and at Tamworth Borough Council and are considered in detail below.

Development Plan

The North Warwickshire Core Strategy 2014 – Policies NW 1 (Sustainable Development): NW12 (Quality of Development), NW13 (Natural Environment), NW17 (Economic Regeneration) and NW19 (Polesworth and Dordon)

Saved policies of the North Warwickshire Local Plan 2006 (Saved Policies) – ENV9 (Air Quality); ENV11 (Neighbour Amenity), ENV14 (Access Design), TPT3, (Access and Sustainable Travel) and TPT6 (Vehicle Parking).

Other Relevant Material Considerations

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

Consultations

The Council’s Environmental Health Officer – No objection
The Tamworth Borough Council Environmental Health Officer – No objection
Warwickshire County Council (Public Rights of Way) - No objection, but public footpath T95 crosses the site. This should be accessible at all times.

Representations

Twenty five representations have been received from local residents, Tamworth Borough Councillors, the local MP and the previous karting operator. Twenty specifically object to the proposal, with five just querying details within the proposal. All raise the issue of the impact due to noise from the karting facility resulting in loss of amenity. One raises additional concerns of pollution, dust, smell and intrusion into everyday life resulting in loss of amenity. The references to noise indicate the impact is greatest when people are outside in their gardens or when windows are open.

Responses from three Tamworth Borough Councillors raise the issue of noise; concern that the site should operate within restrictions imposed, that public footpaths should be accessible and that the proposed bund will not be high enough to attenuate noise as parts of the track can be seen above the bund that is in-situ. One also queries details within the submitted noise assessment.

Observations

This application is made under section 73 of the Planning Act 1990, as amended, and seeks the variation of condition 3 attached to the planning permission granted on 29/10/2013. The principle of the use of the site for karting and the extension of the circuit track is established by the previous permission. In determining this application consideration is thus limited to those matters relevant to the condition for which variation is sought. Significant considerations are therefore the impact arising from noise and the impacts that may arise from the potential increase in the number of visitors to the site.

Noise

A noise assessment is submitted with the application. This predicts the noise impact at nearby noise sensitive locations (dwellings) that would be experienced with the proposed increase in the number of karts. This involves using measurements of the sound emitted by karts when stationary on the track with engines running, measured in accordance with the RAC/ MSA guidance for karting, and of the sound at a distance of 100 metres with six karts being driven around the track at the same time. The noise levels likely to be experienced at the more distant nearby residential properties are then derived using accepted formulae and the principles for the behaviour of sound in accordance with the methodology set out in British standard BS4142:1997 for rating noise in mixed industrial and residential areas. The predicted noise levels are then compared to the background noise levels measured close to nearby dwellings.

Noise or sound can be objectively measured in terms of the sound pressure level. This is measured in decibels on a logarithmic scale. This scale has been devised so that a doubling of the loudness, as perceived by the human ear, corresponds to an increase in the sound pressure level of +10dB. (The loudness of sound is a subjective assessment which depends on the characteristics of the human ear and brain and can vary from person to person). It may also be helpful to note two significant properties of sound; firstly, that if the number of noise emitting sources (e.g. karts) is doubled, the sound pressure level will not double, it will increase by only +3dB; secondly, that if the distance between the noise source and a receptor is doubled the sound pressure level will decrease by a half.

The Noise Assessment submitted measured the background noise level near to residential dwellings to be 52dB L_{A90} at midday and 54dB L_{A90} during the evening period. Given that most residents are likely to be at home during the evening, this is considered to be a more appropriate period to assess background noise. Noise assessments submitted with the previous applications for the karting use on this site included a measured background noise level during the evening of 46dB L_{A90} . This is typical of the background noise level in a more rural area and is significantly lower than the background noise levels in the current noise assessment. Environmental Health Officers have preferred this lower background noise level to assess the noise impact of the proposed increase in the number of karts.

In preparing the noise assessment, the noise emitted by karts fitted with different engine types and exhaust systems was measured. The prospective operator intends to mainly operate karts powered by a four stroke engine, fitted with the manufacturer's standard exhaust; these have a measured noise level of 89.3 dB L_{Amax} . Karts powered by a two stroke engine fitted with the manufacturer's standard exhaust will also be used, these karts have a measured noise level of 96 dB L_{Amax} . These noise levels are significantly lower than the maximum noise level allowed within the RAC / MSA guidance, which

allows the operation of karts that have a noise level of 108dB L_{Amax} . This higher figure is allowed under the previous permissions and by condition 5 of the permission granted in October 2013. In short, the karting facility would in future operate less powerful, quieter karts than those operated by the previous operator.

With 30 karts powered by the four stroke engine fitted with the manufacturer's standard exhaust operating at the same time, the noise level close to dwellings is predicted to be 42dB L_{Aeq} ; this is 4dB lower than the evening background noise level. With 20 karts powered by a two stroke engine fitted with the manufacturer's standard exhaust operating at the same time, the noise level is predicted to be 46dB L_{Aeq} , this is equivalent to the evening background noise level. The conclusion is that the operation of up to 30 four stroke karts at the same time, or up to 20 two stroke karts at the same time, would not result in a significant adverse noise impact at nearby dwellings.

The prospective operator anticipates the facility will not always operate the maximum number of karts. At times when fewer karts are in use the noise impact would be less than the predicted levels.

Both the Council's own Environmental Health Officer and those from Tamworth have visited the site with the applicant's noise consultants. They are satisfied the noise assessment submitted is a robust objective assessment of the noise likely to be experienced based on existing guidance and practice and both advise that subject to conditions to limit the type and number of karts appropriately, the proposal would not result in a significant loss of amenity for occupiers of nearby dwellings.

The previous planning permission is a material consideration here. This limits the number of karts in use at any one to a maximum of 12, but it allows the use of karts provided they comply with the RAC / MSA guidance on noise, i.e. with engine noise up to a maximum of 108dB L_{Amax} . The noise assessment submitted predicts that the noise impact at nearby dwellings when 12 karts with the higher engine noise of 108dB L_{Amax} are in use would be 56dB L_{Aeq} . This is higher than the background noise levels at midday (52dB L_{Aeq}) and in the evening (46 dB L_{Aeq}), and also the noise levels predicted with the increased numbers of quieter karts (42dB L_{Aeq} or 46dB L_{Aeq}).

The proposed four-stroke and two-stroke karts are significantly much quieter than the karts which can be operated under the previous permissions granted. The noise assessment concludes the use of quieter karts will not just offset additional noise due to the increase in the number of karts but will actually result in a less intrusive noise regime than would be experienced if the site were to be operated under the current existing permission.

Officers, Board Members and Tamworth Councillors visited the site on Wednesday 22 October. During this visit the proposed four stroke and two stroke karts were operated on the track and also the noisier karts which are allowed by the current permission and which could therefore continue to operate. An Environmental Health from Tamworth Borough Council undertook some limited noise monitoring at the time. The results confirm the predicted noise levels set out in the submitted noise assessment. At a position on the B5000 close to residential properties, the proposed quieter karts were not audible over the background noise and were not discernible within the measured noise. The noisier karts however could be heard at times. This was due in part to the greater loudness and in part to the different tonal quality of the sound emitted by these noisier karts. The Tamworth Officer's opinion is that the quieter karts operated over the extended track would be likely to result in fewer complaints.

The increase in the number of karts should therefore be balanced by the use of the quieter karts proposed. Overall the use of the quieter karts would result in a less intrusive noise regime than the noise regime that could result under the current permission. The use of karts that emit less noise can be secured by a condition attached to a new planning permission to require the operation of karts that do not exceed the measured levels, 90 dB L_{Amax} for four stroke engines and 96 dB L_{max} for two stroke engines, when measured in accordance with the RAC / MSA guidance. A further condition would facilitate monitoring of this by requiring the regular measurement of the noise emitted by karts being operated, in accordance with method set out in RAC/ MSA guidance, and the recording of measurements.

The predicted noise levels include a reduction of 5dB for the effect of the earth bund. This level of reduction is allowed for within the accepted methodology. Earth banks can be effective in reducing sound when they interrupt the "line of sight" between the source and the receptor. To ensure this requirement is met, details of the earth bank will be required to be submitted and approved prior to the commencement of the use. This can be secured by a condition

Other impacts

The increase in the number of karts implies that at times when 30 karts are in use there will be a greater number of visitors to the site. The permission granted previously for the extension to the karting circuit also permitted the provision of 35 parking spaces within the site. This is likely to be sufficient to meet the maximum demand, even if participants each arrive in their own vehicles this would result in 30 vehicles, 5 spaces will remain for staff vehicles. The existing vehicle access arrangement via Robeys Lane to the B5000 provides a safe vehicle access and additional vehicle movements associated with an increase in the number of visitors will not compromise this.

The development proposed will not have any adverse impact on the route of the public footpath which passes close to the site. This public right of way should remain accessible at all times

A Section 106 Agreement, similar to the one that accompanied the previous application, will be required to secure the restriction on the use of the adjoining land for temporary events at times when the karting facility is operating.

Recommendation

That, subject to the completion of an agreement under Section 106 to restrict the use of adjoining land, 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 block/site plan numbered 280512/21 and spoil bank (bund) calculations and cross sections received by the Local Planning Authority on 14 November 2012; the cross section drawing received by the Local Planning Authority on 15 June 2012 and the application site plan received on 17 February 2014.

REASON

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

3. No more than twenty karts shall be operated within the site at any one time. With the exception that at any time when all karts being operated are powered by a four stroke engine that complies with the noise limitation specified in condition 4, then no more than thirty karts shall be operated.. For this purpose, operated shall include racing, running generally on the track, or the running of engines whilst stationary or being repaired. No kart shall be operated other than on the track, pit area, holding area / parking area shown on the approved plans.

REASON

In the interest of amenity.

4. No kart shall be operated on the track or elsewhere within the site if the emitted noise exceeds 90dB L_{Amax} for a kart powered by a four stroke engine or 96dB L_{Amax} for a kart powered by a two stroke engine. The noise level shall be measured in accordance with the method for Sound Testing set out in in section 16.16 of the Motorsports Association Year book 2014, Part U Specific Regulations for Karting.

REASON

In the interest of amenity

5. No karts shall be operated other than between 0930 and 2100 hours Monday to Thursday; 1030 and 2030 hours Friday and Saturday; and 1030 and 1630 hours Sundays and Bank Holidays.

REASON

In the interest of amenity

6. No external lighting shall be illuminated after the expiry of a period of thirty minutes after the latest time specified within the hours of operation specified in condition 5.

REASON

In the interest of amenity

7. No external lighting shall be installed on the site unless details have first been submitted to and approved in writing by the Local Planning Authority

REASON

In the interest of amenity

8. The use hereby approved shall not commence unless an operational management plan has been submitted to and approved in writing by the Local Planning Authority. This shall detail the measures to be implemented to ensure the operational activities comply fully with the limitations set out in the conditions attached to this permission and the records to be maintained to verify compliance. The approved management plan shall be implemented at all times and the records shall be made available to the Local Planning Authority on request.

REASON

In the interest of amenity

9. The use hereby approved shall not commence unless details of the proposed earth bank, including its position, height, and width, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full.

REASON

In the interest of amenity

10. The use hereby approved shall not commence unless a planting scheme for the proposed earth bank and adjacent land within two metres of the base of the south west facing side of the proposed earth bank has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in the first available planting season following the completion of the bund and any trees or plants which, within a period of five years from the date of planting die, become seriously damaged or diseased, are removed or otherwise fail to become established, shall be replaced within the next planting season with others of a similar species.

REASON

In the interest of amenity

11. No external loud speaker or tannoy system shall be installed or used on the site unless details have first been submitted to and approved in writing by the Local Planning Authority.

REASON

In the interest of amenity

Notes

1. This permission is subject to provisions set out in a Planning Obligation completed as a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). You should ensure that you have copy of this and all other plans or documents that relate to this permission .
2. Public footpath T95 must remain open and available for public use at all times, it must not be obstructed by vehicles or by materials during any construction works. If it is necessary to close public footpath T95 for any length of time during construction then a Traffic Regulation Order will be required. Warwickshire County Council's Rights of Way team should be contacted well in advance to arrange this. Any disturbance or alteration to the surface of public footpath T95 requires the prior authorisation of Warwickshire County Council's Rights of Way team, as does the installation of any gate or other structure on the public footpath.
3. The Local Planning Authority has been proactive in seeking to improve the quality of the proposal and through negotiations to resolve planning issues, concerns and objections to achieve this positive outcome.

BACKGROUND PAPERS

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

Planning Application No: PAP/2014/0031

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	20/2/2014, 17/2/2014, 9/4/2014 & 4/6/2014
2	P Barney	Representation	27/4/2014
3	A Henderson	Representation	27/4/2014
4	D Thompson	Representation	27/4/2014
5	M Clarke	Representation	2/5/2014
6	B Tunnicliffe	Representation	7/5/2014 21/9/2014
7	A Madge	Representation	20/4/2014, 8/5/2014 & 18/5/2014 20/8/2014
8	C Pincher MP	Representation	6/5/2014 9/9/2014
9	Tamworth BC EHO	Consultation response	29/5/2014
10	NWBC EHO	Consultation response	2/6/2014
11	J Budge	Representation	23/4/2014
12	N Box	Representation	20/4/2014 9/9/2014
13	S E King	Representation	20/4/2014
14	H Jones	Representation	16/4/2014
15	D Cook	Representation	29/8/2014
16	C Beauchamp	Representation	4/9/2014
17	J Beauchamp	Representation	4/9/2014
18	D Todd	Representation	23/9/2014
19	P Tomkins	Representation	20/10/2014
20	A Henderson	Representation	23/10/2014
21	D & J Beckett	Representation	21/10/2014
22	Mr & Mrs Goddard	Representation	22/10/2014
23	M Franks	Representation	23/10/2014

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.



(2) Application No: PAP/2012/0301

Priory Farm Karting Circuit, Priory Farm, Robeys Lane, Alvecote, B78 1AR

Extension to existing track, relocation of holding area and creation of 2m high bund, for

Tamworth Karting Centre

Introduction

This item is reported to Members in light of the Board having originally determined the application.

Background

Since the Board resolved to grant permission subject to conditions and the completion of a Section 106 legal agreement, the applicant has highlighted a difficulty with one of the conditions attached to the recommendation at the February meeting. That report is attached at Appendix A (although reference should be made to the February Agenda for any Appendices to that report). The difficulty centres on the imposition of condition 6 and the hours of operation during the week. Alternatives have been discussed with the applicant and this is outlined more fully below.

Development Plan

Relevant policies are set out in the report at Appendix A.

Other Relevant Material Considerations

Other than those set out in the report at Appendix A, specific consideration here is given to Circular 11/95 which guides the use of conditions on planning permissions.

Consultations and Representations

In light of there being a potential change to the proposed conditions previously seen by third parties, a brief re-consultation (on this matter only) has been undertaken. Any representations will be reported verbally to the Board.

Observations

In preparing the report for the February Agenda, the applicant's agent was approached to see whether the applicant would be willing to reduce the hours of operation in a bid to be proactive and recognise the residents' concerns over noise. The applicant confirmed that some change could be accommodated, but it transpires that the proposed changes, as eventually set out in condition 6, were not seen by the applicant until after the February meeting due to a break down in communication.

As it stands, the Board has resolved to grant permission subject to the following hours of operation:

Monday to Friday	Saturday	Sunday and Bank Holidays
0930 to 1900	1030 to 1900	1030 to 1800

The current lawful situation is for the following hours of operation:

Monday to Friday	Saturday	Sunday and Bank Holidays
0930 to 2100	1030 to 2100	1030 to 2100

Members are reminded that should any permission here not be implemented, that the applicant may continue to lawfully operate during these hours. They would also be entitled to a right of appeal against any conditions attached to a decision, a matter which is touched upon again below.

The applicant has analysed their business records and established the periods of peak demand. Mondays through Thursdays most turn up after work or school, around 6pm. When accounting for preparation and safety briefing time, a 7pm finish would be unworkable. It is for this reason the existing 9pm finish time is still desired. On Fridays and Saturdays the applicant is willing finish at 8.30pm. More important however is the concession to reduce the hours of operation on Sunday to 10.30am to 4.30pm – a reduction from the present lawful use by 4½ hours. The revised proposed hours would thus be:

Monday to Thursday	Friday and Saturday	Sunday and Bank Holidays
0930 to 2100	1030 to 2030	1030 to 1630

The reduced hours on Sunday are considered significant. The applicant acknowledges that the quietest time for traffic on the B5000 is Sunday afternoon/evening. The concession here affords a considerable "break" from any noise for nearby residents. Indeed most of the limited complaints to the Tamworth Environmental Health officer are focussed around Sunday use. The changes to Fridays and Saturdays are also of merit. Members are reminded of the discussion pertaining to noise set out in the previous report, as well as the site visit undertaken. This established that noise is not a significant concern. In the context of there being very little noise impact on neighbours – an impact which cannot be substantiated as a formal nuisance in any case, and the proposed changes to the track and holding areas; it is considered that the proposed revisions to condition 6 should be supported – particularly in the light of guidance under Circular 11/95 (i.e. the condition must be necessary and reasonable) and the opportunity to appeal against unfavourable conditions.

Recommendation

That condition 6 of the proposed decision notice read:

6. No karts or mini-motorbikes shall be operated (in accordance with the definition under condition 3) other than between 0930 and 2100 hours Mondays to Thursdays, 1030 and 2030 Fridays and Saturdays, and 1030 and 1630 Sundays and Bank Holidays.

REASON

To prevent disturbance to the occupiers of nearby properties.

BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0301

Background Paper No	Author	Nature of Background Paper	Date
51	The Applicant	Email to Case Officer	13/02/2013
52	The Applicant	Email to Case Officer	18/02/2013

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.

(1) Application No: PAF/2012/0301

Priory Farm Karting Circuit, Priory Farm, Robeys Lane, Alvecote, B78 1AR

Extension to existing track, relocation of holding area and creation of 2m high bund, for

Tamworth Karting Centre

Introduction

This application is reported to Board following deferral of the item in December for a site visit; in recognition of the level of interest generated and there being a Section 106 agreement required.

The site and proposal descriptions, along with relevant background and policy considerations are outlined in the December report, attached at Appendix 1.

Consultations

The County Footpaths team acknowledge the changes made to the original plans so to avoid conflict with the public footpath (T95), and welcome general safety improvements which will also arise from the proposal. They therefore have no objection subject to the inclusion of informatives.

The Environmental Health Officer (EHO) notes that the Tamworth EHO would be better placed to comment on the application given any residents affected by the existing use would need to lodge complaints with them instead.

Tamworth Borough Council has liaised with their EHO and raises no objection to the amended proposal given the existing restrictions already in place at the track.

Shuttington Parish Council has not provided a response.

Representations

Site notices were erected in 5 different locations on the closest estate roads of the Stonydelph estate. Following the provision of addresses from Tamworth Borough Council, the closest residents on the same estate were consulted directly. 20 individual objections have been received, with a further 4 letters of concern but specifying a neutral opinion. A petition outlining 66 signatories against the proposal has also been received. 85 copies of a round robin letter raising objection have also been signed by individuals living on the estate. The MP for Tamworth has also written to confirm the concerns of a particular constituent, and the local Ward Member for Stonydelph has written to object. Collectively these representations raise the following concerns:

- That the extension will increase the level of noise already created by the track;
- There will be an increase in fumes arising from the use;
- The inclusion of a pit lane to the south-western edge could worsen the existing situation;
- That it will change the "status" of the track in a national setting, and the resulting impact on amenity and highway capacity;
- That existing footpaths are affected;

- That the need for additional safety marshals is not fully explained; and
- The impact on local wildlife

One objection notes that if the existing bank were increased in height and planted that they would have no objection any longer. A neutral representation reflects this approach suggesting acoustic fencing, whilst another suggests undertaking a noise assessment of the current usage to offer a comparison. Another objection suggests the hours of operation should be restricted. A number of objections allude to breaches of existing controls and conditions on the use of the track. Some objections also cite the effect on property value, but Members will be aware this is not a material planning consideration.

Amendments were also subject to reconsultation, and some objectors have written to re-assert their concerns.

Observations

As noted in the December report, the principle of this development is accepted as such a use would be wholly inappropriate within a settlement boundary potentially very close to residences. This site already carries an existing karting track and supporting facilities such that the extension needs to be adjacent to it. It is clear that the main concern for residents is the noise impact of the proposal, and the impact on the public footpath, visual amenity and highway impacts are also relevant. Following the site visit, Members will have a greater appreciation of such impacts.

(a) Noise and neighbouring amenity

The existing situation at the site is material here. This proposal cannot change the lawful status of the track and the ability to use it for up to 12 karts of certain engine types or mini-motorbikes (both subject to carrying silencers); nor can it alter the lawful hours of use which cover 0930 to 2100 hours Mondays to Fridays, and 1030 to 2100 hours at weekends and on Bank Holidays. In addition whilst the 1994 permission for lighting restricted its use to no later than 2200 hours daily, it did not specify the earliest time they could be used and, more importantly, as the lighting now remains on site and in use more than 10 years after the expiry of the 1994 permission, the presence and use of these lights is now without restriction. These factors offer a material "baseline" against which to assess the impacts of the development now proposed.

That development is solely an extension to the track. The applicant does not wish to vary the controls imposed on the use of the track and is happy for these to be carried through onto the extension. A fresh Section 106 agreement to incorporate the existing controls and extend them to the proposal is being prepared as part of this application. This point is highlighted to Members and will become important in assessing the likely impacts below. Indeed the applicant has also indicated a willingness to reduce the hours of operation, and this is reflected in the conditions below.

The Environmental Health officers for this Council and for Tamworth have been consulted on this proposal. Due to the manner in which Environmental Health legislation operates, any complaints regarding noise arising from the track must be dealt with by the Tamworth officer. It is material that no complaints have resulted in the finding of a statutory noise nuisance. It is also material that the number of complaints is relatively limited given the 20 years in which a track of some sort has been upon the land (over 15 years since it was a formal karting track). Furthermore

the acceptance of a Deed of Modification to the 1999 Section 106 to allow the number of karts to increase from 6 to 12 is a clear indication that the noise impacts have long been acceptable from an Environmental Health point of view. Ultimately the Tamworth officer notes that the B5000 and regular traffic upon, the distance between the track and residences, the existing and proposed bund, orientation of the track meaning a greater distance between the extended track and residences, and the nearby industrial estate all provide a context that noise disturbance from the proposal will be limited to a certain degree and other noise influences will "mask" the impacts somewhat. In short this is *not* a remotely rural site without any other physical features to aid noise diffusion. In the context of an already limited number of karts and existing controls on engine types, it is consequent that neither Environmental Health officer raises an objection to the proposal. This is a material factor in establishing whether a refusal could be sustained under local or national planning policy.

Notwithstanding this, further efforts have been made by the Case Officer to appreciate the actual impacts. An unannounced site visit was made on a Sunday in September following residents advising of which days brought about the "worst" noise impacts. Conditions were overcast with a reasonable east to west breeze, with rain towards the end of the visit. The officer began by standing on the estate side of the B5000 at the end of the cycle lane through the estate before crossing and standing in a field gate way onto the field to the south of the track. In both positions noise from traffic on the B5000 was more apparent, and even when karts could be heard from the gateway passing cars on the B5000 masked this noise which only tended to occur when karts turned the corner nearest the B5000. The noise observed was also of a "distant" nature. Whilst weather conditions could alter to carry noise towards residences, it must be equally noted that prevailing wind conditions would generally carry noise away from residences. The visit then proceeded into the site and to the aforementioned corner where noise levels were considerably higher for two reasons – (1) the use of the track at this point, and (2) the "holding area" for karts waiting to race. In terms of the latter some karts were sat with engines running and some revving whilst drivers/owners "tuned" the engine. Despite the upper allowance of 12 karts, only a maximum 8 were raced during any one of the races observed although a few were waiting with engines running. It was also noted that in-between races, traffic on the B5000 could be heard. Whilst this site visit represents just a "snap shot" in time, in accord with previous experience of this site and the Environmental Health officers' observations. The visit concluded with a walk around the northern roads on the Stonydelph estate as well as along the B5000 footway which is separated from the carriageway by a 2 metre high vegetated bund for much of its length. Here it was not possible to hear the karting activities.

A number of objectors raise comment that existing controls are being breached. These include earlier use of the track than permitted, use of the track by unpermitted vehicles and use of adjacent land for car boots. There is also some uncertainty as to how the operators are verifying that karts brought onto the site for use (which is allowed under the consent) meet the requirements of the Section 106 agreement. These were referred to the applicant for their clarification. In response they highlight that he only took control of the site in November 2010 so they have not been able to clarify on any historical matters. However they confirm that all new karts are checked to Motor Sports Association (MSA) requirements. They also state that since taking control of the site, they have employed a former Environmental Health officer and undertake regular checks on noise levels. The use of the adjacent land for car boots is permitted when karting activities are not taking place, and this appears to be the case. Any other potential breaches identified appear to be isolated and not material

to the effect of the controls imposed, such that they are not considered of sufficient weight to demonstrate that permission here would not be adhered to appropriately.

Turning to the specifics of this proposal and the applicants' approach to addressing concerns during the course of the application, there are key points which must be noted. Following the identification of a conflict with the public footpath (see below), the holding area is to be moved to the opposite side of the track (the north-east side). This will effectively eradicate noise impacts from the holding area with land being beyond a brow of the hill upon which the existing track lies. Noise breakout towards Stonydelph will thus be confined to that from the track and the extension. In helping to address this element of noise the existing 1.5 metre high bund along the south-west edge will be increased to 2 metres and extended at this height to reflect noise from the track extension. The applicant has also acknowledged that planting upon this bund could further help to diffuse noise.

In drawing all of the above considerations together, it is considered that the biggest and most material control over noise breakout remains unchanged – that is that imposed by the existing planning permission and 1999 Section 106 (both as amended). As noted these controls will be carried through to conditions and a fresh Section 106. The extension to the track does nothing to alter the "amount" of noise which can emanate from the existing or proposed track, and these controls can be carried forward. There is also a material improvement advanced by the applicant here – that is the moving of the holding area and the increase in the length and height of the bund. Indeed the offer to reduce hours of operation is again a very material factor, and a very much welcomed concession. This is considered to demonstrate a proactive and reasonable approach to achieving "good" planning and better relations with neighbours. It is for the above reasons that a refusal cannot be sustained.

(b) The public footpath

It became apparent during consultation on the originally submitted scheme that public footpath T95 crosses the site. This was queried by the landowner as he was of the opinion that the route had been extinguished when the continuation of that footpath within the confines of Staffordshire had been diverted towards the B5000 at the point the golf course was permitted. Indeed the route is not shown on the 1998 Definitive Map. However it transpires this was a drafting error, with the previous Definitive Map from 1991 (after the creation of the golf course) showing the route. The County Footpaths officer confirms they hold no records of a formal diversion or extinguishment of the route. As such the route remains a material planning consideration, although the exact position of it remains a matter to be confirmed in detail by the Footpaths officer.

The original scheme conflicted with this route, with the bunding and the existing holding area obstructing the legal route for ramblers. The applicant faced two options – (1) retain the original scheme and seek to divert or extinguish the footpath as part of the application, or (2) "design around the problem". The latter option has been chosen simply due to the likely significant delay in establishing a diversion or extinguishment Order as well as the uncertainty of even obtaining such an Order. This thus allows this application to be determined and the landowner can seek to address this matter at a later date without the time constraints imposed by a planning application. The revised scheme addresses these conflicts by removing any obstructions and safety risks. The holding area is completely moved with a new crash barrier erected on the southern corner (which may also help with reducing

noise breakout). The bund is designed to avoid this route with a small section proposed in a phased approach so to allow for either the existing or a diverted/extinguished route without compromising the noise deflection aims. Consequently there is not considered to be an obstruction of public access across the land.

(c) Visual amenity and landscape character

The proposal will lead to the creation for further hardstanding within open countryside as well as 2 metre high bunding. The impact of the hardstanding will be limited to surface level only and reflect existing hard surfaces around the site. The bunding will reflect that already existing and is not considered to be sufficiently intrusive to warrant refusal here – especially when it can be landscaped through condition. The phasing of the bunding is also acceptable with the visual impacts of either option indifferent. In terms of visual amenity and landscape character the impacts are considered acceptable.

(d) Highway capacity

Residents raise concern that the extension to the track will "elevate the status" of the track to a wider group of motorsport follows and participants. This may be the case to some degree as the track would be more attractive, especially for corporate bookings. However reference must be made to the existing controls on the use of the track. These prevent "off circuit" or competition racing with other clubs or organisations. This precludes the track from being used for race meetings as part of a larger "season" of meetings. As such by extending the existing controls, it would not be possible to elevate the status of the track to a point where major race meets would give rise to unacceptable highway impacts through creation of queues to the site. Indeed so far it seems that such congestion has only been caused by car boots on the adjacent land.

In summarising all the above considerations, given the existing and sustained controls the noise impacts are not considered to worsen under these proposals; whilst the proposed changes to the holding area and hours of operation, and the bunding are considered to materially improve the existing situation, whilst impacts on the public footpath, visual amenity and landscape character and highway safety are all considered acceptable or sustain the status quo.

Recommendation

That the application be **GRANTED** subject to the following conditions and the completion of a revised Section 106 legal agreement or Deed of Modification to reflect the current application, with the Heads of Terms of the latter framed around the existing agreement and delegated to the Head of Development Control:

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 block/site plan numbered 280512/21 and spoil bank (bund) calculations and cross sections received by the Local Planning Authority on 14 November 2012; and the cross section drawing received by the Local Planning Authority on 15 June 2012.

REASON

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

3. No more than twelve karts shall be operated on the wider site at any one time. For this purpose, "operated" shall include racing, running generally on the circuit, and the running of engines whilst stationary, irrespective of whether the karts are on the circuit, in the pits or whilst undergoing repair; and the "wider site" includes all the land encompassed by the blue line on the approved plan.

REASON

To protect the amenities of nearby residential property.

4. No "off circuit" nor competition racing with other clubs or organisations shall take place at any time.

REASON

In the interests of the amenities of the area.

5. No kart or mini motorbike shall be operated on the track or the site unless it conforms with the noise level requirements stipulated by the Royal Automotive Club Motorsports Association or their replacement organisation.

REASON

To protect the amenities of nearby residential property.

6. No Karts or mini-motorbikes shall be operated (in accordance with the definition under condition 3) other than between 0930 and 1900 hours Monday to Friday, and 1030 and 1900 Saturdays, and 1030 and 1800 Sundays and Bank Holidays.

REASON

To prevent disturbance to the occupiers of nearby properties.

7. The existing floodlights shall not be used except in accordance with the hours of operation specified in condition 6, and not more than 30 minutes before or after these times.

REASON

In the interests of the amenities of the area.

8. No further lighting or tannoys shall be placed or erected on the site.

REASON

In the interests of the amenities of the area.

9. Prior to development commencing, a management plan shall be submitted which outlines a working practice to regularly oversee, monitor, record and implement the controls set out under this permission and within the associated Section 106 agreement. The approved plan shall be implemented accordingly and records arising from its implementation be made available to the Local Planning Authority at all reasonable hours.

REASON

To enable appropriate control and monitoring of the use hereby approved.

10. Prior to development commencing, a landscaping scheme for the existing and proposed bunds shall be submitted to the Local Planning Authority for approval. The approved scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON

In the interests of the amenities of the area.

Notes

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), ENV1 (Landscape Character), ENV9 (Air Quality), ENV11 (Neighbour Amenities), ENV12 (Urban Design) and ENV14 (Access Design).
2. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal, and meetings and negotiations. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
3. This Decision Notice must be read in conjunction with a Planning Obligation completed under the terms of Section 106 of the Town and Country Planning Act 1990 (as amended). You are advised to satisfy yourself that you have all the relevant documentation.
4. Public footpath T95 must remain open and available for public use at all times, so must not be obstructed by vehicles or by materials during any construction

works. If it is necessary to close public footpath T95 for any length of time during construction then a Traffic Regulation Order will be required. Warwickshire County Council's Rights of Way team should be contacted well in advance to arrange this. Any disturbance or alteration to the surface of public footpath T95 requires the prior authorisation of Warwickshire County Council's Rights of Way team, as does the installation of any gate or other structure on the public footpath.

Justification

The proposal is not considered to intensify the existing noise breakout from the site, with appropriate controls possible to regulate the use and there being a material improvement offered here. The impacts on the public footpath, visual amenity, landscape character and highway safety are also considered acceptable. The proposal is therefore in accordance with saved policies Core Policy 2, ENV1, ENV9, ENV11, ENV12 and ENV14 of the North Warwickshire Local Plan 2006, and national policies as set out in 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/2012/0301

Background Paper No	Author	Nature of Background Paper	Date
46	County Footpaths Officer	Reconsultation reply	06/12/2012
47	Tamworth Borough Council	Reconsultation reply	06/12/2012
48	Applicant	Email to Case Officer	11/12/2012
49	County Footpaths Officer	Emails to Case Officer	18/12/2012
50	Alan Henderson	Representation	06/12/2012

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.

5) **Application No: PAP/2014/0413**

Barclay House, Kingsbury Road, Curdworth, B76 9EE

Application to remove condition 4 of PAP/2012/0577 relating to no takeaway service or over the counter sales, but to allow a “telephone delivery service” for

Mr Joynal Abdin - C/O Karam S Chana MCIAT, ACIOB

Introduction

This application is referred to the Board at the discretion of the Head of Development Control as the original application was dealt with by the Board and there is continued interest in the site by local Ward Members.

The Site

This is a former commercial property fronting the north side of the Kingsbury Road within an industrial estate. There are residential properties on the other side of the road some 70 metres away. This road is the subject of a 30mph speed limit. The general location is shown at Appendix A.

Background

Planning permission was granted in January 2013 for the change of use of these premises from a retail outlet to a restaurant. One of the conditions attached to the permission – number 4 – prohibits a take away service and over the counter sales. This permission was taken up and the restaurant is now trading. Concerns were expressed by local residents that condition 4 was apparently being breached. Following investigation this was found to be the case. As a consequence the applicant has applied to remove the condition such that he can continue.

Warwickshire County Council as Highway Authority is proposing a Traffic Regulation Order along this stretch of road prohibiting stopping on the verge or footpath.

The Proposals

The applicant seeks removal of the condition, but after some re-thinking asks that in its place he be permitted to run a telephone delivery service. A staff member would undertake this provision and use one of the staff car parking spaces at the rear of the building, as shown on the approved car parking and access layout at Appendix B.

Consultations

Warwickshire County Council as Highway Authority – No objection subject to conditions requiring only a telephone delivery service and that the approved access and car parking arrangements are carried out in full.

Environmental Health Officer – No objections

Representations

Curdworth Parish Council – Wishes to draw attention to the potential impact on traffic in the road which is very busy with many HGV's. There should be sufficient parking on the site too.

Two letters from local residents have been received objecting to the application referring to increased traffic on a busy and dangerous road; increased risk of accidents, insufficient parking due to the amount of business underway and impacts on residential property particularly from smells etc.

A letter from the occupier of the industrial unit at the rear of the site has objected on the grounds that increased traffic arising from a take-away would cause obstruction to his premises at the rear as he has an access adjoining the car park. The premises are already heavily used and cars are parked in his access way. He needs "free" access.

Development Plan

Saved policies of the North Warwickshire Local Plan 2006 – ENV11 (Neighbour Amenities), ENV14 (Access Design) and TPT6 (Vehicle Parking)

The North Warwickshire Core Strategy 2014 – NW10 (Development Considerations)

Observations

Planning permission exists here for a restaurant and that is the lawful use of the premises. This permission prohibits a take-away service or over the counter sales, in part to prevent unrestricted access onto the busy Kingsbury Road, and also to reduce the impact of additional "comings and goings" from the premises on nearby residential amenities. In place of a takeaway service the applicant is seeking consent to have a telephone delivery service whereby a member of staff would deliver orders and the staff member would use the staff car parking area at the rear of the premises as already permitted.

It is significant that the County Council does not object. It agrees that there will be some intensification of use here but considers that this would be immaterial because a member of staff would be delivering orders and there already is a dedicated car parking space available at the rear away from the general customer car park. He also considers that additional movements into and out of the site would be insignificant given the overall activity at the site permitted by the lawful use.

Given the view of the Highway Authority it is considered that this application can be supported.

If there are issues with the emissions from the extraction flues here then residents should contact the Borough's Environmental Health Officers. The applicant and the occupier at the rear should ensure together that the rear access way should be retained all times. The car park should therefore always be marked out correctly to ensure its efficient use.

Recommendation

That planning permission be granted subject to the following conditions:

- i) Standard Plan numbers condition – the Location Plan received on 7/8/14 and plan number 12/30/2E received on 26/6/13, and the flue details approved on 9/7/13

- ii) For the avoidance of doubt, this permission allows a telephone delivery service to operate but does not permit a takeaway service or “over the counter” sales from these premises.

Reason: In the interests of the amenities of the area

- iii) The restaurant hereby approved shall not be open for business other than between the hours of 1200 to 1400 hours (Mondays to Sundays – inclusive); 1700 to 2230 hours (Mondays to Thursdays – inclusive; Sundays and Bank Holidays) and 1700 to 2300 hours on Fridays and Saturdays. For the avoidance of doubt, “not open for business use” means that all customers have vacated the premises.

Reason: To prevent disturbance to the occupiers of nearby properties.

- iv) The residential unit above the restaurant hereby approved shall only be used incidentally to the ground floor use and shall not be used as a separate residential dwelling house whatsoever.

Reason: In the interests of the amenities of the area and the amenities of the occupiers of the unit.

- v) The facing bricks used shall be of the same type, texture and colour as those used on the existing building.

Reason: In the interests of the amenities of the area.

- vi) No additional opening shall be made other than as shown on the approved plan nor any approved opening altered or modified in any manner.

Reason: To protect the privacy of the occupiers of adjoining property.

- vii) Within four months of the date of the commencement of the use hereby granted, all of the details shown on the approved plan number 12/30/2E shall have been fully implemented to the written satisfaction of the Local Planning Authority. The parking and turning areas so laid out shall remain for this purpose alone and shall not be used for any other purpose whatsoever.

Reason: In the interests of highway safety

viii) Within four months of the date of this permission, the existing vehicular access shall be re-modelled in accordance with the approved plan 12/30/2E so that the dropped kerbing ends at the western edge of the proposed bollards fronting the site, and the public highway reinstated to the satisfaction in writing of the Local Planning Authority. Bollards shall not be erected within the limits of the highway

Reason: In the interests of highway safety

ix) Visibility splays measuring 2.4 by 120 metres shall be retained at the vehicular access of the site at all times

Reason: In the interests of highway safety

x) There shall be no indoor live music or outside music played at the site.

Reason: To protect the amenities of nearby residential property.

xi) The use of the building hereby approved shall only be used within Use Class A£ of the Town and Country Planning (Use Classes) Order 1987 as amended, and as defined by this permission, and for no other purpose whatsoever.

Reason: In order to recognise the particular circumstances of the case

Notes:

- i) The Local Planning Authority has met the requirements of the NPPF in this case by resolving objections with amended plans and seeking a balance between the interests concerned.
- ii) Standard Party Wall Act
- iii) Attention is drawn to Section 163 and 184 of the Highways Act 1980
- iv) Attention is drawn to the need to retain clear and unobstructed access to the premises at the rear of the site.

BACKGROUND PAPERS

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

Planning Application No: PAP/2014/0413

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	7/8/14
2	Case Officer	Letter	27/8/14
3	Agent	Letter	3/9/14
4	Case Officer	Email	4/9/14
5	Curdworth Parish Council	Representation	5/9/14
6	Mr and Mrs Simmons	Objection	1/9/14
7	Case Officer	Email	8/9/14
8	Agent	Letter	3/9/14
9	Mr Cumming and Mr Wigley	Objection	21/8/14
10	Agent	Letter	9/9/14
11	WCC	Email	15/9/14
12	WCC Highways	Consultation	15/9/14
13	Case Officer	Email	15/9/14
14	EHO	Consultation	17/9/14
15	Agent	Letter	16/9/14
16	J Renfrew	Objection	2/10/14
17	WCC	Consultation	20/10/14
18	Agent	Letter	23/10/14

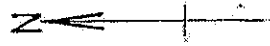
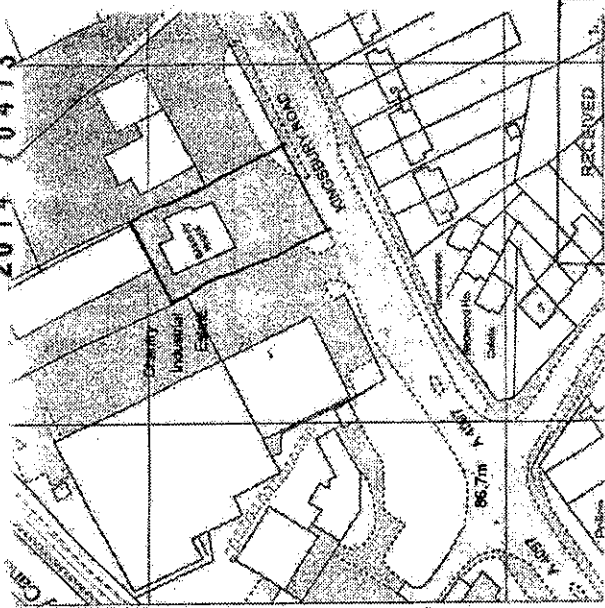
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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.





2014 (0413)



1:1250 th. Location Plan 07 AUG 2014

RECEIVED
 North Warwickshire
 Borough Council

1:1500 25m
 1:1250 62.5m



Client	MR J. ADRI
Project	BARCLAY HOUSE KINGSBURY ROAD CUNDORSTON, B76 9EE
Drawn by	BLOCK & LOCATION PLANS
Checked by	14-26-7
Date	AS SHOWN 08 AUG 2014
Author	Karam S. Chiana
Company	7 Brookridge Road Four Oaks Park Sutton Coldfield B74 9SB Tel: 0121 358 4324

1:500 th.
 Block Plan

6) Application No: PAP/2014/0483

Land East Of Grendon House Farm, Warton Lane, Grendon,

Development of solar photovoltaic panels including new access track (off existing farm track); temporary construction compound; double inverters; transfer station; collecting station; security fencing; CCTV cameras and poles; landscaping and associated works and infrastructure, for

Big 60 Million Ltd

Introduction

This application was reported to the Board at its October meeting when it resolved to visit the site and its surroundings. This has now taken place and the matter is referred back to the Board for determination. For the benefit of those Members not attending the visit, a collection of photographic montages will be available at the meeting illustrating the vantage points around the site, some of which were visited by Members.

A copy of the last report is attached at Appendix A for convenience as it describes the site and outlines the proposal in more detail together with its supporting documentation. It is not intended to repeat matters covered therein, but it should be treated as an integral part of this determination report.

Consultations

Hinckley and Bosworth Borough Council – No comments to make

East Midlands Airport – No safeguarding objection

Warwickshire County Council (Rights of Way) – No objection subject to notes being attached to any planning permission drawing attention to the footpaths across the site

Environmental Health Officer – No objection subject to conditions about construction working in view of the proximity to the two cottages located at the access drive to the farm

Warwickshire County Council as Highway Authority – No objection subject to conditions

Warwickshire Museum – No comments yet received

Representations

One representation has been received asking if the airports have been consulted.

Two letters of objection have been received. One is from the occupiers of Highfields Farm, the closest property to the site to the south west. The matters raised include:

- The development is not accompanied by sufficient information
- The Landscape Character will be detrimentally affected
- There is no cumulative assessment of impact

- The full range of impacts as described in the documentation is flawed. The precautionary principle should apply.

The second is from a resident of Sheepy Magna who resides just beyond the address referred to above. The following matters are raised:

- The farmer has in the past not shown care and consideration for the surrounding countryside
- This is the industrialisation of the countryside
- Walkers will be affected and there will be perimeter fencing
- There will be a visual impact
- The land will need time to recover after the panels have gone
- Where are the pylons to go?
- Concern about the airports.

The CPRE has objected on a number of grounds as outlined in its letter attached at Appendix B.

Applicant's Response

The letter from the CPRE and the objection from the residents of Highfields Farm were forwarded to the applicant for his comments, and these are attached at Appendices C and D.

Observations

a) Introduction

The application has to be considered against the Development Plan. As Members are aware this now constitutes two parts. Policy NW11 of the Core Strategy says that renewable energy projects will be supported where they respect the capacity and sensitivity of the landscape and communities to accommodate them. This would include both individual and cumulative impact on landscape quality, nature conservation, heritage assets, amenity and the local economy. This goes further than saved policy ENV10 of the 2006 Local Plan which says that renewable energy schemes will be supported where they do not have an unacceptable impact on the environment. Both of these policies are thus supportive in principle to the development being proposed here. The Core Strategy will carry more weight as it is up to date and has been found to accord with the National Planning Policy Framework – the “NPPF” – particularly Section 10. As such the application will be assessed against this policy.

The Core Strategy also has a policy – NW13 – referring to the natural environment. This requires the quality, character, diversity and local distinctiveness of the natural environment to be protected and enhanced. In particular development should respect landscape character.

The Government has also published National Planning Practice Guidance – “NPPG” – and there is a specific chapter in this on renewable energy projects. This explains that all communities have a responsibility to help increase the use and supply of green energy but it continues by saying that this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. The NPPG also includes a list of planning considerations which need to be addressed in respect of planning applications for ground mounted solar photovoltaic farms. In effect the list expands on the issues covered by Policy NW11 described above, and the report below will do so.

One of the objectors refers to the BRE National Solar Centre's 2013 document on planning guidance for large scale solar farms. This is a material consideration and it largely covers the same matters as the NPPG.

Given this background it is now proposed to address the various considerations covered by Policy NW11, the NPPG and the BRE document.

b) Landscape Character

The applicant has addressed this issue using the correct base-line, that is to say the North Warwickshire Landscape Character Appraisal. The site falls within the “Little Warton to Fields Farm Fen Lanes” and its general landscape characteristics are outlined in Appendix A. The issue is how well the proposal “fits” into the landscape here and would it materially affect the landscape character described as described in this Appraisal.

The overall landscape value of this landscape character is assessed as being of “medium” value as judged against a number of criteria such as whether it is protected; rare, of particular scenic value and its overall condition. It is agreed that this is an appropriate judgement. The applicant has selected eight vantage points from which to assess the impact of the proposal. Additionally cycle routes, roads, public footpaths and residential properties have all been included. In summary the applicant concludes that there would only be a limited number of public viewpoints where parts of the site would be visible – and at these locations the overall change to the landscape would be medium to small. However there would be a very high change for users of the footpaths that cross the site and those that are close by. In other words significant change would be limited to the immediate area in and around the site, and that the impact here would be major.

This overall conclusion is agreed. There are a number of reasons for this. Firstly the actual site itself is well located in that it is not on high ground and it fits in with the slopes of the undulating surrounding topography. This was evident from the site visit. Secondly, the area is relatively isolated from a public visibility point of view apart from public footpaths. Thirdly, the proposal comprises low-level development with a consistency of form and layout. Fourthly it would be for a period of 25 years. This might appear to be odd, but in landscape terms this is not a long time. Fifthly, there would be mitigation measures around the site – increasing the height of the perimeter hedgerows and new tree planting. Sixthly, views from the surrounding footpath network are limited because of intervening trees, hedgerows and buildings. Even on the higher ground to the north there would be low inter-visibility with the site. As a consequence it is not considered that there is a case here for refusal on landscape impact.

A number of matters need to be dealt with here as a consequence of the representations received. Firstly, the impact on users of the footpaths across and through the site will be transitory, not permanent. Secondly, Members will be aware that there is no "right to a view", but that the outlook from a property can be considered in overall residential amenity terms. Here the closest private houses are some distance away with low inter-visibility with the site. It is not considered that impacts will be so material to conclude that residential amenity will be "dominated" by the proposal. Thirdly, there will be an adverse visual impact arising from the construction compound. However this again will be transitory – some 12 weeks – as the land will be re-instated. Additionally, conditions can be attached to the grant of any planning permission to assist in mitigating potential adverse impacts. Fourthly, there is the overall issue about the "industrialisation" of the countryside. Members are reminded that planning applications should be determined on the basis of whether they accord with the Development Plan. The introduction to this section referred to policy NW11 of the Core Strategy. That supports renewable energy projects in principle where they respect the sensitivity of the landscape and the individual and cumulative landscape impacts have been assessed. This assessment has been undertaken and it is concluded that the development accords with this policy. That is not to say that the proposal would not be visible in some part in some locations. The issue is whether the development adversely affects the overall landscape character to such a degree that the landscape is changed. Finally, there is no cumulative impact to consider here as there are no other such solar developments in the locality – either built, committed or the subject of a current undetermined application.

As a consequence of these matters it is considered that this particular proposal does accord with Core Strategy policy NW11. As this policy is specifically directed to renewable energy projects as here, it is considered that it is the "lead" policy. It is accepted that there will be residual adverse landscape impacts arising from the development, and so the full terms of Core Strategy policy NW13 might not be engaged. However these are outweighed by the public benefit of the project and its overall low landscape impact.

c) Heritage Impact

Core Strategy policy NW11 refers to the need to assess heritage impacts and such an assessment is more fully explained in Core Strategy policy NW14.

The applicant's heritage assessment correctly identifies the existing assets around the site. In general terms it concludes that there would be no adverse impacts, with the impact on the character and appearance of the Orton Conservation Area perhaps being of most interest along with the settings of the two Listed Buildings of the Church in Orton and the New House Grange complex.

This overall assessment is agreed. In terms of the nearest Listed Buildings, then the New House Grange farm complex is 1.4 km to the north-east of the site. The applicant's appraisal describes the significance of this complex as being the relationship of the buildings with each other, the immediate agricultural landscape reflective of the former holdings of Merevale Abbey and the route-ways surrounding the complex. It is concluded that this would not be altered by the development. There would be some partial inter-visibility with the site but because of the presence of intervening modern agricultural buildings there would only be minimal impact on the setting.

The Church of St Edith in Orton is prominent and views of it contribute to the significance of the asset. There are however no views of the site from the Church itself at ground level. Due to the low-lying nature of the site and the position of the Church the proposed development will not impact on views towards the Church tower from south of the application site. Overall there is not considered to be an adverse impact.

It is agreed that the setting of the Orton Conservation is also of interest. Whilst the site is at a lower level than that of the Conservation Area, the most likely impact would be on views out of that Area. However because of the high degree of intervening vegetation surrounding buildings in Orton-on-the-Hill along hedgerows and roads, views of the site are highly screened. It is agreed that there would be very little adverse impact, with the character and appearance of that Area remaining unaffected.

Given these conclusions it is not considered that the development would adversely impact on the significance of heritage assets to warrant refusal under Core Strategy policies NW11 and 14.

d) Ecology

Core Strategy Policy NW11 refers to nature conservation impacts and policy NW15 of the Core Strategy assists here.

The applicant concludes that there would be no demonstrable impact or displacement of habitat of flora and fauna but that the enhancement proposals would be of benefit. This overall conclusion is agreed based on the evidence submitted. However one of the objectors has raised a number of criticisms of this evidence. These revolve around three issues. Firstly, it is said that a full protected species of the potential area of influence has not been undertaken – eg the water bodies within 250 metres of the site, and buildings where bats could be present. The applicant's response to this is attached at Appendix C. This sets out the procedures adopted and the reasons for doing so. These are all proportionate to the scope and nature of the proposal as well as to the nature of the habitats surveyed and the habitats available in the locality. The response also details the reasoning behind the survey work undertaken for newts and bats, referring to relevant evidential matters consistent with each species. This approach is reasonable and within the terms of current practice and procedure. Secondly, there was criticism of the timing of survey work. The applicant's response is that the surveys were all undertaken within relevant guidance and within the optimum period of habitat based assessments. The applicant considers that they are thus robust and representative. Finally there is criticism that no further ecology surveys are recommended. The applicant's response is that the work undertaken meets legislative requirements and policy guidelines following accepted standard best practice.

The content of this response is accepted as it aligns with current best practice. There is no evidence available to suggest that the ecology conclusions are invalid.

e) Traffic Impacts

The traffic generated by the development once operational would be minimal. It is thus perhaps only really necessary to assess the impact of the construction period. This however would be only for a short time – 12 weeks – and involve direct access to Warton Lane and the B5000. HGV movement would be at its highest in the initial set up period - 25 movements a day reducing to some 15 a day thereafter. The Highway Authority has no objection.

f) Flood Impacts

The findings of the applicant's assessment are agreed. The site is almost wholly within Flood Zone One and the development is not of a nature or design to limit or restrict flood waters. Moreover a number of new attenuation measures are being proposed.

g) Agricultural Land

The present NPPG says that solar farms should be encouraged on brown field land or non-agricultural land. However where they are proposed on greenfield land then lower grade land should be used; there should be continued agricultural use made of the land and that bio-diversity improvements need to be incorporated around the solar arrays. These criteria are met here. Moreover there is no previously developed land in close proximity to the site or land within the lower grades 4 and 5. Whilst the CPRE refer to potential new guidance, the current application has to be determined under the existing guidance available.

h) Other Matters

As can be seen above there is no objection from the East Midland Airport and neither is there concern from the Council's Environmental Health Officer or the Highway Authority's Public Rights of Way team. The perimeter fence would be located within the site boundary behind existing hedgerows which would be allowed to grow up to around 3 metres. There will be no additional pylons as the electricity connection will be made underground to the existing overhead lines which cross the farm access track just off Warton Lane.

Conclusions

Overall it is considered that the application can be supported as it accords with policy NW11 of the Core Strategy which itself accords with the NPPF and NPPG. There is not considered to be a planning consideration here of such weight to significantly or demonstrably lead to an adverse impact.

It is noteworthy that the number of objections is low and that the local Parish Councils have not submitted objections.

Recommendation

That subject to no objections being received from the Warwickshire Museum, planning permission be granted subject to the following conditions:

Defining Conditions

- i) Standard Three year condition
- ii) Standard Plan Numbers – the Location Plan and plan numbers PO2/SP/A; P17/AT/A, P16/CS/2A, CCTV 2 Cameras, CCTV 1 Camera, P03/CC/A, P06/SA/A, P12/PC/A, P13/PE/A, P15/MB/A, P11/SC/A, P04/DI/A, P07/TS/A, P14/DNO/A, P08/CS1/A, P09/CT/A and CE/GH0737/DWO3c/Final all received on 11/9/14.

iii) Within 25 years following the development hereby permitted being brought into use (that date being notified to the Local Planning Authority in writing within 7 days of it occurring), or within 12 months of the cessation of electricity generation by the development hereby permitted (that date being notified to the Local Planning Authority in writing within 7 days of it occurring) whichever is the sooner, the solar PV panels, racking, electrical control cabinets, substations, fencing and all associated structures hereby permitted shall be dismantled and removed from the site. The site shall be decommissioned and restored to agricultural use in accordance with a Decommissioning Method Statement approved under condition (vii).

Reason: In order to define the limits of the planning permission

iv) There shall be no construction work whatsoever undertaken, including any delivery to the site of construction materials, other than between 0800 and 1800 hours during weekdays and between 0800 and 1300 hours on Saturdays with no work on Sundays and Bank Holidays.

Reason: In the interests of the residential amenity of nearby residents.

v) The Rating Level LArTr (to include the 5dB characteristic penalty) of the noise emanating from the approved scheme shall be at least 5dB below the measured background noise level at any time at the curtilage of any noise-sensitive properties lawfully existing at the date of this planning permission. The LArTr and the background noise level (LA90) shall be determined in advance with the Local Planning Authority in writing, and shall be calculated in accordance with the guidance and methodology set out in BS4142:1997.

Reason: To reduce the risk of noise pollution.

vi) Following the commencement of the operational use of the site, the whole of the construction compound shall be permanently removed and the site fully re-instated for agricultural purposes.

Reason: In the interests of the visual amenities of the area.

Pre- Commencement Conditions

vii) The development hereby permitted shall not be commenced until a Decommissioning Method Statement has been submitted to and approved in writing by the Local Planning Authority. It shall include the timing of the decommissioning of all, or part, of the solar farm if it ceases to be operational, along with measures and a timetable for their completion to secure the removal of PV panels, plant, fencing and equipment,. Decommissioning shall be carried out in accordance with the approved Statement and its details.

Reason: In order to ensure the proper removal of the development upon cessation of the permission.

viii) No development shall commence on site until full details of the landscaping measures proposed, together with the bio-diversity enhancements to be introduced, have first been submitted to and approved in writing by the Local Planning Authority.

Only the approved details shall then be implemented on the site.

Reason: In the interests of the visual amenities of the area and to enhance bio-diversity

ix) No development shall commence on site until full details of the surface water drainage attenuation measures to be introduced 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 reducing the risk of flooding.

x) No development whatsoever shall commence on site until such time as details of all lighting for the site and the construction compound have first been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall then be implemented on site.

Reason: In the interests of the visual and residential amenities of the area.

xi) No development shall commence on site whatsoever until such time as noise levels have been agreed in writing by the Local Planning Authority for the operation and use of the construction compound during its use within the hours permitted by condition (iv) above.

Reason: In the interests of reducing noise pollution.

xii) No development shall commence on site until measures to repair the existing vehicular access have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety

xiii) No development shall commence on site until measures to minimise /prevent the spread of extraneous material on the highway have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety

Pre-Operation Condition

xiv) The development hereby permitted shall not be brought into use for electricity generation purposes until such time as the details approved under conditions (viii) and (ix) have first been fully implemented on site to the written satisfaction of the Local Planning Authority.

Reason: In the interests of the reducing any adverse impacts

On-Going Conditions

xiii) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying the Order) no fixed plant or machinery, buildings, structures and erections or private ways shall be erected, extended, installed, rearranged, replaced, repaired or altered at the site without prior planning permission in writing from the Local Planning Authority.

Reason: In the interests of the amenities of the area.

together with conditions as recommended by the Warwickshire Museum

Notes:

- i) The Local Planning Authority has met the requirements of the NPPF in this case through pre-application discussion and by ensuring that there has been continued dialogue as a consequence of consultation responses.
- ii) Public Footpath AE13 must remain open and available for public use at all times unless closed by legal order, so must not be obstructed by parked vehicles or materials during construction.
- iii) If it is necessary to temporarily close AE13 for any length of time during construction, then a Traffic Regulation Order will be required from the Warwickshire County Council.
- iv) Any disturbance to the surface of AE13 will require prior notification and approval by the County Council, as does the installation of any gate or other structure on the path.
- v) Attention is drawn to Sections 149, 151, 163 and 184 of the Highways Act 1980. The Highway Area Team can be contacted on 01926 412515.

BACKGROUND PAPERS

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

Planning Application No: PAP/2014/0483

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	11/9/14
2	Hinckley and Bosworth Borough Council	Consultation	23/9/14
3	East Midlands Airport	Consultation	1/10/14
4	M Wilson	Representation	2/10/14
5	Mr and Mrs Miles	Objection	6/10/14
6	Mr and Mrs Bennett	Objection	9/10/14
7	Warwickshire Rights of Way	Consultation	8/10/14
8	Case Officer	Letter	14/10/14
9	EHO	Consultation	14/10/14
10	Applicant	Email	14/10/14
11	CPRE	Objection	27/10/14
12	Applicant	Letter	27/10/14
13	WCC Highways	Consultation	29/10/14
14	Applicant	Email	30/10/14

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

Application No: PAP/2014/0483

Land East Of Grendon House Farm, Warton Lane, Grendon,

Development of solar photovoltaic panels including new access track (off existing farm track); temporary construction compound; double inverters; transfer station; collecting station; security fencing; CCTV cameras and poles; landscaping and associated works and infrastructure, for

Big 60 Million Ltd

Introduction

This application is reported to the Board at this time for information alone. It describes the site, the nature of the application and sets out the planning policy background.

The appropriate Agencies have been consulted and neighbour notification letters have been circulated, including the Parishes that adjoin the Borough in Hinckley and Bosworth.

The Site

In short this covers two fields, amounting to 32 hectares in extent, to the east of Grendon House Farm off Warton Lane about 750 metres north of its junction with the B5000.

The Farm itself stands well back from Warton Lane – some 500 metres – and is accessed directly from that Lane via a long drive. The farm itself comprises the farm house together with ranges of farm buildings within close proximity of each other to the north and west. There are two cottages on the side of the access track and other dispersed dwellings and farmsteads along the B5000 and Warton Lane – ranging from 600 metres to over a kilometre away. The area is open countryside in appearance and characterised by large arable fields. There are hedgerows and hedgerow trees, particularly along the road sides. There is not a substantial copse or woodland cover and hedgerows around the farm itself have been removed.

The land here generally rises away from Warton Lane towards the north east and there is a more marked incline to the north of the farm up towards Orton-on-the-Hill. The farmstead itself however does stand on a small "island" of higher ground, such that the site is on lower ground. There is around a 6 to 7 metre height difference across the site as a whole.

The two fields the subject of the application, are both surrounded by existing mature hedgerows with an occasional hedgerow tree.

A small stream runs to the west of the site and there is a ditch alongside the access drive.

A public footpath – the AE13 – crosses diagonally north-west/south-east through the more southern of the two fields, connecting to the local footpath network throughout the area around the farm.

The site's general location is illustrated at Appendix A.

Background

Many of the buildings at the farm benefit from planning permissions for business uses.

The Proposals

a) Description

This is for a solar array with an overall area of 32 hectares contained within two existing fields - together with a variety of ancillary operational developments. A layout of the array is provided at Appendix B.

There would be a temporary construction compound occupying around 3600 square metres of land within a further field to the south-west. This would provide the base for the construction of the array which would be fully installed in around 12 weeks. It is located close to the access drive and would be re-instated to its former agricultural use following the construction period. All vehicular access for construction would be via the B5000 and Warton Lane, utilising the existing drive over its first half but latterly a new 6 metre wide permeably surfaced drive would be created parallel to but adjoining that track over its last 300 metres.

The solar panels would amount to some 1028 modules with an overall 154,200 individual panels, generating some 14.6 MW of electricity. These arrays would not wholly follow the ground contours but the whole array would vary between 2500 and 2700 mm above ground. The maximum height would be 1500 mm with a tilt angle of 15 degrees. The rows would be placed between 3 and 6 metres apart to avoid shading and to take account of winter sun heights and the actual ground topography. They would be south facing.

A number of ancillary operational developments are required – transfer stations; invertors, transformers, collecting stations, meter boxes and cameras. These are to be generally located at the south west corner of the site, but the cameras would be located around the perimeter as would a security fence within the field boundary hedgerows. Appendix B again illustrates their various locations. It also shows that the existing route of the public footpath across the site would be retained, but that would be fenced for security reasons.

Existing hedgerows would be allowed to grow to between 2.5 and 3 metres tall and there would be new land drainage swales introduced around the site to enhance bio-diversity. The land beneath the arrays would be grassed enabling sheep grazing.

No staff would be employed on the site and access would only be required for maintenance and security reasons.

The whole facility would have a 25 year life.

b) Community Benefits

The applicant states that it is a "Community Benefit Energy Company" and will provide the opportunity for residents to benefit from solar farms. The applicant seeks to "open" the investment it has made to residents by offering Solar Bonds specific to each project for £60 each marketing them at first to local residents. They are said to offer a fixed rate return based on the economics of each project – typically 5 to 7% (before tax) paid each year for five years when options can be reviewed. The applicant says that he also offers environmental benefits through enhancing bio-diversity through planting and landscaping, as well as educational benefits by opening up the development to school parties.

Supporting Documentation

A significant amount of supporting documentation has been submitted by the applicant. Summaries of their content are provided below.

a) Planning, Design and Access Statement

This describes the site and sets out the detail of the proposed array and its associated operational developments. It also identifies the relevant planning policies at both local and national level and summarises the more detailed reports that accompany the application. It particularly highlights the national need for renewable energy sources. Many of the documents it refers to are referenced in the "Other Material Planning Considerations" section below. It concludes by saying that the proposal in the applicant's view would not cause significant or demonstrable adverse impacts and being a sustainable development should be supported.

b) Agricultural Land

This report describes survey work undertaken throughout the two fields looking at soils, sub-strata and natural land drainage. This shows that the top soils are medium clay loam over a heavy clay upper subsoil and a slowly permeable clay lower subsoil. As a consequence drainage is imperfect leading to a mixed classification of grades 3a (28%) and 3b (72%) depending on the depth of the underlying clay. The proposal would have very little disturbance overall on the soils and the site would be returned to agricultural use in the same state as existing after the 25 years.

c) Flood Risk Assessment

The majority of the application site is in Flood Zone 1 (low risk), however a very small part is in Flood Zone 3 because of the proximity of an adjacent stream. The assessment concludes that if only one array is removed, the whole site would be in Zone 1. The access road is in Zone 1 and thus the risks are low. As a consequence the site is considered to be safe from fluvial flooding. The development itself has such a small proportion of hard surfacing that the assessment concludes that surface water flooding consequential to the development is very unlikely. The perimeter swales will assist

drainage and capture surface water. Overall the assessment concludes that there would not be adverse flooding consequences.

d) Ecology Report

There is a designated site – an SSSI – about 1.6 kilometres from the site at Birches Barn Meadow, but otherwise there are no recognised statutory or non-statutorily recognised wildlife sites within two kilometres of the site, but there are fourteen potential local wildlife sites within that radius. The site itself is arable farmland with hedgerows, a wet ditch and occasional trees. Overall these habitats were found to offer low ecological interest and diversity, but with some connectivity to the wider landscape. There were limited opportunities for a wide range of bird species but bat foraging “corridors” are likely here. The habitat was found to be “sub-optimal” for badgers, otters, voles, reptiles or amphibians. The proposals are therefore unlikely to have any demonstrable impact or displacement, but proposed enhancement measures would considerably increase the ecological potential of this site.

e) Landscape and Visual Assessment

There are no statutory or non-statutory landscape designations affecting the site or its environs. The site and the surrounding area are within the “Little Warton to Fields Farm-Fen Lanes” section of North Warwickshire’s Landscape Character Assessment. This describes the character as being “flat, open arable landscapes with large rectilinear field patterns under intensive cultivation, scattered farmsteads, hedgerow field boundaries with frequent ditches and low tree cover, a relatively unsettled peaceful and quiet landscape, but with subtle variations in landform allowing local views across open arable fields”. The north and eastern boundaries of the site are very close to the administrative area of Hinckley and Bosworth Borough Council. Its landscape here is defined as being the “Fen Lanes” area and the main characteristics are generally consistent with those described above. The applicant’s assessment concludes that the overall landscape is of “medium value” and with a medium sensitivity to change. A total of eight vantage points around the site were used in order to assess likely landscape change as a consequence of the development. Whilst the introduction of the arrays would inevitably have an immediate local impact particularly on users of the footpath, their low level, visual consistency and the low inter-visibility would not alter the overall landscape framework. Overall the report concludes that the landscape has the capacity to accommodate the scale of the development with only very localised landscape and visual effects. The eight vantage points include the junction of the B5000 with Warton Lane; Orton Lane on the south side of Warton, three points around the site boundary itself including the footpath crossing the site and three points on footpaths to the north and east, two being south of Orton on the Hill.

f) Cultural Heritage

There are no designated sites or assets on the application itself but there are three scheduled monuments; one Grade 1 Listed Building; three Grade 2 star Listed Buildings and ten Grade 2 Listed Buildings within a two kilometre radius of the site. The Monuments are a medieval moated site at Pinwall; the New House Grange farm complex to the east, and the old Grendon bridge. The Grade 1 building is the Church at Orton on the Hill. The grade 2 star buildings are All Saints Church, Church Farmhouse and Lower Farm. The historic landscape context of the site is considered to be of limited

heritage value. There is considered to be some potential for underground prehistoric, Roman and mediaeval heritage assets, but because of the limited amount of ground disturbance arising from the development there would be a limited impact on any buried archaeology and there is no evidence that such remains would be of such significance to preclude the development. The Assessment also concludes that the settings of the respective heritage buildings would not be altered largely as a consequence of distance, there being no inter-visibility, the low height of the development and it not being within the most sensitive part of the building's setting. In respect of Conservation Areas then the closest are at Orton, Twycross, Polesworth and Atherstone. The latter three would be unaffected because of there being no lines of sight to the application area. The Orton Area is about 1.6 km to the north-east and the land here does slope towards the site. However because of the density of vegetation, built development alongside roads and field boundaries views to the site are screened and limited to first floor windows of property on its south-western edge. There would thus no adverse impact on the setting of this Area.

g) Construction Traffic

The proposed routes and means of access were described above with the existing farm drive providing access over the majority of its length with the final section using a new track to the construction compound and to the site adjoining that drive. Construction would take place between 0700 and 1900 during the week and 0700 to 1300 on Saturdays and no Sunday working. There great majority of HGV movements would be associated with the construction and the estimated pattern would be the initial set up over two weeks (270 movements); the construction over ten weeks (860 movements) and completion over the final week (170 movements). The proposed HGV route is from the A5 Merevale roundabout through Holly Lane and onto the Atherstone Road to Pinwall and thence to the site. Construction staff will arrive by car or mini-bus.

h) Statement of Community Involvement

In advance of submission, the applicant held a public information day in July at Grendon Community Centre. Residents close to the site were notified (106 addresses), and it was also advertised in the Parish Newsletter. 22 people attended the event and 16 forms were completed. 15 of these indicated support. The one not doing so cited "potential countryside impact" as the reason.

Development Plan

The North Warwickshire Core Strategy 2014 – Policies NW8 (Sustainable Development); NW9 (Renewable Energy and Energy Efficiency), NW10 (Quality of Development), NW11 (Natural and Historic Environment) and NW13 (Green Infrastructure).

Saved Policies of the North Warwickshire Local Plan 2006 – ENV10 (Energy Generation and Energy Conservation); ENV11 (Neighbour Amenities), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Conservation), ENV16 (Listed Buildings) and ECON8 (Farm Diversification)

Other Material Planning Considerations

The National Planning Policy Framework 2012

National Planning Practice Guidance 2014

UK Solar PV Strategy Parts 1 and 2

National Policy Statement EN1: Overarching National Policy Statement for Energy 2011

The BRE National Solar Centre "Planning Guidance for the development of large scale ground mounted solar PV systems" 2013.

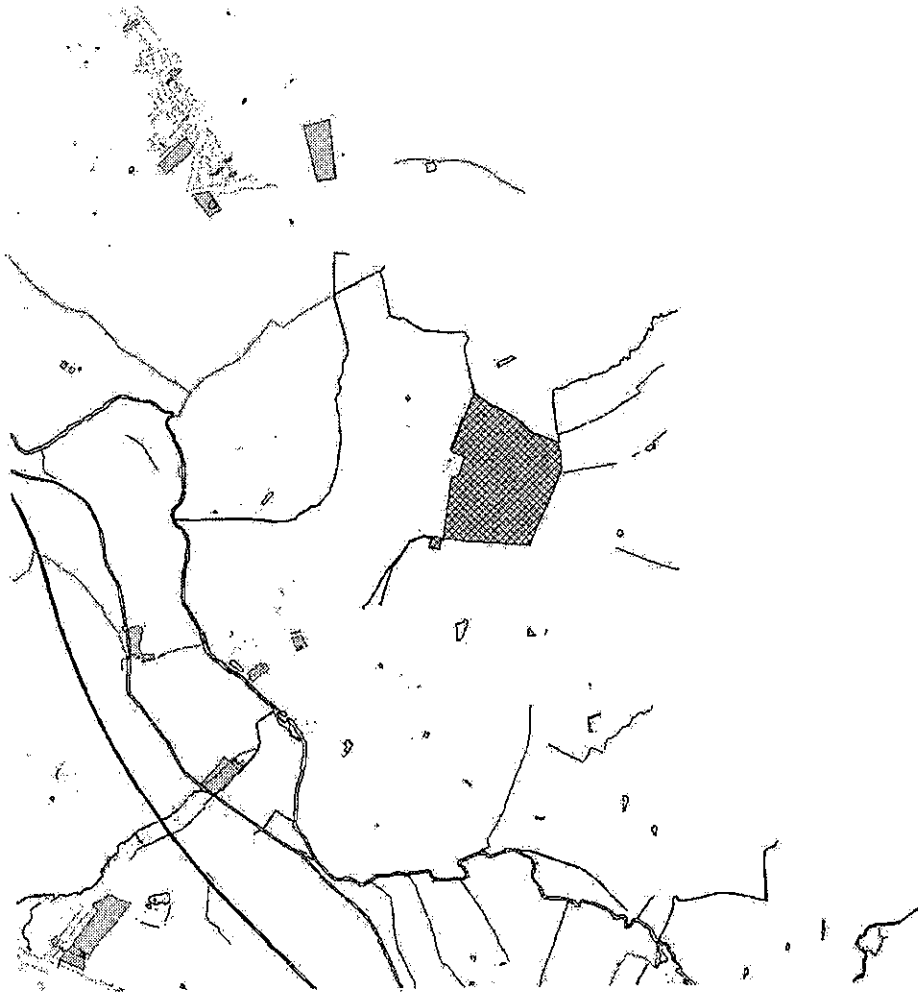
Observations

The Development Plan has policies encouraging renewable energy development as well as policies protecting landscape character. National policies too are significant in both of these respects. The main issue here will be to balance the development within their context. As such the impact on landscape character and the associated visual impact will feature heavily in that assessment. The supporting documentation shows the need to explore a number of other planning considerations, all of which will have to be weighted in the final balance of issues. The responses from the various consultations will be important in this respect. Because of the site's proximity to the Hinckley and Bosworth Borough Council area, neighbour consultations have also been widened to include property to the east of the site as well as to those Parish Councils bordering the common administrative boundary.

As the impact on landscape character and the visual effects are central to this case, it is recommended that Members visit the site before determination, as well as visiting some of the vantage points in the surrounding area.

Recommendation

That receipt of the application be noted and that Members visit the site and its surrounding area prior to the determination of the application.



Allen, Jeanette

From: Judy Vero <secretary@atherstonecivicsociety.co.uk>
 Sent: 27 October 2014 10:22
 To: planappconsult
 Cc: Brown, Jeff
 Subject: PAP/2014/0483: Land East of Grendon House Farm, Warton Lane, Grendon

For the attention of Jeff Brown

PAP/2014/0483: Land East of Grendon House Farm, Warton Lane, Grendon –Development of solar photovoltaic panels including new access track (off existing farm track); temporary construction compound; double inverters; transfer station; collecting station; security fencing; CCTV cameras and poles; landscaping and associated works and infrastructure

We wish to register a strong objection to this proposal on the grounds that it is contrary to Core Strategy Policy NW11 which requires renewable energy projects to 'respect the capacity and sensitivity of the landscape and communities to accommodate them.'

Policy NW11 goes to say that '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 local economy.' In our view this proposal fails to satisfy any of these criteria.

The NPPF, at paragraph, 97 suggests that areas for renewable energy development should be identified in local plans, though this is with the proviso that 'adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts.' The proposed site has not been identified in the Core Strategy and would have significant visual impacts. It is clear therefore that there is no support for this proposal in the NPPF.

What is proposed is, in fact, an industrial development of 32 hectares in open countryside with all the infrastructure that one would expect on an industrial estate – service buildings and installations, CCTV with poles and security fencing. The site is less than five kilometres from Birch Coppice, over 100 hectares of warehousing of which almost half has been taken from agricultural land. Change of use in the countryside is already beginning to diminish agricultural as the major land use.

On such an open site it would be impossible to disguise the presence of 32 hectares of solar panels. The Applicant's Environmental Report admits that of eight Viewpoints, seven are assessed as of 'High Sensitivity' and only one of 'Medium Sensitivity.' This is not a remote countryside area, far from habitation or settlements and the urban nature of the development would be felt very keenly in the neighbourhood. Furthermore the development would have a visual impact on historic sites, such as New House Grange with its Grade II* Barn. No longer would it be possible to enjoy a country walk as the development would be visible from footpaths in the area.

The Government has now recognised the damage to the landscape done by solar farms, and in an announcement made on 19 October 2015, Environment Secretary, Elizabeth Truss, said that English farmland is some of the best in the world and she wanted 'to see it dedicated to growing quality food and crops.' She did 'not want to see its productive potential wasted and its appearance blighted by solar farms. Farming is what our farms are for and it is what keep our landscape beautiful.'

The application site is in agricultural use and the 32 hectares would be lost to food production. The Government is to scrap farming subsidies for solar fields, and planning rules are to be amended to ensure that 'whenever possible solar installations are not put in fields that could be used for farming.' Furthermore, renewable energy subsidies for new large-scale solar farms are to be ended in April. Instead, the Minister said, 'solar panels should be placed on the 250,000 hectares of south-facing commercial rooftops where they will not compromise the success of our agricultural industry.'

One local farmer has placed solar panels on the roof of a new barn, which is far less obtrusive than ground-based panels. Some of the new houses in Rowlands Way, Atherstone also have solar roof panels. It is our view that this is the way to increase the supply of renewable energy and not through damaging the visual amenity of the countryside, which is so precious to all of us, especially urban-living visitors who need the countryside as a place of recreation.

We respectfully urge the Council to refuse this planning application.

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

27th October 2014

savills

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Dear Mr Brown,

**PROPOSED SOLAR FARM
 GRENDON HOUSE FARM, GRENDON, ATHERSTONE**

Thank you for your email with the attached letter of objection from Mr and Mrs Miles.

We respectfully acknowledge their comments and concerns. However, to avoid any confusion, we clarify the following issues.

Introduction / planning issues

- The letter states that the submitted reports 'do not contain an assessment of the cumulative effect of the various developments that have already occurred on this property along with the proposed development of a Solar Farm'. Reference is drawn to Planning Guidance (KN5524)

KN5524 is the BRE guidance document 'Planning guidance for the development of large scale ground mounted solar PV systems' which, our client, Belectric, has endorsed. However, that document explains that a cumulative assessment is specific to the potential impact from other (nearby) solar farm proposals, either existing or approved developments. There are no solar schemes within a 5km radius of the site. The landowner's present farming activities / building operations do not have any significance to this cumulative assessment of other solar schemes.

- Reference is made to the 'precautionary principle' which if applied would mean the scheme would be rejected.

Excluding the use of the 'precautionary approach' for telecommunication developments, we are unsure as to what principle Mr and Mrs Miles are referring to? From a planning perspective, the 'Precautionary Principle' was incorporated into the 1992 Rio Declaration on Environment and Development, promoting the use of renewable technologies such as solar energy stating that, "Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

Landscape character and visual issues

- Concern is raised regarding issues about the visibility of the development from Orion Hill Conservation Area.

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The theoretical visibility from Orton Hill Conservation Area was identified by the Zone of Theoretical Visibility (ZTV) which is a computer generated desktop (theoretical) calculation that does not include the screening afforded by built development and vegetation, other than the main woodland blocks. A ZTV therefore requires verification in the field and this was carried out from a number of publicly accessible locations within the Conservation Area as part of the site assessment, as summarised at paragraph 4.38 of the LVIA – in particular:

The land within the Conservation Area slopes southwestwards towards the Site which would indicate that there could be views to the Site, however in reality due to the density of vegetation surrounding built development along field boundaries and roads, views to the Site are predicted to be screened.

There is no contradiction between theoretical visibility of the Proposed Development as illustrated on the Zone of Theoretical Visibility (ZTV) at Figure 4.1 and Notable landscape and visual effects, as defined by a Zone of Primary Visibility (ZPV) on Figure 4.2. This is because theoretical visibility determined at desktop stage is different from Notable effects, which are judged following the field assessment, as defined at paragraphs 4.12 and 4.13 of the LVIA report respectively.

- Requested provision of photomontages from the Orton Hill Conservation Area.

In response, given that following the field assessment, no views of the Site or Proposed Development are predicted from the designation, this would not be a proportionate approach in accordance with best practice guidance 'Guidelines for Landscape and Visual Impact Assessment' (3rd Edition 2013). As stated at paragraph 4.7 of the LVIA, the guidance states at paragraph 1.20 that "judgement needs to be exercised at all stages in terms of the scale of the investigation that is appropriate and proportional". It also states at paragraph 3.16 of the GLVIA: "the level of detail provided should be that which is reasonably required to assess the likely significant effects".

- Issues about the visual amenity effects during Construction.

The temporary construction compound is not predicted to be widely visible from Highfields Farm due to the mature vegetation screening along the western boundary. However, any theoretical glimpses e.g. from upper floor windows would not result in Notable visual effects; as the whole construction process across the Site itself would not be visible due to intervening mature tree screening, which is where the greatest visual impact during the construction period would occur.

- Raised issues about the effects on views from private dwellings.

The response considers that it 'is essential that a full detailed assessment of visual impact on residential receptors is undertaken in order to inform the Planning Authority'. We disagree on the basis that intervisibility was assessed from nearby public locations and by looking from the Site back towards properties which was sufficient to predict the likely significant effects. Highfields Farm does not fall within the Zone of Primary visibility as a combination of intervening barns and mature tree cover restricts visibility of the Proposed Development (see 4.94 of the LVIA).

Council Officers, during their site visit, would be able to verify this assessment without visiting Highfields Farm by looking back at the dwelling from the public footpath and the highest points on the site in the vicinity of Grendon House Farm.

The letter states that they are surprised that the assessment can determine some residential properties to be a 'high sensitivity receptor' whilst others are 'medium sensitivity receptors'. This does not imply, as claimed that individual residents can be more or less sensitive to visual impacts than their neighbours. As explained at para 4.127 the sensitivity of private views from dwellings at Grendon House Farm are High from ground floor rooms and medium from upper floor rooms, assumed to be bedrooms. This is consistent with the methodology at Appendix 4.2 and best practice guidance where at paragraph 6.36 of GLVIA3 it recognises the particular sensitivity of rooms normally occupied in waking or daylight hours.



Compliance with Local Policy

- The contents consider that the scheme is contrary to the key saved Local Plan policies. In particular: site selection / alternative site analysis (Policy ENV1); industrialisation of the landscape (Policy ENV10); effect from the 'security provisions in the scheme and along the boundaries of the development area of concern' (Policy ENV11); and potential adverse impact on the siting of the Conservation Area (Policy ENV15).

In our opinion, the Planning, Design and Access Statement (Chapter 3 – p.27 - 33) provides a comprehensive analysis and response to each of the listed, 'saved' policies. However, with regard to Policy ENV1, we can not find any reference to 'by careful site selection' as suggested by the letter. Notwithstanding, this consideration is fundamental to the scheme's progression and we reiterate that the submitted Soils and Agricultural Use and Quality Report surveyed the site and showed that it comprises 72% Grade 3b (and 28% Grade 3a). The scheme will not adversely impact on the best and most versatile agricultural land. We refer to the enclosed appeal decision, at Burthy Farm (appeal reference: APP/D0840/A/14/2212340), where the Inspector determined that the proposed solar farm's temporary 25 year lifespan would not lead to the permanent loss of agriculture, at a site which similarly consisted of Grades 3a and Grade 3b land:

The appeal proposal is for a period of 25 years and can be conditioned accordingly. Thereafter it would revert to agricultural use. While not necessarily a short period in human terms, it would not amount to a permanent loss. In taking account of the economic and other benefits of the best and most versatile agricultural land, as I am required to do by Framework paragraph 112, I do not therefore consider that there would be any conflict with national planning policy in this regard' (para 22).

However, for means of completeness, an Alternative Agricultural Land Availability Report has been completed and submitted to the Council. That report concludes that there is no previously developed land in close proximity or no lower quality Grade 4 agricultural land or lowest quality Grade 5 agricultural land available.

With regard to Policy ENV10, we believe that these concerns regarding landscape impact is overstated.

With regard to Policy ENV11, we note and understand security concerns. We draw attention to the Planning, Design and Access Statement (Chapter 5, Design Principles – p.45) we explains that the use of CCTV cameras are designed to 'provide coverage along the site boundaries, and the cameras would not therefore point away from the site'. Further to that information, we are happy to address any other specific query regarding the CCTV camera design and operation.

Ecology issues

In response the letter, Avian Ecology's reply is appended.

Aviation issues

- Concerns are raised about the provision of supporting information to address the Civil Aviation Authority development from Orton Hill Conservation Area.

As part of the application process, we note that the Council has consulted East Midlands Airport. In response, they have confirmed no objections to the scheme.

I hope this addresses each of the comments raised in this letter and demonstrates our client's preparation of a scheme which, as far as possible, reduces possible impacts on the environment. Should you have any queries please do not hesitate to contact me.



Yours sincerely

A handwritten signature in black ink, appearing to read "Phil Holdcroft", written over a horizontal line.

Phil Holdcroft
Associate Director
Savills

Enc: Avian Ecology
Appeal decision - Land at Burthorpe Farm, Summercourt, Newquay TR8 5BN

CC: Mike Rogers Boeletic
Jo Stark Savills

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24th October 2014

Site name: Atherstone Solar Farm

Application No. PAP/2015/0483

Introduction

This statement responds to the comments made in the letter (dated 6th October 2014) with the respect to the Objection & Concerns Regarding PAP/2015/0483 Application for Solar Farm at Grendon House Farm, Warton Lane, Grendon. This statement addresses those comments made in relation to the Ecology Report (Section 5); the three main areas of concern are;

- 1) Protected species;
- 2) Timing of survey; and,
- 3) Requirement for further ecological survey.

Protected Species

Comment:

A full protected species survey of the potential 'Area of Influence' of the development has not been undertaken. For example, all water bodies within 250m of the site boundary have not been surveyed nor have adjoining properties / trees etc. where bat roost sites could be present. Therefore, the potential presence of protected species requiring licences etc. for undertaking of the works cannot be established. Neither can potential impacts on species which are protected under legislation (both national and European) be sufficiently determined. This is considered if applying the 'Precautionary Principle' to mean the Planning Authority can either reject or cannot determine this application.

Applicant Response:

Amphibians and Waterbodies

Two ponds were identified within 250m of the application site; one of which (referred to as P1) was subject to a Habitat Suitability Index (HSI) assessment for great crested newts (identified as being of 'poor' suitability for great crested newt). The second pond was located approximately 200m north of the application site under different land ownership and was therefore not accessed. A 'Reasonable Avoidance Measures' (RAMs) approach was considered appropriate; this is a perfectly common and fully acceptable approach designed to minimise the potential for adverse effects on newt populations or indeed individual animals. We have adopted this approach for numerous solar farm developments across the England and Wales to the full satisfaction of regulators and nature conservation organisations.

Survey work serves as a mechanism to establish potential impacts upon the protected species, but is not an end in itself. Provided the extent to which a protected species might be affected by a development can be confidently established by the planning authority on the basis of the information available, then the requirement for further survey work would become redundant.

Furthermore, appropriate avoidance measures, as implemented here, are an established way of negating adverse effects and remaining compliant to relevant legislation and planning policy.

For clarity, we are aware that ponds are present in the surrounding landscape (with two ponds identified within 250m of the application site) and this was given consideration when determining the potential for adverse impacts on great crested newts. The simple presence of a pond does not mean that surveys are required; rather it depends on the nature of the development, construction methods and the quality of terrestrial habitats around the ponds (and connectivity between features).

High quality great crested newt habitat should provide (1) permanent areas of refuge habitat for shelter in the more extreme weather conditions (i.e. drought in summer and freezing in winter), (2) daytime refuges, (3) foraging opportunities, and (4) dispersal opportunities. Permanent refuge habitat can be accommodated by ground cover of various kinds such as rough grassland, scrub and woodland. For hibernation, amphibians seek locations that afford them protection; including underground crevices, tree root systems, mammal burrows and rubble piles (Langton *et al*, 2001).

The arable land within the application site does not offer most of the above habitat requirements and is therefore considered to offer sub-optimal for amphibians. Arable land typically supports few if any refuges and the poor invertebrate diversity provide poor foraging habitat. In some cases, intensively managed farmland can result in a barrier to dispersal (Langton *et al*, 2001). The field margins and habitat (e.g. woodland and tall ruderal vegetation) outside the application site are more likely to be used by amphibians and provide both improved foraging opportunities and places of shelter. While the arable land may occasionally be used by individual newts while foraging during the active period (typically between March to October); habitats such as woodland, tall ruderal vegetation and hedgerows are likely to be used all year round in favour of habitats within the main body of the site.

The footprint (i.e. the panel supports) of a solar farm requires only a very small percentage of the total development land take (typically less than 4%). The construction of solar farms is also of low impact, does not require large excavations or movements of earth and the construction phase are typically short and usually complete within 13 weeks. Subsequently the potential for adverse impacts is restricted to a low level of short-term effects on low quality newt habitat and the RAMs approach included in the application is clearly appropriate. This is in accordance with Natural England guidance, which also states *'although great crested newts can disperse over 1km from breeding ponds, the probability of an offence outside the core breeding and resting area (generally considered to 50m-100m from breeding ponds) is acknowledged to be very small and even if an offence takes place, the effect on populations is likely to be negligible.*

It is therefore concluded that no further surveys are required to both inform the ecological appraisal or additional mitigation above that already proposed. The proposed habitat enhancement including the reversion of arable land to grassland, native hedgerow planting will undoubtedly result in a net gain locally for amphibians.

Bats and Roost Potential

No detailed surveys of nearby properties or adjacent trees were undertaken as the proposed development will not impact these features and there are no risk bats being disturbed as a result of the proposed development.

As part of the extended Phase 1 habitat survey, boundary trees were subject to an initial scoping exercise to assess roost potential. During the scoping survey, three mature oak trees were identified

as Category 2 trees. Category 2 trees are classified on the basis 'that they have no obvious potential, although the size and age mean that elevated surveys may result in cracks or crevices being found; or the tree supports some features which may have limited potential to support bats' (Hündt, 2012). Following guidance published by the Bat Conservation Trust, there is no requirement to undertake further surveys on Category 2 trees even where these are to be affected by arboricultural works (it is recommended that trees may be felled taking reasonable avoidance measures).

The proposed habitat enhancement including the reversion of arable land to grassland, native hedgerow planting the inclusion of bat boxes will result in a net gain locally for bats both in terms of foraging and roost opportunities.

Timing of survey

Comment:

The survey was undertaken during one season and given the lack of water at that point cannot be robustly considered to represent the full picture of the biodiversity present on the site and within the area.

Applicant Response:

All surveys were completed with reference to relevant guidance (e.g. JNCC, 2010 and Hündt, 2012) and were undertaken within the optimum period of undertaken habitat based assessments (April to September); whilst it is acknowledged any survey records just a 'snapshot' of time, it is intended to provide an overview to inform a planning application. It is considered that the survey provides both a robust and representative baseline on which to base such an appraisal.

Requirement for further ecological survey

Comment:

We consider further ecological surveys are required before the application can be determined.

Applicant Response:

It is considered that the level of detail provided within the Ecology report (Section 5) is sufficient to allow the Local Planning Authority and their ecological advisers to confidently determine the application. It is also in full accordance with legislative requirements and policy guidelines. The appraisal discusses the extent to which a protected species might be affected by the development and presents mitigation measures where relevant to avoid impacts on both habitats and species. Furthermore, the application throughout adopts standard best practice approaches, recognised mitigation and biodiversity enhancement measures and so is considered to be fully robust.



Appeal Decision

Site visit made on 5 August 2014

by **Brian Cook BA (Hons) DipTP MRTPI**

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

Decision date: 30 September 2014

Appeal Ref: APP/D0840/A/14/2212340

Land at Burthy Farm, Summercourt, Newquay TR8 5BN

- 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 Elgin Energy EsCo Ltd against the decision of Cornwall Council.
 - The application Ref PA13/05983, dated 3 July 2013, was refused by notice dated 29 October 2013.
 - The development proposed is installation of photovoltaic power-plant including: photovoltaic panels, electrical substation, inverter stations, pole-mounted CCTV cameras, security fencing and other ancillary works.
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of photovoltaic power-plant including: photovoltaic panels, electrical substation, inverter stations, pole-mounted CCTV cameras, security fencing and other ancillary works at Land at Burthy Farm, Summercourt, Newquay TR8 5BN in accordance with the terms of the application, Ref PA13/05983, dated 3 July 2013, and the plans submitted with it, subject to the following conditions set out in the Schedule at Appendix A.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Policy

3. Section 10 of the National Planning Policy Framework (the Framework) is very supportive of the delivery of renewable and low carbon energy and associated infrastructure saying that this is central to the economic, social and environmental dimensions of sustainable development (paragraph 93). Local planning authorities are asked to consider identifying suitable areas for renewable and low carbon energy sources where this would help secure the development of such sources (paragraph 97, 3rd bullet). Framework paragraph 98 confirms that applicants do not need to show an overall need for renewable or low carbon energy and further confirms that local planning authorities (and by extension the Secretary of State on appeal) should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions (1st bullet). It also says that applications should, unless other material considerations indicate otherwise, be approved if the impacts are or can be made to be acceptable.

4. However, a balance needs to be struck between the effects on, for example, sensitive landscape and visual receptors and the benefits of the proposed development. This is a theme of the Framework where paragraph 6 confirms that what amounts to sustainable development is set out in the Framework as a whole.
5. This balance has been further confirmed by the Minister in the statement accompanying the publication on-line of the Planning Practice Guidance on 6 March 2014 and in a further statement in the House on 9 April 2014 by the Secretary of State. He confirmed that in publishing the Planning Practice Guidance the coalition Government was making it clear that the need for renewable energy does not automatically override environmental protections and the planning concerns of local communities.
6. The Framework, the Planning Practice Guidance and the two ministerial statements referred to are material considerations to which I attribute very substantial weight in the determination of this appeal.
7. Saved policy 10 of the Restormel Borough Council Local Plan (LP) adopted in 1999 is cited in the second reason for refusal. The supporting text to the policy does not refer at all to photovoltaic (PV) energy proposals. However, the policy itself refers to renewable energy proposals and, while PV schemes are not mentioned in criterion (2), the inclusion of the term 'such as' indicates that the list is not exhaustive. Given the generally permissive wording and the inclusion of clear reference to the benefits of renewable energy proposals being taken into account in applying the policy, I see no inconsistency between it and the Framework policy.
8. The Council published the Cornwall Local Plan Pre-submission document in March 2013. There is nothing in the evidence to say what, if any, progress has been made since. Draft Policy 15 addresses Renewable and Low Carbon Energy. It is a criteria-based policy setting stringent conditions only in respect of development proposals in or adjacent to Areas of Outstanding Natural Beauty and the undeveloped coast. The supporting text states that a supplementary planning document will be formally progressed to accompany the Local Plan. The implication of the text is that this document is '*An assessment of the landscape sensitivity to on-shore wind energy and large scale photovoltaic development in Cornwall*' 2011 prepared by Land Use Consultants (LUC). It is not clear what 'formally progressed' means since such documents are not subject to examination under the 2004 Act regime.
9. The LUC document provides for each of the landscape character areas (LCA) identified an overall assessment of landscape sensitivity to wind energy and solar PV development with a landscape strategy put forward to guide decision-making for each type of renewable energy scheme.
10. From the evidence before me it is not apparent that the LUC document is intended to be drawn into any policy in the emerging Local Plan. While I give some weight to the sensitivity assessments made within it, in the circumstances described, I consider that very limited weight should be attributed to the landscape strategy since, as it stands, there seems to be no mechanism for this to be subject to independent examination. In addition, following the guidance in Framework paragraph 216, I give very limited weight to the emerging Cornwall Local Plan since it is at a very early stage towards adoption.

Main Issues

11. From my reading of the evidence and my inspection of the site and the wider area within which it sits I consider the main issues to be the effect that the development would have on:
- (a) the landscape character and visual amenity of the area; and
 - (b) the best and most versatile agricultural land.

Reasons

The effect on the landscape character and visual amenity of the area

12. The appeal site lies on the boundary of two LCAs, Newlyn Downs (CA14) and St Austell or Hensbarrow China Clay Area (CA17). The bulk of the site is within CA14. It comprises six fields with a total area of about 24 hectares. These slope generally towards the west or south west and are typically laid to pasture or arable. They are bounded and divided by Cornish hedges and trees and much of the surrounding area exhibits similar uses and landscape features. Generally to the east, the spoil heaps associated with the China Clay workings are prominent and indeed there is an Aggregates Industries site quite close by. While these provide a backdrop to the appeal development in some views, the appeal site is more typical of the landscape character of CA14 than it is of CA17.
13. The proposal would introduce a 10MW solar PV power plant into these fields comprising static PV panels, a sub station, 10 inverter stations, security (deer) fencing some 2.4m in height with four pole-mounted passive infra-red technology cameras standing a maximum of 3m high at certain points. The PV panels would be mounted onto racks, angled at some 25° and orientated in a southerly direction. They would be dark blue/black in colour and would be coated in anti-reflective material. The arrays would be about 6m apart to avoid any shadowing of one by another and to allow access between them. Their maximum height would be some 2.4 to 2.8m above ground level.
14. The appellant's zone of theoretical visibility map reveals that the appeal proposal would be visible from a relatively limited area. Indeed, the predicted zone of visual influence, which is based on topography, landscape and built form, shows that, for the most part it extends for little more than 1km. Visual influence to the south would be even more limited which is important since this is the direction from which the 'face-on' view of the arrays would be available.
15. The arrays would be installed into each of the six fields and entirely contained by the existing field boundary hedging which would be unaltered save for some additional planting to close a gap now there. Access to each field would be via existing gateways so no hedgerows would be removed. There would be no change therefore to the basic landscape structure.
16. Although there would be a change in character from agriculture to one that would be a mix of agriculture (assuming the sheep grazing suggested goes ahead) and energy/industrial use, that would not be readily apparent in close views (such as those from adjoining highways) because the development would be largely obscured by boundary and field hedges. The change would be limited to the appeal site itself and, in my opinion, although of some direct local significance, would be appreciated only from the limited number of higher ground views.

17. The land generally falls away from the higher ground which is broadly to the east. The arrays would be aligned across the contours in order to face south. The view of the development that would be presented would therefore vary and would mostly include views of the rear and side of the arrays with the upper parts of the fields being the most prominent. The associated buildings are small-scale and would generally be tucked close to the hedgerows so as not to compromise the effectiveness of the installation. From my inspection of the area I would agree with the appellant's assessment that it is from Seaview Terrace that the greatest visual impact would be experienced. These are however private views and limited in number with any publicly available view from the highway being largely obscured by the few residential properties and hedgerows. Views across the appeal development from other places, as indicated by the representative viewpoints, would be limited. As the report to the Strategic Planning Committee acknowledges the intervisibility and thus the cumulative impact of the appeal proposal and the other nearby solar farms is very limited.
18. I have also considered the extent to which any glint or glare might exacerbate the visual impact by drawing the eye to the proposed development. The appellant's assessment, which the Council does not dispute, indicates that glare would not be an issue and that glint would be experienced at the studied receptors for a very few minutes only early morning or early evening (but not both) on not more than 200 (and typically considerably fewer) days in any one year. The modelling does not account for any screening by vegetation or buildings and thus represents a theoretical worst case rather than the likely actual position. In my view, attention would not be drawn to the arrays by any glint from them.
19. For the reasons set out I do not consider that the limited discernable effect that there would be on landscape character and visual amenity as a result of either the development itself or the appeal proposal in combination with the other solar farms nearby would amount to the substantial harm necessary to cause a conflict with LP policy 10. In any event, this policy deals only with effects on designated and protected landscapes and the countryside generally and does not address visual amenity. As stated in the Policy section above, it also requires regard to be had to the benefits of renewable energy proposals. These are set out in Government policy and summarised above. On this issue I consider that any harm would be outweighed by the contribution that there would be to national energy and climate change policies. This reinforces my conclusion that there would be no conflict with LP policy 10 and to the extent that a policy addressing general design matters is relevant to this issue, LP policy 6.

The effect on the best and most versatile agricultural land

20. The appellant has submitted detailed evidence about the condition of the land both to the Council prior to determination and at appeal responding to the first reason for refusal. The Council does not dispute the evidence that while the appeal site is a mix of grade 3a and grade 3b land, the difference between the two in this case is marginal at 2% less clay content. However, the appellant asserts that because the agricultural land quality does not follow the field boundaries exactly, for all practical purposes the land is farmed as if it were grade 3b.

21. However, that does not appear consistent with plan KCC2 in the 'Agricultural Considerations' report submitted by the appellant at appeal. This shows that two of the fields that would house the arrays are almost wholly grade 3a with only two of the remaining four being wholly grade 3b. The Council's evidence is that it is the grade 3a fields that have been typically laid to arable crops.
22. The appeal site would not go wholly out of agricultural use if, as contended by the appellant, sheep grazed the grass that would grow between the arrays. There is though no certainty that this would occur and no mechanism to ensure that it would. Nevertheless, even if this did not occur, the appeal proposal would not lead to any permanent loss of agricultural land irrespective of quality. The appeal proposal is for a period of 25 years and can be conditioned accordingly. Thereafter it would revert to agricultural use. While not necessarily a short period in human terms, it would not amount to a permanent loss. In taking account of the economic and other benefits of the best and most versatile agricultural land, as I am required to do by Framework paragraph 112, I do not therefore consider that there would be any conflict with national planning policy in this regard. The Council does not cite any conflict with its Renewable Energy Planning Guidance Note 2. A note at the outset of that explains that it has no statutory status pending the adoption of the Council's Core Strategy (*sic*) and confirms that the weight to be afforded to it in reaching decisions on planning applications is therefore limited.

Other matters

23. The second reason for refusal reflects a concern expressed by members of the local community and the Council's own landscape officer that the landscape is approaching or has reached its capacity to absorb energy developments. It is argued that the number and type of such developments are beginning to define the character of the area which is becoming over industrialised. Others have argued that there should be a pause pending the resolution of these matters through the emerging local plan. The appellant asserts with reference to paragraph 40 of the *Planning Practice Guidance for Renewable and Low Carbon Energy* (July 2013) that this misunderstands how cumulative impact should be assessed. There it is stated that cumulative impact may arise where two or more of the same type of renewable energy development would be visible from the same point or in sequence. The appellant points out that the reason for refusal considers the cumulative impact from both PV schemes and wind turbines.
24. Visually, I consider that in this area the eye is drawn to the number of wind turbines, partly because of the size of some, partly because the blades are turning and the movement attracts the eye and partly because it these that have come to dominate parts of the expansive landscape that can be appreciated from the open areas and through-routes such as the A30. If anything, I believe the turbines deflect the attention from the far less prominent solar arrays and thus the extent to which they make any contribution to a change in the landscape character. In my judgement, the visual impact of the existing solar arrays and that proposed in this appeal would also be limited in such a context of visual competition.
25. Turning briefly to the capacity point raised, this is not a matter that is addressed in the landscape strategy part of the LUC document. I have explained above why I give no weight to these LCA strategies. However, it

seems to me that they require a case-by-case judgement to be made in accordance with the criteria set out and do not indicate that there is a finite capacity for CA14.

26. Several references have been made to an overall constraint on the capacity of the grid to accept further power from renewable energy schemes. However, while the grid management company has not commented there is no evidence before me to support that contention.
27. St Enoder Parish Council suggests that a community benefit in the sum of £7,000 has been offered and that an obligation under s106 of the principal Act has been entered into to secure this. The Council required some amendments to this to broaden the way that the benefit might be used by the Parish Council. However, I have not been provided with any such obligation in either the original or amended form and can therefore give no weight to this in my determination of the appeal.

Conditions

28. The Council has suggested a number of conditions which I have considered in the light of the Planning Practice Guidance. I consider all to meet the tests set out although the wording of some has been amended for clarity. In addition to the standard commencement condition and one to confirm the approved plans a number of others are necessary to control various matters.
29. A number of matters need to be secured before development takes place. These include a programme of archaeological work in view of the potential for buried features of significance and full details of the exact location and external appearance of the ancillary structures to be provided. A number of conditions are suggested for the period of construction and decommissioning to control noise at occupied residential dwellings, the hours when activities may take place and the way traffic will be managed. All are required to protect the living conditions of nearby occupiers of properties. For similar reasons a condition is required to control noise during the operation of the development although I shall omit the caveat proposed first as it seems unnecessary and, second, as it is not clear as drafted what level it relates to since there is no '*' in the condition itself.
30. It is important that the landscape and ecological mitigation plan and the sustainable urban drainage scheme are both implemented as submitted since these have been taken into account in concluding that those matters are satisfactorily addressed. Any rights to carry out development without the need for express planning permission conferred by the Town and Country Planning (General Permitted Development) Order 1995 as amended should only be removed by condition where it is justified to do so. In this case I believe it is since the uncontrolled development of additional structures, buildings and plant and machinery could have an unacceptable impact on the landscape character of the area.
31. Finally, it is important to bring the development to an end and to secure the removal of all the installed equipment either at the end of the 25 year period for which planning permission is sought or the cessation of electricity generation if that is sooner. It is also necessary for a decommissioning method statement to be approved. I agree that this should be submitted and approved prior to the commencement of the development in case electricity generation

ends over part or the whole of the site before the 25 year period. However, although not specified within the condition, I believe that the approved scheme should allow for a review as good practice could develop over what could be a lengthy period before the scheme is implemented.

Conclusions

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

Brian Cook

Inspector

APPENDIX A: SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 180/001 Rev A; 180/002; proposed 03; 152/02 LEMP; and 152/03 FENCING.
- 3) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
 - i) The programme and methodology of site investigation and recording;
 - ii) The programme for post investigation assessment;
 - iii) Provision to be made for analysis of site investigation and recording;
 - iv) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) Provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) Nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

No development shall take place other than in accordance with the WSI. The development shall not be used for the commercial production of electricity until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved WSI and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

- 4) The Rating Level LArTr (to include the 5 dB characteristic penalty) of the noise emanating from the approved scheme shall be at least 5 dB below the measured background noise level at any time at the curtilage of any noise-sensitive properties lawfully existing at the date of this planning permission. The LArTr and the background noise level (LA90) shall be determined in accordance with the guidance and methodology set out in BS4142: 1997.
- 5) The submitted Landscape and Ecological Mitigation Plan (October 2013) and its associated drawing (152/02) shall be implemented in full in accordance with the approved timetable and shall thereafter be maintained in accordance with the management plan for the duration of the development hereby permitted. In the event of failure of any vegetation to become established or to prosper for a period of 5 years following the completion of the approved planting scheme, such vegetation shall be replaced on a like-for-like basis.
- 6) No development shall take place until a scheme detailing the final location, design, external finishes and noise attenuation of the inverter housings and substation has been submitted to and approved in writing by the local planning authority. The development hereby permitted shall

then be constructed, operated and maintained in accordance with the approved scheme.

- 7) No external lighting shall be installed during the period that the development hereby permitted is in place.
- 8) No deliveries shall be taken at or despatched from the site or construction or decommissioning works take place outside the hours of 08:00 to 18:00 Monday to Friday; 08:00 to 13:00 Saturday nor at any time on Sundays, Bank or Public Holidays.
- 9) The noise emissions during construction and decommissioning periods of the development hereby permitted shall not exceed a LA_{eq,T} noise level of 65 dB 1 metre from the façade of any occupied residential dwelling.
- 10) The development hereby permitted shall be carried out strictly in accordance with the approved Construction Traffic Management Statement – Issue 1, dated 26 July 2013.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no fixed plant or machinery, buildings, structures and erections or private ways shall be erected, extended, installed, rearranged, replaced, repaired or altered at the site without prior planning permission in writing from the local planning authority.
- 12) Prior to the first time that energy is fed into the national grid from any part of the development hereby permitted, the Sustainable Urban Drainage Scheme (SUDS) as set out in the submitted H20K drawing J-4-30.4-FM Drawing 3001 rev.D shall be fully implemented and shall thereafter be maintained to achieve the calculated levels of attenuation for the duration of the planning permission hereby granted.
- 13) Within 25 years following the development hereby permitted being brought into use (that date being notified to the local planning authority in writing within 7 days of it occurring) or within 12 months of the cessation of electricity generation by the development hereby permitted (that date being notified to the local planning authority in writing within 7 days of it occurring) whichever is the sooner, the solar PV panels, racking, electrical control cabinets, substations, fencing and associated structures hereby permitted shall be dismantled and removed. The site shall be decommissioned and restored to agricultural use in accordance with the Decommissioning Method Statement approved under condition 14.
- 14) The development hereby permitted shall not be commenced until a Decommissioning Method Statement (DMT) has been submitted to and approved in writing by the local planning authority. The DMT shall include the timing for decommissioning of all, or part, of the solar farm if it ceases to be operational, along with measures and a timetable for their completion to secure the removal of PV panels, plant, fencing and equipment. Decommissioning shall be carried out in accordance with the approved DMT and details.



Costs Decision

Site visit made on 5 August 2014

by **Brian Cook BA (Hons) DipTP MRTPI**

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

Decision date: 30 September 2014

Costs application in relation to Appeal Ref: APP/D0840/A/14/2212340 Land at Burthy Farm, Summercourt, Newquay TR8 5BN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Elgin Energy EsCo Ltd for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the installation of photovoltaic power-plant including: photovoltaic panels, electrical substation, inverter stations, pole-mounted CCTV cameras, security fencing and other ancillary works.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The application was made on behalf of the appellant by Whitehead Planning by letter on 19 March 2014. The Council responded by letter on 17 April and Whitehead Planning submitted further comments by letter dated 29 April.
3. Guidance on the award of costs in appeal proceedings is given in the relevant parts of the on-line Planning Practice Guidance. For an award to be justified there has to be both unreasonable behaviour on the part of one party and unnecessary or wasted expense incurred by the other directly as a result of that unreasonable behaviour.
4. The first reason for refusal concerns the loss of best and most versatile agricultural land. This matter was the subject of an update report to the Strategic Planning Committee following further more detailed information from the appellant which was peer-reviewed by the Council's land agent. Members were also advised of further representations in addition to those summarised in the officers' report. One of these, said to be from someone with a farming background, claimed that it was not true that sheep can graze under the panels due to the height of the panels and the presence of cabling. On the other hand, another representation, said to be from a sheep farmer, confirmed their experience that grass flourished under the panels and sheep thrived both from the grazing and the shelter provided by the panels.
5. While it is correct that officers did not accept the appellant's conclusion that the mixed nature of the grade 3a and 3b land meant that, in practice, the land was farmed as grade 3b throughout the appeal site, Members were advised that a number of matters were not disputed. These included there being no inherent conflict with planning policy and that the difference between the grade 3a and

the 3b classification was slight. The advice was that although a material consideration to be taken into account with other factors in site selection and the assessment of the planning merits, that balance did not justify a refusal of planning permission on this ground in this case.

6. That Members took a different view is clear from the reason for refusal. What is unclear is the evidence for doing so. The author of the Council's appeal statement makes a series of assertions concerning the quality of the grass that could be grown, the fact that sheep may not in fact graze the land (with speculation as to why), speculation about the purpose of Framework paragraph 11.2 and the length of time ('many years') that it would take post-decommissioning of the development to return the land to optimum food producing capacity. I am not aware of any evidence to support any of these assertions, most of which contradict the professional advice given to the Members.
7. A failure to produce evidence to substantiate each reason for refusal on appeal and making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis are among the examples listed in paragraph 49 of the relevant part of the Planning Practice Guidance as potentially giving rise to a substantive award against a local planning authority. I consider that both are applicable to the first reason for refusal and that the Council has behaved unreasonably in refusing the application for that reason. Furthermore, the appellant has called expert evidence specifically to address this reason and has thus incurred wasted or unnecessary expense. The two conditions for an award to be made in respect of the first reason for refusal have therefore been met.
8. Turning now to the second reason for refusal, I consider this to be primarily a matter of judgement. It is clear from the officers' report that the Council's landscape officer is becoming increasingly concerned that the sheer number of energy schemes being permitted on an incremental basis is creating an energy landscape in the vicinity of the appeal site. While posing the question about whether the capacity to absorb further such developments is being reached, the officer unhelpfully does not offer an opinion on the answer. However, what is said is also a reflection of some of the representations from the local community on this matter.
9. The case officer quite properly does advise the Members. Paragraph 59 of the report confirms that, on balance, the appeal proposal would not 'tip the balance' to create a landscape defined by renewable energy. However, that paragraph goes on to say that future applications would have to be assessed on their own merits. The next paragraph confirms that there would be limited views of the site from vantage points and important recreational footpaths. It does however conclude by saying that the key landscape characteristics would not be undermined in a significant way when weighed against the positive support for renewable energy. The balancing exercise of harm against benefits is thus clearly put before the Members.
10. It seems to me that the Members took a different view of that balance having weighed the considerations about which they were advised differently to the officers. It is a clear principle that weight is a matter for the decision maker and that unless it is irrational there can be no criticism of that decision.

11. I agree with the appellant that some of the assertions made in the Council's appeal statement to support the reason for refusal contradict what is said in the officers' report and are not supported by the evidence. I agree also that expressing the cumulative impact in terms of the effect of both solar schemes and wind turbines, as the reason for refusal does, appears to be contrary to the Planning Practice Guidance at paragraphs 13, 14 and 22 of the relevant section.
12. Nevertheless, the second reason for refusal is underpinned by a balancing exercise that the Members were entitled to carry out and the decision they reached is not therefore unreasonable.

Conclusion

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Cornwall Council shall pay to Elgin Energy EsCo Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the first reason for refusal.
15. The applicant is now invited to submit to Cornwall Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Brian Cook

Inspector

Brown, Jeff

From: Phil Holdcroft <PHoldcroft@savills.com>
Sent: 30 October 2014 11:24
To: Brown, Jeff
Subject: FW: PAP/2014/0483: Land East of Grendon House Farm, Warton Lane, Grendon
Attachments: ATT00001.txt; ATT00002.htm

Dear Mr Brown,

Further to the comments of Atherstone Civic Society, which you forwarded (below), I provide, on behalf of my client Belectric, our response below.

Reference is made to the recently adopted Core Strategy (October 2014). In particular, Policy NW9 – *Renewable Energy and Energy Efficiency*, confirms the Council's commitment to green technology. The Policy states that *'development... 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'*. Whilst the Civic Society's view is that the proposal fails to satisfy any of these criteria, we refer to the application's detailed reports and plans which address, in detail, all these key considerations.

Section 10 of the National Planning Policy Framework (the Framework) is very supportive of the delivery of renewable and low carbon energy and associated infrastructure saying that this is central to the economic, social and environmental dimensions of sustainable development (paragraph 93). Local planning authorities are asked to consider identifying suitable areas for renewable and low carbon energy sources where this would help secure the development of such sources (paragraph 97, 3rd bullet). Framework paragraph 98 confirms that applicants do not need to show an overall need for renewable or low carbon energy and further confirms that local planning authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The fact that the site has not been identified within the Core Strategy is not relevant. The application should be considered on the basis of the development plan (as a whole) together with other material considerations.

With reference to the Environmental Report, in terms of viewpoint categories, the sensitivity of the viewpoint is only one aspect of the assessment and as best practice dictates the assessment of visual significance should combine sensitivity with magnitude. Apart from the immediate vicinity of the Site, the magnitude of change as a result of the Proposed Development would be modest and consequently the geographical extent of Notable effects would be limited. It is concluded that the wider amenity of the countryside experienced by users of public rights of way would not be adversely affected. Similarly, with regard to the nearest listed buildings, the Environmental Report (Chapter 5) identified five designated assets. The nearest being a cluster of listed buildings at New House Grange, approximately 1.4km north-east of the site. This includes the 'Great Barn' (Grade II*). The setting and significance of those heritage assets was not considered to be impacted on by the proposed development. The report concludes that: *'Development of the site would not lead to any harm to known heritage assets through. Alteration of their setting. Thus the development proposals are considered to be compliant with both national and local planning policy for heritage'* (para6.89).

Reference is also made to the quote from Environment Secretary, Elizabeth Truss (made direct to the Sunday Mail newspaper) regarding the removal of farming subsidies for farmers switching to solar development and her views on 'ugly greenfield solar development' and 'boosting food production'. Firstly, those available monies (under the Common Agricultural Policy – CAP) are not relevant to this scheme and have very little financial impact (farmers with solar panels are expected to lose about £220 per year per hectare of land). Singling out solar schemes as a means of reducing food production is misguided and no reference was drawn to other non-food production processes that take place on agricultural land (such as growing energy crops, hosting camping / tourist sites etc). Rather, her comments need to be put into context of next year's general election (and the newspaper to whom she was being interviewed by). Similarly, in terms of roof-mounted solar the availability and crucially usability of rooftops needs to be fully understood. To provide context, the largest roof mounted solar installation in the UK is at the Bentley Motors factory, in Crewe, where the overall site extends to approximately 22ha, but the useable roof space only extends to 3.5ha, where 5MW of solar panels were installed. Reference to individual, nearby homes having new solar panels is to be applauded but even collectively this is still unable to match the energy production benefits of this single solar scheme.

The views of Atherstone Civic Society are respectfully noted but we consider that all relevant planning issues have been appropriately addressed in the application.

7) Application No: PAP/2014/0520

Land North of, Eastlang Road, Fillongley,

Residential development comprising of houses and bungalows including associated highways, external works, landscaping and boundary treatments, for

Mr James Cassidy - Cassidy Group UK

Introduction

This application is reported to the Board at this time for information. It will be referred to the Board for determination at a later date as there would need to be a Section 106 Agreement associated with any approval and because should the Council be minded to support the proposal, it would have to be referred to the Secretary of State under the 2009 Direction to see if he wishes to determine the application himself.

The Site

This is on the east side of Eastlang Road and extends to some 1.3 hectares of open green pasture used presently as a paddock, on the north-eastern side of Fillongley.

It is triangular in shape, generally flat but with a slight fall from east to west. To the north the boundary is marked by mature trees and hedgerows, beyond which lies an unnamed stream/brook and the Fillongley park/recreation ground in which there is a car park, changing facilities and a children's play area. To the east, the boundary is also a hedge line with trees and pasture land beyond. To the south are the Fillongley Community centre, a collection of older persons bungalows as well as residential development fronting both sides of Eastlang Road before its junction with the Coventry Road some 150 metres away. To the west is Church Lane which again has residential properties fronting either side of the road. There are some high voltage overhead lines running through the southern tip of the site.

It is more particularly illustrated at Appendix A.

The Proposals

It is proposed to construct 27 dwellings on the site with all vehicular access off Eastlang Road, and an additional pedestrian access onto Church Lane.

21 of the dwellings would be affordable units – defined by the applicant as being low cost home ownership and for affordable renting. These would consist of thirteen two and three bedroom houses; 2 four bedroom houses, 5 two bedroom bungalows and 1 three bedroom bungalow. The market houses would be six, two and three bedroom bungalows. The parking provision is 200% - two spaces for each unit. All of the houses would be two-storey.

Vehicular access is proposed off Eastlang Road leading into a cul-de-sac with two arms. There would be a mix of houses and bungalows throughout the site. Two areas of public open space are proposed, one in the southern corner and the other alongside the pedestrian access onto Church Lane.

The overall layout is shown at Appendix B with street scenes at Appendix C.

There is a significant amount of supporting documentation submitted with the application, and the various reports are summarised below.

A Tree Condition Survey identifies that there are several semi-mature and mature trees within the sites boundaries with an important group alongside the banks of the stream running along the northern boundary. No tree represents a major constraint because of the low density and the fact that the proposed dwellings and associated infrastructure are to be located away from the site boundaries. Suitable protection measures will however be needed.

A Protected Species Survey describes the site and existing habitats. There are no national, regional, local or potential wildlife designations affecting the site or its locality. Survey work showed no signs of amphibians, water voles, otters or reptiles, but the habitat to the north – particularly the stream and its banks - has potential and should be retained. No evidence of bats or badgers was found but further survey work is needed for the presence of great crested newts. The report recommends that the northern boundary is retained in as natural a form as possible so protecting trees, hedgerows and the stream banks themselves. Further landscaping should be considered within the site to enhance bio-diversity.

A Ground Conditions Survey concludes that there is a low environmental risk in developing the site and thus only limited further investigation would be advisable.

A Flood Risk Assessment concludes that there is no overall objection subject to sustainable drainage measures being incorporated into the layout and the design. Appendix D is a copy of the conclusions.

A Utilities and Infrastructure Assessment attaches a number of responses from a variety of infrastructure providers. Severn Trent Water say that there should not be an issue with use of the existing drainage infrastructure to accommodate both foul and surface water drainage as well provision for a water supply, provided that sustainable drainage measures are incorporated into the design. No objections are included from gas and electrical agencies.

A Sustainability Assessment reviews a number of relevant factors concluding that the site is sustainable given its location on the edge of Fillongley which has a range of services within walking distance. The assessment also concludes that the development would help the local economy as well as providing a wide range of quality homes that are well-designed and that would meet at least Code level 3 for sustainable homes, as well as provide sustainable drainage measures.

A Transport Assessment describes the site and the surrounding highway network pointing out that Eastlang Road is an adopted highway with street lighting and footpaths. The range of services and facilities in the village are identified – village store; primary school, public houses, a medical practice, village hall and recreation facilities. These are close to the site and within walking or cycling distance. The village has regular bus services into Coventry and Nuneaton. The Assessment calculates that over a twelve hour day the development would generate some 126 movements with most movements occurring the peak hours – up to 16 movements. It is said that in pre-application discussion with the Highway Authority that it would have no objection.

A Fillongley Housing Need Questionnaire has been submitted which shows an 11% response to 648 questionnaires delivered in the village. The applicant concludes that this shows a demand for open market and low cost home ownership options with some demand for bungalows.

A Public Consultation Report summarises two local events in the village. The first on May 2014 attracted 90 visitors. 48 responses were received which were said to support the proposed development. A further event was held in August 2014 with 29 attendees and 12 responses with the majority said to support the proposals. The responses from the two events are also said to have influenced design, appearance and the tenures now being proposed.

A Design and Access Statement describes the location and setting of the site and how these matters have influenced the proposed layout and appearance of the houses also drawing on local features in the area.

A Planning Statement draws on the conclusions reached from all of the above documentation and puts it into planning policy context. The NPPF is outlined in full with the conclusion that the proposal is consistent with the approach set out therein. The applicant identifies those policies from the 2006 Local Plan and the Submitted Version of the Core Strategy which he thinks are relevant. The site is in the Green Belt but he argues that the development is appropriate as it falls within one of the NPPF's exceptions – namely that it is limited infilling and provides affordable housing for local community needs. His overall conclusion is that the proposal is sustainable development providing locally affordable housing, and assisting the Council in meeting its five year housing supply without significant or demonstrable adverse impact.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policy 2 (Development Distribution); Core Policy 3 (Natural and Historic Environment), ENV1 (Protection and Enhancement of Natural Landscape), ENV2 (Green Belt), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenity), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), HSG2 (Affordable Housing), HSG3 (Housing Outside Development Boundaries) and TPT6 (Vehicle Parking)

The North Warwickshire 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) and NW12 (Quality of Development)

Other Material Planning Considerations

The National Planning Policy Framework 2012 – the “NPPF”

The National Planning Practice Guidance 2014

Observations

The site is wholly in the Green Belt. The Board will first have to assess whether the proposal is inappropriate or not inappropriate development in the Green Belt using the definitions in the NPPF. If it is found to be inappropriate then the presumption is one of refusal unless there are material planning considerations to amount to the “very special circumstances” of such weight to override the harm caused by that inappropriateness. Whilst the applicant considers that his proposal is not inappropriate he does suggest what those material circumstances might be – meeting a local affordable housing need; assisting the Council's five year housing supply, it being sustainable development and that there are no significant or demonstrable adverse impacts. The Board will need to explore all of these issues.

Recommendation

That the application be noted.

BACKGROUND PAPERS

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

Planning Application No: PAP/2014/0520

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	06/10/2014

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.

2014/0520

- 1. Check
- 2. The owner may opt for Section 20 approval for the proposed development.
- 3. The proposed development is subject to the provisions of the Planning and Development Act 2000 and the Planning and Development Regulations 2001.

A - Updated to match layout. rev D 20/09/14

1. Project: EASTLAND ROAD, PHOENIX

2. Client: GARDINER GROUP

3. Location: 100000 7000

4. Indicative Street Elevation: JHS

5. Date: SEPT 2014

6. Drawing Number: EAST / ENA

7. Revision: 1

8. Scale: 1:500

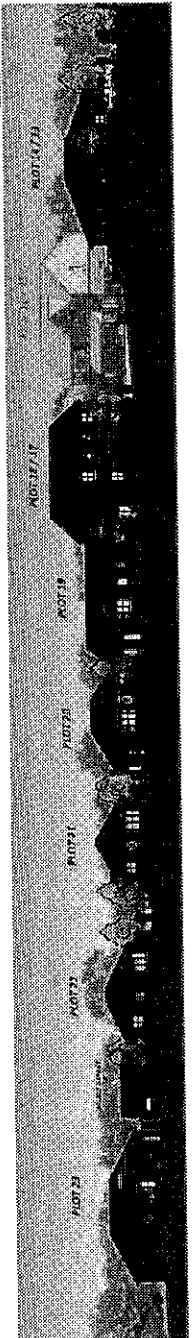
9. Project Manager: JHS

10. Project Engineer: JHS

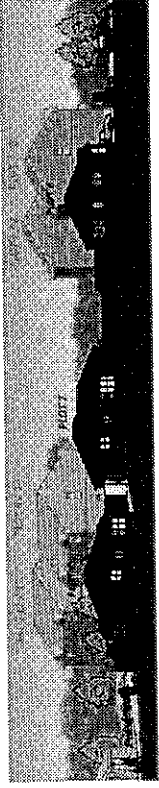
11. Project Architect: JHS

12. Project Designer: JHS

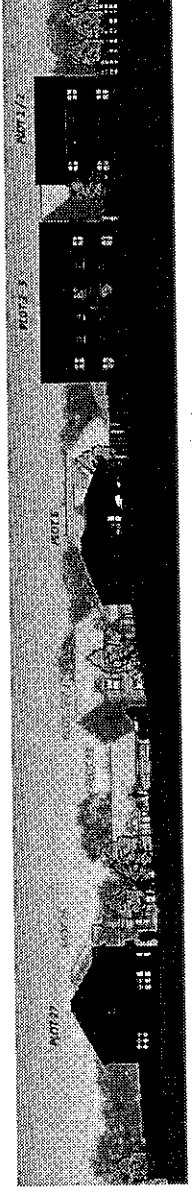
13. Project Drafter: JHS



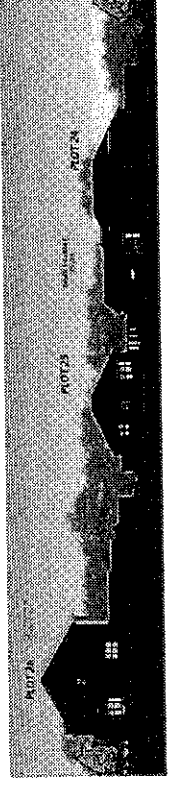
INDICATIVE STREET ELEVATION A - A



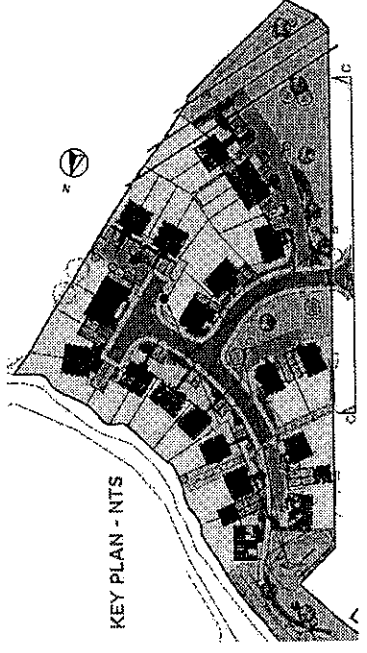
INDICATIVE STREET ELEVATION B - B



INDICATIVE STREET ELEVATION C - C



INDICATIVE STREET ELEVATION D - D



KEY PLAN - NTS

PROJECT MANAGER	JHS
PROJECT ENGINEER	JHS
PROJECT ARCHITECT	JHS
PROJECT DESIGNER	JHS
PROJECT DRAFTER	JHS

18.0 CONCLUSIONS

- 18.1. The majority of the site is located within Flood Zone 1 (low risk). The northern part of the site is located within Flood Zones 2 and 3 (medium and high).
- 18.2. Onsite Flood Zone 2 & 3 have been estimated from EA flood maps and topographical data to be 115m and 114.5m AOD respectively.
- 18.3. The main channelisation of Flood Zone 2 & 3 flood waters is within Church Lane, some 2.7m downslope of the main development area of the site.
- 18.4. The proposed development has taken due consideration of the floodplain and all dwellings are located beyond the floodplain.
- 18.5. Preliminary desktop information and WRAP soil classification for the site indicate the underlying ground to be of low / poor permeability which may be unsuitable for infiltration systems as a primary means of surface water disposal. Detailed ground investigation is required to confirm.
- 18.6. In the event that detailed ground investigation confirms the unsuitable for infiltration systems, surface water discharge shall be to the land drainage ditch along the northern boundary.
- 18.7. Surface water flows from the site shall not exceed the Greenfield Runoff rates and where possible, provide a 20% reduction as betterment to the modelled downstream flood area.
- 18.8. Where post development volume runoff exceeds pre-development volumes and the residual volume cannot be reduced via infiltration, discharge from the site shall be limited to Qbar for all return periods in accordance with The Code for Sustainable Homes.
- 18.9. Maximum onsite attenuation volumes are estimated at 257m³ (Greenfield Runoff) or 311m³ (Qbar) to be attenuated in oversized pipework, detention ponds and underground geocellular tanks.
- 18.10. Where practical, permeable pavements, swales, 'Smart' sponge shall be considered to provide water quality benefits prior to discharge of surface water to ground or watercourses.
- 18.11. An allowance for climate change has been made within the hydraulic calculations within this report in accordance with The NPPF.
- 18.12. No levels shall be raised nor material stockpiled within the floodplain.
- 18.13. Proposed finished floor levels shall be set a minimum 600mm above the floodplain levels and a minimum 150mm above the immediate surrounding ground.
- 18.14. All proposed site levels shall be set to direct surface water flows away from properties.

- 18.15. Safe access and egress can be maintained at all times via Eastlang Road during flood events.
- 18.16. The mains drainage network shall be offered to Severn Trent Water for S104 adoption. SUDs features such as detention ponds shall be offered to the district council or county council for maintenance and adoption. Underground geocellular tanks and permeable pavements shall be maintained by a private management company to be set up by the developer.
- 18.17. Foul water shall connect to the existing 225mm dia public combined sewer in Church Lane subject to formal consent and S105 sewer connection application to STW.
- 18.18. The above surface water and flood risk mitigation measures are deemed appropriate and suitable for this development.

8) Application No: PAP/2014/0540 and PAP/2014/0542

Land at Durnos Nurseries, Old Holly Lane, Atherstone, CV9 2HD

Outline application for 620 dwellings together with a detailed application for 108 dwellings as a first phase for

Merevale and Blythe Estates and Bloor Homes Ltd

Introduction

Members will be aware of these proposals as a consequence of presentations made to them by the applicant in the last few months. The applications have now been submitted.

This report is for information only and provides an introduction to the proposals summarising them and the supporting documentation. It will also draw attention to the relevant Development Plan background.

Consultations and notifications are underway and responses will be reported to the Board in due course when it comes to determine the applications. These consultations include local residents as well as the usual range of Agencies and infrastructure providers.

The Site

The outline application covers an area of 31 hectares comprising four large arable fields and the Durno Nursery site to the north west of Atherstone. It is bounded to the south by Whittington Lane, the Aldi Distribution Centre and the residential site currently being completed by Redrow Homes. To the east is the River Drive estate and the Sheepy Road whilst to the north is Alder Mill and the River Anker. The west is demarcated by a stream, hedgerows and open land. The land generally is flat falling evenly to the north towards the River Anker.

It is bisected by Old Holly Lane which runs from the Aldi roundabout on the commercial estate to the south to Alder Mill and the Sheepy Road. It connects with Rowland Way, Holly Lane and to the A5.

There are a number of mature hedgerows within the site but most noticeably around its perimeter and around the Nursery site itself. It is here too where there is the greatest concentration of trees. One large house, Westmoorlands, fronting Old Holly Lane would remain outside of the site. The Innage Brook runs down from Rowland Way on the eastern side of the site, under Old Holly Lane via a culvert to the River Anker. The unnamed stream that runs along the western boundary flows from the balancing pond and surface water attenuation measures on the Aldi site to discharge into the Anker.

The larger outline site is illustrated at Appendix A.

The first phase of the proposed development would be in the south-east corner of the larger site and this essentially covers the whole of the Durno Nursery site. The first phase site is at Appendix B.

The Proposals

The outline application is for the residential redevelopment of the site with up to 620 dwellings, open space, landscaping and associated infrastructure. A Master Plan has been submitted in order to illustrate a potential way in which this could be achieved. It is attached at Appendix C.

The proposal would extend either side of a re-aligned Old Holly Lane to the west of its present alignment. The northern and southern ends of the existing route would be retained in order to provide access to the first phase as described above and also one of the later phases. The central section would be converted to a combined footpath and cycle way to enable links between and across the larger site. A central new open space and amenity area would be created here.

The new road would run from the Aldi roundabout across Whittington Lane and then west of the existing line to meet up with it at the northern end of the site. Residential areas would be developed either side with access to it and through other phases. A new access onto the Sheepy Road, north of River Drive would serve one phase to the east of the course of the Innage Brook.

There would be pedestrian connections throughout the site and these would lead to routes via Rowland Way so as to enable access to Gypsy Lane and the town as well as across the Sheepy Road to enable access to the Royal Meadow Drive recreation area.

Bloor Homes have submitted a detailed application for the first phase of this Master Plan – 108 dwellings – in the south east corner. This shows a more detailed estate layout utilising access from the retained southern section of Old Holly Lane but with improved re-alignment to meet the Aldi roundabout. There would be substantial drainage attenuation measures alongside the Innage Brook to the east thus connecting to those designed in connection with the Redrow Homes development.

The overall layout is attached at Appendix D and examples of house types are at Appendix E. There would be 30% onsite provision of affordable housing and a further contribution for off-site provision equivalent to an extra 10%.

A substantial amount of supporting documentation has been submitted with the two applications. This is now summarised.

A Built Heritage Statement provides an assessment of the proposals on the existing heritage assets in the locality. The site itself contains no such assets but it is close to a number of Listed Buildings, to a Registered Park and Garden at Merevale Hall which itself is a Grade 2 star Listed Building and the most prominent of the Listed structures. The closest Listed Buildings are at Whittington Farm, the Sheepy Road bridge and Pinwall Farm. There are two Conservation Areas in Atherstone. The assessment describes the historic development of the town through to the present time. It also describes the surrounding Listed Buildings, their settings and significance. Its overall conclusion is that there would be limited harm to the setting of the nearby Listed Buildings, but that some form of recognition should be given to the historic route of Old Holly Lane from the bridge to the Hall. There would be no impact on the character and appearance to the Conservation Areas.

An Archaeological Assessment points to no designated assets being present at the site or within a wider area, and that it contains a low potential for the presence of unknown assets. Saxon finds arising from the Redrow development to the south suggests the possibility of extension of these finds into the larger site and as a consequence planning conditions are to be considered.

A detailed Arboricultural Report has been undertaken for the Phase 1 development that of the Durno Nursery site in view of its past use. The survey shows many dense groups of trees, both native and non-native, but generally all are of low quality and common being typically for use as amenity planting. No high quality trees were found. The proposed redevelopment would remove these trees as they are centrally located and the impact of their loss would be considered not to be high. Improvements to the nursery's access would necessitate further removal of trees. The perimeters of the site are significant as they are marked by a substantial hedgerow to the north and east as well as a combination of trees and hedgerows to the south. New planting is recommended to enhance these features.

An Ecology Report concludes that the larger site is dominated by habitats of negligible nature conservation interest but that those of the highest interests are to be retained – the Innage Brook, hedgerows and scattered trees. New drainage attenuation measures and open space would greatly enhance the overall value of the site. There are no statutory or non-statutory nature conservation designations affecting the site although there are five SSSI's within five km and a number of potential local sites nearby. The closest being the balancing pond on the Aldi site. In terms of species the site is considered to be of low local importance only for bats, badgers and water voles and of negligible importance to reptiles, otters, great crested newts and other invertebrates. Mitigation measures and bio-diversity enhancements will be important to raise the ecological value of the whole site.

A Landscape and Visual Appraisal describes the setting and sets out that the site lies within the "Anker Valley" designation of the North Warwickshire Landscape Character Appraisal of 2010. This describes a broad, gentle topography of the valley and the open landscape with a few areas of woodland and pockets of riparian scrub within a predominantly arable landscape, but with variation as a result of a variety of urban land uses as well as settlements both large and small. The Appraisal concludes that the proposals do integrate with the urban edge of Atherstone and that appropriate retention of hedgerows, trees and the brooks means that the scale of the development proposed has limited landscape impact and that its "envelope" fits into existing features. There would clearly be some loss of landscape character but overall it is concluded that it is a limited loss.

A Noise Assessment concludes that mitigation measures should be built into the design of the houses – e.g. appropriate glazing – particularly along the realigned route of the road.

A Travel Plan outlines that the development would comprise a series of walkable neighbourhoods benefitting from access to formal and informal open space, and with opportunities for footpaths and cycle connections to the wider area and particularly to the town. These links are said to be easy to use following "desire" lines. The town is well served by public transport and these services are within the normally accepted 2km walking distance as is the majority of the town centre facilities. Schools however are little more distant.

A Flood Risk Assessment describes the topography of the site and its geological underlay. The River Anker is to the north and the Innage Brook to the east and the stream along the western boundary are described. The Assessment concludes from its work that fluvial flooding is likely as consequence of the development from both the Brook and the Anker. The applicants have therefore updated the EA's modelling, which was out of date, to include the Brook and the western stream in order to show both 1 in a 100 and 1 in a 1000 year floods. This now shows that the site would be in Flood Zone 1, the least vulnerable but that parts of the site would be in Flood Zones 2 and 3. The conclusion is that with appropriate sustainable attenuation measures, particularly alongside the Innage Brook, the whole site is capable to being developed without causing flood impacts. The Assessment indicates that Severn Trent Water has no objection to the foul water using the existing Atherstone works where there is capacity.

A Transport Assessment indicates that the location is a suitable site for the proposed development, including a network of pedestrian and cycle routes and links that penetrate the whole site and link with existing connections into the town. The Master Plan includes a hierarchy of suitable routes and the Assessment concludes that the surrounding road network has capacity. The re-alignment of the road over the rail bridge to the south of the site is supported.

A Design and Access Statement describes the site and outlines how the main components of the Master Plan have been arrived at and for the first phase of the development

A Consultation Document provides a description of the pre-application consultation carried out by the applicant prior to submission with extracts of the exhibition material displayed, and summaries of the feedback received. The main issues raised were impacts on the environment, particularly flooding, the highway network and existing services in the town. The applicant explains that on the flooding issue the whole issue has been updated and re-modelled and sustainable drainage measures introduced. In respect of highway matters it is said that the relevant Authorities are supportive in principle and that impact on local services will be dealt with through a Section 106 Agreement involving developer contributions.

A Planning Statement outlines the existing planning policy background at the local and national level particularly referring to the Core Strategy and the emerging Site Allocations Document. It sets out how the applicant considers that the proposals accord with this background.

Section 106 matters are included in the Planning Statement. Aside from the affordable housing matter the statement confirms a willingness to include an education contribution; an open space and sustainable drainage system maintenance contribution and the realignment of the highway over the railway bridge.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenity), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Conservation), HSG2 (Affordable Housing), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Travel) and TPT6 (Vehicle Parking)

The North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment), NW16 (Green Infrastructure), NW18 (Atherstone), NW20 (Services and Facilities) and NW22 (Infrastructure)

Other Material Planning Considerations

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

The Draft Pre-Submission Site Allocations Plan 2014

The Council’s Affordable Housing SPD 2008

The Council’s Green Space Strategy 2008

Observations

These are the most substantial housing proposals ever considered by this Council. They have been submitted in direct response to the Government’s NPPF and as a consequence of the Borough Council’s work on replacing its 2006 Local Plan with the new Core Strategy to plan for growth in the Borough up to 2029.

The Board will have to assess whether the proposals accord with both parts of the Development Plan – that is to say the saved policies of the Local Plan as well as the recently adopted Core Strategy. The latter will carry more weight in the case of conflict as it is up to date, based on evidence and has found to be sound, thus fully according with the NPPF. The Council’s progress on identifying preferred sites for allocations to meet housing requirements will also carry weight in this judgement.

As is the case with all development proposals, it will be necessary to establish what the likely impacts might be. In this case the proposal is large and the range of impacts is wider but not unusual. The scope of the supporting documentation described above focusses on the main issues – flooding, highways and services are probably the main ones – and these too reflect the outcome of the public consultation undertaken prior to the submission. All of the relevant Agencies have been consulted on the application, and their responses will be reported as part of the determination process. Members will wish to know that in view of the flooding issues here, additional consultation has been undertaken with an independent consultant who has been specifically requested to look at the applicant’s Flood Risk Assessment and the Environment Agency’s response to it.

The scale of the proposal also has impacts beyond the site particularly in terms of the town's services and facilities. The Education Authority and local health providers have been involved at pre-application stage and they have now been formally consulted on the submitted proposals. The applicants have indicated their willingness to deal with contributions through a Section 106 Agreement.

It will be seen that the proposals include full 40% provision of affordable housing – 30% on site and a 10% off-site contribution as was followed in the recent Redrow Homes development of Rowland Way. This pattern would be likely to be followed throughout the remainder of the larger site.

At this stage, this report is for information purposes alone as the consultation period has just commenced. A determination report for the applications will be brought to the Board in due course. The documents referred to in this report are all available to view on-line and a full set is also available in Atherstone Library. All Members can view the sites from the surrounding highway network, but a full site visit is recommended below for those wishing to do so.

Recommendation

That the applications be noted and that the Board undertakes a visit to and around the site.

BACKGROUND PAPERS

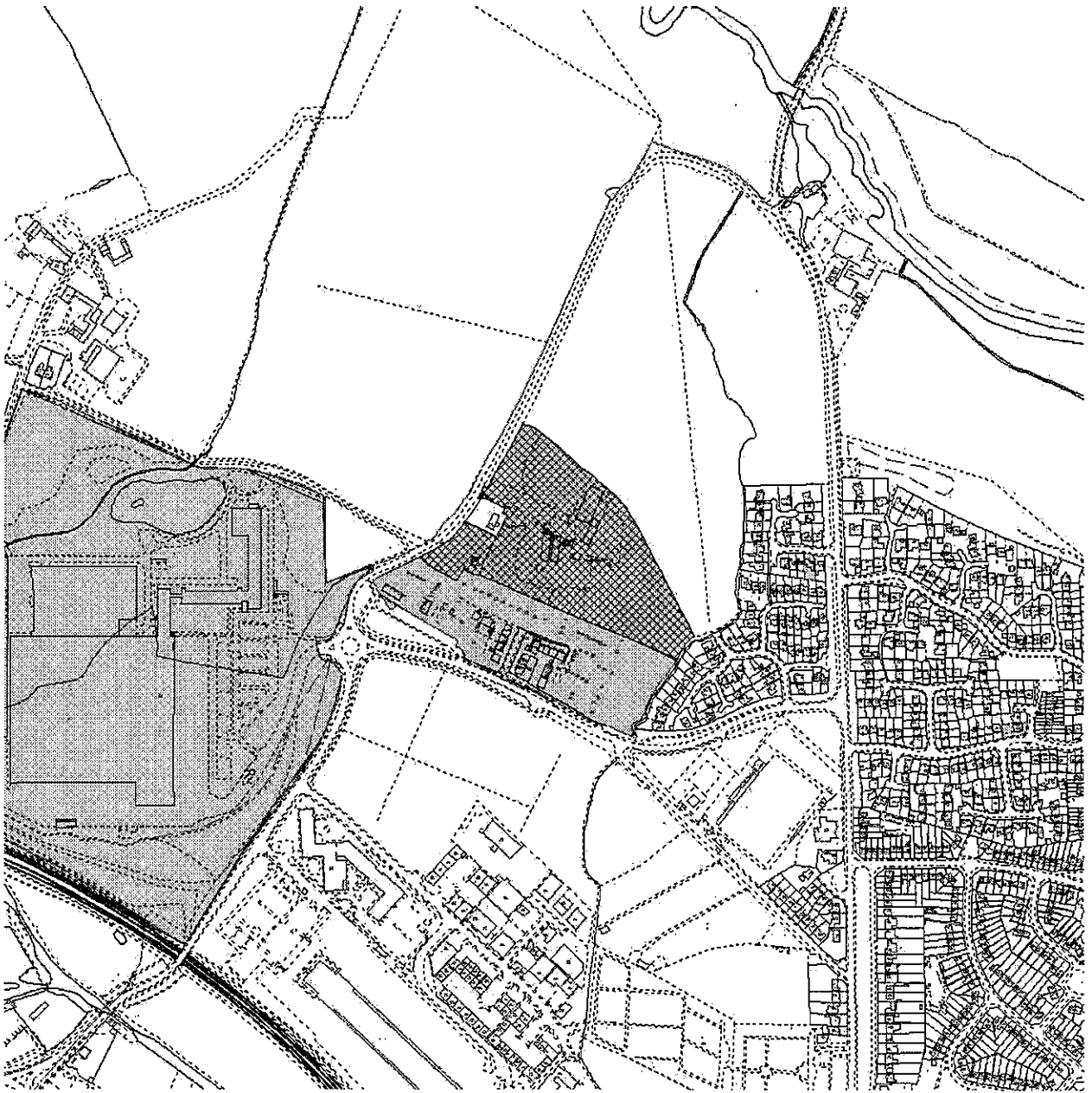
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

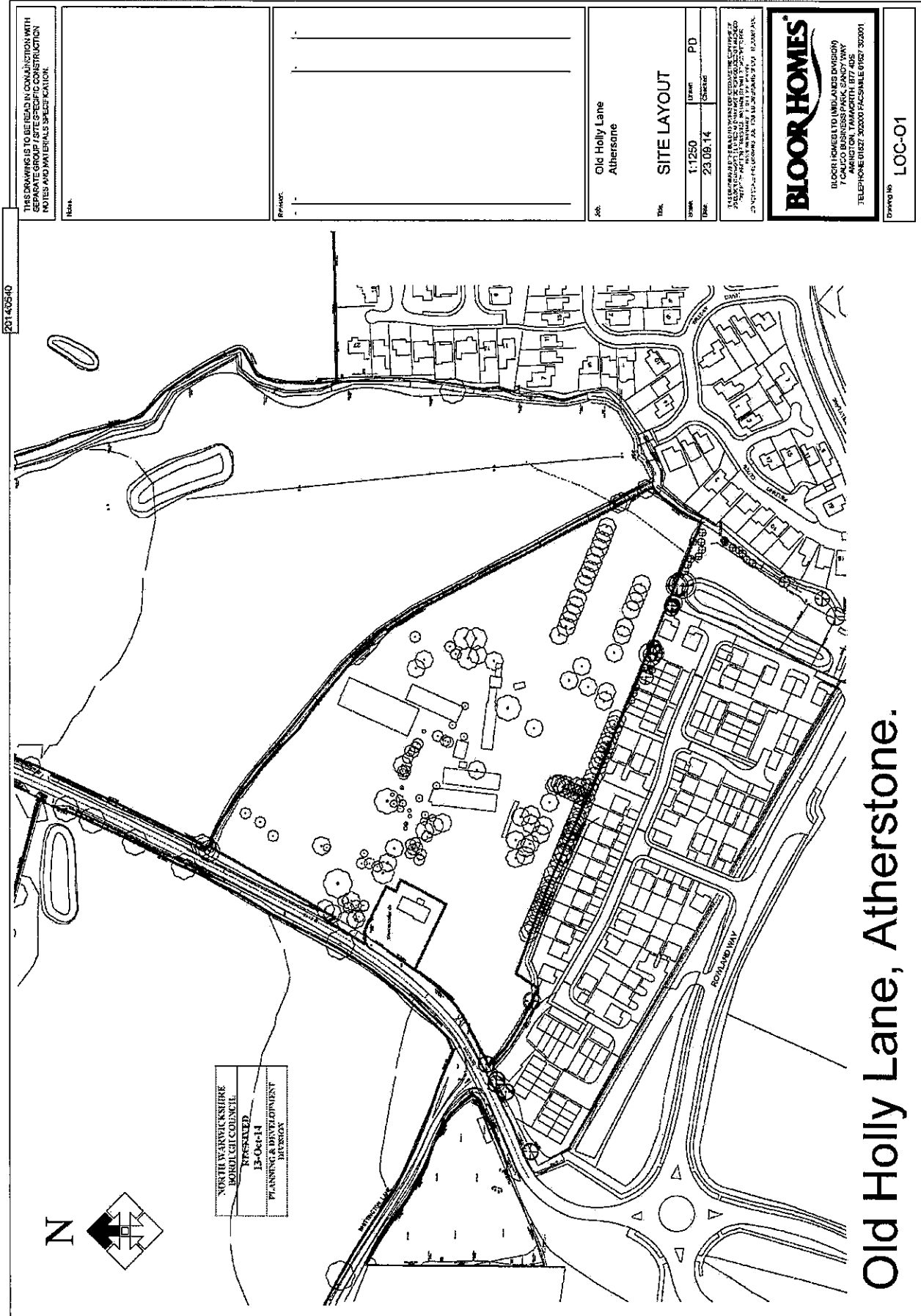
Planning Application No: PAP/2014/0540

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	13/10/14

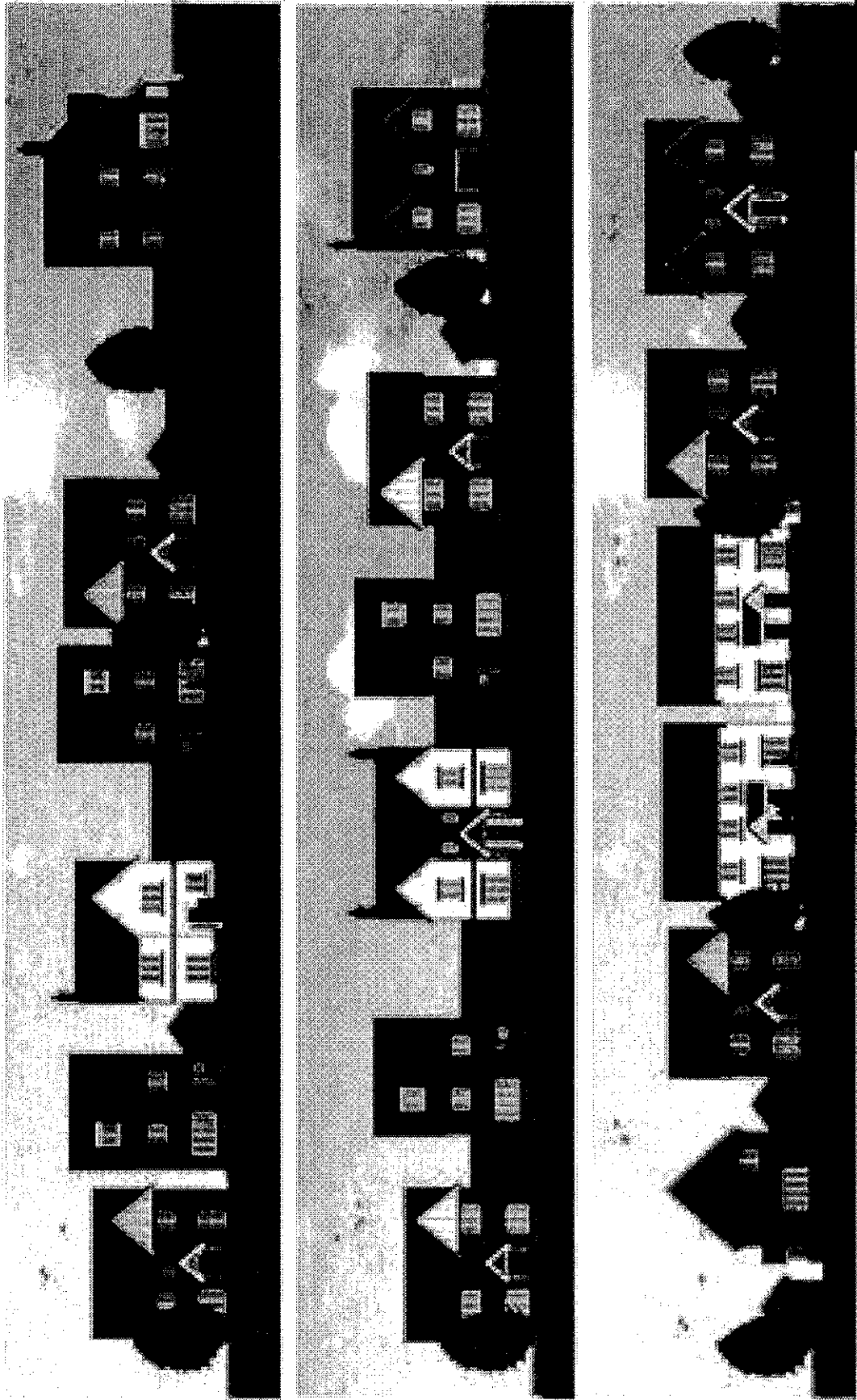
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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.









Old Holly Lane, Atherstone.

General Development Applications

- 9) Application No: PAP/2014/0446
- 10) Application No: PAP/2014/0433
- 11) Application No: PAP/2014/0302
- 12) Application No: PAP/2014/0301
- 13) Application No: PAP/2014/0157
- 14) Application No: PAP/2014/0399
- 15) Application No: PAP/2014/0569

INTRODUCTION

In recent months a significant number of planning applications have been received proposing new housing across the settlement of Austrey. The various applications are set out in the table below.

Application Number	Address	Application Type	Number of dwellings Proposed	Planning Context
PAP/2014/0446	Land North Of Manor Barns, Newton Lane, Austrey	Full Planning Application	38 dwellings (13no: 3 bedroom houses; 3 no: 2 bedroom bungalows; 10 no: 2 bed houses and 12 no: 1 bed apartments)	Outside Development Boundary Not allocated in the Site Allocations Plan Not allocated in the Draft Neighbourhood Plan
PAP/2014/0433	Land Adjacent And Rear Of Manor Croft, Newton Lane, Austrey	Outline Planning Application With details of means of access, layout.	5 dwellings	Mostly Outside Development Boundary Not allocated in the Site Allocations Plan Not allocated in the Draft Neighbourhood Plan
PAP/2014/0302	Land Adjacent The Headlands, Warton Lane, Austrey	Outline Planning Application With details of means of access.	10 dwellings	Outside Development Boundary Not allocated in the Site Allocations Plan Allocated in the Draft Neighbourhood Plan
PAP/2014/0301	Land South of Pumping Station Warton Lane	Outline Planning Application With details of	4 dwellings	Outside Development Boundary Not allocated in the Site Allocations Plan

	Austrey	means of access.		Allocated in the Draft Neighbourhood Plan
PAP/ 2014/0157	Applegarth and The Croft, Norton Hill, Austrey	Outline Planning Application With details of means of access.	14 dwellings	Outside Development Boundary Allocated in the Site Allocations Plan Allocated in the Draft Neighbourhood Plan
PAP/ 2014/0399	4 Warton Lane, Austrey	Outline Planning Application With details of means of access, appearance, layout and scale	3 dwellings	Inside Development Boundary
PAP/ 2014/0569 NB Application received and currently being checked to ascertain that it is a valid planning application. Consultation yet to be undertaken	Crisps Farm Church Lane Austrey	Outline Planning Application With details of means of access.	40 dwellings	Outside Development Boundary Allocated in the Site Allocations Plan Allocated in the Draft Neighbourhood Plan

It is a very rare occurrence that so many proposals are submitted seeking housing development in the same settlement in such a short period of time. Whilst it is appropriate to consider each proposal as a separate entity, on its merits, it is also appropriate to have regard to the wider picture across the settlement.

This section of the report will set out the policy context that applies in respect of all of the applications looking at Development Plan Policy and identified housing need as well as setting it in the context of NPPF guidance.

CONTEXT

Development Plan:

North Warwickshire Core Strategy (October 2014):

The North Warwickshire Core Strategy was adopted on 9 October 2014. There is consequently a material change in the weight to be afforded to its policies. It is up to date, adopted and in accordance with the NPPF. It will be afforded full weight.

The following Strategic Objectives of the Core Strategy are relevant to the above planning applications:

SO1 – To secure a sustainable pattern of development reflecting the rural character of the Borough

SO2 - To provide for the housing needs of the Borough

SO6 - To deliver high quality developments based on sustainable and inclusive designs

SO7 - To protect and enhance the quality of the natural environment and conserve and enhance the historic environment across the Borough

SO8 - To establish and maintain a network of accessible good quality Green Infrastructure, open spaces, sports and recreational facilities

SO9 – To ensure the satisfactory provision of social and cultural facilities

The following Policies of the Core Strategy are relevant to the above planning applications:

NW1 – Sustainable Development

NW2 – Settlement Hierarchy

NW4 – Housing Development

NW5 – Split of Housing Numbers

NW6 - Affordable Housing Provision

NW10 – Development Considerations

NW11 – Renewable Energy and Energy Efficiency

NW12 – Quality of Development

NW13 – Natural Environment

NW14 – Historic Environment

NW15 – Nature Conservation

NW22 - Infrastructure

Policy NW1 indicates that planning applications that accord with the policies in this Core Strategy (and where relevant, with other policies in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise.

Policy NW2 sets out the Settlement Hierarchy in the Borough indicating the type of development that will be suited to different categories of settlements. Austrey is identified as a Category 4 settlement because it has limited facilities and accessibility and is deemed to be in the lower order of sustainable locations for new development. Policy NW2 sets out that development will be limited to that identified in the Core Strategy or has been identified through a Neighbourhood or other locality plan.

NW2 also indicates that development for affordable housing outside of development boundaries will only be permitted where there is a proven local need; it is small in scale and is located adjacent to a village.

Policy NW4 sets the minimum number of dwellings (3,650) that are required across the Borough throughout the plan period. It confirms that there should be a variety of types and tenures that reflect settlement needs and that development will only occur if the appropriate infrastructure is available or can be made available and sites will be released in order to ensure a consistent delivery of housing for the Borough.

Policy NW5 indicates the split of housing according to a settlement hierarchy. In respect of Austrey, it is identified as one of the Category 4 settlements, and it is set out that it will cater for a minimum of 40 units, usually on sites of no more than 10 units at any one time depending on viability. It confirms that a Neighbourhood Plan may allocate more.

Policy NW6 sets out the requirements for affordable housing. On schemes of 15 or more dwellings 30% of housing provided on-site will be affordable, except in the case of Greenfield (previously agricultural use) sites where 40% on-site provision will be required. On schemes of between 1 and 14 inclusive units 20% affordable housing provision will be provided. This will be achieved through on site provision or through a financial contribution in lieu of providing affordable housing on-site. This will be calculated using the methodology outlined in the Affordable Housing Viability report or subsequent updated document and is broadly equivalent to on-site provision.

North Warwickshire Local Plan 2006 (Saved Policies):

ENV4 – Trees

ENV8 – Water Resources

ENV10 - Energy Generation and Energy Conservation

ENV11 - Neighbour Amenities

ENV12 - Urban Design

ENV13 – Building Design

ENV14 – Access Design

ENV16 - Listed Buildings, non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance (including Scheduled Ancient Monuments)

HSG4 – Densities

TPT1 - Transport Considerations in New Development

TPT6 – Vehicle Parking

Other Relevant Material Considerations

Site Allocations Plan (Draft Pre-Submission June 2014)

The following is the complete extract from the Site Allocations Plan (SAP) as it relates to Austrey.

Austrey

- 5.63 The village lies mostly north of the church and is situated within attractive countryside close to the Leicestershire border. It consists of approximately 400 houses, two churches, a primary school and a pre-school, public house, 2 playing fields and a shop/post office. There are also some ancient earthworks in the field by the church and ridge and furrow surviving in a few surrounding fields.
- 5.64 The village has an active community and Parish Council, which is currently developing a neighbourhood plan. There are at least 14 Listed Buildings/Structures, some with altered fronts, but at least five of them show old timber-framing. The village has limited services and its rural location and limited public transport services reduce its sustainability and capacity/potential for significant new development. Nevertheless there is some potential for small scale redevelopment or expansion.

Total amount of housing units to be provided = 40

5.65 Since the 1st of April 2011 only 1 unit is available with valid extant planning consent within Austrey Parish. There is a need to identify a minimum of approximately 40 units and there are a number of sites potentially available to address this need. The principal site utilises a number of landowners stretching from Main road to Church Lane and will help address a number of needs indicated by the Parish, including provision of a village green open space area and parking for the church and village hall, both of which are currently limited in availability. This figure may need to be increased if viability issues arise to ensure the delivery of the facilities sought. An element of flexibility is built into the site allocations to ensure delivery to meet the housing requirement.

AUSTREY – SITE ALLOCATIONS				
Site allocation s code	ADDRESS	Site size (ha)	Net Figures	ISSUES & SITE REQUIREMENTS IDENTIFIED
AUS14 (Formerly AUS1b, AUS 7 & PS143)	Land between Main Road and Crisp Farm ,Church Lane Austrey	2.25	40	New Access from Main Road to serve sites off Church Lane. Parking and Open Space to be included comprising village green (or off site delivery if agreed with parish as part of neighbourhood Plan) and parking for village hall and church. Careful and sensitive design is required to address the proximity of the Grade 2* Church. Trial trenching for archaeological impact is also recommended.
AUS4 (Combines AUS 4 & 3)	Applegarth, Norton Hill	0.29 + 0.49	20	May involve demolition of existing dwelling to enable access. Net figures reflect redevelopment of on-site dwellings. Retention of existing dwellings would be preferred and better reflect village character. Trial trenching for archaeological impact recommended.
AUS2/9	Holly Bank Farm, No Mans Heath Lane	0.27	7	STA concerns over lack of footway, although road frontage improvement is possible utilising both sites. Retention of existing cottage on site frontage and converted barns to rear (in commercial use) expected to retain character of site which adjoins a number of listed buildings. Developable area primarily on northern AUS9 part of site utilising AUS2 frontage to enable highway improvements..
TOTAL OF PROPOSED SITES			67	

POLICY HS3
Proposal AUS14
 A Mixed Use Proposal for Housing, to provide additional Open Space (village green) and an element of parking for the church and village hall.

The site at Holly Bank Farm now has planning permission for 3 dwellings (granted earlier this year) and the two remaining allocated sites are the subject of current planning applications.

Government Advice: National Planning Policy Framework (NPPF).
 Achieving Sustainable Development;
 Core Planning Principles,
 Delivering a wide Choice of High Quality Homes,
 Conserving and Enhancing the Natural Environment
 Conserving and Enhancing the Historic Environment

The Austrey Neighbourhood Plan.

The Austrey Parish Council has produced a first consultation draft of the Neighbourhood Plan, which, amongst other things, allocates land for housing. It must be stated that the

Neighbourhood Plan is at a very early stage of preparation, it carries little weight until it is voted for in a referendum and is then formally adopted. At this early stage of preparation there is some uncertainty about the final form of the Plan and whilst it is indicative of the direction of travel of the Parish it can be afforded only little weight in the consideration of the planning applications.

Local Finance Considerations: New Homes Bonus (NHB) will apply in respect of all of these proposals.

Context - Housing Need

When several of these proposals were first presented the Council was unable to demonstrate that it had identified a five year, or five year plus twenty percent buffer, of housing land supply. This meant greater prospects to sites which would normally not be supported but which were in locations on the periphery of existing settlements, in relatively sustainable positions. However, since then, the Council has calculated its current housing land supply. As at 30 September 2014, the Council can demonstrate 6.3 years supply. There is therefore an argument to suggest that there is no pressing need to approve applications for housing development that are not on allocated land or in locations beyond identified Category 4 settlement boundaries at this time.

Context- Presumption in Favour of Sustainable Development

The NPPF states that development that is sustainable should go ahead – a presumption in favour of sustainable development should be the basis for and every decision. Development proposals that accord with the development plan should be approved without delay.

Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 12 of the NPPF affirms that proposed development that conflicts with an up-to-date Local Plan should be refused unless other material considerations indicate otherwise.

Given the up to date position of the Development Plan, where a proposal would be contrary to its provisions, it is necessary to examine whether there are any material considerations that indicate that the proposal should be supported contrary to the provisions of the Development Plan.

Consultations Generic to All Applications

Landscape Manager – Highlights the needs for a new play space in Austrey. There is a small equipped play area at Hollybank, but this is very limited, and the one at the playing field at Newton Lane is too far for unaccompanied children to access safely. Land and financial contributions are both required in order to provide a play area in the village – which might need to come from several sources.

Warwickshire County Council Development Management - Austrey Primary is currently able to meet the demand from all of the proposed developments for Primary age pupils, therefore no contribution is requested for this age group. The local Secondary School, The Polesworth Academy is currently full to capacity and forecast to remain so, however the school has a significant proportion of children from out of County who would subsequently be displaced to create space for local children, therefore no request will be made for secondary / sixth form pupils.

Matters Concerning Cumulative Impact

It is in the above context that all eight applications must now be considered on their own merits. However, before turning to each application, the following considerations are relevant to cumulative impact.

The Education Authority confirms that there would be no adverse impact on education provision in the event that planning permission is forthcoming for all of the current applications (NB. This excluded the latest application at Crisps Farm because that application was not received at the point that the Education Authority was consulted)

The cumulative scale of development will help maintain, and potentially improve the viability of improving, existing services and facilities. The market will respond to increased demand for health and dental services.