

**(2) 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 relating to number of karts in operation; in respect of extension to existing track, relocation of holding area and creation of 2m high bund.**

**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 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. An earth bund has been constructed along the south west boundary of the existing circuit facing the B5000. There is an extant planning permission which permits the extension of the existing track onto adjoining land to the west to form an extended circuit.

The Tamworth golf course and an industrial estate lie further to the west, open farmland extends to the north, with Robeys Lane to the east, to south is open land which slopes down to the B5000. The nearest residential properties are on the opposite side of this road, within the Stonydelph estate in Tamworth. Mature trees line the western boundary, extending along the southern boundary with the B5000. A further belt of mature trees is opposite between the road and the residential development. There is also a small wooded area in the south east corner between the B5000, Robeys Lane and the Priory Farm building complex.

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, 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. This number was then increased to twelve in 2012.

In 2013 permission was granted for an extension to the track; additional parking spaces, and the formation of a two metre high bund along the south west boundary of the extended circuit. This would be achieved by increasing the height of the existing bund and forming a new bund alongside the new section of track. The permission limits the number of karts to 12 (condition 3); restricts the noise level requirements to those stipulated by the RAC Motorsports 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).

Land owned by the applicant which adjoins the karting site hosts temporary uses, including occasional car boot sales, under the provisions 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 2013 permission for the extension has not yet been taken up. The operators of the circuit vacated the site shortly after the grant of this consent and the site has been vacant for a little while. The land owner is in discussion with a prospective operator and has submitted this application on that operator's behalf.

The report considered by the Board in determining the 2013 permission is attached at Appendix A.

## **The Proposals**

The applicant is seeking to vary the 2013 permission by requesting continuation of that permission without compliance with condition 3 – ie. the one limiting the number of karts to 12. He argues that compliance with the specified noise limits set out in condition 5 is the important environmental consideration here. He says that with the more modern karts now being raced, they are quieter and so that even with more karts operating on the track, the cumulative noise impact would still be below the threshold in condition 5. Hours of operation are not proposed to alter from those set out in condition 6 (see above).

The applicant has submitted a series of noise assessment reports. These have been forwarded to environmental health officers here and at Tamworth Borough Council.

## **Development Plan**

Saved policies of the North Warwickshire Local Plan 2006 (Saved Policies) – Core Policy 2 (Development Distribution); ENV1 (Protection and Enhancement of the Natural Environment), ENV9 (Air Quality), ENV11 (Neighbour Amenity), ENV14 (Access Design)

## **Other Relevant Material Considerations**

The Submitted version of the Council's draft Core Strategy (2013) – Policies NW 8 (Sustainable Development) and NW11 (Natural and Historic Environment)

The Inspectors Proposed Main Modifications (2014) – MM 51 (on MW8)

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 (Footpaths) - No objection, but footpath T95 crosses the site, and as a public right of way should be accessible at all times.

## **Representations**

Nine representations have been received from nearby residents, eight of whom object to the proposal. All raise the issue of noise from the karting facility. One raises additional concerns of pollution, dust, smell and intrusion into everyday life resulting in loss of amenity. Noise is experienced particularly when people are outside in their gardens or when windows are open.

A response from one Tamworth Borough Councillor raises the issue of noise and the concern that the site should operate within restrictions imposed and that public footpaths should be accessible.

Further representations from another Tamworth Borough Councillor raise the issue noise; concern that the proposed bund will not be high enough to attenuate noise as parts of the track can be seen above the bund that was in-situ at the time and raises queries over some of the details within the applicant's 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 are thus not at issue here. Consideration is limited to those matters relevant to the condition for which variation is sought – that is the number of karts and any consequential impacts.

The significant considerations here are thus the impact arising from noise generated by the karts when in use on the track and impacts that may arise from the potential increase in the number of visitors to the karting facility.

### **a) Noise**

A noise assessment is submitted with the application. This predicts the cumulative noise impact at nearby noise sensitive locations, in this case the dwelling houses closest to the site, which will arise from a proposed increase in the number of karts. It uses measurements taken at and around the site. These include measurements of the sound emitted by karts when stationary on the track with engines running, in accordance with the RAC/ MSA guidance for karting and of the noise level measured at a distance of 100 metres with six karts being driven around the existing track at the same time. The noise levels likely to be experienced at the more distant nearby residential properties

are then derived using a methodology agreed by noise professionals. These are then compared to background ambient noise levels at the nearest dwellings which are also measured.

The Assessment finds that background noise, initially measured at midday was 52dB  $L_{A90}$ . A subsequent evening measurement was submitted, recording a background noise level of 54dB  $L_{A90}$ . 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. However, noise assessments submitted previously in connection with the karting use on this site also included measurements for background noise taken during the evening. These included a background noise level during the evening of 46dB  $L_{A90}$ . This is significantly lower than the background noise levels as suggested by the current assessment above. In view of this, Environmental Health Officers have used the lower level here to assess the noise impacts of this current application.

In preparing the noise assessment, the maximum noise emitted by karts fitted with different engine types and exhaust systems was measured. The prospective operator intends to use karts powered by a four stroke Honda engine, fitted with the manufacturer's standard exhaust. These have a measured noise level of 89.3 dB  $L_{Amax}$ , and karts powered by the two stroke engine 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 as set out in condition 5 of the 2013 permission, which allows karts that have a noise level of 108dB  $L_{Amax}$ . In short, improved technology is enabling more modern karts to be quieter.

Using the agreed methodology for predicting noise, the noise level near to the closest dwellings with 30 karts powered by the four stroke Honda engine fitted with the manufacturer's standard exhaust operating at the same time is predicted to be 42dB  $L_{Aeq}$ . This is 4dB lower than the evening background noise level as agreed by Environmental Officers above. The noise level near to the closest dwellings with 20 karts powered by a two stroke engine fitted with the manufacturer's standard exhaust operating at the same time is predicted to be 46dB  $L_{Aeq}$ , equivalent to the preferred evening background noise level above.

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 loss of amenity at nearby dwellings. There is a track capacity in terms of safety standards and the prospective operator anticipates that the venue would not operate at these levels. A reduction in the number would reduce the noise impact, such that they would be lower than the predicted levels.

The predicted noise levels within the assessment include a reduction of 5dB for the effect of the proposed two metre high bund. This is said to be an agreed assessment by noise professionals.

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 now 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. It is significant that this allow the use of karts on this site provided they comply with the RAC / MSA guidance on noise, i.e. with maximum engine noise of 108dB  $L_{Amax}$ . The existing permission limits the number of karts to a maximum of 12 in use at one time The noise assessment submitted predicts that cumulative noise impact arising from 12 karts with the higher engine noise of 108dB  $L_{Amax}$ , would be 56dB  $L_{Aeq}$  at the closest dwelling. This would be perceptibly higher than both the background noise level (52dB at mid - day and 46 dB in the evening) and the cumulative noise level predicted for the increased numbers of quieter karts (42 or 46dB).

The four-stroke and two-stroke karts that it is proposed to use are significantly quieter than karts which could be operated under the 2013 permission. The noise assessment submitted concludes the use of quieter karts will balance any additional noise impact due to the increase in the number of karts that could operate at any one time. Hence any consideration to increase the number of karts here must carry a balancing mechanism for use only by quieter karts. This can be secured by a condition attached to a new planning permission to require the operation of karts with a noise level, when measured in accordance with the RAC / MSA guidance, i.e. at one metre when stationary with engines running, to not exceed 90 dB  $L_{Amax}$  for four stroke engines and 96 dB  $L_{max}$  for two stroke engines. A requirement for regular measurements in accordance with method set out in RAC/ MSA guidance and the recording of these will facilitate monitoring.

#### **b) 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 is likely to result in 30 vehicles, a few spaces will remain for staff vehicles. The existing vehicle access arrangement via Robeys Lane to the B5000 is good and provides a safe access, The additional vehicle movements associated with the increase in the number of visitors will not compromise this.

A Section 106 Agreement similar to the one that accompanied the previous application will be necessary to secure the restriction on the use of the adjoining land 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 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, irrespective of whether the karts are on the track, in the pits or undergoing repair. No kart or other vehicle shall be operated other than on the track, pit area, holding area, parking area or access road 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 competition racing or inter club or inter organisation competitions or other events racing shall take place on the site at any time.

REASON

In the interest of amenity.

7. Portable external track lighting in use on the site shall not be illuminated other than when necessary within the hours of operation specified in condition 5 and within the period expiring no later than thirty minutes after the latest time specified.

REASON

In the interest of amenity

8. No external lighting shall be permanently 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.

9. No external loud speaker or tannoy system shall be placed or erected 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.

10. 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

To ensure the use complies with the permission granted in the interest of amenity.

11. The use hereby approved shall not commence unless a planting scheme for the proposed bund and adjacent land within two metres either side 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 following the completion of the bund and any trees or plants which, within a period of five 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 interest 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 Tunnicliff	Representation	7/5/2014
7	A Madge	Representation	20/4/2014, 8/5/2014 & 18/5/2014
8	C Pincher MP	Representation	6/5/2014
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
13	S E King	Representation	20/4/2014
14	H Jones	Representation	16/4/2014

*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: 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 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 accords 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 so 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.*

### **(3) Application No: PAP/2014/0293**

**The Woodlands, Watling Street, Dordon, B78 1SS**

**Continued use of property as a dwellinghouse and for vehicle storage and sales for**

**Mr Tom Fleming - TFS Dordon Ltd**

#### **Introduction**

The application is brought before the Board, following a member request given the potential impact of the scheme upon the neighbouring property.

#### **The Site**

The site lies within the Dordon development boundary as identified within the North Warwickshire Local Plan 2006. It lies on the A5 Trunk Road, with direct vehicle access onto the "slip" carriageway leading to petrol station to the east and within a built frontage. The application site contains a dwelling house with a garage building in the rear garden.

There is an area of trees at the rear; a church to the west and a further dwelling on its other side. The land levels rise from the front to the rear of the site.

#### **The Proposal**

The proposal is for the continued use of the land and building for residential use and the storage and sale of vehicles. The use started a few months ago and this application is the consequence of officer investigations. The applicant operates a vehicle sales business, offering sales by appointment only, to both the trade and public. The applicant and his wife are the only employees of the business. The "shop front" is provided by way of a website and no signage or forecourt displays are utilised at the property.

In terms of running the business, the prospective purchasers, upon browsing available stock at the website, are then required to contact the applicant to arrange a time to visit the property to complete a transaction. The applicant does not accept "drop-ins" due to the fact the property also serves as his family home. Current sales indicate that there would be around 12 sales per month, equating to approximately 3 per week. The applicant intends only to stock cars and light commercial vehicles (i.e. vans) to a maximum of 12 at any one time. It is not intended to stock HGVs and LGVs. The vehicles would be stored either at the rear of the site, behind secure fencing and gates, or if presently used by the applicant as a works vehicle – within the residents parking area to the front of the bungalow.

It is not envisaged that there would be more than 3 cars forming part of the stock within this residents parking area at any one time, and all light commercial vehicles would be stored at the rear. The garage / workshop would also contain a small office related to the business. The workshop at the rear of the property would occasionally be used for valeting of stock vehicles, but no repairs, body spraying or manufacturing would take place within it. This is equally the case of open land within the curtilage of the property.



The opening hours are 8am – 8pm Monday to Friday; 8.30am to 6pm on Saturday and 10am – 4pm on Sundays and bank holidays. Below is a plan of the application site as proposed. Photographs of the site can be viewed in Appendix 1.



## Background

In 2013 planning permission was granted for a single storey rear extension and works to the roof. This has been undertaken. Also in 2013 consent was given to retain a rear garage and brick wall to the front. A separate 2014 application (PAP/2014/0294) has been made to retain a fence along the western boundary.

## Development Plan

Saved Policies of the North Warwickshire Local Plan 2006 - ENV9 (Air Quality); ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), and TPT6 (Vehicle Parking)

## Other Relevant Material Considerations

The National Planning Policy Framework 2012

National Planning Policy Guidance 2014

The Submitted Version of the Council's Draft Core Strategy 2013 - Policy NW8 (Sustainable Development)

The Inspector's Proposed Main Modifications 2014 – MM51 (to NW8)

### **Consultations**

**Highways Agency** – No objection subject to the business being run as outlined above.

**Environmental Health Officer** – Does not wish to make any comment.

### **Representations**

The occupier of the adjoining residential property has objected raising the following matters:

- Detrimental impact upon residential amenities, with the change of use of this to a business with much coming and going and use of the back yard as a car park and valeting area.
- The change of use has had a serious impact on privacy particularly from the bedroom window and in the garden, where the view and noise level has changed considerably from purely domestic to a fully operational business.
- The approved garage did not cover business use.
- The replacement fence is actually lower than the previous one. This gives less privacy or protection from noise or the coming and goings than the original fence.
- The applicant's planning statement says that the proposal is not considered to cause undue harm to the existing standards of privacy, light or clean air enjoyed by neighbouring occupants. The proposed business in the application will create more disturbance, as the site will become a car park and valeting area with associated noise, starting vehicles, closing doors, bonnets etc. and will be on the adjacent plot to us.
- The change from a residential property to a business will have a serious effect on our existing standards of privacy and with a potential 75 and 1/2 hours of business a week.
- Should the application be approved, the Council should use its powers to ensure that adequate fencing or planting be put in place between the properties to ensure our Human Rights to privacy and quiet in a residential environment and also to ensure and enforce agreed parameters that the business should be carried out within to ensure no detrimental effect to the residential amenities.

### **Observations**

The NPPF and the Development Plan support economic growth and particularly the retention, where appropriate, of local business and employment provision. The key is the definition of “appropriate” as here the main issues surrounding the application are the likely impacts on the A5 and on the residential amenity of neighbouring residential occupiers.

From a highway perspective then the site has existing access onto the A5 via the “slip” access but the Highways Agency has no objection subject to the business being managed as set out in the applicant’s description. Planning conditions can be imposed on the grant of a planning permission to control these matters – e.g. the maximum number of cars on the site; signage and hours of operation.

In respect of the amenity issue then there is not an issue with the adjoining Kingdom Hall as this is not a residential use. The main impact will clearly be on the dwelling on the other side. The use of the site to store vehicles and to allow customers to come and view them does introduce a different use from normal residential use and the character of the site will change. However the setting of the site is important here in that this part of Watling Street has a mix of uses, and Watling Street itself is a busy and noisy Trunk road. However that does not mean that there should be a “lesser” test. Development Plan policy ENV11 says that permission should not be granted if there is significant harm to residential amenity. The key here is the adjective “significant” as this the actual term used in that policy. It has to be acknowledged that noise and disturbance can emanate from any residential property, but with the use of planning conditions, additional use can also be controlled so as to limit any adverse impacts. This is the situation here.

The land rises from the A5 towards the rear of the site and even without the proposed use there would be a degree of overlooking. The new fence is two metres tall and because of the rise in levels, vehicles can be seen over it at the rear of the site. The applicant is not prepared to increase the height further. It is a new fence and the one it replaced was in need of repair and around the same height - see photographs at Appendix 2.

The garage was conditioned as part of a previous permission to be only used as being ancillary to the applicant’s property, but this does not prevent its change through a subsequent planning permission.

Any business use on this site will impact upon the neighbouring properties, however the opening hours and use of the site can be conditioned to limit the impact upon amenity. It is considered that the proposal would not impact significantly with such conditions, particularly as the Council’s Environmental Health Officer has made no comments.

## Recommendation

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

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

### REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with site location plan and site plan received by the Local Planning Authority on 9 June 2014.

### REASON

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

3. There shall be no more than 12 vehicles stored on the site for sale at any one time. The site shall only stock cars and light commercial vehicles related to the business, and shall not be used for any other purpose within Use Class B8 as defined by the Town and Country Planning (Use Classes Order) 1987 as amended. For the avoidance of doubt the forecourt/front of the site shall only be used by no more than 3 cars. No light commercial vehicles whatsoever shall be parked or stored here. No more than 9 light commercial vehicles shall be stored to the rear of the site.

### REASON

In the interests of the amenities of the area and safety on the public highway.

4. For the avoidance of doubt the 12 vehicles as covered by condition 3 do not include non-stock vehicles such as delivery, customer, visitor, family and personally owned vehicles. The area of vehicles sales to the front, side and rear of the site and the garage/workshop shall be for customer parking and for pre-sales cleaning and valeting.

### REASON

In the interests of the amenities of the area and safety on the public highway.

5. The permission hereby granted shall only be for the benefit of Mr Tom Fleming and TFS Dordon Limited, and for no other person whatsoever.

REASON

Planning permission is granted solely in recognition of the particular circumstances of the beneficiaries, and to ensure that the use does not become permanently established on the site.

6. For the avoidance of doubt there should be no storage of cars in association with the use hereby permitted other than on land shown on the coloured areas as defined on the site plan received by the Local Planning Authority on 9 June 2014.

REASON

In the interests of the amenities of the area and safety on the public highway.

7. There shall be no repair, body spraying, manufacturing or maintenance of any vehicle stored on the site in connection with the vehicles sales use hereby permitted.

REASON

To protect the amenities of nearby residential property.

8. The garage/workshop to the rear of the site shall be used as a mixed use related to the dwellinghouse known as The Woodlands, Watling Street Dordon and also for business use relating to the vehicle sales office, pre sales cleaning and valeting.

REASON

To protect the amenities of nearby residential property.

9. The vehicles stored on the site as part of the vehicle sales use hereby approved, shall only be driven to the site and shall not be transported to the site on any other type of vehicle.

REASON

In the interests of the amenities of the area and safety on the public highway.

10. Vehicle sales shall only take place between 0800 to 2000 hours on Mondays to Fridays; between 0830 to 1800 hours on Saturdays and between 1000 hours and 1600 hours on Sundays and Bank Holidays.

REASON

To prevent disturbance to the occupiers of nearby properties.

11. There shall be no display of signage related to vehicle sales on the site or within the vehicles stored whatsoever at any time.

## REASON

In the interests of the amenities of the area and safety on the public highway.

## Notes

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at [www.communities.gov.uk/publications/planningandbuilding/partywall](http://www.communities.gov.uk/publications/planningandbuilding/partywall).
3. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through discussions seeking to resolve planning objections and issues. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
4. For information the reference in condition 3 to light commercial vehicles shall mean 4 wheel vehicles used for transporting goods with a maximum gross weight of 3.5 tonnes.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2014/0293

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	9/6/14
2	Case officer	Site visit	16/6/14
3	Case officer	Email to agent	27/6/14
4	Agent	Email to case officer	27/6/14
5	Highways Agency	Consultation response	3/7/14
6	Case officer	Email to agent	7/7/14
7	Agent	Email to case officer	7/7/14
8	Case officer	Email to agent	7/7/14
9	Agent	Email to case officer	30/6/14
10	Case officer	Email to agent	9/7/14
11	Agent	Email to case officer	10/7/14
12	Case officer	Email to agent	11/7/14
13	Case officer	Email to Highways Authority	11/7/14
14	NWBC Environmental Health	Email to Case officer	8/7/14
15	Objection – neighbour	Email to NWBC	3/7/14
16	Neighbour	Email to case officer	16/7/14
17	Case officer	Email to neighbour	16/7/14
18	Neighbour	Email to case officer	16/7/14
19	Highways Authority	Email to case officer	24/7/14
20	Case officer	Email to agent	25/7/14
21	Agent	Email to case officer	27/7/14
22	Case officer	Email to agent	28/7/14
23	Case officer	Email to agent	30/7/14
24	Neighbour	Email to case officer	4/8/14
25	Case officer	Email to neighbour	4/8/14
26	Case officer	Email to agent	5/8/14
27	Agent	Email to case officer	7/8/14
28	Case officer	Email to agent	7/8/14
29	Agent	Email to case officer	7/8/14
30	Case officer	Email to agent	8/8/14
31	Case officer	Email to Councillors	30/7/14
32	Councillor	Email to case officer	7/8/14
33	Case officer	Email to neighbour	11/8/14

*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 1 – Photograph of the site







**(4) Application No: PAP/2014/0316**

**Littlebrook Farm, Birmingham Road, Ansley, CV10 9PU**

**Erection of a replacement dwellinghouse, for**

**Mr David Barrs**

**Introduction**

This application is reported to the Board at the request of a Local Member who is concerned that this represents inappropriate development in the Green Belt and does not satisfy the requirements of paragraph 55 of the NPPF and of Policy ENV1 and Core Policy 2 of the North Warwickshire Local Plan 2006.

**The Site**

Littlebrook Farm lies to the west of Birmingham Road, outside of the village and is accessed via a private track which also serves the three cottages known as Cloverfield Cottages and a recently constructed agricultural workers dwelling. The area of land surrounding the farmhouse is owned and farmed by the applicant, Mr Barrs.

**The Proposal**

This is to demolish the existing dwelling-house known as Little Brook Farm and to erect a replacement dwelling-house within its residential curtilage.

**Background**

Planning permission was granted at appeal in 2008 for the erection of an agricultural workers dwelling at Little Brook Farm. This property has been constructed and lies to the south west of Little Brook Farm. It should be noted that this is not the dwelling the subject of this application.

**Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – ENV2 (Green Belt; ENV4 (Trees and Hedgerows), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), HSG3 (Housing Outside Development Boundaries) and TPT6 (Vehicle Parking)

**Other Relevant Material Considerations**

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

The Submitted Version of the Council’s draft Core Strategy - Policies NW2 (Green Belt)

The Inspector’s Proposed Main Modifications to the Submitted Core Strategy – July 2014

## Consultations

Environmental Health Officer – The Officer recommends that the use of this dwelling is tied into the use of the farm and industrial unit at the site in view of it being surrounded by agricultural activity including the operation of a grain dryer.

## Representations

Ansley Parish Council – The Council objects to the application as it does not conform to Policy ENV2 (Green Belt) and because it does not conform to Policy HSG3 regarding housing outside the development boundary.

## Observations

### a) Green Belt

The site lies within the Green Belt. This provides the starting point on which to assess the principle of this application. Saved Policy ENV2 of the Local Plan 2006 requires compliance with Government Guidance on Green Belt. That used to be Planning Policy Guidance Note Number 2, but is now the NPPF.

The NPPF states the following at paragraph 89:

*“A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are: the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.”*

If the application proposal accords with this exception then it is not inappropriate development in the Green Belt and therefore does not carry the presumption of refusal. Members should note that the exception refers to buildings “in the same use”. This is the case here – a replacement dwelling – and so this part of the exception is satisfied. So it is necessary to move to the second part and take a view on whether the new building is “materially” larger than the one it replaces.

The existing building has been extended from its original form with single storey additions to the side and rear, but it is calculated that its’ volume with an allowance for permitted development amounts to 865 cubic metres. That of the proposed replacement, including the allowance is also 865 cubic metres. As a matter of fact therefore, the replacement building is not materially larger than the one it replaces and thus this proposal accords with the NPPF exception and thus it is appropriate development in the Green Belt, not carrying a presumption of refusal. The Parish Council is thus incorrect in its principal objection on this matter.

The design of the new building is different to that of the existing but that in itself is not a reason for refusal. Its appearance is considered to be better than the existing. The NPPF says that poor design can be used for a refusal if new development, “fails to take opportunities to raise the standard of design more generally in the area”. This is not the case here. Photographs of the existing house are provided below. The replacement building would be located within the curtilage of the existing and there is no issue with this.



## **b) Other Policy Matters**

The Parish Council refers to policy HSG3 of the Local Plan and to paragraph 55 of the NPPF. These essentially say that new dwellings in rural areas should not be approved unless they are for agricultural purposes or other rural enterprises which require on-site residential provision or for local affordable housing. This proposal is for neither but it is not a new dwelling, it is a replacement dwelling and as seen above it is appropriate development in the Green Belt. The Parish Council is thus incorrect to pursue these policies as objections to the application.

## **c) Potential Environmental Issues**

The Environmental Health Officer refers to the potential for noise disturbance to the future occupiers of this replacement dwelling because of its location within a working agricultural setting. He suggests that the new dwelling house should be tied to the farm holding. This cannot be followed as the existing house has no such tie and thus it would be unreasonable to add this restriction. Additionally, the new house would be slightly further away from the farm buildings. The applicant and his family have provided a statement stating that they are aware of the noise generated from a working farm and they accept this. The concern of the Environmental Health Officer is if this property is sold on, then the new owners may complain about the noise of the working farm. The proper way to deal with this is through a note to be added to any consent granted stating that the new dwelling is located sited next to a working farm where noise from grain drying operations etc. may be experienced.

## Recommendation

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

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

### REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 3824-02e received by the Local Planning Authority on 7 August 2014, and the site location plan received by the Local Planning Authority on 17 June 2014.

### REASON

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

3. No development shall be commenced before details of the facing bricks and roofing tiles to be used have been submitted to and approved by the Local Planning Authority in writing. The approved materials shall then be used.

### REASON

In the interests of the amenities of this rural area.

4. No development whatsoever within Classes A, B, C, D and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 1995, as amended, shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.

### REASON

In the interests of the amenities of the area and in view of the proposal being a replacement dwellinghouse in the Green Belt.

5. No work whatsoever shall commence on the construction of the dwellinghouse hereby approved, until such time as all of the existing dwellinghouse known as 'Little Brook Farm' has been fully demolished; the foundations filled, and all the subsequent waste material removed from the site, to the written satisfaction of the Local Planning Authority.

## REASON

In order to prevent the over-intensive development of this Green Belt site and in recognition of the very special circumstances for approving a replacement dwellinghouse in this Green Belt location.

## Notes

5. You are advised that there may be bats present at the existing property that would be disturbed by the proposed development. You are advised that bats are deemed to be European Protected species. Should bats be found during the carrying out of the approved works, you should stop work immediately and seek further advice from the Ecology Section of Museum Field Services, The Butts, Warwick, CV34 4SS (Contact Ecological Services on 01926 418060).
6. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk). Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).
7. 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 quickly determining the application. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
8. The site of this development is within close proximity to a working farm environment with its accompanying environmental impacts – noise and odours.



## BACKGROUND PAPERS

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

Planning Application No: PAP/2014/0316

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	17/6/14
2	EHO	Consultation	10/7/14
3	EHO	Consultation	14/7/14
4	Case Officer	E-mail	15/7/14
5	Ansley PC	Objection	16/7/14
6	Case Officer	E-mail	1/8/14
7	Agent	E-mail	1/8/14
8	EHO	E-mail	7/8/14
9	Case Officer	E-mail	7/8/14
10	EHO	E-mail	7/8/14
11	Case Officer	E-mail	7/8/14

*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.*