

**To: The Deputy Leader and Members of the Planning and Development Board  
(Councillors Sweet, Barber, Butcher, L Dirveiks, Humphreys, Lea, May, B Moss, Phillips, Sherratt, Simpson, A Stanley, Turley, Watkins and Winter)**

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

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

For general enquiries please contact David Harris, Democratic Services Manager, on 01827 719222 or via e-mail - [davidharris@northwarks.gov.uk](mailto:davidharris@northwarks.gov.uk).

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

## **PLANNING AND DEVELOPMENT BOARD AGENDA**

**15 OCTOBER 2012**

The Planning and Development Board will meet in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday 15 October 2012 at 6.30 pm.

### **AGENDA**

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

- 4 **Minutes of the Planning and Development Board** held on 16 July, 13 August and 10 September 2012, copies herewith, to be approved as a correct record and signed by the Chairman.

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

- 5 **Budgetary Control Report 2012/2013 Period Ended 30 September 2012** - Report of the Assistant Director (Finance and Human Resources)

**Summary**

The report covers revenue expenditure and income for the period from 1 April 2012 to 30 September 2012. The 2012/2013 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Board.

The Contact Officer for this report is Nigel Lane (719371).

- 6 **Works to Trees in a Conservation Area Cole End Park Phase 1** – Report of the Assistant Director (Leisure and Community Development)

**Summary**

This report advises the Board of proposals for works to trees in Cole End Park in Coleshill, which is within a conservation area.

The Contact Officer for this report is Alethea Wilson (719212).

- 7 **Planning Applications** – Report of the Head of Development Control.

**Summary**

Town and Country Planning Act 1990 – applications presented for determination

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

- 8 **Consultation Paper - Renegotiation of 106 Obligations** – Report of the Head of Development Control.

**Summary**

The Government has published a consultation paper on the re-negotiation of Section 106 Agreements in order to attempt to stimulate the commencement of development projects that may have been “stalled” because of those Agreements.

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

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

9 **Exclusion of the Public and Press**

**Recommendation:**

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

10 **Breaches of Planning Control – Report of the Head of Development Control**

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

JERRY HUTCHINSON  
Chief Executive

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**MINUTES OF THE  
PLANNING AND DEVELOPMENT BOARD**

**16 July 2012**

Present: Councillor Sweet in the Chair.

Councillors Barber, Butcher, L Dirveiks, Lea, May, B Moss,  
Phillips, Sherratt, A Stanley, Turley, Watkins, Winter and Wykes

Apologies for absence were received from Councillor Humphreys  
(Substitute Councillor Wykes) and Councillor Simpson.

**12 Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

**13 Minutes**

The minutes of the meetings of the Board held on 16 March, 16 April, 21 May and 18 June 2012, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

**14 Tamworth Local Plan – Pre-submission Consultation and additional documents**

The Assistant Chief Executive and Solicitor to the Council reported on the consultation on the Tamworth Local Plan – Pre-submission Consultation and Tamworth Town Centre: Supplementary Planning Document Consultation.

**Resolved:**

- a That a representation be made on the Tamworth Local Plan for a change on the basis it is not justified and does not follow the duty to co-operate;**
- b That if the above change is made the Borough Council gives support to the Tamworth Local Plan; and**
- c That support be given to the Tamworth Town Centre: Supplementary Planning Document.**

**15 Budgetary Control Report 2012/2013 Period Ended 30 June 2012**

The Assistant Director (Finance and Human Resources) reported on the revenue expenditure and income for the period from 1 April 2012 to 30 June 2012. The 2012/2013 budget and the actual position for the period, compared



with the estimate at that date were detailed, together with an estimate of the out-turn position for services reporting to the Board.

**Resolved:**

**That the report be noted.**

16 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board. Details of correspondence received since the publication of the agenda is attached as a schedule to these minutes.

**Resolved:**

**a That consideration of Application No 2012/0058 (8 Oak Drive, Hartshill) be deferred;**

**b That Application No 2012/0152 (3 The Edge, Dunns Lane, Dordon, Tamworth, B78 1RY) be approved subject to the conditions specified in the report of the Head of Development Control;**

**[Speaker Tim Boardman]**

**c That Application No 2012/0198 (47 Fairfields Hill, Polesworth, Tamworth, Warwickshire, B78 1HG) be approved subject to the conditions specified in the report of the Head of Development Control;**

**[Speakers Brian Clemons and Marcus Rubensaat]**

**d That Application No 2012/0219 (Unit 34, Innage Park, Abeles Way, Holly Lane Industrial Estate, Atherstone, CV9 2QZ) be approved subject to the conditions specified in the report of the Head of Development Control;**

**[Speaker Jim Beeston]**

**e That Application No 2012/0223 (Annfield, Hoggrills End Lane, Nether Whitacre, Coleshill, Warwickshire, B46 2DE be approved subject to the conditions specified in the report of the Head of Development Control;**

**[Speaker James Jones]**

**f That Application No 2012/0243 (30 Margaret Road, Atherstone, CV9 1EF) be approved subject to the conditions specified in the report of the Head of Development Control;**

**[Speaker Marcus Halsall]**

- g That Application No 2012/0283 (19 Edward Road, Water Orton, Warwickshire, B46 1PG be approved subject to the conditions specified in the report of the Head of Development Control;**
- h That in respect of the consultation by Lichfield District Council (Land at Hogs Hill, off Main Road and Syerscote Lane, Haunton, Tamworth)**
  - (1) The Council raises no objection to the proposal, recommending that the application be determined in accordance with Lichfield District Council's Development Plan and with regard to the NPPF and any other material considerations;**
  - (2) The Council draws attention to the potential for two wind farms within 8km of the site, as well as two further turbines at No Mans Heath and junction 10 of the M42, and that regard should be had to the status of these proposals prior to determination in order to properly consider cumulative impacts; and**
  - (3) The Council draws attention to the fact that the routing for construction traffic involves roads under the jurisdiction of Warwickshire County Council, and that they be consulted on the application (if they have not already been).**
- i That in respect of the consultation for outline application for an Urban Extension to the West of Barwell involving 2500 houses; employment provision, sports pitches, new community hub, local health care facility and retail units all for Ainscough Strategic Land Ltd/Barwood Development Securities Ltd/Barwood Strategic Land LLP and Taylor Wimpey Ltd, Hinckley and Bosworth Borough Council be informed that this Council has no objection in principle to the development but requests that the Highway Agency be consulted because of the recognised capacity issue of the A5, and that this issue be again referred to the A5 Strategy Group.**

## **17 Annual Performance Report 2011/12**

The Head of Development Control on the performance of the Development Control service over the year 2011/12 comparing it with previous years.

**Resolved:**

**That the report be noted.**

**18 Reform of Heritage Legislation**

The Head of Development Control reported on the changes being proposed by Government to legislation affecting heritage assets.

**Resolved:**

**That the report be noted.**

**19 Exclusion of the Public and Press**

**Resolved:**

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

**20 Breaches of Planning Control**

The Head of Development Control reported on an alleged breach of planning control and the Board was asked to agree a suggested course of action.

**Resolved:**

**That in respect of the Heart of England Ltd, Meriden Road, Fillongley**

- a the Council seeks an Injunction from the Courts under Section 187(B) of the Town and Country Planning Act 1990, in respect of apprehended breaches of planning control at this site, to cover the period until the decisions of the current Enforcement appeal process are known, and then to vary and extend such an Injunction as a consequence of those decisions over the period of future planning appeals; and**
- b the Injunction includes a requirement to fully comply with the requirements of the extant Enforcement Notice dated 28 August 2009, in respect of the forestry building on the site, namely to complete the removal of the first floor.**

The Chairman requested that the unanimous vote in respect of this matter be recorded.

The Chairman and Members of the Board expressed thanks to the Development Control and Legal teams on the work undertaken on this case.

R Sweet  
Chairman

**Planning and Development Board  
16 July 2012  
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
6/3	2012/0198	Mr & Mrs Evans	Representation	14/7/12
		Mr Clemons	Objection	13/7/12
6/6	2012/0243	Environmental Health Officer	Consultation	11/7/12

## NORTH WARWICKSHIRE BOROUGH COUNCIL

### MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

13 August 2012

Present: Councillor Sweet in the Chair.

Councillors Barber, Butcher, L Dirveiks, Humphreys, Lea, May, B Moss, Phillips, Sherratt, Simpson, A Stanley, Watkins and Winter.

An apology for absence was received from Councillor Turley.

#### 21 **Disclosable Pecuniary and Non- Pecuniary Interests.**

Councillors Lea, May, B Moss and Sweet declared their membership of Warwickshire County Council in respect of Minute No. 22(a) (Consultation by Warwickshire County Council – Radbrook Farm, Highfield Lane, Corley) and (b) (Consultation by Warwickshire County Council – De Mulder & Sons Ltd, Mancetter Road, Hartshill). Councillor Sweet vacated the Chair for these items.

Councillor Lea declared a Non-Pecuniary interest in Minute No. 22(f) by reason of her daughter's association with Polesworth Scouts.

#### 22 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board. Details of correspondence received since the publication of the agenda is attached as a schedule to these minutes.

##### **Resolved:**

- a **That in respect of Application No CON/2012/0001 (Workshop opposite Radbrook Farm, Highfield Lane, Corley, Coventry, Warwickshire, CV7 8BJ) the response to the consultation by Warwickshire County Council be to object to the application for the following reason;**

**“The proposal is for inappropriate development in the Green Belt, where the presumption is that permission should be refused. It is not considered that there are material considerations of such weight that would amount to the very special circumstances needed to override that presumption. It is considered that there are authorised sites available and that the loss of a lawful employment site is significant given the need to support the rural economy as set out in the National Planning Policy Framework”;**

- b **That in respect of Application No CON/2012/0007 (De Mulder & Sons Ltd, Mancetter Road, Hartshill), the Council does not**

object in principle subject to it firstly being satisfied that there would be no greater odour pollution than at present, and that secondly, it being satisfied that there would be no greater traffic impact;

- c (1) That in respect of Application No CON/2012/0010 (Tamworth Motorway Service Area, Green Lane, Tamworth), the Council does not object to the proposal, and recommends the application be determined in accordance with Tamworth Borough Council's Development Plan and with regard to the NPPF and any other material considerations; and

(2) That this Council draws attention to the need to consult with Parish Councils, residents and other relevant parties within North Warwickshire.

- d That Application No PAP/2012/0058 (8 Oak Drive, Hartshill) be approved subject to amendment of condition (4 ) as follows;

"The replacement tree shall be an English Oak (Quercus Robur). It shall be of a size and stock that shall first be agreed in writing by the Local Planning Authority".

[Speakers Richard Charman and Nigel Henry]

- e That subject to a Section 106 Agreement requiring the payment of a financial contribution of £155,000 towards "off-site" affordable housing provision in Atherstone and Mancetter at the commencement of the development, Application No PAP/2012/078 and PAP/2012/084 (Land at South Street, rear of Atherstone Garage, Atherstone), be approved subject to the conditions specified in the report of the Head of Development Control;

[Speaker – Lisa Matthewson]

- f (1) That subject to the completion of a Section 106 legal agreement framed around the draft Heads of Terms as set out in Appendix D to the report of the Head of Development Control, to be prepared in liaison with officers, the Solicitor to the Council and the Chairman and Vice Chairman of the Planning and Development Board, Application No PAP/2012/0229 (land adjacent to Pooley Park, Pooley Lane, Polesworth) be approved subject to the conditions specified in the said report;

[Speaker – Derron Blount]

(2) That Application No PAP/2012/0203 (Scout Hut, High Street, Polesworth, Warwickshire) be approved subject to the

conditions specified in the report of the Head of Development Control; and

(3) That subject to the alteration of plan numbers in Condition (3), Application No PAP/2012/0181 (Scout Hut, High Street, Polesworth, Warwickshire), be approved;

- g That Application No PAP2012/0272 (Woodcorner Farm, Green End Road, Green End, Fillongley, Coventry CV7 8EP) be approved subject to the conditions specified in the report of the Head of Development Control.

[Speaker – Vince McCulloch]

- h That Application No PAP/2012/0330 (Land Adjacent to 40 Kiln Way, Polesworth) be approved following the agreement of Resources Board that £2000 from the receipt of the sale of this land be used for the enhancements of open spaces in Polesworth, in lieu of a Section 106 Agreement;
- i That receipt of Application No PAP/2012/0347 and PAP/2012/0350 (The Beanstalk, Gypsy Lane, Dordon, Warwickshire), be noted; and
- j That receipt of Application No PAP/2012/0348 (Whitacre Garden Centre, Tamworth Road, Nether Whitacre, Warwickshire) be noted and that the application be referred back to the Board for determination.

23 **Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April – June 2012**

The Chief Executive and Deputy Chief Executive informed Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April – June 2012.

**Resolved:**

**That the report be noted.**



24 **Ministerial Planning Statement**

The Board was informed that the Minister of State for Decentralisation and Cities has recently published a statement referring to four further planning consultation papers and to planning fees.

**Resolved:**

**That officers respond to these papers as outlined in the report of the Head of Development Control.**

R Sweet  
Chairman

**Planning and Development Board  
13 August 2012  
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
4/5	2012/0078 and 2012/0084	McCarthy and Stone Ltd	Letter	9/8/12
		Agent	E-mail	3/7/12
		Agent	E-mail	2/7/12
		Agent	E-mail	3/7/12
		Agent	E-mail	3/7/12
		Warwickshire Police	Consultation	1/8/12
		Agent	E-mail	3/8/12
		Atherstone Civic Society	Representation	13/8/12
4/6	2012/0229	Applicant	E-mail	8/8/12
		Canal and River Trust	Consultation	13/8/12
4/6	2012/0203	Heritage Officer	Consultation	6/8/12
4/6	2012/0181	Coal Authority	Consultation	1/8/12
		W C C – Highways	Consultation	2/8/12
		Heritage Officer	Consultation	6/8/12
		Heritage Officer	E-mail	13/8/12

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**MINUTES OF THE  
PLANNING AND DEVELOPMENT BOARD**

**10 September 2012**

Present: Councillor Sweet in the Chair.

Councillors Barber, Butcher, L Dirveiks, Humphreys, Lea, May, B Moss, Phillips, Simpson, Sherratt, A Stanley, Turley, Watkins and Winter

Councillors Hayfield and Lewis were also in attendance

**25 Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

**26 Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board.

**Resolved:**

**a That in respect of the consultation by Hinckley and Bosworth Borough Council (MIRA Technology Park, Watling Street, Caldecote), the Council raises no objection to this proposal, given the context of the recent planning permission for the redevelopment of the MIRA site;**

**b That prior to the determination of Application No 2011/0527 (31 Plough Hill Road, Chapel End, CV10 0PJ) Members undertake a site visit to appreciate the site characteristics and surroundings;**

**c That Application No 2012/0048 (Rowes House, Wood End Lane, Fillongley, Coventry, CV7 8DB) be approved subject to the amendment of condition v) to read as follows**

**“v) The outbuildings shown to be demolished on the approved plan shall be wholly demolished and the resultant materials removed from the site within three months of the date of completion of the extension hereby approved”;**

**[Speaker Mark Hodge]**

**d That officers are requested to clarify the matters raised by Application No 2012/0048 (Rowes House, Wood End Lane, Fillongley, Coventry, CV7 8DB) within the Development**

**Management policies in the forthcoming Development Plan Document; and**

- e That Application No 2012/0414 (Bretts Hall Recreation Ground, Bretts Hall Estate, Ansley Common, CV10 0PQ) be approved subject to the conditions specified in the report of the Head of Development Control.**

**27 CWLEP Revised Draft Planning Protocol**

The Assistant Chief Executive and Solicitor to the Council reported on revised versions of a Draft Planning Protocol and Members were asked to agree a suggested course of action.

**Resolved:**

**That the Planning Protocol attached at Appendix B to the report of the Assistant Chief Executive and Solicitor to the Council be agreed.**

**28 Coventry's Proposed Submission Core Strategy**

The Assistant Chief Executive and Solicitor to the Council reported on Coventry's Proposed Submission Core Strategy.

**Resolved:**

**That support is given to the Coventry Core Strategy but with reservations over the housing numbers.**

**29 Exclusion of the Public and Press**

**Resolved:**

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

**30 Breaches of Planning Control**

The Head of Development Control reported on an alleged breach of planning control and the Board was asked to agree a suggested course of action.

**Resolved:**

**That in respect of Home Farm, Kingsbury Road, Lea Marston**

- a the Solicitor to the Council be authorised to issue an Enforcement Notice relating to the unauthorised change of use, from a mixed use comprising agriculture and machine plant hire/storage; to a new mixed use comprising agriculture, machine plant hire/storage, together with the storage and transhipment of cars/vehicles;**
- b the Notice to require the cessation of the storage and transhipment of cars/vehicles; and**
- c the compliance period be three months.**

R Sweet  
Chairman

**Agenda Item No 5**

**Planning and Development Board**

**15 October 2012**

**Report of the Assistant Director  
(Finance and Human Resources)**

**Budgetary Control Report 2012/2013  
Period Ended 30 September 2012**

**1 Summary**

- 1.1 The report covers revenue expenditure and income for the period from 1 April 2012 to 30 September 2012. The 2012/2013 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Board.

**Recommendation to the Board**

**That the report be noted and that the Board requests any further information it feels would assist it in monitoring the budgets under the Board's control.**

**2 Consultation**

- 2.1 Councillors Butcher, Moore and Smith have been sent an advanced copy of this report for comment. Any comments received will be reported verbally at the meeting.

**3 Report**

**3.1 Introduction**

- 3.1.1 Under the Best Value Accounting Code of Practice (BVACOP), services should be charged with the total cost of providing the service, which not only includes costs and income directly incurred, but also support costs relating to such areas as finance, office accommodation, telephone costs and IT services. The figures contained within this report are calculated on this basis.

**4 Services Remaining Within Resources Board**

**4.1 Overall Position**

- 4.1.1 Net controllable expenditure for those services that report to the Planning and Development Board as at 30 September 2012 is £185,252 compared with a profiled budgetary position of £262,236; an under spend of £76,984 for the period. Appendix A to this report provides details of the profiled and actual position for each service reporting to this Board, together with the variance for the period. Where possible, the year-to-date budget figures have been calculated with some allowance for seasonal variations, in order to give a

better comparison with actual figures. Reasons for the variations are given, where appropriate, in more detail below.

## 4.2 Planning Control

4.2.1 Income is currently ahead of forecast by £69,950, due to the receipt of several large planning applications, with the largest single application being for £33,805. Planning income will continue to be monitored closely. In addition there is an under spend on Professional Fees, Advertising, Promotion and Publicity.

## 4.3 Local Land Charges

4.3.1 A reduction in the number of searches to date compared to the profile has resulted in income falling £7,880 below profile.

## 5 Performance Indicators

5.1 In addition to the financial information provided to this Board, when the budgets were set in February, performance indicators were included as a means of putting the financial position into context. These are shown at Appendix B.

5.2 The number of planning applications received is lower than profiled, due to a slight downturn in applications being handled. As such, the net cost per application is comparable to the profile which reflects the fact that while we are handling fewer applications, there have been three 'large' applications.

5.3 Similarly, the gross and net costs of land charges are higher per search as a lower number of searches have been completed than profiled.

## 6 Risks to the Budget

6.1 The key risks to the budgetary position of the Council from services under the control of this Board are:

- The need to hold Public Inquiries into Planning Developments. Inquiries can cost the Council around £20,000 each.
- Reductions in income relating to planning applications.
- Proposed plans by government to relax planning permission on certain extensions may effect the level of planning income received
- Risk to the mix of Local Land Charge applications not bringing in the expected level of fee income.

## 7 Estimated Out-turn

7.1 Members have requested that Budgetary Control Reports provide details on the likely out-turn position for each of the services reporting to this Board. The anticipated out-turn for this Board for 2012/2013 is £608,830, the same as the approved budget.

7.2 The figures provided above are based on information available at this time of the year and are the best available estimates for this board, and may change as the financial year progresses. Members will be updated in future reports of any further changes to the forecast out turn.

## 8 Building Control

8.1 Figures provided by the Building Control Partnership indicate that this Council's share of the costs up to 31 August 2012 indicates a favourable variance.

8.2 The approved budget provision for Building Control is £58,570, which will be sufficient to cover the full year costs estimated by the Partnership. We will continue to monitor this over the course of the year.

## 9 Report Implications

### 9.1 Finance and Value for Money Implications

9.1.1 The Council's budgeted contribution to General Fund balances for the 2012/2013 financial year is £453,408. Income and Expenditure will continue to be closely managed and any issues that arise will be reported to this Board for comment.

### 9.2 Environment and Sustainability Implications

9.2.1 The Council has to ensure that it adopts and implements robust and comprehensive budgetary monitoring and control, to ensure not only the availability of services within the current financial year, but in future years.

The Contact Officer for this report is Nigel Lane (719371).

## Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date



APPENDIX A

North Warwickshire Borough Council

Planning and Development Board

Budgetary Control Report 2012/2013 as at 30 September 2012

Description	Approved Budget 2012/2013	Profiled Budget September 2012	Actual September 2012	Variance	Comments
Planning Control	469,900	225,749	144,440	(81,309)	See Comment 4.2
Building Control Non fee-earning	76,620	9,025	7,534	(1,491)	See Comment 8.1
Conservation and Built Heritage	51,590	28,405	28,223	(182)	
Local Land Charges	(2,270)	(8,133)	(620)	7,513	See Comment 4.3
Street Naming & Numbering	12,990	7,190	5,675	(1,515)	
	<b>608,830</b>	<b>262,236</b>	<b>185,252</b>	<b>(76,984)</b>	

## Key Performance Indicators for Budgets Reporting to the Planning and Development Board

	<b>Budgeted Performance</b>	<b>Profiled Budgeted Performance</b>	<b>Actual Performance to Date</b>
<b>Planning Control</b>			
No of Planning Applications	740	370	376
Gross cost per Application	£971.58	£968.24	£943.17
Net cost per Application	£635.00	£610.13	£375.10
<b>Local Land Charges</b>			
No of Searches	1,010	505	492
Gross cost per Search	£54.60	£49.36	£49.68
Net cost per Search	-£2.25	-£16.10	-£1.51
<b>Caseload per Officer</b>			
All applications	137	68.5	69.6

## **Agenda Item No 6**

### **Planning and Development Board**

**15 October 2012**

**Report of the  
Assistant Director  
(Leisure and Community Development)**

**Works to Trees in a Conservation  
Area – Cole End Park Phase 1**

#### **1 Summary**

- 1.1 This report advises the Board of proposals for works to trees in Cole End Park in Coleshill, which is within a conservation area.

#### **Recommendation to the Board**

**That the Board notes the proposed works to be undertaken to trees in Cole End Park, Coleshill, and indicates whether it has any concerns that it wishes to be referred to the Community and Environment Board for further consideration.**

#### **2 Consultation**

- 2.1 The Chairman, Vice-Chairman and Opposition Spokesperson for the Community and Environment Board and appropriate Ward Members, have all had the opportunity to comment on the content of this report.
- 2.2 Coleshill Town Council and Coleshill Civic Society have also been consulted regarding the proposed works, in accordance with the consultation procedure set out in the adopted Tree Management Briefing Note, approved by Community and Environment Board at its meeting held in March 2011.
- 2.3 Feedback from the consultation is set out in Appendix A. Any further comments received will be reported verbally at the meeting.

#### **3 Works Required to Trees in Cole End Park, Coleshill**

- 3.1 Works to trees in a Conservation Area ordinarily require the submission of a S211 Notice to the Local Planning Authority in order to determine the need or otherwise for a Tree Preservation Order (TPO). Local authority work to its own trees is exempt from this procedure. In accordance with the consultation procedures set out in the adopted Tree Management Briefing Note, however, this report informs Members of proposed works to trees in Cole End Park in Coleshill, which is within the Authority's ownership.
- 3.2 A schedule of works has been prepared following an inspection of all of the trees in the Park to assess their condition in terms of both tree health and public safety. The works have been deemed necessary to ensure that the

... Authority upholds its Duty of Care in respect of tree management. The schedule is attached at Appendix B and the location of the trees is shown on the draft site proposals plan at Appendix C. It is intended that the works will be carried out in the autumn / winter of 2012.

3.3 The proposals comprise mainly remedial works to 32 trees, such as removing deadwood or tidying storm damage, but it is also proposed to fell three trees and to pollard a further 21. The latter are all crack willows (*Salix fragilis*) for which pollarding is a traditional form of management. The aim is to retain the willows as characteristic features of the riverside landscape whilst reducing the risk of harm occurring through their structural failure, which is a significant risk when, as in this case, the trees are mature.

3.4 Clearly works on this scale are going to have a considerable impact requiring some mitigation. The Authority's landscape consultants, Arthur Amos Associates, are in the process of preparing a management plan for the whole of the Park, which includes proposals for planting 34 standard trees. The proposed planting locations are shown on the plan at Appendix C and a planting schedule is attached at Appendix D. It is intended that the trees will be planted by spring 2014, subject to the availability of funding in the revenue budget.

3.5 This is the first, most extensive, phase of works being considered for the Park. An area to the south of the river and west of the conduit has been excluded from the proposals for the time being as it forms a key part of the proposed Local Nature Reserve. Tree works are expected to be necessary in this area, but will be considered in detail as plans for the development of the Nature Reserve, which are currently at a very early stage, are progressed. A further report will be brought to the Board in due course in relation to this issue.

3.6 The Board is asked to indicate whether it has any concerns or comments relating to the tree works detailed above that it wishes to be referred to the Community and Environment Board for consideration.

## 4 Report Implications

### 4.1 Finance and Value for Money Implications

4.1.1 The work identified in this report and the appended schedule will be funded through the existing tree management budget.

### 4.2 Safer Communities Implications

4.2.1 Well managed trees are less likely to present a hazard to persons or property.

### 4.3 Legal and Human Rights Implications

4.3.1 The Authority has a Duty of Care in respect of the management and maintenance of its land and trees. The act of a tree or part thereof causing injury to a person or persons is likely to give rise to litigation, either as a claim in negligence or under the Occupiers liability Acts 1957 and 1984.

### 4.4 Environment and Sustainability Implications

4.4.1 Well-managed and maintained trees make a positive contribution to the environment and to creating sustainable communities within which a good quality of life is enjoyed by local residents.

#### **4.5 Health, Well-being and Leisure Implications**

4.5.1 Well-managed parks and recreation areas provide opportunities for formal and informal recreation and leisure activities that have a positive impact on physical and mental health and well-being.

#### **4.6 Human Resources Implications**

4.6.1 None.

#### **4.7 Risk Management Implications**

4.7.1 The schedule of works to be carried out in Cole End Park, Coleshill, has been prepared in response to the findings of a risk-based inspection process that identifies the risks associated with a failure to undertake the recommended works. It is this process that has identified the need for the highlighted works to be undertaken.

4.7.2 The Tree Management Briefing Note, approved by the Community and Environment Board in March 2011, sets out the Authority's approach to managing any potential risks arising from the trees in its care. The operational risks of the tree management programme are assessed in accordance with corporate risk management procedures.

#### **4.8 Equalities Implications**

4.8.1 There are no differential equality-related impacts on particular groups or individuals within the community arising from this report.

#### **4.9 Links to Council's Priorities**

4.9.1 An efficient and effective tree management process contributes directly to the corporate priorities in respect of:

- Public services and council tax
- Environment
- Countryside and heritage
- Access to services
- Health and well-being

4.9.2 An efficient and effective tree management process has positive links to the priorities of the North Warwickshire Sustainable Community Strategy to:

- Raise aspirations, educational attainment and skills
- Develop healthier communities
- Improve access to services

4.9.3 Implementation of an effective tree management programme also delivers against priorities set out in the North Warwickshire Green Space Strategy.

The Contact Officer for this report is Alethea Wilson (719212).

### **Background Papers**

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

Background Paper No	Author	Nature of Background Paper	Date
1	Assistant Director (Leisure and Community Development)	Report to Community and Environment Board (Tree Management)	21 March 2011

## **Works to Trees in a Conservation Area – Cole End Park Phase 1**

### **Appendix A: Consultation Feedback**

#### Observations of Coleshill and District Civic Society:

“Our Committee has now had an opportunity to discuss the proposed works and I confirm that the Society has no objection. We recognise the need for tree maintenance in our cherished riverside landscape and are happy to leave this in the hands of the Borough's experts. Cole End Park lies within the conservation area and we appreciate your intention to develop a management plan for the future.

Several of our Members living at the north end of Coleshill, who use the footbridge regularly, were pleased to see that the two mature willows (1243 and 1244) are to remain after pruning, with a two yearly review, as they provide great character to the vicinity.”

**Coleshill Cole End Park Treeworks Schedule 2012-2013**

Tag No.	Species	Estimated Height (m)	Avg Canopy Radius (m)	Estimated Stem Diam (mm)	Age Class	Physiological Condition	Structural Condition	Comments and Additional Notes	Management Recommendations
1155	Lombardy poplar <i>Populus nigra 'Italica'</i>	-	-	-	-	-	-	Tree has been previously felled and only decaying stump now remains.	Grind away stump.
1156	Damson <i>Prunus intersititia</i>	6 - 10	6 - 10	150 155 220	Mat	Fair	Fair	Multi-stemmed & with tight basal forks. Lower branches previously removed.	Remove stubs back to correct pruning points.
1157	Sycamore <i>Acer pseudoplatanus</i>	11 - 15	6 - 10	Up to 315	Mid	Fair	Fair	Multi-stemmed. Lower branches previously removed. Large diameter deadwood associated with the canopy.	Remove all canopy deadwood.
1159	Sycamore <i>Acer pseudoplatanus</i>	11 - 15	11 - 15	Up to 320	Mid	Fair	Fair	Multi-stemmed. Branches extending towards adjacent building have been shortened & left as stubs. Fused stems on southern side of group have the potential to fail at fork.	Sever band of ivy.
1160	Broad leaved lime variety <i>Tilia platyphyllos</i> var.	6 - 10	1 - 5	120	Mid	Good	Good	Forks into a co-dominant stem at 3m. Canopy encroaching onto residential property to the east.	Reduce canopy on eastern side to give 2m clearance of property.
1168	Ash <i>Fraxinus excelsior</i>	6 - 10	6 - 10	740	Mat	Fair	Fair	Specimen has been heavily pollarded to 5m. Previously twin-stemmed with the other stem & the east side having failed in the distant past. Storm damage in upper crown. Dense ivy associated with base, trunk and canopy.	Sever band of ivy.
1169	Ash <i>Fraxinus excelsior</i>	6 - 10	6 - 10	260 @ 1m	Mid	Fair	Fair	Trunk forks into 3 no. stems at 1.2m. This limits the trees' long-term potential. Dense ivy associated with base, trunk and canopy.	Sever band of ivy.
1171	Ash <i>Fraxinus excelsior</i>	11 - 16	11 - 16	210 240	Mid	Fair	Fair	Twin-stemmed at 1.2m. Minor damage in upper crown, otherwise reasonable. Large diameter deadwood associated with the canopy.	Remove large diameter deadwood.
1173 (Not tagged)	Ash <i>Fraxinus excelsior</i>	11 - 16	11 - 16	300 300 (E)	Mat	Fair	Fair	Twin-stemmed at base. Growing at the foot of the riverbank. Deadwood in upper crown. Storm damage and failed branches associated with the canopy.	Remove deadwood and failed branches within the canopy.
1175	Crack willow <i>Salix fragilis</i>	11 - 16	11 - 16	1170	O/Mat	Poor	Poor	Previously pollarded at 3m & regenerating. Extensive basal decay & decay associated with old pollard points. Repollard back to 3m pollard points & monitor every 2yrs	Repollard to 3m.



1176	Crack willow Salix fragilis	11 - 16	6 - 10	740	O/Mat	Poor	Poor	Previously twin-stemmed & stem on riverside has failed historically & a large cavity has developed. Previously pollarded at 7m with regrowth now splitting out. Repollard back to previous pollard points & monitor every 2yrs.	Repollard back to previous pollard points and clear stem.
1179	Cotoneaster variety	1 - 5	1 - 5	165 @ 1m	Mat	Dead	Poor	Dead specimen located adjacently to footpath.	Fell to ground level.
1186	Crack willow Salix fragilis	11 - 15	11 - 15	690 @ 0.5m	Mat	Fair	Poor	Stem bifurcates at 1m. Decaying pruning wound at 1m south side. Crown extends almost exclusively north over river. Reduce crown back to 8 - 10m height & maintain at that size	Reduce back to previous pollard heads.
1187	Crack willow Salix fragilis	16 - 20	11 - 15	480	Mat	Fair	Poor	Limb on north side at 1m has been removed but stub remains. Stem bifurcates at 2m. Due to maturity & size, crown can be liable to collapse with this species. Reduce crown back to 8 - 10m height & maintain at that size	Reduce back to previous pollard heads.
1188	Crack willow Salix fragilis	16 - 20	11 - 15	395 570	Mat	Fair	Poor	Trunk bifurcates at 1m. Decayed, partly occluded wound on south side at 1.5m. Tree has a wide, spreading crown. Due to maturity, size & species size crown can be liable to collapse. Reduce crown back to 8 - 10m height & maintain at that size	Reduce back to previous pollard heads.
1189	Crack willow Salix fragilis	16 - 20	11 - 15	310 360 510	Mat	Fair	Poor	Multi-stemmed above 2m. Tree has a wide, spreading crown. Due to maturity, size & species crown can be liable to collapse. Reduce crown back to 8 - 10m height & maintain at that size	Reduce back to previous pollard heads.
1190	Crack willow Salix fragilis	16 - 20	11 - 15	355 650	Mat	Fair	Poor	Crown leans mainly northwards towards river. Due to maturity, size & species crown can be liable to collapse. Hoof fungus associated with the south western stem at 5m. Remove heavy lowest limb over river. Reduce crown back to 8 - 10m height & maintain at that size.	Reduce back to previous pollard heads.
1193	Crack willow Salix fragilis	6 - 10	6 - 10	1800 (E)	O/Mat	Poor	Poor	Massive trunk that is extensively decayed with 50% of stem having already failed. Previously pollarded at 2.5m with a recent failure at pollard head level. Repollard to original pollard point at 2.5m	Sever and remove ivy. Repollard back to previous pollard heads.

<b>1196</b>	Crack willow <i>Salix fragilis</i>	16 - 20	6 - 10	370 510	Mat	Fair	Poor	Codominant stems form from 0m. Base, trunk and canopy are heavily clad in ivy restricting a detailed assessment. Canopy previously pollarded at 7m with significant regeneration. Decay associated with the pollard heads. Large branch failure specifically on northern side. Limited structural life remaining.	Repollard at 3m
<b>1197</b>	<i>Crack willow</i> <i>Salix fragilis</i>	11 - 15	6 - 10	580 800 (E)	Mat	Fair	Poor	Multi-stemmed specimen from 0m. North stem exhibits significant decay. Canopy forms from previous pollard points at 3m. Evident basal decay. Base and trunk are heavily clad in ivy.	Repollard at 3m
<b>1197a</b>	<i>Crack willow</i> <i>Salix fragilis</i>	11 - 15	6 - 10	-	Mat	Fair	Poor	Multi-stemmed specimen located north of desire line. Previously pollarded at 2.5m.	Repollard at 2.5m
<b>1199</b>	Crack willow <i>Salix fragilis</i>	11 - 15	11 - 15	Up to 400	Mat	Poor	Poor	Multi-stemmed clump. 1 no. stem is ivy clad. Basal cavity indicates tree is liable to structural collapse. Coppice back to ground level & allow new shoots to regenerate	Coppice back to ground level & allow new shoots to regenerate
<b>1201</b>	Crack willow <i>Salix fragilis</i>	16 - 20	6 - 10	570	Mat	Fair	Fair	Occluding basal wound east side. Large diameter deadwood associated with the canopy. Trunk bifurcates at 2.2m. Previous branch failure associated with the canopy.	Remove large diameter deadwood and previously failed branches.
<b>1202</b>	Crack willow <i>Salix fragilis</i>	16 - 20	6 - 10	600	Mat	Fair	Fair	Codominant stems form from 2.2m. Canopy is suppressed by adjacent trees and is dominant to the west for which it has a leaning tendency towards. Large diameter deadwood on western side of canopy at 5m.	Remove large diameter deadwood.
<b>1203</b>	Crack willow <i>Salix fragilis</i>	16 - 20	11 - 15	920	O/Mat	Fair	Poor	Located adjacently to private rear garden. Large bulging at 0m suggesting underlying decay. Structural canopy forms from 4.5m. Canopy previously heavily pollarded however has extensive regrowth. Large previous branch failure associated with the canopy and decay associated with the pollard heads. Leaning tendency to the south east and bark peeling/buckling on the compression side. Tree has limited structural life remaining.	Fell to ground level, grind stump and replant. CHANGE TO POLLARD AT 6M TO RETAIN SCREEN
<b>1205</b>	Crack willow <i>Salix fragilis</i>	16 - 20	6 - 10	610	Mat	Fair	Fair	Tall specimen with an almost occluded basal bark wound on northwest side. Heavy limb extends north-east. Due to species & maturity tree is liable to structural failure. Desiccated decay fungi at ground level which requires positive identification in autumn. Canopy has previously been pollarded.	Repollard to below previous pollard points.

1206	Crack willow <i>Salix fragilis</i>	16 - 20	6 - 10	780	Mat	Fair	Fair	Leans southwards towards adjacent gardens from 0m. Pruning wound on north side at 1.2m. Codominant stems form from 2m. Previous branch failure associated with the canopy. Previously crown lifted. Due to species & maturity, tree is liable to structural failure.	Repollard to below previous pollard points.
1207	Crack willow <i>Salix fragilis</i>	16 - 20	6 - 10	940 @ 0.5m	Mat	Fair	Poor	Trunk trifurcates at 1.2m to form structural canopy with a dominant tendency to the west. Numerous large occluding wounds associated with the trunk. Hoof fungus associated with the western at 4 - 5m.	Repollard to below previous pollard points.
1209	Ash <i>Fraxinus excelsior</i>	11 - 15	11 - 15	360	Mid	Fair		Adjacent tree has previously been felled leaving this tree with asymmetric canopy. Large diameter deadwood associated with the canopy. Previous branch failure associated with the canopy. Canopy is dominant to the west.	Remove deadwood and failed branches within the canopy.
1210	Crack willow <i>Salix fragilis</i>	6 - 10	1 - 5	580 770	Mat	Fair	Poor	Multi-stemmed specimen which has previously been coppiced.	Re-coppice to previous pruning points.
1211	Crack willow <i>Salix fragilis</i>	11 - 15	6 - 10	770	O/Mat	Fair	Poor	Honey fungus rhizomorphs associated with the base and trunk. Codominant stems form from 2m. Previously pollarded at 5m which some branch failure now associated with the regenerated canopy.	Repollard to 5m.
1222	Crack willow <i>Salix fragilis</i>	16 - 20	6 - 10	545	Mat	Fair	Fair	Crown asymmetry to west. Previously crown lifted. Branch failure associated with previous reduction points.	Reduce back to previous pollard heads.
1223	Crack willow <i>Salix fragilis</i>	16 - 20	6 - 10	660	Mat	Fair	Fair	Occluding basal cavity. Heavy limb extends west at 5m. Trunk bifurcates at 4m.	Reduce back to previous pollard heads.
1238	Myrobalan plum <i>Prunus cerasifera</i>	11 - 15	6 - 10	450	Mat	Fair	Fair	Tight forking habit & dense crowded crown, typical of species. Dense epicormic growth associated with the canopy.	Remove basal epicormic growth.
1243	Weeping willow <i>Salix alba</i> 'Tristis'	11 - 15	6 - 10	590	Mat	Fair	Fair	Partially occluded wounds up to 2m from previous crown lifting. Crown extends east over footbridge. Minor dead wood. Monitor every 2yrs with longer term aspiration to remove.	Reduce eastern side of canopy by 25% over foot bridge. Remove all canopy deadwood.
1244	Weeping willow <i>Salix alba</i> 'Tristis'	11 - 15	6 - 10	430	Mat	Fair	Fair	Crown asymmetry over footbridge. Cavities appear to be developing at sites of former limb removal. Large diameter deadwood associated with the canopy. Canopy is encroaching onto adjacent footpath and street light. Monitor every 2yrs with longer term aspiration to remove.	Reduce eastern side of canopy by 25% over foot bridge. Remove all canopy deadwood. Lift canopy to 3m over footpath and create 1m radial clearance of street light.

1248	Crack willow Salix fragilis	16 - 20	11 - 15	Up to 600	Mat	Fair	Fair	Multi-stemmed, leggy tree (5 no. stems) extending mainly eastwards. Hoof fungus emerging at 5m on north-eastern stem extending over T1243. Reduce stem with hoof fungus back to 4m (both stems). The lowest southern branch is in water.	Remove failed bough
1249	Crack willow Salix fragilis	16 - 20	11 - 15	Up to 450	Mat	Fair	Fair	Multi-stemmed (6 no. stems) extending mainly south & west. Minor dieback & storm damage. Decay fungi which appears to be hoof fungus is associated with the north western stem at 9m.	Remove smallest middle stem
1251	Weeping willow Salix alba 'Tristis'	11 - 15	6 - 10	500	Mat	Fair	Fair	Trunk bifurcates at 2m. 2 no. limbs extending west have previously been shortened. Branch failure at 4m on western side.	Remove suspended branch within canopy.
1255	Weeping willow Salix alba 'Tristis'	16 - 20	11 - 15	490	Mat	Fair	Fair	Previously crown lifted up to 5m. Break-out wound on southern limb of upper crown. Storm damage in upper crown. Bark damage associated with the roots.	Tidy storm damage
1260	Weeping willow Salix alba 'Tristis'	11 - 15	6 - 10	200 320	Mat	Fair	Fair	Twin-stemmed at 1.3m. Decay in northern stem - trunk has hollowed out & is a potential nest/roost site. Dead wood throughout remaining crown. Previous branch failure associated with the canopy.	Tidy storm damage and clear fallen bough
1263	Crack willow Salix fragilis	16 - 20	6 - 10	600	Mat	Fair	Fair	Storm damage in upper crown, otherwise reasonable. Large diameter deadwood associated with the canopy.	Pollard to 6m
1264	Crack willow Salix fragilis	16 - 20	6 - 10	650	Mat	Fair	Fair	Bark loss associated with the lowest limb to the east. Storm damage in upper crown, otherwise reasonable. Large diameter deadwood and previous branch failure associated with the canopy.	Pollard to 6m
1265	Crack willow Salix fragilis	16 - 20	11 - 15	410	Mat	Poor	Poor	Dead wood & damage in upper crown. Decay fungi which appears to be hoof fungus is associated with the northern stem at 7m. Specimen has a limited useful life remaining.	Pollard to 6m
1266	Crack willow Salix fragilis	1 - 5	1 - 5	490	Mat	Dead	Poor	Hoof fungus emerging on southern stem at 2 -4m. Liable to structural failure. Previously pollarded at 4m. Specimen is now dead.	Fell
1267	Crack willow Salix fragilis	16 - 20	11 - 15	550	Mat	Poor	Poor	Stem trifurcates at 2m. Previously crown lifted. Large diameter deadwood & storm damage in upper crown.	Remove all deadwood associated with the canopy.

1272	Weeping willow Salix alba 'Tristis'	11 - 15	11 - 15	420	Mat	Poor	Poor	50% of crown recently shed in storm:- hanging limb remains resting in crown. Hazard beam associated with the canopy at 5.5m on eastern side.	Tidy storm damage
1277	Crack willow Salix fragilis	21 - 25	6 - 10	310 420 @ 0.8m	Mat	Poor	Poor	Twin-stemmed & with a wide, spreading crown. Basal decay to buttress root on west side of eastern stem. Due to species & maturity tree is liable to limb failure.	Fell, grind stump and replant as tree has a limited structural life remaining.
1278	Crack willow Salix fragilis	16 - 20	11 - 15	Up to 430	Mat	Fair	Fair	Multi-stemmed (6 no. stems) with a wide, spreading crown. Decay associated with old stem removal. Due to species & maturity tree is liable to limb failure.	Fell one stem that runs through canopy of tree 1277
1293	Tree of heaven Ailanthus altissima	11 - 15	6 - 10	360	Mat	Fair	Fair	Minor dead wood & small stubs in crown. Rubbing branches south side of crown. Large diameter deadwood associated with the canopy.	Remove all deadwood associated with the canopy.
1296	Sycamore Acer pseudoplatanus	16 - 20	11 - 15	620 @0.9m	Mat	Fair	Fair	Basal cavity west side. Basal growth. Bifurcates at 1.3m. Dead wood in upper crown. Large diameter deadwood associated with the canopy.	Remove all deadwood associated with the canopy.
1298	Sycamore Acer pseudoplatanus	11 - 15	11 - 15	460	Mat	Fair	Fair	Trunk bifurcates at 2.5m. With a low domed, crown containing dead wood. Large diameter deadwood and squirrel damage associated with the canopy.	Remove all deadwood and damaged branches associated with the canopy.
1318	Crack willow Salix fragilis	21 - 25	11 - 15	780 @ 0.9m	Mat	Poor	Poor	Twin-stemmed at 1m. 1 no. further stem previously removed. Previous branch failures & break-out wounds throughout crown. Liable to structural failure in its current form. Large limb failure associated with the canopy. Specimen has limited structural life remaining.	Tidy storm damage
1334	London plane Platanus x hispanica	11 - 15	6 - 10	400	Mid	Good	Good	Crown extends mainly northwards & lower branches are obscuring road sign. Remove secondary growth to provide better viewing of road sign	Lift canopy to 6m over adjacent road sign.
1349	Corsican pine Pinus nigra maritima	11 - 15	6 - 10	Up to 370 (E)	Mid	Poor	Poor	Triple-stemmed from 1m. Of poor overall form & low potential. Specimen is heavily clad in ivy restricting a detailed assessment.	Sever and remove ivy. Reinspect.

<b>1390</b>	Hybrid black poplar Populus x euramericana 'Serotina'	21 - 25	16 - 20	1050 @ 0.9m	Mat	Fair	Fair	Trunk bifurcates at 1.5m & tree has a heavy limb structure. Apparent bark popping at codominant stem union. 1 no. stub from storm damage at 6m. Crown extends over road. Canopy is heavily limbed. Large deadwood and previous branch failure associated with the canopy.	Lift to 5m
<b>1396</b>	Norway maple Acer platanoides	11 - 15	11 - 15	Up to 410	Mat	Fair	Fair	Multi-stemmed & with a wide, spreading crown. Limbs extend over adjacent garage roofs. Specimen is heavily clad in ivy.	Sever ivy

## Works to Trees in a Conservation Area – Cole End Park Phase 1

### Appendix D: Planting Schedule

Key	Quantity	Name		Form	Girth (cm)	Overall Height (cm)
CPS	2	<i>Crataegus laevigata</i> "Paul's Scarlet"	Ornamental hawthorn	Extra heavy standard	14 -16	400 – 450
Mt	2	<i>Malus tschonoskii</i>	Ornamental crab apple	Extra heavy standard	14 -16	400 – 450
Pa	5	<i>Prunus avium</i>	Wild cherry	Extra heavy standard	14 -16	400 – 450
PU	3	<i>Prunus</i> "Umineko"	Ornamental cherry	Extra heavy standard	14 -16	400 – 450
Qr	4	<i>Quercus robur</i>	Oak	Extra heavy standard	14 -16	400 – 450
Sa	10	<i>Salix alba</i>	White willow	Extra heavy standard	14 -16	400 – 450
SCR	2	<i>Sorbus aucuparia</i> "Cardinal Royal"	Ornamental rowan	Extra heavy standard	14 -16	400 – 450
Tc	6	<i>Tilia cordata</i>	Small-leafed lime	Extra heavy standard	14 -16	400 – 450

## **Agenda Item No 7**

### **Planning and Development Board**

**15 October 2012**

### **Planning Applications**

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

#### **1 Subject**

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

#### **2 Purpose of Report**

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

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

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

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

#### **3 Implications**

3.1 Should there be any implications in respect of:

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

#### **4 Site Visits**

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

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



## 5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: [www.northwarks.gov.uk](http://www.northwarks.gov.uk).
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 12 November 2012 at 6.30pm in the Council Chamber at the Council House.

## 6 **Public Speaking**

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

**Planning Applications – Index**

Item No	Application No	Page No	Description	General / Significant
1	DOC/2012/0065  MIA/2012/0014	5	<b>Dreamers of Coleshill, 146 High Street, Coleshill,</b> Approval of details required by conditions no, 4, 6, 10 and 11 of planning permission PAP/2011/0552 dated 16 February 2012 relating to measures to slow egress, car park layout plan, details of rear flue and widening of the kerbed access  Non-material amendment to PAP/2011/0552 dated 16 February 2012 – amended ground floor layout	General
2	PAP/2011/0478	50	<b>Gun Hill Post Office, Gun Hill, Arley,</b> Change of Use of retail A1 to mixed A1 and A5 use (fish and chip shop) and provision of a parking area, security fence and CCTV.	General
3	PAP/2011/0527	71	<b>31, Plough Hill Road, Chapel End,</b> Outline (only landscaping reserved): Residential development of six detached 5-bed houses with detached garage to plot 1, a terrace of three 2-bed houses and two 2-bed apartments, and one 3-bed detached dormer bungalow with integral garage; along with associated external works, formation of a new access off Plough Hill Road, and closure of Fletchers Drift Lane with formation of single dwelling access to serve the dormer bungalow	General
4	PAP/2012/0212	109	<b>Cow Lees Care Home, Astley Lane,</b> Erection of young on set dementia unit (use C2)	General
5	PAP/2012/0256	132	<b>Flavel Farm, Warton Lane, Austrey, Atherstone, Warwickshire,</b> Retrospective: Change of use from workshop to a live work unit	General
	PAP/2012/0257		<b>Flavel Farm, Warton Lane, Austrey, Atherstone, Warwickshire,</b> Retrospective: Change of use of livestock buildings to incorporate greyhound kennels, with the two buildings incorporating 16 kennels each (8 each side with a passage between)	
6	PAP/2012/0297	151	<b>Land at Rowland Way, Rowland Way, Atherstone,</b> Residential development for 88 dwellings with associated areas of landscaping and open space	General

7	PAP/2012/0313	171	<b>Car Park, Park Road, Coleshill,</b> Variation of condition 13 of planning permission ref: PAP/2011/0529 relating to delivery hours for the site to be operationally viable; in respect of erection of a retail (A1) food store with associated parking, servicing and access	General
8	PAP/2012/0444	178	<b>Land adjacent to 1, Princess Road, Atherstone,</b> Demolition of two lock-up garage blocks and construction of 2 bungalows	General

## **General Development Applications**

**(1) Application No: DOC/2012/0065 and MIA/2012/0014**

**Dreamers of Coleshill, 146 High Street, Coleshill, B46 3BG**

**DOC/2012/0065 - Approval of details required by conditions 4, 6, 10 and 11 of planning permission PAP/2011/0552 dated 16 February 2012 relating to measures to show egress, car park layout plan, details of rear flue and widening of the kerbed access, and**

**MIA/2012/0014 - Non material amendment to PAP/2011/0552 dated 16 February 2012 - amended ground floor layout, both for**

**Mr Muhid Miah**

### **Introduction**

These applications are brought before the Planning and Development Board at the discretion of the Head of Development Control given the Board's involvement in the original grant of permission here in February 2012.

### **The Site**

The building has a three storey frontage to High Street, Coleshill. However it has been substantially extended to the rear, involving a centrally located covered two storey staircase and a significant single storey flat roofed extension. To the side – the north - is a covered passageway. This is a roofed two storey structure where it fronts the High Street, but, as it extends the full depth of the property it mainly has a flat roof beyond. This passage leads to a rear yard used for car parking. Its width means that it only accommodates single vehicle movements. There is an existing heating flue which extends up the centre of the side (North) gable to the frontage three storey element of the property such as to protrude just below the ridge.

The property was formerly in use as a retail shop called "Dreamers" selling bedroom items. There was also a small ancillary café, which has been open for a number of years. Its neighbour to the north is a detached house - number 144 - beyond which is the Coleshill Town Hall. There is an adjoining residential property on its other side – number 148. There is residential property to the rear including a recently erected detached house at the rear of Parkfield Road which is close to the site's rear yard – known as The Firs at number 39a Parkfield Road. Its rear elevation is close to the rear garden of number 144, and is thus the closest property to the rear of the site. There are double yellow lines in front of the property, with double lines and some vehicle parking on the opposite side of the High Street.

The location plan illustrates the general setting as described above.

The building itself lies within the Coleshill Conservation Area whereas the rear is not. Whilst the application building at number 146 is not a Listed Building, its neighbour at 148 is a Grade 2 Listed Building.

The site is not within the "Coleshill Town Centre" as defined by the North Warwickshire Local Plan, but the site is surrounded by a mix of commercial, civic and residential buildings.

A series of photographs of the site is at Appendix 1 which illustrates some of the features described above.

## **The Proposals**

A change of use of the premises was approved in February 2012 from a retail (A1) use to a restaurant (A3) use with a delivery service, together with a new rear external flue. The planning reference number was 2011/0552 and the written report is attached for information at Appendix 7.

### **a) DOC/2012/0065**

A number of planning conditions were attached to the approval. This DOC application seeks to formally discharge some of these.

The conditions to be discharged are as follows:

Condition 4 – Measures within the access to slow egress onto the highway.

The measures proposed are set out on the ground floor plan in Appendix 2. They include a 3 metre black and yellow coloured speed hump across the access drive close to the entrance of High Street; a “Stop” sign at the entrance of the covered way, two lamps within its roof space and a speed sign when leaving the car park area.

Condition 6 – Car Park Layout plan.

The car park layout plan shows 5 spaces and is set out in Appendix 2. It is also shown in Appendices 3 and 4. Appendix 3 in particular identifies the proposed layout; the position of the proposed refuse area and existing structures in relation to surrounding property.

Condition 10 – Rear flue details and information on the extraction system.

The rear flue is proposed to be painted black. The flue is attached to the existing three storey element of the building, with the overall height being 7.2 metres. Whilst this would protrude above the eaves, it would be well below the ridgeline. The diameter of the flue is 350mm, with the cowling being 400mm. The siting and design of the flue can be viewed at Appendix 5. Details of the ventilation and extraction system have also been provided. The specification is for a noise level of 43 db when the silencers are installed. Details of the ventilation/extraction system can be viewed at Appendix 6. This flue would have two attenuators (silencers) with a high density lining to eliminate vibration impacts on neighbouring houses. The duct will also be mounted on anti-vibration mounts to stop any structural vibration.

Condition 11 – Widening of the existing dropped kerb.

The widening of the kerb is through one kerb stone.

### **b) MIA/2012/0014**

A separate planning application has been submitted for a non-material minor amendment to revise the location of the internal kitchen store and toilets on the ground floor. The proposed revised layout is shown in Appendix 2.

## **Background**

In 2012, planning permission was granted as set out earlier, for the building to be used as a restaurant, with a delivery service and a new rear flue, subject to conditions. The site had previously had an existing lawful use as a retail outlet. There were no restrictive planning conditions on opening hours or other matters attached to that use. The previous café use was considered to be ancillary to that retail use serving light refreshments to customers.

For the information of Members, the rear elevation of number 39a Parkfield Road is 40 metres from the proposed position of the flue. The rear elevation of 39 Parkfield Road is 65 metres from the position of the proposed flue, and this is the same dimension from the rear elevation of number 41. The dimension from the closest part of the house at number 39a to the proposed refuse area is 15 metres and 16 metres to the closest car parking space. The equivalent dimensions from numbers 39 and 41 Parkfield Road are 34 and 35 metres.

## **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 - ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage Conservation), ENV16 (Listed Buildings, non-listed buildings of local historic value and sites of archaeological importance), ENV9 (Air Quality), ECON5 (Facilities relating to the settlement hierarchy), TPT3 (Access and Sustainable Transport) and TPT6 (Vehicle Parking)

North Warwickshire Borough Council - Proposed Submission Core Strategy -September 2012

Government Advice - National Planning Policy Framework 2012

## **Consultations**

Warwickshire County Council as Highway Authority – Considers that the measures proposed in respect of condition 4 can be discharged. The dropped kerb work has been undertaken and completed to the satisfaction of the Authority

The Council's Heritage Officer – Given the extent of the alterations and extensions already undertaken at the rear of the building, and that the flue would not be visible from public areas, in particular from Coventry Road, the impact on the Conservation Area would be no materially worse, subject to the flue being painted black.

The Council's Environmental Health Officer – He has visited the site and can confirm that the details submitted under condition 10 can be discharged. They show that the relevant measures have been taken into consideration regarding the minimisation of odour and noise from the kitchen extension. This should not have any significant impact on neighbouring properties. The criticisms of the applicant's submitted specification have been assessed and he understands the comments made, but it does not change his conclusion.

## Representations

Coleshill Town Council – There is concern about the flue protruding a metre above the eaves of the property in a Conservation Area.

Coleshill Civic Society – The Society has no objection to the minor amendments, but requests that the Council is satisfied about the design of the flue arrangements before approving them.

Objections and comments on the two applications have been received from the neighbours at numbers 39, 39a and 41 Parkfield Road and from the occupier of 14 Lyon Court. The following matters are raised and they have been grouped together such that they relate to the matters of the details.

### Rear Car Park

- A full car park layout plan is needed showing the actual boundaries to the site.
- In the decision notice, that the impact of the change of use to a restaurant with its delivery service would not be so materially different to the existing situation.
- The hard-standing at the rear was never a car park and never used after 5pm. Due to the insufficient car parking spaces at the rear of this building, there is concern as to the impact on nearby residents. These five spaces will obviously include staff cars and the delivery service car, resulting in insufficient space for customer vehicles.
- The car park will probably be used permanently, seven nights a week from 5.30pm to well after midnight.
- The car park would lead to concerns over noise, headlights into bedroom windows particularly at night from cars, private care hire and taxis coming and going trying to find spaces. Also private car hire and taxi's doors slamming, noise from customers coming and going in and out of the rear of the restaurant and smoking outside. Noise and odours from refuse and vehicles being kept at the rear of the restaurant. Noise and odours from the fume extraction equipment.
- The car park activity will lead to a significant reduction to the quality of life with impacts on sleep and well being.
- The car park use will impact upon the value of the neighbouring property.
- The car park should only be used by the staff and delivery van.
- How will the customers know when the car will be full?
- The fir trees to the rear of the site have been pruned, however in the previous Board report it was set out that they were deemed as necessary screening against disturbance and headlights.
- The "folly" to the rear of the car park area has been called a disused toilet, Can you confirm that this was the case? Will this building be retained?

## Waste bins

- Why are the waste bins located so far from the building?
- Concerned with the placement of the waste bins; noise from disposal of bottles and waste during evenings, attracting rats and vermin, and what will the frequency and method of the waste bins being tidied up and emptied and how?
- As it is inaccessible for trucks to enter the covered alleyway for the emptying of the waste, are the Highways Department going to allow the parking of such on the Highway? If not, how will these be dealt with? It is clear that more frequent collection minimises the problem associated with waste on site but maximises the impact of highways and thus the noise problem. How can any compromise be acceptable environmentally and what controls will be enforced to eliminate noise?

## Flue

- The approved application stated there would be no proposals for equipment more normally associated with fish and chip or kebab shops. This latest set of proposals has extensive equipment, a flue and fans. This is not the change of use applied for and granted. Why, if there is already a flue, is there a need for change and why is it placed in this position, if it's low risk?
- Can you confirm why the existing flue can not be used? Also, why was it set out in the determined full application that a new flue would not be required for the type of food that would be cooked?
- The small flue and fan were situated on the side in the alley way. They are now proposed to be situated at the rear on top of the flat roof 38 metres from bedroom windows, causing smells and noise. This is unacceptable. The axial flue is very noisy and the placing of this on a flat roof will act as an amplifier therefore need to be enclosed, insulated and a silencer installed.
- The specifications of the flue system have been looked at. The fan is now being relocated outside. This will result in an increase in noise levels. The attenuators will reduce the impact of the airstream noise, but breakout noise has not been catered for. The fan has to be relocated within the premises or as a minimum an acoustic enclosure needs to be provided.

## Other issues

- The site lies within the Coleshill Conservation Area and is adjoined by a Grade 2 Listed Building. There should be no impact or change to character and appearance in a Conservation area. This surely is a breach of this policy?

## **Observations**

This application has generated a significant amount of interest and raised a number of issues, as set out above. These will need to be addressed in the determination of these two applications. However, Members will note that the premises now have lawful use as a restaurant subject to restrictive conditions concerning hours; the scoping of the nature of that use, and the use of the land at the rear as a car park. These applications follow on from this recent permission. As a consequence, consideration and assessment of these current applications should be restricted to the specific requirements of each condition and specifically to the details submitted to have them discharged. This should not involve a re-assessment of the principle to grant planning permission for that lawful



use; nor a re-assessment of the issues involved in that decision, and neither should that assessment give weight to matters outside the scope of each condition.

The conditions will now be looked at in turn.

### **DOC/2012/0065**

#### **a) Condition 4 - Measures within the access, to slow egress onto the highway**

The planning condition requires measures to attenuate the speed of vehicles leaving the site – specifically, bumps, illumination, mirrors and signage. Details for these measures have been provided and they are described above. However no mirrors are proposed to be used given that they would have to be sited on land not owned by the applicant, and therefore outside of the application site.

The Highway Authority has no objection to the submitted details.

None of the representations received as recorded above, relate to these details.

As a consequence of these matters, it is considered that this condition can be discharged in full.

#### **b) Condition 6 – Car Park Layout Plan**

The condition requires a “car parking layout” to be submitted for approval – nothing more. It does not stipulate the number of spaces to be provided. The plan submitted shows five spaces. These are properly dimensioned and are provided with the appropriate amount of turning/manoeuvring space. The Highway Authority has not made any comment. As a consequence there is no reason why this layout should not be approved in discharge of the condition.

Members will see from the representations that these largely repeat objections to the use of this land at the rear as a car park in principle and to the potential for such a use to cause disturbance; inconvenience and nuisance to neighbours and their residential amenity. Members will appreciate that the recent permission granted did include this land for car parking and they will recall that it was also used as such under the previous use in association with the then retail use of the premises. As such only limited weight can be given to the representations received. However one or two points can be clarified.

Firstly, the submitted layout has been considered in respect of whether it could have been set out differently in order to “lessen” any possible impacts such as car lights and noise from closing doors. The answer is probably not as the site is narrow and thus the scope for a different layout is limited. The lawful use of these premises was a retail use with no “operating hours” condition. The current permission conditions the hours of operation of the premises – 1730 to 2300 hours at weekdays and 1730 to 2330 hours - and thus brings the car parking use under greater control. The details now set out enable that to be formalised.

Secondly, the layout shows five spaces. The issue arises as to whether this provision actually “negates” the grant of permission, because it suggests that there would be more on-street car parking. The previous report suggested that seven spaces would be available. Members will be aware that the premises benefits from a lawful retail use; that an on-site car park is unusual for such a premises in this frontage, that the site is in a sustainable location with a bus service and available taxis, that there are public car parks in the town, that there is on-street parking available in the vicinity. It is not considered that the layout as shown results in the need to re-assess the principle of the use. The use will, in short, benefit from the availability of the on-site provision.

Thirdly, a refuse area is shown for completeness. It is not required as part of the application details. The representations question why this area is at the rear closest to existing residential property. If it was moved forward and the car parking then moved back, there would be car spaces closest to these properties. Moreover because of the shape of the site, less car parking could be provided if the bins were moved forward. As a consequence it is considered that the proposed layout provides the best balance between all interests. The applicant has indicated that the bins would be emptied weekly by a private operator. Officers have spoken to colleagues in the street-scape section and understand that refuse vehicles would park on the road and the bins would be moved manually to that vehicle. This practice is used throughout the High Street and Coventry Road whether by Council or other operatives. If there are issues arising because of odour or noise from the use of the bins, then the environmental health officers should be contacted to see if there is the possibility of action under the legislation that they operate.

Fourthly, there is reference to the “folly”. This is a brick built structure at the very rear of the site. The Heritage Officer considers that it is a 19<sup>th</sup> Century building and was probably an outdoor “privvy”. It is not a protected building, it is not of Listed quality and it is not in the Conservation Area. Photographs have however been taken and sent to the Warwickshire Museum. The applicant intends to retain it unused.

Fifthly, the trees referred to are evergreen conifers. They have been pruned but not removed. They are not protected, either by an Order or because of their location in a Conservation Area.

In conclusion, it is considered that the details as provided in order to discharge this particular condition are satisfactory and meet the terms of the condition’s requirements.

### **c) Condition 10 – Rear Flue details and information of the extraction system**

The permission granted earlier this year explicitly included the provision for a new rear flue. A condition was attached requiring details of that flue. Full details have now been submitted as described above and in the appendices. Those have been examined by the Environmental Health Officers. They have visited the site and they are fully aware of the location of the residential properties at the rear of the site. Additionally, they have been passed criticisms of the proposed specification submitted by residents. In all of these circumstances, they do not object to the details submitted. The details therefore should be agreed in discharge of the condition.

The representations do re-run some of the issues to do with the principle of the use here but a number of specific questions do arise.

Firstly, the existing building has a side flue. This serves the existing hot water and central heating system and therefore cannot be used for the kitchen. A new rear flue is needed. This was made clear on the Notice of Decision. This new flue could not ventilate to the passageway because of Environmental Regulations and thus it will mean that it will have to be visible. If it was to be located on the side (north) gable elevation then it is far more likely to be publicly visible. If it were to be located onto the other side (the southern) of the central stair then it would run over the existing fenestration on that elevation. As a consequence, given the size of the flue and the need to meet the appropriate regulations, it is considered that the best location is, on balance, that now proposed.

Secondly, it is agreed that the flue is proposed on that part of the premises within the Conservation Area. The Heritage Officer has visited the site. It is his view that because it is at the rear; that it doesn't protrude above the ridge line, that the rear of the property has already been extensively altered and extended and that the flue would not be visible from the general public's perspective, that there would be no permanent adverse impact on the character and appearance of the Conservation Area. He does suggest that the flue be painted black and the applicant has agreed.

Thirdly, the representations include an appraisal of the applicant's specifications. However the author of that appraisal is not known. Notwithstanding this, the Councils Environmental Health Team have considered the comments made - that the fan needs to either be relocated within the premises or as a minimum, an acoustic enclosure needs to be provided around it. The Officers point out that fans are regularly located outside of commercial buildings and in this instance the fan would be mounted on anti-vibration rubber mounts; would have sets of silencers before and after the fan, and that the fan would be housed in an acoustic jacket. The officers conclude that with these mitigation measures any "break-out" noise would not exceed 40-43dB. This, given the distances involved would not have an adverse impact upon the residential properties at the rear, including the closest at 39a Parkfield Road.

Fourthly the height of the flue is controlled by Environmental Regulations which state that the top of the flue must be at least 1 metre above existing windows on a building. Here as the building has first and second floor uses and windows, the flue has to exceed the roof eaves height to comply. The details here are satisfactory.

Fifthly it is suggested that the specification of the details submitted indicate that the "risk" from odours was "underestimated" at the time of the previous application. This is not the case. It was known that a new rear flue would be needed and the Environmental Health Officers are satisfied that the specification now detailed is proportionate to the permitted use of the premises; that it meets best practice for such installations and that the installation would not be over-specified.

It is considered that this condition can be discharged in full.

**d) Condition 11 – Widening of the existing dropped kerb.**

The works to include an additional dropped kerb have already taken place. They have been undertaken to the satisfaction of the Highway Authority.

It is considered that this condition can be discharged in full.

### **e) Other issues raised**

As Members are aware any alleged breach of conditions is a matter for investigation by the planning team and alleged breaches of Environmental Health legislation is a matter of those Officers. Concern about Licensing conditions should be taken up through the Licensing Officer.

There was some concern that neighbours have not been fully notified. The files show that on all applications that this was not the case. The Council is not responsible for the postal service.

The value of residential properties is not a material planning consideration.

### **f) Conclusion**

The application to discharge conditions relating to the access, car park layout, flue and dropped kerb, has been set out in this report. It is considered that the information provided is all satisfactory and thus enables the conditions to be discharged. The details provided are not considered to lead to issues that would adversely impact upon the amenity of surrounding neighbouring properties.

### **MIA/2012/0014**

The application for a non-material minor amendment is wholly an internal alteration to the ground floor of the building. This involves revisions to the location of the kitchen store and toilet. It is considered the works will not lead to changes to the exterior of the buildings, and therefore will not impact on the appearance of the building. There would thus not be any unacceptable impact on the Conservation Area. The works are also not considered to result in a loss of amenity, privacy or loss of light that would be unacceptable to any neighbour. The revised layout can be seen in Appendix 2.

A representation received did concern the number of seats shown within the restaurant, but this was not conditioned, and neither is it relevant to the actual purpose of the MIA application. There were also repeated concerns about the nature of the use. The permission for the premises is conditioned and as reported above, potential breaches will be investigated.

It is considered that the non-material minor amendment covering the re-location of the kitchen store and toilets can be supported.

### **Recommendation**

#### **A) DOC/2012/0065**

That the following details be approved in full discharge of conditions attached to planning permission 2011/0552 dated 16 February 2012:

- i) The measures set out in the ground floor plan received on 30/8/12, in full discharge of condition 4.
- ii) The car parking layout plans received on 30/8/12 (ground floor plan) and 12/9/12 (the site and block plan) in full discharge of condition 6.

- iii) The flue details and information received on 30/8/12 (Proposed Side and rear elevation and first and second floor plan) and the specification received on 17/7/12, in full discharge of condition 10 subject to the flue, cowling and associated ducting be painted in a matt black colour before it is brought into use. The reason for this is to ensure that the visual impact of the flue on the character and appearance of the Conservation Area is mitigated
- iv) The details concerning the widening of the access received on 12/9/12 in full discharge of condition 11.

### **Notes**

The Development Plan policies relevant to this decision are saved policies ENV11, ENV13 and ENV15 of the North Warwickshire Local Plan 2006.

### **B) MIA/2012/0014**

That the application be granted, and that condition 2 of planning permission 2011/0552, dated 16 February 2011, be varied so as to read:

1. The development hereby approved shall not be carried out otherwise than in accordance with site location plan received by the Local Planning Authority on 19th October 2011; the proposed ground floor and proposed plan showing side and rear elevation / first and second floor layout received by the Local Planning Authority on 30 August 2012; and the site plan and block plans received by the Local Planning Authority on 12 September 2012.

### **REASON**

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

### **Notes**

1. Note that all of the other conditions attached to the permission PAP/2011/0552 (dated 16 February 2012) remain as previously approved.

### **Justification**

The amendment is considered to be minor. It is considered that the internal re-siting of the kitchen store and toilets will not impact upon the residential amenity of nearby residential properties. No external alterations are proposed, and therefore there is no impact upon the streetscene and the character or appearance of the Conservation Area. The minor amendments are in compliance with saved Development Plan Policies ENV11, ENV12, ENV13 and ENV15 of the North Warwickshire Local Plan, 2006 and in line with the planning principles of the National Planning Policy Framework 2012.

## BACKGROUND PAPERS

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

Planning Application No: DOC/2012/0065 and MIA/2012/0014

### Planning Application No: DOC/2012/0065

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	17/7/2012
2	Case Officer	Letter to Applicant	23/7/2012
3	Case Officer	File note – telephone call to Anna Stocks of WCC	24/7/2012
4	Case Officer	Email to Anna Stocks of WCC	24/7/2012
5	NWBC Environmental Health	Email to Case officer	24/7/2012
6	41 Parkfield Road	Objection	23/7/2012
7	39a The Firs, Parkfield Road	Email to case officer	25/7/2012
8	Case officer	Email to NWBC Heritage Conservation Officer	25/7/2012
9	Case officer	Letter to Applicant	26/7/2012
10	39a The Firs, Parkfield Road	Letter to case officer	2/8/2012
11	Case officer	Email to 39a The Firs, Parkfield Road	2/8/2012
12	Case officer file note	Conversation with Applicant	6/8/2012
13	39a The Firs, Parkfield Road	Email to case officer	3/8/2012
14	Case officer	Email to 39a The Firs, Parkfield Road	3/8/2012
15	Case officer	Letter to applicant	6/8/2012
16	WCC Highways Authority	Consultation Response	9/8/2012
17	Coleshill Town Council	Consultation response	1/8/2012
18	39a The Firs, Parkfield Road	Objection	31/7/2012
19	Hollybank 39 Parkfield Road	Objection	8/8/2012
20	Hollybank 39 Parkfield Road	Comments	8/8/2012
21	39a The Firs, Parkfield Road	Letter to the Council and complaints response	6/8/2012
22	41 Parkfield Road	Objection / comments	6/8/2012
23	39 Parkfield Road	Objection letters email	5/8/2012
24	Head of Development Control	Email to 39 Parkfield Road	6/8/2012
25	39a The Firs, Parkfield	Objection	3/8/2012

	Road		
26	NWBC Heritage Conservation Officer	Email to 39a The Firs, Parkfield Road	6/8/2012
27	Head of Development Control	Letter to 41 Parkfield Road	7/8/2012
28	Head of Development Control	Letter to 39 Parkfield Road	7/8/2012
29	Head of Development Control	Letter to 39a The Firs, Parkfield Road	7/8/2012
30	ENWBC Environmental Health Manager	Email to Head of Planning	7/8/2012
31	39a The Firs, Parkfield Road	Email to NWBC Heritage Conservation Officer	10/8/2012
32	Head of Planning	Email to 39a The Firs, Parkfield Road	10/8/2012
33	Coleshill and District Civic Society	Consultation response	11/8/2012
34	Applicant	Letter to case officer with new plans	30/8/2012
35	Head of Development Control	Email to applicant	30/8/2012
36	Head of Development Control	Email to NWBC Heritage Conservation Officer	30/8/2012
37	NWBC Heritage Conservation Officer	Email to Head of Development Control	30/8/2012
38	Head of Development Control	Email to Head of Environmental Health	30/8/2012
39	Head of Development Control	Email to Head of Environmental Health	30/8/2012
40	Head of Development Control	Email to WCC Highways	30/8/2012
41	Head of Development Control	Email to applicant	30/8/2012
42	Head of Development Control	Email to applicant	30/8/2012
43	Applicant	Email to Head of Development Control	12/9/2012
44	Applicant	Email to Head of Development Control	12/9/2012
45	Head of Development Control	Emails between Head of Development Control and Highways Authority	30/8/2012 – 3/9/2012
46	Case officer	Email to 39 Parkfield Road	18/9/2012
47	Case officer	File note of telephone call with 39a The Firs, Parkfield Road	17/9/2012
48	Case officer	Reconsultation with relevant parties	18/9/2012
49	Case officer	Email to 39 Parkfield Road	18/9/2012

50	NWBC Environmental Health	Consultation email	19/9/2012
51	Case officer	File note of meeting with Applicant and Environmental Health on site	18/9/2012
52	39a The Firs, Parkfield Road	Email to case officer	23/9/2012
53	39a The Firs, Parkfield Road	Objection email to case officer	23/9/2012
54	Case officer	Email to 39a The Firs, Parkfield Road	24/9/2012
55	Case officer	File note of telephone call with 39a The Firs, Parkfield Road	24/9/2012
56	Case officer	Email to applicant	24/9/2012
57	39a The Firs, Parkfield Road	Email to case officer	24/9/2012
58	Case officer	Email to 39a The Firs, Parkfield Road	24/9/2012
59	39a The Firs, Parkfield Road	Email to case officer	24/9/2012
60	39a The Firs, Parkfield Road	Email to case officer	24/9/2012
61	39a The Firs, Parkfield Road	Email to case officer	24/9/2012
62	Case officer	Email to 39a The Firs, Parkfield Road	24/9/2012
63	39a The Firs, Parkfield Road	Email to case officer	24/9/2012
64	Case officer	Email to 39a The Firs, Parkfield Road	25/9/2012
65	Head of Development Control	Email to 39a The Firs, Parkfield Road	25/9/2012
66	39a The Firs, Parkfield Road	Email to Head of Development Control	24/9/2012
67	Head of Development Control	Email to 39a The Firs, Parkfield Road	24/9/2012
68	Case officer	Email to 39a The Firs, Parkfield Road	25/9/2012
69	Case officer	Email to 39a The Firs, Parkfield Road	25/9/2012
70	NWBC Environmental Health	Email to case officer	26/9/2012
71	Email from Equip Masters	Email to case officer	26/9/2012
72	39 Parkfield Road	E-mail to case officer	30/9/12
73	Case Officer	E-mail to Environmental Health	1/10/12
74	Agent	E-mail to case officer	29/9/12
75	Case Officer	E-mails to Environmental Health	1/10/12



76	Mrs D Davies	E-mail	1/10/12
77	Case Officer	E-mail to Environmental Health	3/10/12
78	Environmental Health	E-mail to case officer	3/10/12

**Planning Application No: MIA/2012/0014**

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms and Plans	17/7/2012
2	39 Parkfield Road	Objection	27/7/2012
3	14 Lyon Street	Objection	27/7/2012
4	Case Officer	Email to 14 Lyon Court	2/8/2012
5	Case Officer	Email to 39 Parkfield Road	6/8/2012
6	Case Officer	Letter to applicant	6/8/2012
7	Case officer	File note of telephone call with applicant	6/8/2012
8	Coleshill and District Civic	Email to case officer	11/8/2012
9	Applicant	Email to Head of Development Control	12/9/2012
10	Case Officer	Email to 39 Parkfield Road	18/9/2012
11	Case officer	File note of telephone call with 39a The Firs, Parkfield Road	17/9/2012
12	Case officer file note	Conversation with Applicant	6/8/2012
13	Case officer	Re consultation with regards to revised plans	13/8/2012
14	Case officer	File note of site visit with Environmental Health	18/9/2012
15	39a The Firs, Parkfield Road	Email to case officer	23/9/2012
16	Case officer	Email to applicant	24/9/2012
17	39a The Firs, Parkfield Road	Email to case officer	24/9/2012

*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.*

Appendix 1 – Selected photographs of the site



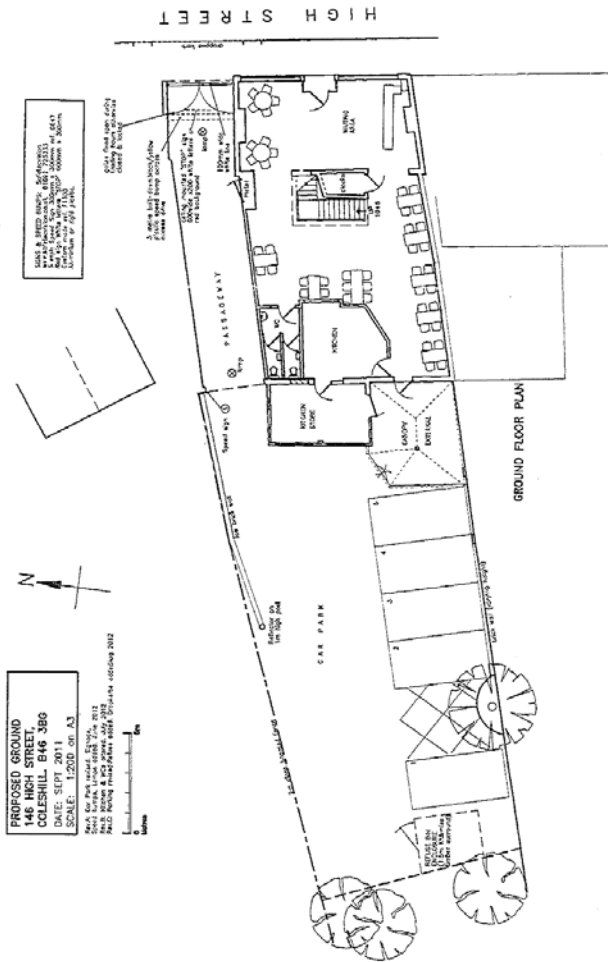




Appendix 2 – Proposed Ground floor layout plan and car park layout plan

Doc/ 2012 / 0065

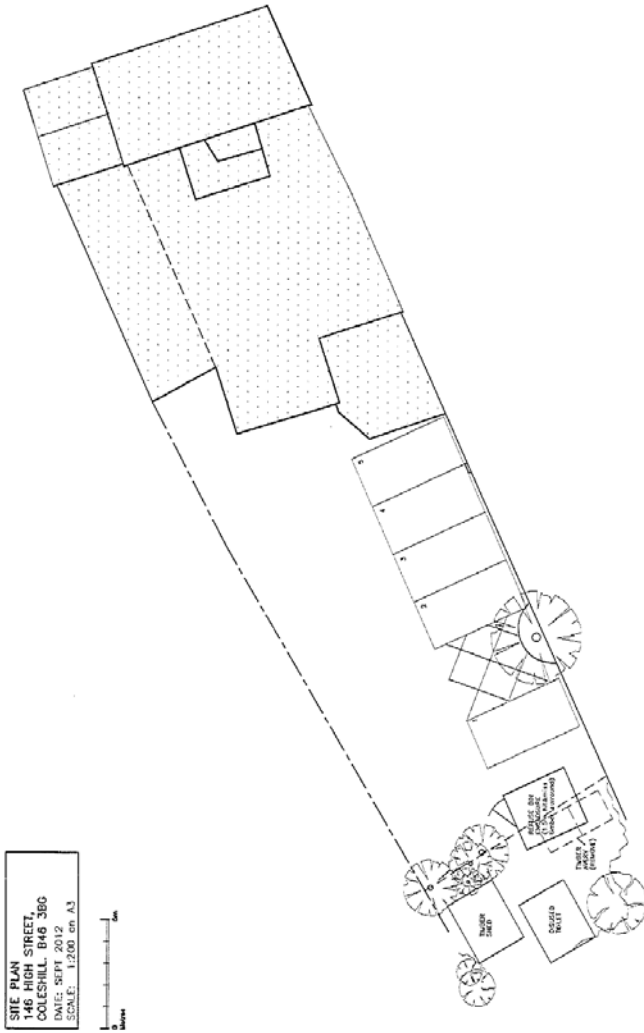
RECEIVED  
 30 AUG 2012  
 North Warwickshire  
 Borough Council



Appendix 3 – Site plan

Doc/ 2012 / 0065

PLANNING DEPARTMENT  
17 SEP 2012

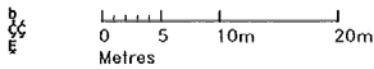
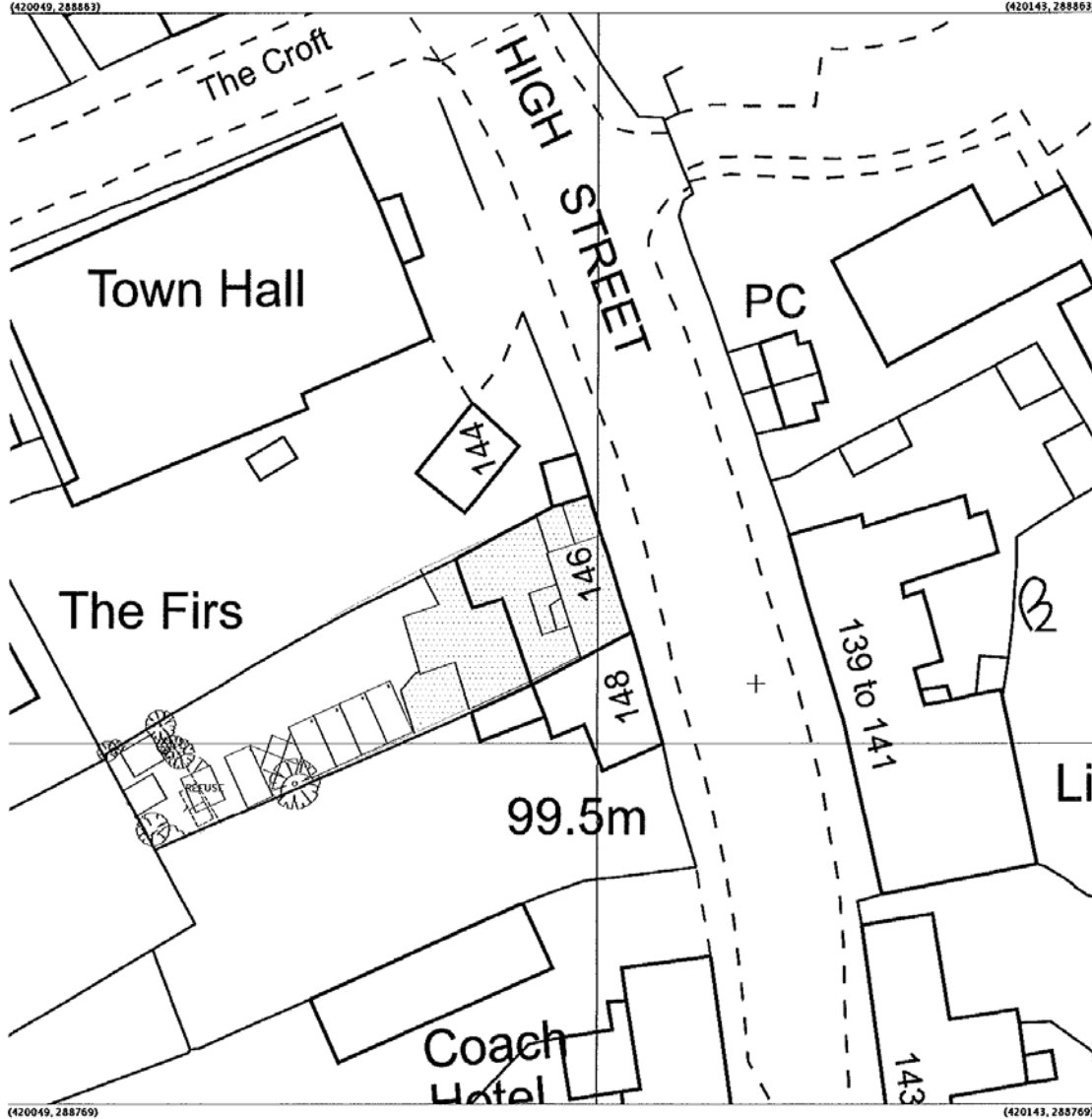


Appendix 4 – Block Plan of the site in relation to the surrounding area

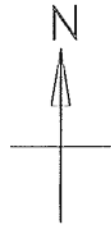
DOC / 2012 / 0065



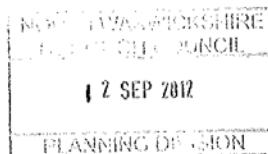
© CROWN COPYRIGHT 2012



LL  
LL



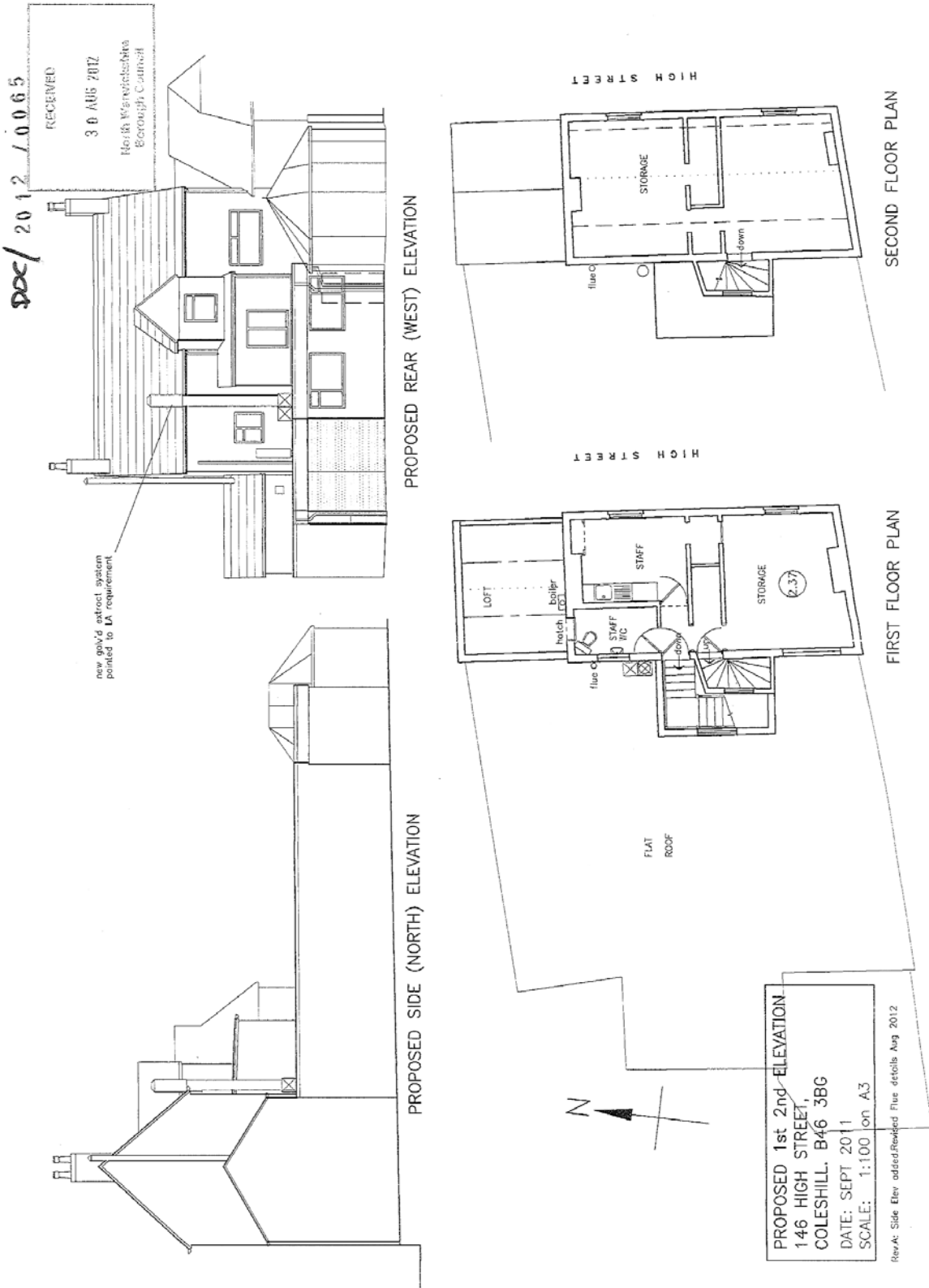
BLOCK PLAN 1:500  
146 HIGH STREET  
COLESHILL B46 3BG



E



**Appendix 5 – Proposed side and rear elevation and first and second floor layout plan**



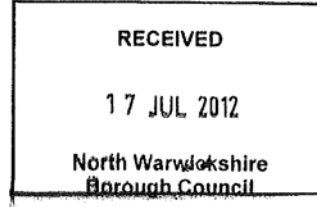


## Appendix 6 – Details of ventilation / extraction system

Doc 12012 - 10065  
APPENDIX A

### EQUIPMENT MASTERS LTD

AB ENTERPRISES BUSINESS PARK, 14-14A WITTON ROAD, ASTON, BIRMINGHAM, B6 5NY  
Tel:07821154258/0121 551 3636



## SPECIFICATION

This specification is for the Ventilation/Extraction system to unit **146 HIGH STREET, COLESHILL, B46 3BG.**

This specification is for a new Commercial Extraction hood and ventilation system that complies with DW 172 for Kitchen Ventilation systems and DEFRA Guidance on the control of odour and noise from commercial kitchen exhaust systems.

To Manufacture and install 4500 x 1200 long Stainless steel wall canopy and stainless steel splash back cladding to rear, Duct work is to take off from the top of the canopy hood via 2 x take off spigots and rise through roof to flat area above. The duct will then 90 degree turn towards the rear of the premises running along flat roof where carbon filter housing will be mounted, manufacture for ease of service. The duct will then transform from square to round where the fan hardware will be installed, comprising of 1 x 560 dia 1 phase extract fan mounted on anti-vibration mounts. Each side of the fan there will be 1d attenuation upstream and downstream of the airflow. The duct will then turn 90 degrees and rise up building to 1 metre above eaves height and away from and open window. All duct is to be mounted on anti-vibration mounts to prevent structure borne vibrations Full air replacement with f6 filtration will be installed returning 85% of extracted air volume through linear grilles in the ceiling/wall, the other 15% of air will be drawn from other areas. All duct work is to be mounted on suitable supports and correct fixings are to be used where necessary.

### Kitchen Canopy

#### → Canopy Details 1

4500 x 1200 x 600 x 400 Stainless Steel 0.9 gauge 430 grade Canopy with a box shape design, manufactured in two parts with a bolt together construction fully welded at joints. To house 8 x 495 x 495 x 45 Stainless steel baffle filters and 2 drain off grease cups. The wall of the canopy is manufactured as a 50mm catchment tray for grease excess. The canopy hood is designed to cover the cooking range with a 300mm overhang.

Face velocity/ design volume  $\Rightarrow 4.5 \times 1.2 = 5.4 \text{ m}^2/\text{s} \times 0.41 \text{ m/s}$  (Medium cooking)

$$5.4 \times 0.41 = 2.21 \text{ m}^3/\text{s}$$

#### Pressure drop

Canopy hood and filters 80pa  
Duct 60 pa  
Carbon unit 125pa  
Vertical discharge cowl 30pa  
**Total 295pa**

Canopy 1 - 2.21 m<sup>3</sup>/s @ 295pa

Air replacement @ 85% = 1.76m<sup>3</sup>/s

#### → Wall Cladding details

Stainless Steel wall cladding to be fitted, to rear of canopy hoods. Stainless Steel sheets 1250 x 2500 430 grade, edge and flattened safety edges to be used on all joints and sealed with appropriate application. Stainless Steel is installed for ease of cleaning.

#### → Fan Details

##### Fan 1 Front of house

Solar and Pilau TCBBx2/4-560L diameter contra-rotating cased axial flow fan with aluminium blade impeller coated with non – stick XYLAN coating. 1 phase 220v 50hz 4 pole rotation rate of 1425 rpm and is capable of extract rates in excess of 2.71 m<sup>3</sup>/s @ 250pa fully controlled via transformer controller to assist with tonal noises from fan unit. Noise level of 78dBa @ 3 metres.

Fan unit to be mounted on anti – vibration rubber mounts and flexible connections to prevent structure borne vibrations.

#### → Filtration

Purpose built Carbon filter housing manufactured from 0.8 galvanised steel DIMS 610 x 1810 x 750. Lock form formed with mez flanges at both ends to stiffen the housing. Inside the housing are runners for pre filtration filter and fine filtration bag filter to be housed and suitable supports for carbon cell to carry the weight of 170kg. On one side of the housing is to be an access panel with safety edges, the door is to be bolted to the unit with hand tight handles and rubber gasket is to be run around panel to stop any grease from leaking. Inside the housing is to be 3 x intrepid panel

filter 595 x 595 x 45 to protect the cell from grease 3 x cp4 synthetic bag filters and 3 x carbon filter cell 597 x 597 x 594 activated carbon filter cell with pre loaded carbon cells with a capacity @ 0.1 and dwell time of 3800

→ Silencer/Attenuation Details

Before the fan and after the fan will be mounted 1d silencers. The silencers are manufactured from 0.8 Galvanised steel, bead locked and lock formed together with an 80mm high density sound proof lining with perforated galvanised steel mesh.

⇒ Sound levels per fan unit 78 dBA  
⇒ 1 off 2d Attenuator insertion before unit = -17dB  
⇒ 1 off 2d Attenuator insertion after fan unit = -17dB  
⇒ 78 dB - 17 dB  
= 61 Db  
1 off fan acoustic jacket – 8Db  
= 53Db  
1 off acoustic lined high velocity jet cowl – 10 dB

**Total noise volume at outbreak 40-43dB**

→ Ductwork Details.

All Ductwork to be manufactured from 0.8 Galvanised Steel, mezz flanged at each end for bolt together construction. To be sealed using suitable application and painted spot welds to prevent from rust where necessary. Access doors in areas required. Where the use of spiral duct is to be used the spiral will be Spiro formed and all bends gorlocked form, all joints to be sealed with appropriate duct seal.

→ Termination Details

To end via High velocity jet cowl 1 metre above eaves height. The cowl is to be manufactured from 0.8 galvanised steel, the surround of the duct is to be manufactured as a drainage point. At the top of the cowl there is to be mesh fitted to deter birds and insects. 12m/s

→ Air replacement

Air replacement returning 85% of extracted air 1.76m<sup>3</sup>/s @ 100pa (6336m<sup>3</sup>/h), this is essential for the kitchen to have replacement air in order for the canopy to operate correctly. The Air will be replaced in the way of mechanical supply through an s&p rotorex plate mounted axial fans controlled via electronic speed reg. The air will pass through an external weather louver grille and pre filtration unit with intrepid pleated

filters. The air will pass through the duct into ceiling grille boxes with 4 way diffuser grilles.

→ Important Calculations.

- ⇒ Design Volume = 1.76m<sup>3</sup>/s
- ⇒ Outbreak noise level = 40 - 43 dBA

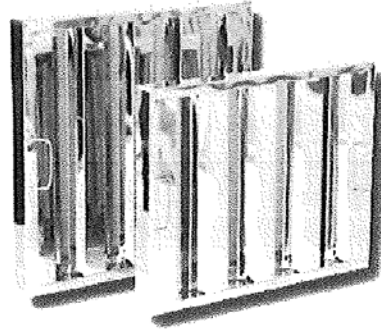
→ Cleaning

- ⇒ We suggest that the canopy and wall cladding is to be cleaned every day with hot soapy water application. A 50/50 mix of baby oil and thinners can be used to bring brightness back out in stainless steel.
- ⇒ Stainless Steel Baffle Filters to be cleaned every night soaked in hot soapy water application.
- ⇒ 'v' pleated filters to be replaced every 3-6 weeks.
- ⇒ Carbon filter cells to be replaced every 6-12 months.

I trust that the above meets your requirements, however please do not hesitate to contact me if you require any other information.

Yours Sincerely

Darren Smith  
Equipment masters Ltd



## Model GFBE Economy Baffle Grease Filters

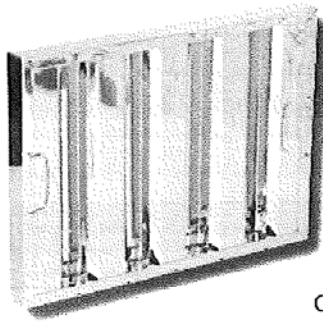
These filters are designed for use in commercial kitchens and ventilation from food preparation areas where their primary function is to prevent flame from travelling from the cooking area up into the extract duct.

### Construction

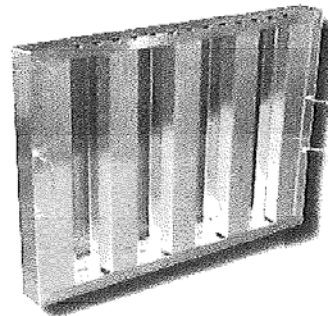
These filters are made from rolled channel frames, with safety edges. Each blade overlaps the opposite one to provide a tortuous path for the grease laden air. The grease drains down the blades and through the drain holes provided into a collection tray provided in the kitchen canopy.

These Filters are available in the finishes below

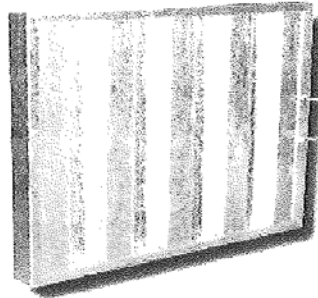
Stainless Steel



Brushed Stainless Steel



Galvanised Steel



EMS 81914  
BS EN ISO 14001:2004



FMA 29257  
BS EN ISO 9001:2000

**Jasun Filtration Plc**  
Riverside House, Parrett Way  
Bridgwater, Somerset.  
TA6 5LB  
United Kingdom

Tel.: +44 (0) 1278 452277

Fax: +44 (0) 1278 450873

info@jasun.co.uk  
<http://www.jasun.co.uk>

## Intrepid Energy Saver M7 Panel Filter

The EnergySaver panel filter is a disposable product offering a basic level of filtration, or pre-filtration in HEVAC applications. This product is made using patented Kimberly Clark media which combined in the unique way Jasun Filtration construct the filter can offer energy savings of up to 40%. With this product you will also reduce your carbon foot print.

### Construction

This product is constructed by bonding a pleat pack of Intrepid M7 media into a water repellent AquaKote card frame

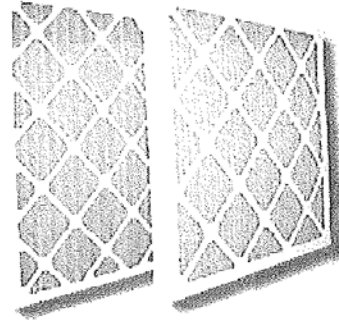
### Features

The Frame is made from AquaKote card which has

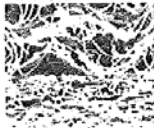
- Superior tear resistance when wet
- Great dry tear resistance and
- Manufactured from a renewable source

The Patented Kimberly Clark Intrepid media

- Has a Graduated Density for even dirt loading, which provides a greater dust holding and therefore longer filter life.
- Hydrophobic – so will not load with moisture in the air
- Has a constant efficiency due to its extra electrostatic charge
- Superior Efficiency V's Particle size
- Has a low pressure drop
- Is made form continuous fibres so will not shed



99% Microfiltration efficiency depending on the cross section of the Intrepid media



Coarse

Airflow

Fine

Intrepid Energy Saver M7		M7
Rating to ASHRAE 52.2 Test Standard		M7 V7
Filter Thickness	Rated Airflow	Initial Pressure Drop
150mm	1000 L/s	100 Pa
200mm	1200 L/s	100 Pa
Final Recommended Pressure Drop		250Pa



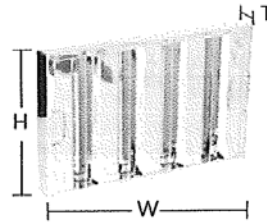
**Jasun Filtration Plc**  
Riverside House, Parrett Way  
Bridgwater, Somerset.  
TA6 5LB  
United Kingdom

**Tel.: +44 (0) 1278 452277**  
**Fax: +44 (0) 1278 450873**  
info@jfilters.com  
<http://www.jfilters.com>



# GFBE Baffle Grease Filters STANDARD SIZES

Jasun Filtration always specify filters as Height (H) x Width (W) x Thickness (T) This is particularly important with baffle filters because the handles will always go on the H side, the blades will always run along the H side, and the drain holes will always be in the W side

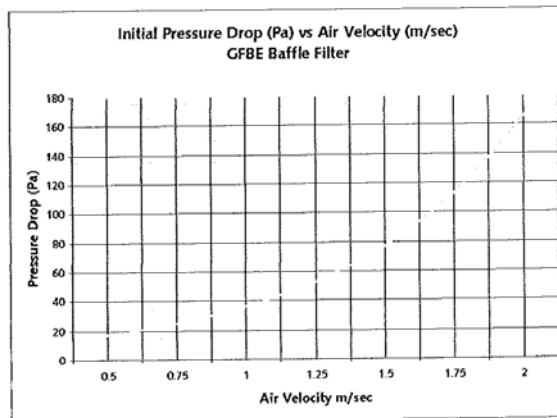


No.	Nominal Size Inches	Height (mm)	Width (mm)	Depth (mm)	Rated Airflow m <sup>3</sup> /hr.
GFBEEx-1020	10 x 20 x 2	241	495	45	644
GFBEEx-1212	12 x 12 x 2	292	292	45	460
GFBEEx-1216	12 x 16 x 2	292	394	45	621
GFBEEx-1224	12 x 24 x 2	292	594	45	937
GFBEEx-1616	16 x 16 x 2	394	394	45	838
GFBEEx-1620	16 x 20 x 2	394	495	45	1053
GFBEEx-1625	16 x 25 x 2	394	622	45	1323
GFBEEx-1818	18 x 18 x 2	445	445	45	1069
GFBEEx-2010	20 x 10 x 2	495	241	45	644
GFBEEx-2016	20 x 16 x 2	495	394	45	1053
GFBEEx-2020	20 x 20 x 2	495	495	45	1323
GFBEEx-2025	20 x 25 x 2	495	622	45	1663
GFBEEx-2424	24 x 24 x 2	597	597	45	1925

## To Specify the Grease Filters material

In the Part Numbers above replace the x with

- S for Stainless Steel
- R for Brushed Stainless Steel
- G for Galvanised Steel



JASUN FILTRATION PLC HAS A POLICY OF CONTINUOUS PRODUCT IMPROVEMENT AND RESERVES THE RIGHT TO CHANGE DESIGN AND SPECIFICATION WITHOUT NOTICE  
BULLETIN 030307/2/A © COPYRIGHT JASUN FILTRATION PLC 2007





**JASUN**  
FILTRATION PLC

## MultiCarb Activated Carbon Discarb Units

These filters are manufactured for ease of installation and incorporation into ducted air systems. They can be used on both supply for purifying incoming air, and can be used on the extract to remove toxic gasses and odours generated within a process.

### Construction

These modules are manufactured by mounting a series on carbon panel filters with a sealed case. The airflow is epitomize by presenting the filtering surfaces in a "V" formation.

Each carbon panel is sealed into the filter case so as to ensure no air can bypass the carbon granules.

The panels are manufactured using long established bonding techniques which hold the activated carbon granules in a rigid biscuit. The biscuit is encapsualted in a carbon impreganted cloth which prevents any leakage of granules or powder.

The unique bonding method used by Jasun Filtration ensures that, unlike our competitors filters, that the panels will remain intact and rigid even if wet.

### Stock Grades of Carbon

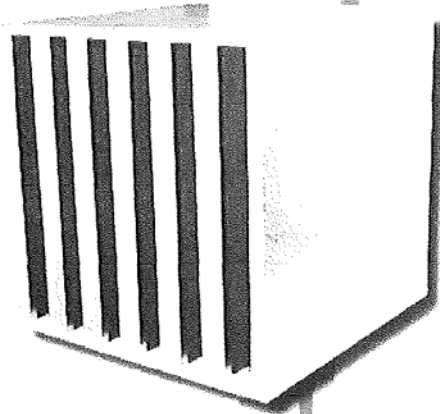
208 - Good general Carbon grade suitable for many applications

209 - Copper Coated Carbon for use in Mueums and archives

K1 - For enhanced garlic odour removal

### Typical Applications include:

- Elimination of Cooking Odours
- Removal of Kerosene Exhaust Fumes
- General Odour Removal
- Smoke Removal
- Neutralisation of Ammonia and its Derivatives
- Removal of Formaldehyde
- Removal of Airborne Pollutants and Contaminants
- Removal of Acid Gases (H<sub>2</sub>S, SO<sub>2</sub>, NOX, HCl)



**Jasun Filtration Plc**  
Riverside House, Parrett Way  
Bridgwater, Somerset.  
TA6 5LB  
United Kingdom

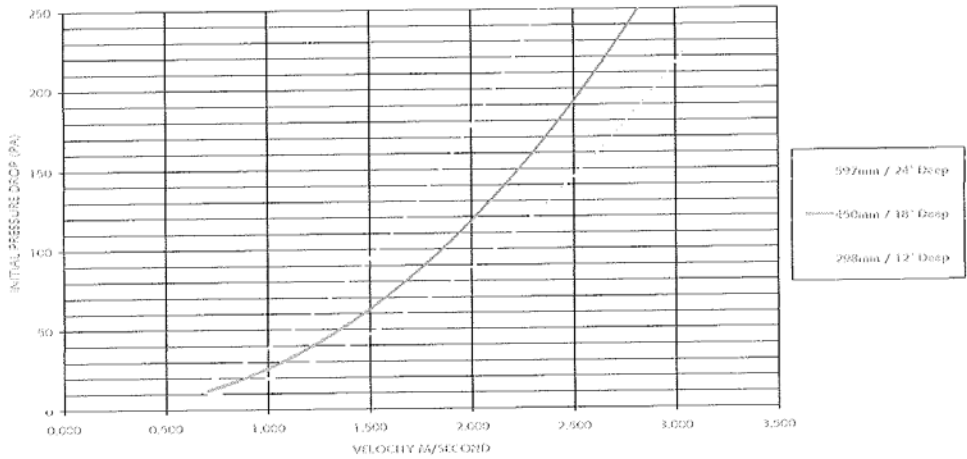
Tel.: +44 (0) 1278 452277

Fax: +44 (0) 1278 450873

[info@jason.com](mailto:info@jason.com)  
<http://www.jason.com>

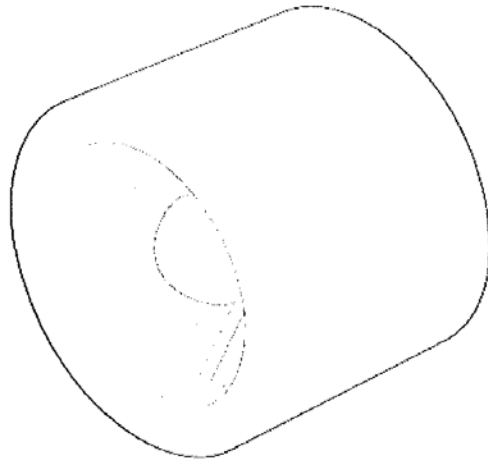
No.	Nominal Size (Inches)	Height (mm)	Width (mm)	Depth (mm)	Weight of Carbon (Kg)	Cell Weight	Capacity @ 0.1 Second Dwell Time
DC-CF1-7C	24 x 24 x 8	594	594	197	10	22	800
DC-CF1-HALF-7C	24 x 12 x 8	594	291	197	5	11	400
DC242412/8-7C	24 x 24 x 12	594	594	292	13	24	990
DC121212-7C	12 x 12 x 12	297	297	297	6	12	450
DC181812-7C	18 x 18 x 12	445	445	297	13	25	990
DC241212-7C	24 x 12 x 12	594	297	297	13	25	990
DC242412-7C	24 x 24 x 12	594	594	297	25	36	1900
DC-CF2-7C	24 x 24 x 16	594	594	397	18	34	1370
DC-CF2-HALF-7C	24 x 12 x 16	594	291	397	9	18	685
DC-WA15-208	24 x 6 x 18	144	600	440	7	13	533
DC121218-7C	12 x 12 x 18	292	292	451	10	15	761
DC181818-7C	18 x 18 x 18	445	445	451	19	26	1445
DC241218-7C	24 x 12 x 18	594	297	451	18	26	1369
DC242418-7C	24 x 24 x 18	594	594	451	36	52	2740
DC121224-7C	12 x 12 x 24	292	292	597	13	19	990
DC181824-7C	18 x 18 x 24	445	445	597	25	36	1900
DC241224-7C	24 x 12 x 24	594	297	597	25	36	1900
DC242424-7C	24 x 24 x 24	594	594	597	50	61	3800

LINEAR VELOCITY M/SECOND VS PRESSURE DROP  
 GRANULAR ACTIVATED CARBON CELLS



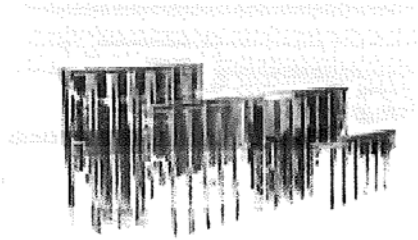
JASUH FILTRATION PLC HAS A POLICY OF CONTINUOUS PRODUCT IMPROVEMENT AND RESERVES THE RIGHT TO CHANGE DESIGN AND SPECIFICATION WITHOUT NOTICE  
 BULLETIN 220307/3/A © COPYRIGHT JASUH FILTRATION PLC 2007

*EQUIPMENT MASTERS LTD*



Circular formed silencer manufactured from 0.8 galvanized steel, bead lock jointed and locked form formed. 80mm lined wall with high density sound proofing insulation, covered by perforated galvanized steel.

## *EQUIPMENT MASTERS LTD*



Stainless Steel Baffle Filters are to be used in the canopy, 495x495x45 for the first layer of grease capture. The filters are designed to catch the grease but allow the right amount of airflow required. The grease is caught by filters and drained through drainage hole at the bottom which then releases into canopy tray. The filters also stop any flames passing the canopy into the duct work.

## EQUIPMENT MASTERS LTD



Stainless Steel Canopy to be formed as per specification. To be manufactured from 0.9 430 grade Stainless Steel Sheets, fully welded construction. To house 495.495.45 Stainless Steel Baffle Filters, grease cups to rear. Stainless Steel 2500x1250 0.9 430 g sheets are to be used for wall cladding with Edge & Flattened safety edge strips for all joints.

## **Appendix 7 – Written text of the Planning and Development Board report from February 2012.**

### **General Development Applications**

#### **() Application No PAP/2011/0552**

**146 High Street, Coleshill**

**Change of use from retail (A1) to restaurant (A3) with a delivery service and new rear external flue for**

**Mrs Susan Whitcomb**

#### **Introduction**

The application is brought before the Planning and Development Board at the discretion of the Head of Development Control due to the change in the proposal from the original submission and concerns expressed by local Members in terms of the potential impacts.

#### **The Site**

The building has a three storey frontage to High Street, Coleshill. However it has been substantially extended to the rear, involving a centrally located covered two storey staircase and a significant single storey flat roofed extension. To the side – the north - is a covered passageway. This is a roofed two storey structure where it fronts the High Street, but, as it extends the full depth of the property it mainly has a flat roof beyond. This passage leads to a rear yard used for car parking. Its width means that it only accommodates single vehicle movements. There is an existing heating flue which extends up the centre of the side (North) gable to the frontage three storey element of the property such as to protrude just below the ridge.

The property is in use as a retail shop called “Dreamers” selling bedroom items. There is also a small ancillary café, which has been open for a number of years. Its neighbour to the north is a detached house - number 144 - beyond which is the Coleshill Town Hall. There is an adjoining residential property on its other side – number 148. There is residential property to the rear including a recently erected detached house at the rear of Parkfield Road which is close to the site’s rear yard – known as The Firs. Its rear elevation is close to the rear garden of number 144, and is thus the closest property to the rear of the site. There are double yellow lines in front of the property, with double lines and some vehicle parking on the opposite side of the High Street.

The location plan illustrates the general setting as described above.

The site lies within the Coleshill Conservation Area. Whilst the application building at number 146 is not a Listed Building, its neighbour at 148 is a Grade 2 Listed Building.

The site is not within the “Coleshill Town Centre” as defined by the North Warwickshire Local Plan, but the site is surrounded by a mix of commercial, civic and residential buildings.

A series of photographs of the site are at Appendix 2 which illustrate some of the features described above.

## **The Proposal**

The planning application has altered since the application was originally submitted. The proposal now before the Board is to change the use the ground floor from its current retail use to a restaurant with an associated delivery service. The plans show tables accommodating up to 36 covers. A new rear flue would have to be introduced. The upper floors of the building would be used for storage and as staff areas. The relevant plans can be viewed in Appendix 1.

The delivery service element is for customers to telephone the restaurant and for deliveries to then be made by staff.

The existing car park to the rear would remain and with a more formal layout could accommodate six or seven spaces.

No alterations are proposed to the existing shop frontage.

The proposed opening hours are from 1730 to 2300 hours on Mondays to Thursdays, Sundays and Bank Holidays, with an extra half hour to 2330 hours on Fridays and Saturdays.

The proposed flue would be 320mm in diameter and would egress the rear kitchen from within the covered passageway, and then exit, extending up the rear elevation of the three storey element of the property so as to finish just below the existing ridge. The existing heating flue would remain.

The restaurant is proposing to use more traditional equipment such as cookers, grills and steamers, and not to use equipment such as deep fat fryers associated with either Chip or Kebab shops. The exact details of the equipment are not yet known, however if planning permission was forthcoming they could be conditioned.

It was stated earlier that the application has been varied since submission. The change is the removal of a proposed "take-away" service. The applicant also has confirmed that he would agree to the conditions set out by the Highway Authority and recorded below.

The revised proposal has been the subject of re-consultation.

## **Background**

The site has an existing lawful use as a retail outlet. There are no restrictive conditions on opening hours or other matters. The existing café use is considered to be ancillary to that retail use serving light refreshments to customers.

## **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 - ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage Conservation), ENV16 (Listed Buildings, non-listed buildings of local

historic value and sites of archaeological importance), ENV9 (Air Quality), ECON5 (Facilities relating to the settlement hierarchy), TPT3 (Access and Sustainable Transport) and TPT6 (Vehicle Parking)

## **Other Relevant Material Considerations**

Government Planning Policy and Guidance: Planning Policy Statement 5 (Planning and Historic Environment), PPG13 (Transport) and the draft National Planning Policy Framework 2011.

Borough Council Guidance: A Guide for Shop Front Design – Adopted September 2003

## **Consultations**

Warwickshire County Council as Highway Authority – The Authority originally objected to the initial proposals, substantially on the grounds of the impact of the then proposed “take-away” element. This was due to the likely adverse impact on highway safety due to the parking restrictions in front of the premises. Additionally, given the likely high usage of car travel for both restaurant and take-away customers, the size of the rear car park and the single width passage, there would be increased pressure to park on the High Street and surrounding roads, perhaps beyond that normally associated with a take-away. As a consequence of this initial objection, the proposal was varied so as to remove the take-away element. The Highway Authority considers that this is a material change and subject to conditions limiting the use as now proposed; to the measures being introduced within the passageway so as to reduce car speed, and the implementation of a formal car parking layout with turning space, it has withdrawn its objection.

Warwickshire Police – There are existing issues in this area generally with a number of different licensed premises giving rise to anti-social behaviour and noise.

Environmental Health Officer – No comments

Conservation and Heritage Officer – There is no objection in principle. Provided the new flue is kept to the minimum height necessary and preferably painted black, there is no material impact or change to the character and appearance of the Conservation Area.

## **Representations**

Coleshill Civic Society – No objection as it would prefer to see a use for the premises rather than for it to be empty for long periods. It would have to have an appropriate extraction system and there might be parking issues.

Letters of objection have been received from sixteen addresses in the immediate and not too distant locality. The comments below include grounds of objection relating to the proposals as originally submitted – that is with the take-away element - and as now proposed.

- Is a further Indian takeaway needed within Coleshill, further to the existing?
- Coleshill has enough restaurants, curry houses, takeaways etc...food outlets within the small market town. It has reached saturation point.
- The flue will lead to an unacceptable smell, even given the measures to avoid this.



- The town currently has a barrage of smells, vomit, litter and broken glass from the existing takeaways, restaurants and public houses.
- Coleshill has fifteen food outlets within the High Street, and in the evening this has an effect upon the nearby residential properties.
- The site is close to existing residential properties.
- The existing peak times coming out of the pubs is between 11 and 12 pm.
- The car park is to the rear and there are already busy exits from Coleshill Hotel, Coach House and Town Hall, and also the delivery service proposed.
- The scheme will lead to further car parking problems within the area.
- The proposal will impact upon the privacy and amenity of the area. The area currently has issues with regards to noise and disruption from two public houses.
- No planning application for the car park to the rear of “Dreamers” and it could impact upon the dwellings to the side and rear.
- Losing the shop / café element will impact upon the Coleshill Town Centre.

## **Observations**

This application has generated a significant amount of interest and raised a number of issues. All of these will need to be addressed in the determination of this case. This report will first look at matters of principle before exploring the more detailed issues raised by the representations.

It is important to note that the starting point when considering this present application is that the premises have an existing lawful use as a retail outlet which is unfettered by planning conditions.

### **a) Principle**

The existing retail shop is outside of the Coleshill Town Centre boundary and the town’s core shopping area as defined by the Local Plan. As such the loss of the retail use would not be contrary to the policies set out in that Plan which seek to safeguard retail use within the centre of the town. Whilst Local Plan policy ECON5 normally directs new entertainment uses to town centres there are material planning considerations in this case that are of significant weight, so as to conclude that the use of the building as a restaurant could be acceptable in this location. These are that these premises already have an unfettered lawful commercial use; that the site is just outside the Coleshill Town Centre not distant from it, and that the area already contains mixed uses including two public houses and a hotel where functions and social activities are already licensed. Whether the use is finally accepted as one that can be supported will depend on other detailed issues, but it is first worthwhile addressing a couple of issues to do with the principle.

One of the main objections to the scheme is the number of existing restaurants and takeaway premises in Coleshill – fifteen. These are mostly within the defined town centre particularly along High Street. There would not therefore be a conglomeration of such uses if this application were permitted. Additionally the cumulative impact of having a number of takeaways sited together might well justify a refusal, but only if it can be shown that a further use would itself exacerbate existing adverse impacts to an unacceptable degree. This will need looking at in more detail below, but for the present this is considered to be unlikely given the nature of the proposal; the extant lawful use and use of planning conditions. Additionally Members will be aware of the argument, as expressed by the Civic Society, that the option of leaving premises empty and unoccupied brings a range of different but real adverse impacts.

The other matter is that the loss of a shop with its café element will impact upon Coleshill town Centre. It is considered that as the café is small and ancillary to the main shop use its loss in planning terms would not be material. Also as set out above the shop use is not protected given it is out side of the defined core area.

It is now necessary to turn to a number of the more detailed issues to see how much weight they might attract and as a consequence see if they might outweigh the matters raised above.

#### **b) Delivery service**

The delivery service element would involve staff driving to customers addresses and would not involve “over the counter” sales. Being delivery only, it would not involve customers coming to the shop to collect their orders thus reducing vehicle movements in the area and need to find parking space. The delivery operating hours are proposed to be the same as that of the restaurant. This could be conditioned such that the last delivery order was taken one hour before the restaurant closes, so to reduce further impact upon the area. Given that the Highway Authority supports the proposal in this form and the unfettered nature of the extant lawful use, this is considered to be a material and thus significant benefit.

#### **c) Odours and the new flue**

The proposal will lead to a new rear external flue being installed, as shown on the plans in Appendix 1. The flue will be an external vertical pipe. The height of the flue is controlled by Environmental Regulations which state that the top of the flue must be at least 1 metre above existing windows on the building, and as the building has first and second floor uses and windows, the flue has to exceed the roof eaves height to comply. The height of the flue above ground level would be approximately 6.2 metres in height.

The final details of the flue and the extraction system can be conditioned in respect of their exact siting and design. The applicant is proposing to use a modern extraction system which is designed to neutralise cooking odours. Such a system will be necessary here. The rear siting is proposed, so as to reduce the visual impact and is a benefit. Given that the Environmental Health Officer has raised no objection, this approach and condition are appropriate.

It has been drawn to the Council’s attention from nearby residential properties, that there are odour issues and queries about the effectiveness of the existing flues on other premises in the area. Whilst other flues to restaurants and takeaways may lead to odours, these are to other premises, and are not material in this case. The Councils Environmental Health team can investigate these premises to ensure their extraction equipment is working correctly. The condition suggested here and the fact that Environmental Health Officers will be consulted is material to ensuring that the system at the application premises itself, is appropriate.

#### **d) Vehicle Parking**

At the rear of the site there is an existing car park which it is understood was constructed in 2006. It is therefore lawful as an engineering operation. It is not laid out formally and presently accommodates eight or nine cars. It is important that if this application is to be supported then on-site car parking is maximised, but also that it is

convenient to use. It is thus necessary to lay out the area formally and this can be done by planning condition. It is estimated that seven spaces can be formally provided together with an adequate turning area. The capacity of the restaurant shows 36 covers. Clearly when full, it is unlikely that the car park would be sufficient. However the town has other public car parks; the site itself is on a regularly used bus route and customers can also walk. The location is thus very sustainable in transport terms. It is considered that given that other premises in the area do not have large car parks to cater for full capacity levels, that the provision of on-site car parking at all on the site is of material benefit to the proposal.

The access to the car park is through a passage way from the High Street resulting in single file traffic. This arrangement exists for the current use as a retail outlet too. The Highway Authority has no objection to the use of the car park subject to physical measures within the access to slow egress onto the highway – i.e. a small hump, and also that traffic can enter and exit the highway in a forward gear.

There are existing traffic regulation orders, which consist of double yellow lines along the road frontage to these premises. Other Agencies have the opportunity therefore to enforce these Orders.

#### **e) Neighbour impact and amenity**

The potential impact of noise, loss of privacy, odour nuisance and general public activity on the residential amenity of neighbouring properties is the one common theme that runs through the majority of the objections received. Members are reminded that the lawful use of the building is as a retail shop with no restrictions. Therefore the number of vehicles that turn up cannot be controlled, or assumed to come and go at any part of the day, not withstanding the current opening hours. Moreover, the premises could also open as a retail outlet until 2200 hours or later each night without any reference to the Council. There is existing car parking to the rear of the shop for customers and staff. This lawful use attracts customers and deliveries and thus public activity.

There are residential properties around the site. The neighbouring properties have lawful residential use and there are houses backing onto the rear car park. Notwithstanding the “fall-back” position as outlined above, it is necessary to consider whether the proposal would exacerbate that position in a material way so as to lead to an acceptable impact.

The starting point as outlined above is that the base-line here is a retail outlet with a rear customer car park. The substantive differences with this base-line are the proposed extended hours, giving rise to greater human and vehicular activity in the car park in the evening and up to 12 midnight as well as in the premises, and the new flue. It is not considered that the flue will cause undue impacts given its location and because its detail can be conditioned and its operation monitored by Environmental Health Officers. Of greater concern is the potential increase in activity in the car park – lights, cars turning, people congregating and talking etc. Because of the separation distances involved to those properties that front Parkfield Road – 30 metres from the rear elevation of numbers 39 and 41 to the site’s rear boundary, and a little further from the rear of numbers 43 and 45, it is considered that any such impact on those properties will be lessened. Additionally, the rear boundary to the site is marked by a 1.8 metre fence with a significant number of tall conifers. Numbers 144 and 148 are the adjoining residential properties. These have substantive boundaries and given their location adjoining the Hotel and the Town Hall, it is considered that there would not be a material increase in disturbance. The closest residential property to the car park is

number 39a Parkfield Road – The Firs. Its rear elevation would be some 40 metres to the new flue but be 8 metres to the car park. Again it is the likelihood of nuisance being caused potentially increased usage of the car park that is the key issue here. The same consideration applies- would any increased activity in the car park be so adverse to warrant outright refusal. The setting here is not a wholly residential area. It is one of mixed uses. Those uses include which involve public activity; functions and social entertainment. The application premises have an unfettered lawful commercial use. The car park is not significant in size and because the proposed use is as a restaurant, cars parked here are likely to remain in-situ for longer. Licensing hours at other premises are later than the hours sought here under the planning application. On balance it is therefore considered that there would not be a significant or substantive increase in activity over the base-line or that already experienced in the neighbourhood to warrant refusal. If there are issues with these surrounding premises then the Police or the Licensing Authority should become involved.

One of the other objections from the neighbouring properties is that the restaurant delivery service would probably lead to an increase in vehicle numbers, as customers would treat it as a take-away “de facto”. The building is already a shop, which is open for a number of hours each day. It could attract numbers of car born customers regardless of whether the restaurant proposal is introduced or not. Indeed a Tesco Express or similar shop could operate here without the need for any planning application, and this could lead to significant car born custom. However this is not considered to be a reason for refusal – firstly the existing use itself could attract significant car born traffic particularly if its nature changed and secondly the use of planning conditions can be imposed. It is therefore considered that the matters raised by the representations could not be transferred into planning reasons for refusal.

#### **f) Heritage Conservation**

The site does lie within the Coleshill Conservation Area, but it is considered that the rear flue would lead to a negative or harmful effect on the character, appearance or setting of this Area, or indeed views into or out of the Area. An appropriate condition can cover its exact location and colour. The flue is not considered to cause harm to the adjoining Listed Building being some distance away on its other side.

#### **g) Other issues**

The application does not seek to revise the existing frontage of the building, and nor does it seek to install new signage. These matters would require further applications in any event.

#### **h) Conclusion**

The beginning of this section indicated that the principle of this use at these premises was sound unless there were identifiable and clear adverse impacts arising directly from the proposal which would materially worsen the situation. It is accepted that the proposal will introduce change and that will inevitably itself introduce different impacts. However these, in planning terms, are not considered to be so adverse as to warrant refusal. On balance therefore, the application is recommended for approval, but subject to conditions. These in particular will relate to control over the use; the opening hours, the rear flue, car parking layout and vehicle speed controls within the site.

## Recommendation

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

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

### REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the site location plan; the proposed plan showing rear elevation/first and second floor layout, and the ground floor layout plan all received by the Local Planning Authority on 19th October 2011.

### REASON

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

3. For the avoidance of doubt the hereby approved ground floor plan and first and second floor layout plan with rear elevation do not approve the car park layout or the siting of the rear flue.

### REASON

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

4. Notwithstanding the details shown on the application plans, the development hereby permitted shall not be brought into use until physical measures have been constructed within the access to slow egress onto the highway in accordance with details to be submitted and approved in writing by the Local Planning Authority.

### REASON

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

5. The development hereby permitted shall not be brought into use unless space is made and maintained within the site so that vehicles are able to enter and exit the highway in a forward gear.

### REASON

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

6. No development shall commence until a car park layout plan has been submitted to and approved in writing by the Local Planning Authority. The approved layout shall be maintained at all times.

REASON

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

7. There shall be no over the counter sales from these premises whatsoever.

REASON

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

8. There shall be no opening of the Restaurant for business purposes other than between 1730 hours and 2300 hours Monday to Thursday, Sundays and Bank Holidays, and between 1730 and 2330 hours on Friday and Saturdays.

REASON

To prevent disturbance to the occupiers of nearby properties.

9. The last telephone delivery order taken shall be taken one hour before the close of the restaurant, as covered in condition 8.

REASON

To prevent disturbance to the occupiers of nearby properties.

10. No development shall commence until full details of the rear flue have been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be installed. The details provided shall include scaled plans at 1:50 or 1:00 of the rear and side elevation, also full information as to the extraction system which is designed to neutralise cooking odours and the colour of the flue.

REASON

To protect the amenities of nearby residential property.

**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. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies): ENV11 - Neighbour Amenities; ENV12 - Urban Design; ENV13 - Building Design; ENV14 - Access Design; ENV15 - Heritage Conservation; ENV16 - Listed Buildings, non-listed buildings of local historic value and sites of archaeological importance; ENV9 - Air Quality; ECON5 - Facilities relating to the settlement hierarchy

#### Other Relevant Material Considerations

Planning Policy Statement 5: Planning and Historic Environment; Draft National Planning Policy Framework 2011; SPG - A Guide for Shop Front Design - Adopted September 2003

4. Advertisement Consent is required under a separate procedure of the Town and Country Planning Act 1990. Should any advertisements, signs, name boards, or other devices to attract attention, be intended in respect of this development, the Local Planning Authority will be pleased to advise you on all associated aspects prior to the erection of any such advertisements, and provide you with application forms.

5. Any alterations to the shop front or any part of the building are likely to require planning permission. You are advised to contact the Local Planning Authority before carrying out of any work.

6. When considering condition 10, the details of the flue shall include all relevant details of the flue and the ducting system and the level of smells that will be produced. Also the size and scale of the flue should be kept to a minimum given its sitting with the Conservation Area. It is noted the flue has to meet the relevant Environmental Regulations.

7. When considering condition 6 with regards to the car park layout, the Highways authority consider that the rear car park would be best suited to six vehicle spaces, which would allow enough space for vehicle to turn around within the site and leave in a forward gear.

8. The granting of Planning Permission does not give the Applicant/Developer consent to carry out works on the Public Highway (footway or carriageway). To gain consent from the Highway Authority, not less than 28 days notice shall be given to the County Highways Area Team – Tel 01926 412515, before any work is carried out, this shall include for materials and skips which are stored within the highway extents. A charge will be made for the carrying out of inspections and the issue of permits.

9. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the [applicant(s)/ developer(s)] must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old

Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days notice will be required. For works lasting longer than 10 days, three months notice will be required.

### **Justification**

The site is within an area containing residential and commercial uses and is on the edge of Coleshill Town Centre. The site benefits from a lawful use within Use Class A1 (retail). It is not considered that the impacts of the change of use to a restaurant with a delivery service are so materially different from those arising from the continuation of that lawful use so as to warrant refusal. Conditions are proposed covering hours and the use of the delivery service. The proposal is considered not to result in a loss of privacy, light or amenity to the neighbouring properties, which would lead to an unacceptable adverse impact. The rear car parking area is existing and on balance would not have an unacceptable adverse impact upon the adjoining properties. The car parking layout is proposed to be conditioned. The rear flue for the extraction system is considered to be appropriate in principle. The proposal will not materially affect the character, appearance or setting of the Conservation Area.. Given the adjoining property is a listed building, neither the proposed use or the rear flue are considered to detract harmfully from its character, appearance or historic value. The proposal thus accords with saved policies ECON5, ENV9, ENV11, ENV12, ENV14, ENV15 and ENV16 of the North Warwickshire Local Plan 2006, and to other relevant national planning considerations.



**(2) Application No: PAP/2011/0478**

**Gun Hill Post Office, Gun Hill, Arley, CV7 8HB**

**Change of Use of retail A1 to mixed A1 and A5 use (fish and chip shop) and provision of a parking area, security fence and CCTV, for**

**Mr Sukhwinder Mahal**

**Introduction**

This application is reported to the Board for determination for consistency in that the previous application was presented to Board and was refused planning permission. A Local Member is also concerned about the potential highway impacts of the proposal.

**The Site**

This is the General Store/Post Office situated at Gun Hill just south of the junction with Sycamore Crescent. There are terraced properties opposite and other residential property around the site, including a small block of flats immediately to the side. Next door on the other side is a further small Co-op retail outlet, and there is a Chinese take-away just a few metres away off Sycamore Crescent. There is a lay-by in front of these shops where vehicles park to access the shops and during a weekday evening, a mobile chip van operates from the lay-by. The Gun Hill Primary School is a little further along Gun Hill. The site location plan is available at Appendix A and photos at Appendix B.

**The Proposal**

This is to introduce a fish and chip take-away into the shop, within the area which was formerly used as a "pharmacy". This would amount to around 10% of the available floor space, which the applicant considers is of sufficient capacity to accommodate the proposal. It would have its own access directly out to the frontage without customers having to first enter the stores. This will necessitate minor changes to the front elevation - the proposed arrangements to the elevation and floor plan are shown at Appendix F. Opening times are proposed as 1500 to 2100 hours during the week; 1400 to 2100 hours on Saturdays and 1700 to 2100 hours on Sundays such as to match the existing hours of the shop.

The current scheme is considered by the applicant to have overcome the previous reasons for refusal, which are set out in the report at Appendix C. He considers that the revisions to the scheme have addressed the previous reason for refusal on Highway safety grounds. Off road parking provision is now proposed along the frontage of the application site and in front of the Co-op store. Additionally, a CCTV camera is also now proposed to the front elevation of the neighbouring shop and a security fence is to be provided along the boundary to separate the shop from the neighbouring flats on Sycamore Corner.

## **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – ECON5 (Facilities relating to the Settlement Hierarchy), ECON12 (Services and Facilities in Category 3 and 4 Settlements), ENV9 (Air Quality), ENV11 (Neighbour Amenities), ENV13 (Urban Design), ENV14 (Access Design), TPT6 (Vehicle Parking).

## **Other Material Planning Considerations**

Government Guidance – National Planning Policy Framework

## **Consultations**

Environmental Health Officer – The fans for the extraction should be located within the building itself, the reason for this is that the flue is in close proximity to a residential property and if a pump or fan were to be located externally on the flue, this may cause problems with noise. Also the applicant should provide details of the odour abatement measures that he will be using in the extract ventilation system. This can be agreed by condition.

Warwickshire County Council as Highway Authority – No objection to the scheme for the parking layout.

Police Architectural Liaison Officer – A condition for access to the CCTV needs to be agreed. The CCTV coverage at Gun Hill Post Office would cover the outside of the shop and the area that will be outside the planned chip shop.

## **Representations**

Councillor Fox – She remains unconvinced about the highway and traffic impacts. Traffic will drive into the proposed spaces and reverse back out, into the main road, with other cars parallel parked behind them. The school is soon to be re-developed and more children will attend, meaning more cars at peak times, as well as more foot traffic. This also takes no account of the residents parking in Gun Hill. Whether the chip shop is open or not, the positioning of the proposed parking will encourage more of this action all day and all night. The whole proposal takes no consideration of the area or its occupants. Further house building is going to bring more residents and more cars.

Arley Parish Council - comments on the grounds of increased traffic congestion in the Gun Hill area and the potential danger to parishioners and the public. It questions the use of the land to the co-op frontage for parking spaces and whether the Co-op agrees to their frontage being dug up for parking. There is also concern with regards to the re-location of the post box and whether the oak tree will be safe. The main concern is how this application will exacerbate an already dangerously congested area and how wheel chair users and people with pushchairs can safely access the shops or use the cash machine if cars are parked on the frontage. At school collecting times, the 3pm opening time of the take away, will mean additional traffic and increased activity, the school bus also arrives in this location, there are cars parked in front of the shops and in the lay-by and then the Co-Op delivery van arrives and then there's the issue of increased litter.

A petition signed by 103 signatories has been received objecting to the proposal. The objections can be summarised as:

- Young people will be attracted here and this will give rise to noise and anti-social behaviour
- Noise will be exacerbated by cars and the slamming of their doors.
- The shop is on a very busy main road and the traffic will be busy during school time.
- There is no shortage of fast food shops in the area with the mobile van; the shop in Ansley and the nearby Chinese take away.
- The access and egress would be compromised in the case of a fire
- Litter
- The shop is too small
- Fish and chips is not a healthy food and healthy eating and obesity should be considered
- The options for parking is a traffic accident waiting to happen, to reverse out of a parking space is likely to endanger life, there are usually cars parked opposite and the width of the highway is already compromised.
- The oak tree would be damaged by the excavations to its roots.

Individually written objections have been received from seven local residents and a solicitor's letter on behalf of the neighbour at No. 5 Sycamore Corner. The nature of the objections and the information in the solicitor's letter are on the following grounds:

- The extractor chimney will be located opposite my front door, therefore expelling unpleasant odours and noise into my flat.
- There are health issues and opening a chip shop yards from a school will encourage children to eat junk food, this should be a material consideration.
- The litter will be discarded in my garden.
- With the co-op store being open for longer we now have lorries all the time of the day, blocking the road so we do not need more development.
- The Council won't be able to control issues at these premises.
- the opening hours will exacerbate parking problems – the layby can only accommodate four cars and the school is finishing at the opening time
- there will be more delivery vehicles creating nuisance and damage
- this will impact on existing traders, there is a Chinese take away a chip van and a chip shop in Ansley, these outlets are sufficient, it will put another person's livelihood at risk.
- litter
- it will lead to more youngsters congregating in the area
- The street is busy with poor parking facilities
- There is limited space for cars to manoeuvre and visibility of pedestrians is obstructed.
- Further cars will park along the street in a hazardous manner. The opening times co-insides with the end of the school day.

## Observations

There is no objection in principle to the introduction of an A5 use into New Arley as this would meet the sustainable development policies set out in the Local Plan – that is to promote and to encourage such facilities within local service centres so as to maintain viability and reduce travel, particularly if there are other nearby facilities that would benefit from increased footfall. Indeed this part of Arley has a number of adjoining existing services and facilities and as such, this would be an appropriate location for an additional one. Moreover the existing premises provide similar services with the local convenience store and the Post Office and the Chinese take away.

The main planning issues here are thus not so much with the principle of the use, but whether the impacts from its introduction would be so adverse as to warrant overriding that principle. The nature of the objections received clearly outline these potential impacts.

When considering the matters raised in the petition and the representations of objection or comments, then it is considered that:

- Parking will always be an issue with a small parade of shops, but the main issue here is that of increased traffic generation. This issue does have the necessary weight to potentially override the matter of principle raised above. The existing parking situation in this area is very poor. There is no parking restriction on the road itself apart from that outside of the School. There is significant on-street parking arising directly from the surrounding residential properties, and there is increased pressure at School leaving times. The existing shops and services generate mostly local custom, some of which will be pedestrian, but a significant amount is car born and there is also passing vehicular custom. The street and lay by are always busy. The issue is whether the introduction of this new use and the revised parking layout would make this situation materially worse so as to warrant refusal.

The scheme now proposed specifically introduces parking spaces onto the forecourt of the existing frontage to these shops – see Appendix D. The parking layout has been designed so as to allow for safe parking and although cars will reverse out of spaces, the Highway Authority considers that this would be into the area that is the lay-by, hence not conflicting with the traffic on Gun Hill. The Highway Authority also considers that as the parking layout allows for designated spaces other vehicles should not park behind the spaces. The County Council agrees that the scheme allows for pedestrian flow and retains the pathway around the frontage of the parking spaces as well as a pedestrian walkway to the rear of the parking spaces. It thus acknowledges that the scheme is acceptable from a pedestrian flow point of view. The Highway Authority does not object to the current proposals.

In order to avoid conflict with school traffic then the applicant will adjust the opening hours of the take away, to avoid school opening times. The earliest opening time is thus to be conditioned at 1630 hours with a closing time of 2100 hours during weekdays. Deliveries would be a temporary occurrence and would not materially increase compared to the present arrangements. The parking layout leaves capacity for delivery vehicles to the Co-op. As indicated above there is no highway objection to the revised parking provision. This is considered

to carry material weight in that it addresses one of the previous reasons for refusal.

- Anti-social behaviour may already exist here but there is no evidence to suggest that the introduction of this use would directly lead to significant increases in such behaviour over and above what may occur presently. However the Police Architectural Liaison Officer has requested that access be gained to the existing CCTV and access to the new CCTV installation. CCTV can act as a deterrent to prevent incidents of anti-social behaviour. The police will be granted access to the material recorded to help identify individuals should anti – social behaviour occur. The new security fence that separates the take away from the flats on Sycamore Corner, would prevent youths from accessing the lower ground level to the flats, where a low wall along this boundary is used as a seating area. The point is, by installing security fencing in replacement of a low wall, there is no longer the opportunity for youths to sit outside this row of shops.
- In terms of noise disturbance then the existing use of the shops has an element of noise from traffic and car doors closing, until closing hours of these shops. These shops are well established and it is not considered that the take away would add further noise issues provided it does not open after the closing times of the existing businesses, thus the amenity of the neighbours would not be affected beyond the existing amenity issues generated by the existing uses.
- Litter will be an issue, but given that the site is already in an area where there are shops and other take-aways, it would be very difficult to prove that additional litter arising from this proposal would materially alter this situation. The majority of users to the take away will take their purchase away from the site.
- Cooking odours and potential noise issues from extraction units can be dealt with by condition as is normal practice in these cases. The potential impact of cooking smells and odours can be controlled in this way as can noise related issues from extraction units and the height of the extraction flue to ensure it would be clear of the neighbour's flat on Sycamore Corner. The application unit is sited on higher ground compared with the neighbouring flats, the height of the flue will therefore be substantially higher than the neighbouring flats and thus there would be clearance from windows and doors.
- Competition between different businesses is not a material planning consideration. Although a weeknight chip van operates out of the lay-by; the cumulative impact of having a number of takeaways sited together may well justify a refusal, but only if it can be shown that a further use would materially exacerbate existing adverse impacts arising directly from such uses. The assessment is that the chip van is parked on a one night a week basis and is not permanent so there would be no conflict. The proposal would not be considered to result in an adverse impact on these businesses and given it provides the opportunity to improve parking and presents an employment opportunity, then on balance the proposal would not be considered adverse on the existing uses.

- Health requirements as considered North Warwickshire Health indicators 2004, shows that Arley is within the top 10% of wards in the borough in considering that health is 'not good'. In response to this it is important to acknowledge that the health of an area is not dictated by the number or presence of take-aways, there are other factors that contribute to health issues. It is considered that adults have a choice of whether they wish to patronise a take away or not. The proposed take-away is not considered to be a major contributing factor to health problems in the area given the presence of existing uses here.

The issue of health is raised in the objection received by a solicitor's representation acting on behalf of a neighbour, citing the Judicial decision Copeland R v. Tower Hamlets LBC. There is a concern that the take away is in close proximity to a primary school. However, the school is for primary aged children and due to the age range of the children then their eating habits would be dictated by parent's/carers choice. The opening hours of the Fish and Chip shop would be conditioned to avoid school finishing times with a later opening time of 16.30. The matter of health is not considered to be a material consideration of such weight to warrant overriding the principle of development.

- The Oak tree on sycamore corner has been considered, the tree is covered by a TPO and the works to the parking area are outside of the root protection area, thus the tree will remain unharmed, as per the advice given from the County Forestry Officer. The re-location of the post box and the layout of the root protection measures are available at Appendix E.

With all matters considered the reasons for objection are not felt to be of such weight to override the principle of approval for a take away and parking area at this site. The Highway Authority's advice has been critical in this assessment the proposal is not considered to be in conflict with saved Development Plan Policies or the requirements of the National Planning Policy Framework which supports the development of local services, to support a rural economy.

## 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 proposed plans numbered 1104/05 and 1104/06 received by the Local Planning Authority on 14 September 2011 and the revised proposed plans 1216/01 and 1216/03 received by the Local Planning Authority on 2 August 2012 and revised plan 1216/08 received by the Local Planning Authority on 8 August 2012 and revised plans 1216/04/Rev1 and 1216/09 received by the Local Planning Authority on 5 September 2012 and the section plans numbered 1112/12 and 1216/02 received by the Local Planning Authority on 2 August 2012.

REASON

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

3. The proposed parking area shall be laid out in general accordance with drawing 1216/04/Rev 1. The unit shall not be occupied until the areas have been laid out in accordance with the approved details and such areas shall be permanently retained for the parking and manoeuvring of vehicles.

REASON

In the interests of highway safety.

4. Notwithstanding the details in Condition 2, the security bollards shall not be located so as to restrict pedestrian circulation along the frontage of these shops.

REASON

In the interests of the amenities of the area.

5. The area covered with the permeable surface as shown on the drawing 1216/09/Rev 1, should be fenced during the re-development of the site. The reason for this is to exclude its use for the storage of plant and machinery and prevent soil compaction or contamination.

REASON

In the interests of protecting the tree.

6. Prior to commencement of any works being carried out in the permeable area shown on the drawing 1216/09/Rev 1, a detailed method statement shall be submitted and agreed by the Local Planning Authority.

REASON

In the interests of protecting the tree.

7. There shall be no opening for business purposes of the A5 part of this permission other than between 1630 hours to 2100 hours on Mondays to Fridays and between 1400 hours and 2100 hours on Saturdays and 1700 hours to 2100 hours on Sundays and bank holidays. There shall be no opening whatsoever outside of these specified times.

REASON

To prevent disturbance to the occupiers of nearby properties and to prevent conflict with highway users at school finishing times.

8. There shall be no opening for business purposes of the A5 part of this permission until details of noise attenuation measures and the internal location of the extraction fans have first been submitted to and approved by the District Planning Authority.

REASON

In the interests of the amenities of the area.

9. The security fencing hereby approved to the boundary with the flats on Sycamore Corner shall have bow tops and shall be painted in a dark green powder coated finish to a British Standard RAL4800 colour range.

REASON

To protect the amenities of nearby residential property.

10. The applicant/owner of the use hereby approved shall afford unrestricted access and make the images available within 24 hours to the Local Enforcing Police Authority, to the data recorded from the CCTV monitoring cameras. The images will be retained for 31 days, at 12 frames a second, the CCTV system will be maintained to a fully operational standard at all times.

REASON

In the interests of identifying perpetrators and to control anti social behaviour for the interests of safety to the general public.

**Notes**

1. The applicant is advised that this permission is in respect of a change of use of the premises only and any external alteration to the building not covered under this permission, such as advertisement consent, will require a separate planning permission.

2. The applicant is encouraged to ensure that construction works and deliveries of construction materials do not cause nuisance to neighbouring properties and their occupiers. It is recommended that works are restricted to between 0800 and 1800 hours on weekdays, and 0900 and 1300 hours on Saturdays, with no construction works on Sundays or recognised public holidays.



3. Condition number 3 requires works to be carried out within the limits of the public highway. The applicant / developer must enter into a Minor Highway Works Agreement made under the provisions of Section 278 of the Highways Act 1980 for the purposes of completing the works. The applicant / developer should note that feasibility drawings of works to be carried out within the limits of the public highway which may be approved by the grant of this planning permission should not be construed as drawings approved by the Highway Authority, but they should be considered as drawings indicating the principles of the works on which more detailed drawings shall be based for the purposes of completing an agreement under Section 278. An application to enter into a Section 278 Highway Works Agreement should be made to the Planning & Development Group, Communities, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant/ developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Applications should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less ten days, notice will be required. For works lasting longer than 10 days, three months notice will be required.

4. The Development Plan policies which are relevant to this Decision are as follows:

North Warwickshire Local Plan 2006 (Saved Policies):

ECON5 (Facilities relating to the Settlement Hierarchy), ECON12 (Services and Facilities in Category 3 and 4 Settlements), ENV9 (Air Quality), ENV11 (Neighbour Amenities), ENV13 (Urban Design), ENV14 (Access Design), TPT6 (Vehicle Parking).

### **Justification**

The proposal for a mixed A1 and A5 use is not considered to be contrary to ECON5 of the Local Plan. The proposal is not considered to result in a loss of amenity in the area any further than experienced by the existing uses in this location and concerns relating to adequate odour extraction measures will be controlled by condition as well as controlling anti - social behaviour by use of CCTV. No adverse elevation change is proposed to the unit, apart from a flue and the erection of a security fence. The previous reason for refusal of this application on highway safety grounds is considered to be addressed. The parking situation in this area will be greatly improved by the proposal and there are no highway safety concerns in respect of the parking layout. The proposal does not make the existing situation worse, but allows for further parking spaces. In terms of traffic generation and conflict with other highway users then the opening hours of the take away will be conditioned to open after school finishing times, this will avoid conflict with the busiest times of the day. The existing shop units could generate greater vehicle movements through out the day in any case. The proposal is not felt to be in conflict with saved policies ENV11, ENV12, ENV13, ECON5, ENV9, ENV14 or TPT6 of the North Warwickshire Local Plan 2006 or advice given in Paragraph 28 of the National Planning Policy Framework.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2011/0478

Background Paper No	Author	Nature of Background Paper	Date
1	The Agent	Application Forms, Plans and Statement(s)	27.9.11
2	Mr Tyler	E-mail representation	1.10.11
3	Mr Myers	E-mail representation	12.10.11
4	Arley Parish Council	E-mail representation	14.10.11
5	Solicitors Correspondence	Correspondence of representation and petition against application	19.10.11
6	The Agent	E-mail revised block plan	26.10.11
7	WCC Highways	Correspondence	2.11.11
8	Case Officer to Agent	Correspondence	2.11.11
9	Councillor Fox	E-mail requesting site meeting	3.11.11
10	Case Officer to Councillors	E-mail to confirm site meeting	9.11.11
11	Police Architectural Liaison Officer	E-mail representation	14.11.11
12	Case Officer to Agent	E-mail	14.11.11
13	The Agent	E-mail reply to representations	17.11.11
14	WCC Highways	E-mail following site meeting	21.11.11
15	Case Officer to Agent	E-mail following site meeting	22.11.11
16	Case Officer to Councillors	E-mail following site meeting	29.11.11
17	Councillor Fox	E-mail requesting progress	29.11.11
18	Councillor Fox	E-mail update	2.12.12
19	Agent to Case Officer	E-mail to confirm site meeting	3.1.12
20	Mr Morris	Correspondence of support	10.01.12
21	Agent to Case Officer	E-mail with proposed revision	13.1.12
22	WCC Forestry Office	Tree survey	28.3.12
23	Case Officer to Agent	Correspondence requesting revised plans	11.4.12
24	Case Officer to Agent	E-mail request for information	24.5.12
25	Agent to Case Officer	E-mail up date	28.5.12
26	Agent to Case Officer	E-mail with new information on CCTV	12.6.12

27	Case Officer to Police Architectural Liaison Officer	E-mail with CCTV information	13.6.12
28	Police Architectural Liaison Officer	E-mail	21.6.12
29	Mr Bridges	E-mail of support	18.7.12
30	Agent to Case Officer	Submission of revised plans	2.8.12
31	Agent to Case Officer	Submission of further revised plan	3.8.12
32	Mr Backhouse	E-mail representation	20.8.12
33	Agent to Case Officer	Submission of a revised plan	29.8.12
34	Solicitors Correspondence	Correspondence of representation and petition against application	3.9.12
35	WCC Highways	Correspondence	4.9.12
36	Agent to Case Officer	Submission of a revised plan	5.9.12
37	Councillor Fox	E-mail comments	7.9.12
38	County Forestry Office	E-mail response	12.9.12
39	NWBC Environmental Health	E-mail response	13.9.12
40	Case Officer to Agent	E-mail request for information	13.9.12
41	Agent to Case Officer	E-mail reply	17.9.12
42	WCC Highways	Correspondence	19.9.12

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

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

# Appendix A



## Appendix B



Existing frontage to shop and neighbouring flats in the background



Existing frontage





Existing frontage



View from flats on Sycamore corner

## **Appendix C**

### **General Development Applications ( ) Application No: PAP 2011/0088**

#### **Gun Hill Post Office, Gun Hill, Arley**

#### **Change of use from retail (A1) to a mixed use of retail (A1) and “take-away” (A5) for Mr Mahal**

##### **Introduction**

This application is reported to the Board for determination in view of representations having been received both in support of and objecting to the proposal. Local Members also have expressed a difference of view.

##### **The Site**

This is the General Store/Post Office situated at Gun Hill just south of the junction with Sycamore Crescent. There are terraced properties opposite and other residential property around the site. Immediately next door is a further small Co-op retail outlet, and there is a Chinese take-away just a few metres away off Sycamore Crescent. A taxi business operates from a terraced property opposite too. There is a lay-by in front of these shops. The Gun Hill Primary School is a little further along Gun Hill.

##### **The Proposal**

This is to introduce a fish and chip take-away into the shop, within the area which was formerly used as a “pharmacy”, which would amount to around 10% of the available floor space. It would have its own access directly out to the frontage without customers having to first enter the stores. This will necessitate minor changes to the front elevation. Opening times are proposed as 1500 to 2100 during the week; 1400 to 2100 on Saturdays and 1700 to 2100 on Sundays such as to match the existing hours of the shop. A new fascia and signage is also proposed but this is the subject of a separate Advertisement application. Clearly it can not be determined until the principle of the new use is determined.

The applicant says that he does not envisage a great increase in traffic or noise through the introduction of this new use, as the majority of the custom would be local.

##### **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – ECON5 (Facilities relating to the Settlement Hierarchy), ECON12 (Services and Facilities in Category 3 and 4 Settlements), ENV9 (Air Quality), ENV11 (Neighbour Amenities), ENV13 (Urban Design), ENV14 (Access Design), TPT6 (Vehicle Parking).

##### **Other Material Planning Considerations**

Government Guidance – PPG13 (Transport)

## **Consultations**

Environmental Health Officer – No specific comments are made other than ensuring through conditions that there is an adequate level of filtration in the extraction units.

Warwickshire County Council as Highway Authority – It has lodged an objection on the grounds of increased traffic generation to an already congested and over-used lay by where there is additionally high levels of on-street parking. The demand for parking is considered to exacerbate an already unsatisfactory situation. The County is aware that a mobile chip van does visit this location but points out that this does not require a planning permission; it only visits infrequently during the week, and that it can continue to do so whether or not a planning permission is granted for the current application. If it causes problems, the Police would be the enforcing Authority.

## **Representations**

Arley Parish Council has not submitted any comments.

A petition signed by 216 signatories has been received objecting to the proposal. The objections can be summarised as:

- Young people will be attracted here and this will give rise to noise and anti-social behaviour
- Noise will be exacerbated by cars and the slamming of their doors.
- There is no shortage of fast food shops in the area with the mobile van; the shop in Ansley and the nearby Chinese take away.
- The access and egress would be compromised in the case of a fire
- Litter
- The shop is too small

Individually written objections have been received from seven local residents. They object on the following grounds:

- the opening hours will exacerbate parking problems – the layby can only accommodate four cars and the school is finishing at the opening time,
- there will be more delivery vehicles creating nuisance and damage
- this will impact on existing traders
- there will be unpleasant smells and more litter
- it will lead to more youngsters congregating in the area

A petition with 415 signatories has been submitted supporting the proposal

## **Observations**

There is no objection in principle to the introduction of an A5 use into New Arley as this would meet the sustainable development policies set out in the Local Plan – that is to promote and to encourage such facilities within local service centres so as to maintain viability and reduce travel, particularly if there are other nearby facilities that would benefit from increased footfall. Indeed this part of Arley has a number of adjoining existing services and facilities and as such, this would be an appropriate location for an additional one. Moreover the existing premises provide similar services with the local convenience store and the Post Office.



The main planning issues here are thus not so much with the principle of the use, but whether the impacts from its introduction would be so adverse as to warrant overriding that principle. The objections received clearly outline these potential impacts.

It is considered that with appropriate conditions, the design and detail of the extraction measures can be first agreed with the Environmental Health Officers, as is normal practice in these cases. The potential impact of smells and odours can be controlled in this way. Additional litter will also be an issue, but given that the site is already in an area where there are shops and other take-aways, it would be very difficult to prove that additional litter arising from this proposal would materially alter this situation. The same argument applies to the possibility of increased anti-social behaviour. There is no evidence to suggest that the introduction of this use would directly lead to significant increases in such behaviour over and above what may occur presently. It is thus not considered that these issues carry the weight necessary to override the principle as set out above.

The main issue here is that of increased traffic generation and the worsening of the present parking situation. This issue does have the necessary weight to potentially override the principle of the use. The parking situation in this area is very poor. There is no parking restriction on the road itself apart from that outside of the School. There is significant on-street parking arising directly from the surrounding residential properties, and there is increased pressure at School leaving times. The existing shops and services generate mostly local custom, some of which will be pedestrian, but a significant amount is car born and there is also passing vehicular custom. The street and lay by are always busy. The issue is whether the introduction of this new use would make this poor situation so bad as to warrant refusal.

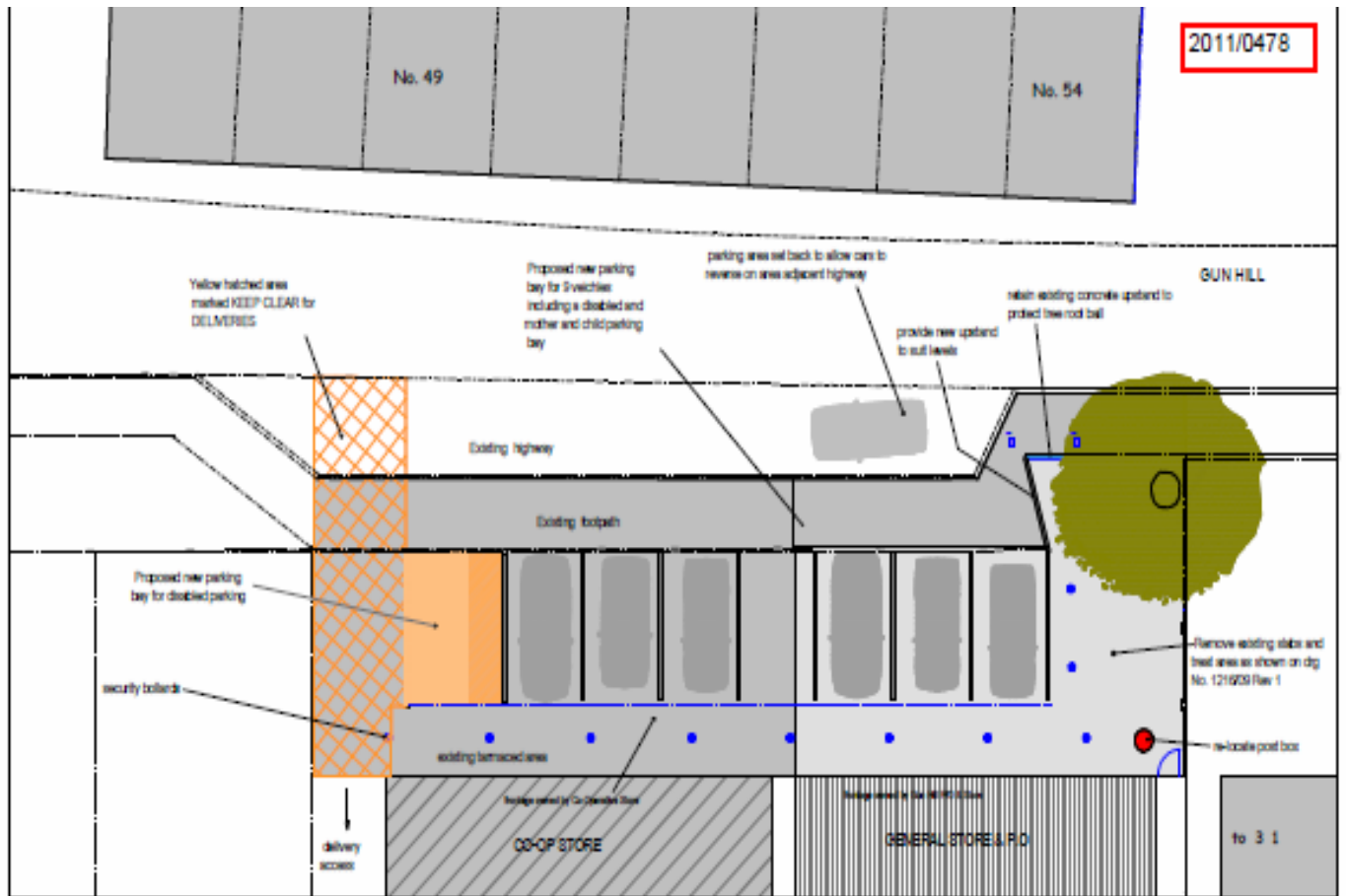
The Highway Authority considers that this is the case, as do a significant number of the immediate neighbours. The County Council is starting from the premise that the existing situation is unacceptable, as are the local residents, and thus that any increase is going to worsen this situation. The County considers that the new take away will generate additional car born customers in its own right, over and above traffic that might have been coming to the site or to neighbouring premises in any event. This argument is accepted. Additionally, it is considered that if this space in this shop were used fully for retail use, then it would not lead to any great increase in traffic. The new use itself introduces new traffic, and this would be generated at a peak time during the day, exacerbating existing problems.

## **Recommendation**

That planning permission be **REFUSED** for the following reason:

The parking situation in this area is already very poor with significant on-street car parking and with only a small lay-by available. Existing uses in the immediate area include a primary school; shops, another take-away, a taxi business and residential property. It is considered that the introduction of this use will generate additional traffic to the degree that the existing situation would be made materially worse. This is not in the interests of highway safety. The proposal thus does not accord with saved policy ENV14 of the North Warwickshire Local Plan 2006.

# Appendix D



# Appendix E

## PROPOSED WORKS AROUND TREE

### CONSTRUCTION DETAILS



This area constitutes a no dig permeable surface

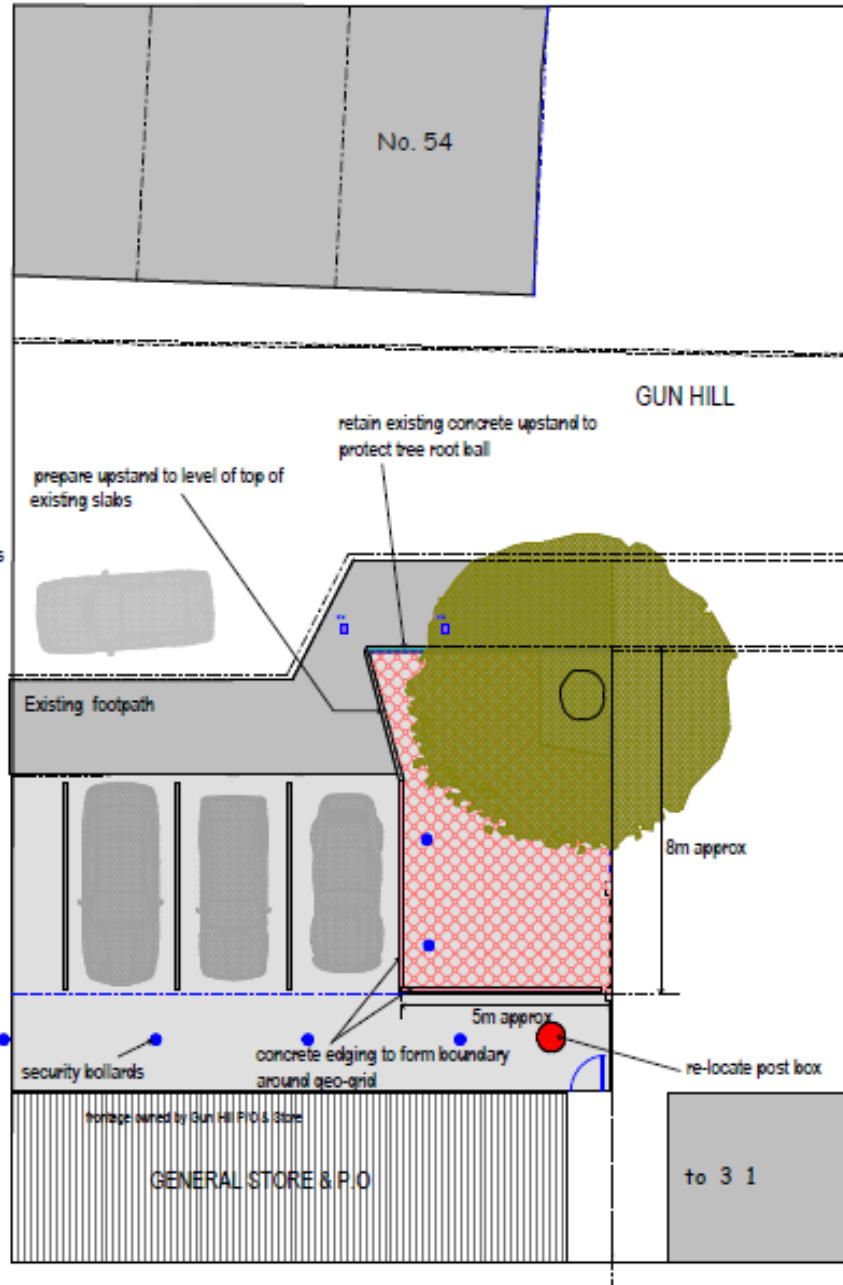
Remove existing concrete slabs

Level off area with hand tools and sharp sand

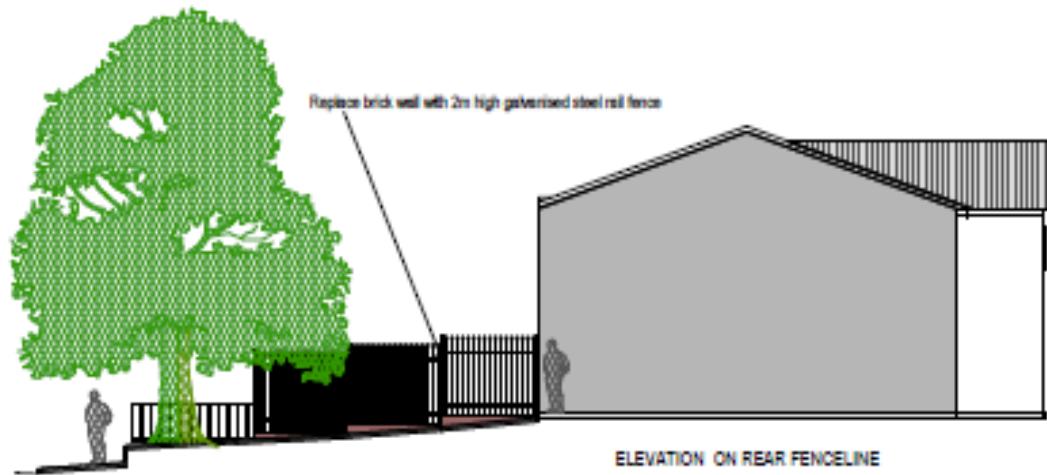
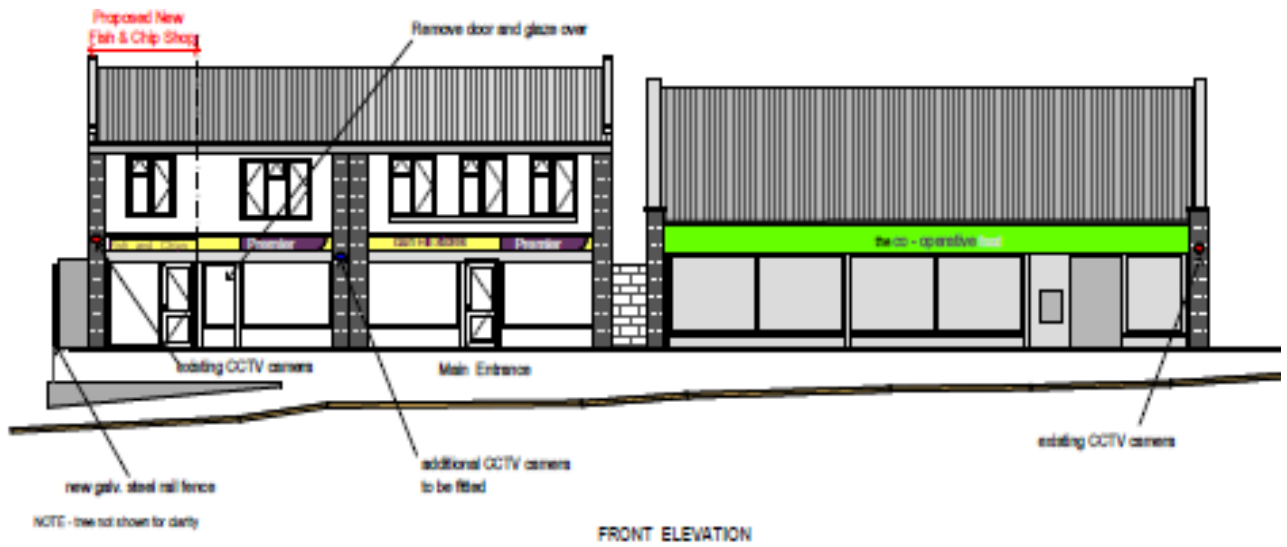
Cover area with a geotextile fabric mesh

Fix recycled polyethylene Geo Grid Pavers 500mmx500mmx40mm deep or similar

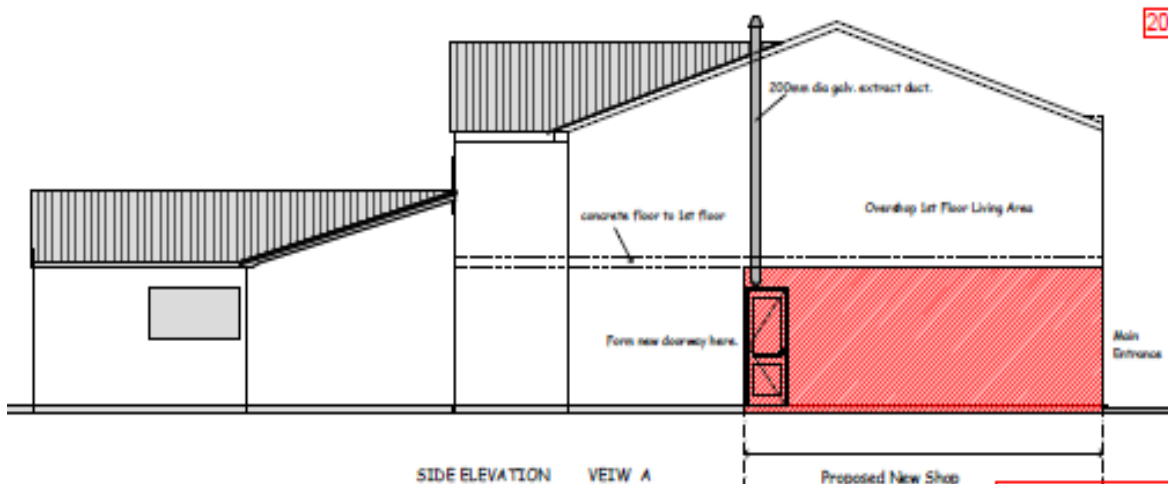
Cover entire area with angular gravel fill

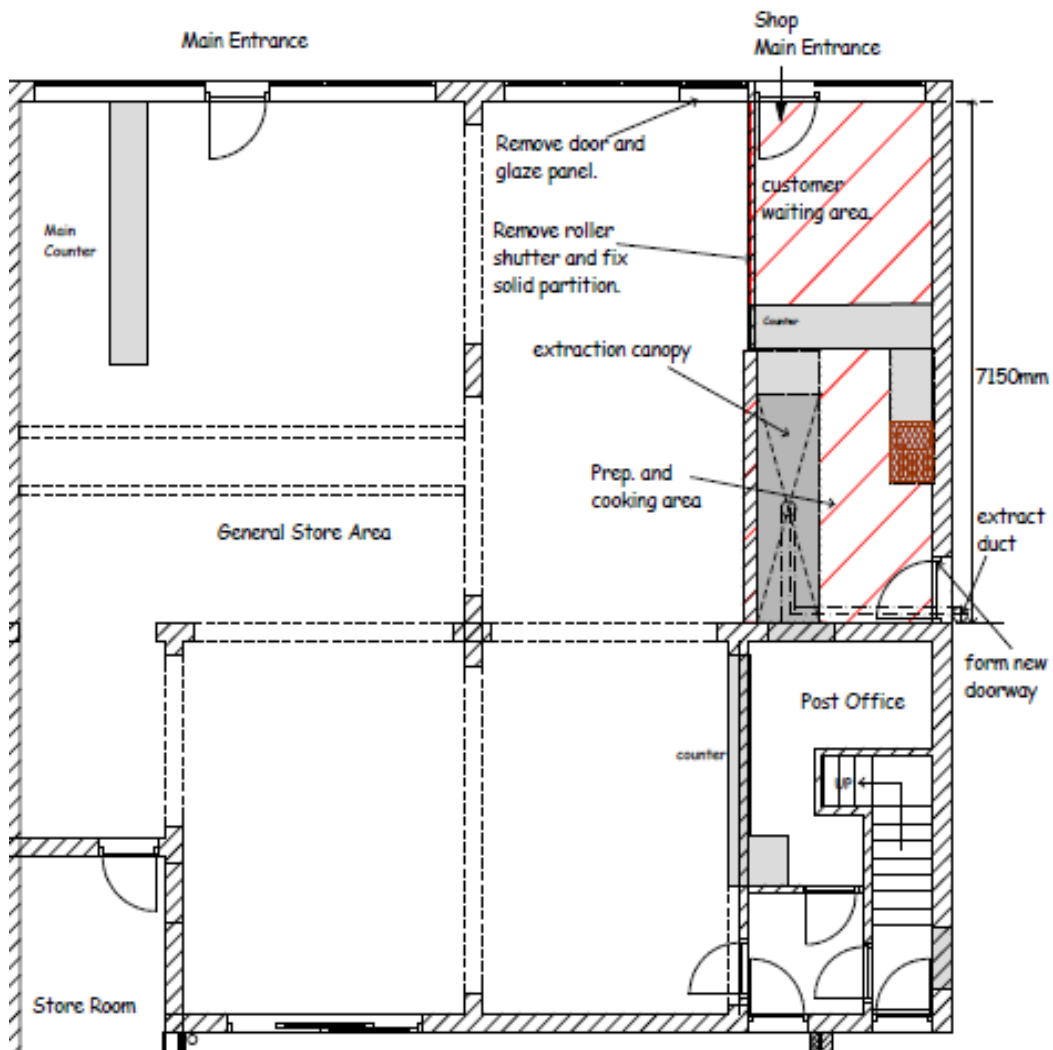


# Appendix F



## Elevations and floor plan





**(3) Application No: PAP/2011/0527**

**31 Plough Hill Road, Chapel End, CV10 0PJ**

**Outline (only landscaping reserved): Residential development of six detached 5-bed houses with detached garage to plot 1, a terrace of three 2-bed houses and two 2-bed apartments, and one 3-bed detached dormer bungalow with integral garage; along with associated external works, formation of a new access off Plough Hill Road, and closure of Fletchers Drift Lane with formation of single dwelling access to serve the dormer bungalow, for**

**The Executors of Mrs Hilda Morris**

**Introduction**

This application is reported to Board in light of there being a Section 106 legal agreement involved and follows a site visit undertaken by Members in light of the recommendation given at the September meeting. That report is at Appendix 1.

**The Site**

The majority of the site lies behind properties on Coleshill Road and Plough Hill Road, and is bounded by the existing Fletchers Drift lane. It is a former small holding of a hobby nature, but has not been used in such a fashion for a number of decades with the land becoming overgrown in the interim. Former buildings have been demolished. To the front of the site, and facing Plough Hill Road, is number 31 – a detached property linked to the aforementioned land. To the north-eastern side is a run of terraced properties, to the west is number 39 – a further detached dwelling. Adjacent to number 39 is Fletchers Drift which turns around the rear of number 39's garden before serving the existing 6 detached dwellings along the lane, all facing into the main part of the application site. To the other side of Fletchers Drift is a dormer bungalow (number 43) beyond which are further terraced dwellings. Further terraced properties line the northern edge of the site, along Coleshill Road.

Fletchers Drift is not adopted and maintained by the Highway Authority, with the exception of the bellmouth. Both the lane and the bellmouth are substandard in terms of layout and construction, and results in problems for refuse collections to the properties on Fletchers Drift. The lane is set lower than number 43 but higher than number 39, as Plough Hill Road slopes down from west to east before turning a bend towards the junction with Coleshill Road. There is notable on-street parking on this bend at various points of the day, although officer observations at various times demonstrate this is not consistently the case. The levels within the main part of the site slope towards the north-east where the Barpool Brook runs from under Coleshill Road before continuing under Plough Hill Road and out to the south-west.

## **The Proposal**

It is proposed, in outline with only landscaping being reserved for later consideration, to demolish the existing dwelling at number 31, and erect 12 dwellings (11 net). This comprises 5 terraced properties fronting Plough Hill Road – three 2-bedroom dwellings and two 2-bed apartments; a further 6 dwellings in the main part of the site facing towards the existing dwellings on Fletchers Drift; and a further dormer bungalow on the initial leg of Fletchers Drift, between numbers 39 and 43. Fletchers Drift will then be “moved” to the opposite side of number 39. This new access road would then serve both the proposed development and the existing dwellings on Fletchers Drift, with the existing bellmouth onto Plough Hill Road to be closed off. The plans at Appendix 2 better show the proposed layout and street scenes.

## **Background**

This application marks the third major revision to the redevelopment of this site. An initial application in 2010 was withdrawn following officer concerns that the site was not being used to the “best effect” and thus was not delivering any affordable housing. There were further concerns as to access, contamination and coal mining risks. A revised application in 2011 began addressing the concerns and went further in proposing further dwellings, but still did not look to holistically develop the available land. The proposal now presented follows many months of negotiation between the applicant, officers, landowners, consultees and neighbours. This does not necessarily mean that all parties accept the proposal however, and consultation responses and representations outline this below. The proposal is considered to be a much more appropriate solution for the wider site – one which should have been considered at the time Fletchers Drift was originally proposed. At that time, not all landowners were willing to be involved.

Members should also note that this application is a cross-boundary application, with Nuneaton and Bedworth Borough Council (NBBC) determining the same application in respect of land within their jurisdiction. The split between the two authorities is shown at Appendix 3. In light of this and interested parties, a Section 106 has been advanced to involve the Council, NBBC and other interested parties. The draft Heads of Terms is set out at Appendix 4 for information purposes.

## **Development Plan**

North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), Core Policy 12 (Implementation), HSG2 (Affordable Housing), HSG4 (Densities), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV10 (Energy Generation and Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design) and TPT1 (Transport Considerations in New Development), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

## **Emerging Development Plan**

Core Strategy (pre-submission document, September 2012): NW1 (Settlement Hierarchy), NW3 (Housing Development), NW4 (Split of Housing between Settlements), NW5 (Affordable Housing), NW8 (Sustainable Development), NW9 (Renewable Energy and Energy Efficiency), NW10 (Quality of Development) and NW19 (Infrastructure).

## **Other Relevant Material Considerations**

Government Advice: National Planning Policy Framework (NPPF).

Supplementary Planning Guidance: A Guide to the Design of Householder Developments (2003).

Local Finance Considerations: New Homes Bonus (NHB).

## **Consultations**

Following a change in the application site boundaries and material revision to the scope of the proposal; the application was re-registered on 1 August 2012. Statutory and technical consultees were re-consulted on the same day. Whilst the background papers list all consultation responses, only those since the re-registration and thus relevant to the current proposals are summarised below.

The County Highway Authority raises no objection in principle, noting that the proposed access benefits from suitable visibility and is designed appropriately; and the removal of Fletchers Drift Lane as existing is of benefit. They also raise no concern about highway capacity and conflict with Waggestaff Drive. Whilst there are residual concerns about the provision of a refuse collection point, and the access and turning space for plot 12; these have been addressed by way of minor revisions to the submitted plans, and can be conditioned accordingly.

The Environmental Health Officer notes the potential for former shallow coal workings on the site, as well as contamination potential from former uses both on and adjacent to the land. The recommendations following a Phase I site study suggesting an intrusive investigation and remediation where necessary are considered to be acceptable, and thus conditions are recommended.

Coal Authority raises no objection but notes that the former shallow coal workings are a material consideration in determination of the application. The Coal Mining Risk Assessment is considered to be appropriate and thus they recommend further investigation prior to development, and remediation where necessary.

Warwickshire County Council Library Service raises no objection subject to a financial contribution towards library services in the area.

The Warwickshire Health and Primary Care Trust raises no objection subject to a financial contribution towards medical services in the area.

The Warwickshire Police Crime Prevention Advisor raises no objection subject to conditions to ensure vulnerable openings are adequately glazed/secured, roads and footways are lit, and fencing is appropriate.



Warwickshire Fire and Rescue Service raise no objection subject to condition to secure provision of water/fire fighting supplies.

Severn Trent Water raises no objection subject to a condition.

Ansley Parish Council raises no objection subject to highway impacts and flood risk matters being acceptable.

Warwickshire Museum, Warwickshire Wildlife Trust, the Environment Agency and Nuneaton and Bedworth Borough Council have not responded.

## **Representations**

15 objections and 3 letters of comment were received to the original proposals. These focussed on concerns around privacy, security, highway safety and design, parking, pollution, noise, emergency access and whether the housing mix is appropriate for the site.

Neighbours were consulted on the revised application on 1 August 2012, with a second site notice erected on 9 August 2012. Whilst the background papers list all consultation responses, only those since the re-registration and thus relevant to the current proposals are summarised.

6 objections, 1 letter of comment and 1 letter of support have been received. The objections raise the following concerns:

- Highways – that some residents will park on Plough Hill Road fronting the site, affecting the access visibility and congestion; a lack of parking and delivery/turning space for the proposed dwellings; the proximity of the access to a bend in Plough Hill Road and the junction with Waggestaff Drive poses a danger; the capacity of Plough Hill Road and the junction with Coleshill Road to accommodate additional traffic; the proposed access is not wide enough and emergency vehicles would struggle to gain access; and pedestrian access is to one side only.
- Amenity – there would be loss privacy to their property; loss of light to side facing windows; additional noise and pollution from the development; and the security of their property would be compromised.
- Design – a single objection considers the affordable housing has been “squeezed on” without due consideration of design.
- Other matters - loss of wildlife from the site; localised flooding on and adjacent to the site in recent years and potential for this to increase; and excavations to remove the existing Fletchers Drift Lane and services should not compromise other property.

Further questions are also raised:

- Will the new road be named Fletchers Drift Lane?
- Can some further trees be retained?
- Will existing services/utilities be re-routed and connected?
- Will landscaping and boundary treatments be conditioned?
- Will there be traffic control measures included?
- Will double yellow lines be added to the access?
- Who has rights to the visitor spaces?
- Will the road be adopted/maintained?

The objection regarding excavations close to existing properties is addressed under separate legislation. It is not a planning consideration. Of the questions raised, matters regarding road names and services/utility connections are not planning considerations. For clarity, it is intended to retain the name “Fletchers Drift Lane” so that existing dwellings are not affected; and services/utilities will be diverted to the new access where necessary. The majority of the road will not be adopted – only the bellmouth. Other matters are addressed through discussion below.

NBBC received 8 objections to the initial submission, and 4 objections to the re-registered application. The objections raise the same concerns outlined above.

### **Observations**

As noted above, this application is a cross-boundary application. This has impacts on the Section 106 legal agreement as well as which elements of the proposal are more relevant to North Warwickshire. At the time of writing, NBBC are anticipating determination of their application prior to this application being considered by Members. As the access to the whole development lies within their jurisdiction, should NBBC have not determined their application in time, the Head of Development Control may recommend deferral of this application at the Meeting.

The application is also in Outline form, although the Council is being asked to consider the scale, layout, access and appearance, with only landscaping remaining a Reserved Matter. As such, the “scope” of the development is set by this application such that its impacts can be properly appreciated. Any changes to this scope (e.g. the number or type of dwellings) would require a fresh application.

Members will now be familiar with the site and its environs. Other than matters of principle, affordable housing provision, ground conditions and contamination, it is clear that there is considerable focus on highway safety, neighbouring amenity, design and phasing of the works to ensure that existing dwellings on Fletchers Drift remain habitable. This report therefore focuses on each of these matters in turn.

#### **(a) Principle of development**

This site is wholly within a settlement boundary, located close to a range of local services and facilities, and adjoining Nuneaton itself. Regular bus services pass the site and there are cycling and walking opportunities close by. It is thus wholly appropriate in principle for residential development.

## **(b) Affordable housing and other infrastructure/service provision**

8 of the proposed dwellings lie within North Warwickshire, with the remaining 4 in Nuneaton. The Council's affordable housing threshold here (5-or-more dwellings) seeks that 40% of the scheme is put to affordable housing needs. However the straddling of a district boundary complicates the matter. The Council's policies cannot apply in Nuneaton. Conversely Nuneaton's affordable housing policy does not "catch" this development, with their threshold at 15-or-more dwellings. This means that strictly speaking, only 3 of the 8 in North Warwickshire can be sought.

This creates a logistical problem. 6 of these 8 are 5-bedroom dwellings so to "balance" the likely viability of the wider development. Such dwellings are not suitable for affordable housing needs. It would therefore follow that the proposal would struggle to provide the 3 affordable units necessary. To counter this, the applicant offers 3 of the 4 dwellings in Nuneaton for affordable housing needs. This totals 5 of the wider 12. The draft Section 106 advanced looks to control the allocation and rent level through the respective authorities, with the developer retaining ownership of the properties. This provision equates to 45% of the wider development – in excess of that required on a "normal" site. On face value, this over provision would be quite material – particularly when affordable housing needs stretch across district boundaries; and would hold considerable weight in favour of the proposal.

However Members should note that the application is in Outline form, and thus no detailed viability assessment has been undertaken at this stage to demonstrate that the proposed tenure mix is viable. This creates significant uncertainty in attempting to draft a Section 106. There are a number of "unknowns" in respect of ground conditions at this stage, and there will be higher than normal infrastructure costs due to the creation of a new access road, redirection of services and associated legal costs. As such it seems likely that the terms of the Section 106 will need reconsideration once a developer is found and the cost of the development is more accurately calculated. Conversely it will not proceed to this level of certainty without planning permission.

Whilst Warwickshire County Council Library Services and the Primary Care Trust for NHS Warwickshire request financial contributions, the basis for use of Section 106 must be that the development would otherwise be unacceptable and the legal agreement is necessary to mitigate the impacts arising. Paragraph 204 of the NPPF sets out the tests for use of planning obligations and there is conflict here. The calculations provided are largely framed around Community Infrastructure Levy provisions – something which North Warwickshire is unable to apply at the current time. There is no evidence to demonstrate that local library and health services cannot accommodate the additional 11 dwellings here, and in the absence of such evidence it is not considered the requests can be sustained. In the additional context of Ministerial statements encouraging Council's to take a flexible and proactive approach to legal agreements; it is considered wholly reasonable to deny these requests. Instead a condition shall be attached to require the submission of a scheme for the provision of affordable housing, informed by a viability assessment, once investigation works and more accurate costs can be established.

### **(c) Ground conditions and contamination**

As noted above there is still a degree of uncertainty with the costs attributed to addressing this matter. Away from financial considerations, the site and adjacent land has former uses which are potentially contaminative. A former mining railway used to run along the line of Fletchers Drift. This was removed some years ago, with the embankment removed to build Fletchers Drift in the early 2000s. There is potential for contamination having been “washed” onto the site from this embankment. The use of the land and former buildings, and an adjacent factory, could have also created spot contamination. More importantly, the site lies along the Bedworth to Polesworth coal seam which has historically been mined through shafts and adits, and the site could thus hold shallow coal seams and former workings.

The Coal Authority and Environmental Health Officer note the Coal Mining Risk Assessment and Phase I Site Investigation provided. The Coal Authority considers the Risk Assessment to be appropriate and recommend further investigation prior to development, especially in light of potential for shallow coal workings, and remediation where necessary. The Environmental Health Officer also notes this potential, as well as contamination potential mentioned above. The Site Investigation recommends an intrusive investigation with remediation where necessary. On balance it is not considered the site is so problematic to preclude development, but it will be necessary to ensure appropriate remediation is secured in a timely fashion.

### **(d) Highway safety and parking**

This is the focus of neighbour objections. There are two main areas of concern to the *existing* situation – the condition and alignment of Fletchers Drift at the rear of number 39; and the visibility and congestion on Plough Hill Road. It is noted that the alignment of Fletchers Drift does restrict refuse wagons (the largest vehicle anticipated) from entering and leaving in a forward gear, such that collections are now made by backing the wagon into the first part of the road. The bellmouth is narrow with inadequate radii and the surface beyond the bellmouth is hardcore. The visibility from the access is however adequate, and congestion on Plough Hill Road is periodic, focussed around peak hours as traffic backs up from the Coleshill Road junction. The question is therefore whether the proposal would worsen the situation, maintain the status quo, or offer a material improvement.

As noted this proposal is the result of protracted discussions with the Highway Authority. Their latest response is at Appendix 5. The main difference with the scheme now presented is that a new access will be created to serve both the proposal and existing dwellings on Fletchers Drift. The new road will not be adopted, but adequate pedestrian access is provided and shared surface materials are used in part to increase driver perception. The first part of the existing road will be removed. What is material is that whilst an objection was lodged to the initial plans under this application, during the course of discussions it was established that both the existing and the proposed accesses could exist in principle, with visibility to each one achievable. It must be recognised that the applicant has gone a stage further here to provide a much more suitable solution and better use of the land available.

The layout provides for the free flow of vehicles in and out of the new Fletchers Drift without conflict, and also ensures refuse wagons can enter and leave in a forward gear, with door to door collections. The surface would be bound and radii adequate. The Highway Authority raises no objection to these matters. Turning to the position of the access and visibility splays, the visibility to the north-east is tight. It is also across a wedge of the site and through an area of the highway which is often obstructed by parked cars. These cars are generally owned by residents of the dwellings to the opposite side of Plough Hill Road. During peak hours, traffic travelling towards Coleshill Road often has to wait before proceeding when gaps in opposite traffic flow occur. The situation is not ideal. The crucial factor though is whether this development would worsen it.

There would be some loss of space for existing roadside parking, but this is not considered a reason for refusal given there is no right to park on the highway. The access would be offset from Waggestaff Drive to prevent a "crossroads" approach to manoeuvres. Crucially the necessary visibility can be achieved in both directions, and whilst the north-eastern splay would be partially obstructed by parked cars at times, Manual for Streets allows for this noting that such obstructions can be seen through/around, and it lowers road speeds on the main carriageway whilst increasing perception of the driver joining it. This is already the case with the south-west visibility from the existing Fletchers Drift, with it obstructed by road-side parking bays. The neighbour concerns regarding greater congestion are noted, but these are not shared by officers, both at the Council and the Highway Authority, with Plough Hill Road capable of accommodating the extra movements without material harm.

The proposed dwellings fronting Plough Hill Road are also designed with a wall to the front. The footpath only connects with the new road. This obstruction prevents "desire lines" being followed, so to discourage parking of vehicles on Plough Hill Road as well as loading/unloading in this position, in turn making it far more likely that the parking bays on Fletchers Drift will be used by the occupants. The Highway Authority also seeks bollards in the remaining verge to prevent informal parking. Within the site there are generally 2 spaces per dwelling. The exception is for the two-bed dwellings, where there is one allocated per dwelling. Noting the tenure of these dwellings and scope for family living, it is likely that most of the occupants will have just one vehicle, if at all; with the 4 visitor spaces able to accommodate any further parking needs for the wider development. The overall parking provision is considered appropriate, subject to conditions, particularly in the context of it being on regular bus routes and the Council's adopted standards.

In drawing all the above considerations together, the closure of the first part of the existing Fletchers Drift represents a material improvement here. Whilst visibility remains largely unchanged, the new position and physical changes are not only wholly appropriate to the proposal; they help to alleviate an ongoing problem with the road and refuse access. It is acknowledged there will be an increase in vehicle movements, but this will be marginal in the context of overall daily movements on Plough Hill Road. After many months of discussion, technical assessment, and site visits; the Highway Authority raises no objection subject to conditions. They do not consider double yellow lines along Plough Hill Road or speed control measures are necessary; they do not raise concern as to the parking provision; and they do not consider the number of trips arising from the development to pose an unacceptable risk. This is material and thus there is not considered to be a reason for refusal here.

### **(e) Neighbouring amenity**

The focus here is on overlooking and noise/disturbance. The dwellings to the rear of the site will face towards the new road and turning head with rear windows generally sitting at 45 degrees to properties on Plough Hill Road and Coleshill Road. Even here around 20 to 25 metres is achieved as a minimum between habitable windows. Particular attention is given to the effect on number 17 – a bungalow. A drop in levels towards number 17 does not help. A 24 metre separation will exist between the nearest first floor windows (on plot 5) and the bungalow. However this distance is well above the 20 metres normally taken as an acceptable benchmark, and the additional distance helps to offset the drop in levels. Therefore it is considered the impacts will be acceptable.

There is not considered to be privacy issues arising between the proposed plots and to existing dwellings on Fletchers Drift with good separation and/or public areas in-between. The same extends to the separation between plots 7 – 11 and existing dwellings on Plough Hill Road. Further attention is given to numbers 39 and 43. Whilst number 39 has no habitable side facing windows, number 43 does – and this is a dormer bungalow. A further dormer bungalow is proposed in the space between the dwellings, set back from number 43 and in line with number 39. Habitable rooms at first floor are served by windows facing to the front and rear, and the only side facing windows serve either bathrooms or circulation space. In any case these are to be obscure and conditions can control concerns. There is thus no privacy concern from the proposed dwelling itself, with boundary treatments addressing ground floor windows.

The land levels also drop from number 43 to number 39. Consequently there is considered to be minimal overshadowing arising from the bungalow on number 43; and the impact on number 39 is considered to be acceptable – especially in the context of a boundary treatment causing a similar level of shade and the roof design. This leads onto a key concern for the occupiers of number 39. The existing levels of Fletchers Drift mean that the existing boundary treatment is some 1 to 2 feet lower. As such pedestrians walking along Fletchers Drift are able to see over the fence. The concern is that this could continue to occur from the private amenity space to plot 12. However the street scene indicates the same finished floor level as number 39 to overcome this concern, and conditions can secure appropriate levels and new boundary treatments. This is not an uncommon situation and can be resolved in this fashion.

Further focus is given to number 39 and the creation of a new access road. Without the closure of Fletchers Drift this would leave this dwelling on an “island” with vehicle movements to both sides. As the proposal simply “moves” Fletchers Drift, there would be no change to the status quo if it were to serve just the existing dwellings. The consideration therefore focuses on whether the increase in dwellings and thus vehicle movements would cause unacceptable harm. The Highway Authority note that 0.6 movements per dwelling could be expected within the peak hour. It therefore follows that movements elsewhere in the day would be less. In the context of number 39 fronting Plough Hill Road and Waggestaff Drive, the increase in movements is not considered to bring about a measurable change. Indeed a retaining wall and planting between the new road and number 39 will help to reflect vehicle noise.

There is a request for this wall to be extended further back so to alleviate vehicle noise to number 39's amenity space and provide additional security. It is not considered that there is a planning reason to support this request, with it likely to have a negligible impact on noise transfer in the open air, and a boundary treatment already exists. The security concern is not echoed by Warwickshire Police and the existing situation is generally no different – except for it being to the opposite site of the dwelling.

#### **(f) Design**

Plans have been forwarded to the Design Champions. No formal comments seeking amendments have been made. Minor tweaks to the plans have been made since consultation – these address highway matters in providing bin collection points within the site, including the tracking a refuse wagon, and correcting the turning space to plot 12 (see Appendix 5). These changes are not considered have material effects on design and neighbouring amenity, and thus have not been put out to consultation.

The overall design within the site reflects the existing dwellings on Fletchers Drift. It is considered the scale, mass and height of these dwellings will be commensurate. Indeed the appearance and detailing is not too dissimilar. Conditions can secure appropriate materials. To Plough Hill Road, the 2-bed dwellings and apartments appear as a single terraced block, which continues the scale and form of the adjacent terraced houses. They do carry differences in detailing however (e.g. the gables, window sizes/styles and porch canopies reflect the larger dwellings within the site). There is no concern here as this draws the whole development together. The dormer bungalow reflects the scale and orientation of number 43. Again there are differences in detailing which help this plot to harmonise with the wider site, but it helps to offer a transition between numbers 43 and 39 which are already quite different to the blocks of terraced dwellings along Plough Hill Road.

In terms of site features, the wall fronting Plough Hill Road is considered acceptable in height and will be partially screened by planting. The retaining wall to the side of number 39 is considered to be a little prominent by way of its height. It is acknowledged there needs to be a balance between visual and neighbouring amenity here, but this wall (with returns at each end) will appear prominent in the street scene. A 1.2 metre wall would achieve the same noise reflection whilst minimising prominence and securing ground retention and this can be conditioned accordingly. The bin collection points are not of concern as they are positioned so to be unlikely to be used as bin storage. In any case appropriate materials/finishes here can discourage such use. Secured by Design matters can also be conditioned appropriately. An existing tree is to be retained, and this will offer a focal point within the finished site. A condition can secure appropriate protection. Remaining hard and soft landscaping is the Reserved Matter for later consideration, but there are no concerns in principle here.

### **(g) Phasing of works**

This is important in the context of the “movement” of Fletchers Drift. It will be necessary to ensure that access remains open to the existing dwellings on this road during the course of works. This will necessitate the creation of the new access and laying of new/redirected utilities prior to the closure of the first part of Fletchers Drift. In essence, plot 12 will be the last dwelling to be built. Highways seek a restriction on occupation of the new dwellings until the closure has occurred anyway. They also seek sufficient space for turning and cleaning of delivery and construction vehicles. Suitable conditions can address these matters.

Further attention is given to impacts on neighbouring amenity during the course of works. The proximity of dwellings all around the site mean that it is considered necessary to secure a reasonable “break” in works. As such a condition to control hours of construction is also considered necessary.

### **(h) Other matters**

A drainage plan is provided. Severn Trent Water had no objection in principle to the original plans subject to further details. No response to the re-registered application has been received. The drainage plan does lack in detail for addressing surface water such that a condition shall be attached. Warwickshire Fire and Rescue Service also require details of water supplies/fire hydrants.

The scheme also exceeds the threshold for provision of renewable energy on site. Efficiency will be addressed by Building Regulations, but at least 10% of residual needs should be provided by appropriate technologies. Notwithstanding this may have viability implications, at this stage no evidence to demonstrate why this cannot be achieved has been submitted. As such a condition shall secure this provision.

The New Homes Bonus will lead to a reasonable financial sum being granted to the Council by Government, which can be used to deliver and improve services within the Borough. This adds further weight to the wider benefits arising from this scheme.

## **Recommendation**

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

1. This permission is granted under the provisions of Article 4(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2010 on an outline approval, and the further approval of the Local Planning Authority shall be required with respect to the under-mentioned matters hereby reserved before any development is commenced:

(a) landscaping

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.



2. In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of all reserved matters.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

4. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered 452-2011-201, 452-2011-202, 452-2011-203, 452-2011-204, 452-2011-205, 452-2011-206 and 452-2011-210 received by the Local Planning Authority on 17 October 2011; the plans numbered 452-2011-207A, 452-2011-208A, 452-2011-209A, 452-2011-211A and 452-2011-02A received by the Local Planning Authority on 19 July 2012; and the plan numbered 452-2011-200B received by the Local Planning Authority on 25 September 2012.

REASON

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

**Control over development and its use**

5. No development whatsoever within Classes A, B, C, D, E and F 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 visual and neighbouring amenity, and to reduce the risk of flooding on or off the site.

6. The parking spaces and garages hereby approved shall not be used for any purpose other than the parking of vehicles.

REASON

To ensure adequate on-site parking provision for the approved dwellings and to discourage parking on the adjoining highway in the interests of local amenity and highway safety.

7. The first floor windows on the side elevations to plot 12 shall be glazed with obscured glass and shall be permanently maintained in that condition.

REASON

To protect the privacy of the adjoining property and to prevent overlooking.

8. Visibility splays for vehicles shall be provided with an 'x' distance of 2.4 metres and 'y' distances of 43 metres to the left on egress, and 47 metres to the right on egress; as measured from the centre of the new road access. No structure, erection, trees or shrubs exceeding 0.6 metres in height shall be placed, allowed to grow or be maintained within the visibility splays so defined.

REASON

In the interests of safety on the public highway.

9. The new road access and revised access to serve plot 12 shall not allow surface water to run off the site onto the highway.

REASON

In the interests of safety on the public highway.

10. During the construction period, no vehicles calling at the site or being in the control of the developer/occupier or contractors employed by the developer/occupier shall be loaded, unloaded or parked on the highway (Plough Hill Road: C2, Wagstaff Drive: D6953, and Alders Lane: D1010). Adequate measures shall be taken to prevent deleterious matter being carried onto all nearby highways.

REASON

In the interests of safety on the public highway.

11. No demolition, site clearance or construction works shall take place other than between between 0730 and 1800 hours on weekdays, and 0800 and 1300 hours on Saturdays, with no demolition, site clearance or construction works on Sundays or recognised public holidays. There shall also be no deliveries to or removal of materials from the site between 0800 and 0900, and 1500 and 1600 hours Monday to Friday.

REASON

To prevent disturbance to the occupiers of nearby properties and to minimise highway congestion during peak hours.

## **Pre-commencement conditions**

12. No works whatsoever shall take place until an assessment of the nature and extent of contamination and coal mining legacy has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by suitably qualified and experienced persons, shall be based on the Phase I Assessment and Coal Mining Risk Assessment carried out for the site; and shall assess any contamination or coal mining legacy on the site, whether or not it originates on the site. Moreover, it must include:

- (i) a survey of the extent, scale and nature of contamination and/or coal mining legacy;
- (ii) an assessment of the potential risks to:
  - human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - groundwaters and surface waters;
  - ecological systems; and
  - archaeological sites and ancient monuments.

### **REASON**

To ensure that risks from land contamination and coal mining legacy to the proposed end users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13. In the event that the local planning authority consider that contamination or coal mining legacy is present that requires remediation, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be implemented in accordance with the approved timetable of works and site management procedures.

### **REASON**

To ensure that risks from land contamination and coal mining legacy to the proposed end users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14. Within three months of the completion of measures identified in the approved remediation scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority and agreed in writing.

#### REASON

To ensure that risks from land contamination and coal mining legacy to the proposed end users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15. No site works whatsoever shall commence on site until details of measures for the protection of the existing trees and hedgerows have been submitted to and approved in writing by the Local Planning Authority. The approved protection shall then be erected prior to works commencing and subsequently maintained until all external works are complete.

#### REASON

In the interests of the amenities of the area.

16. The construction of the dwellings hereby approved shall not be commenced before the works necessary to provide a new access road into the site have been completed. For the avoidance of doubt and in the interests of minimising undue costs to the developer, the final finish for this access road may be provided at a later date but prior to first occupation of 50% of the dwellings.

#### REASON

To ensure adequate access for construction vehicles and HGVs, as well as to ensure existing occupiers of dwellings on Fletchers Drift are afforded access at all times of construction.

17. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:

- (i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 40% of the housing units within North Warwickshire;
- (ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- (iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no RSL is to be involved;
- (iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

(v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

#### REASON

To ensure that the development provides for local affordable housing needs, in accordance with the Development Plan.

18. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls/fences to be erected. Such details shall include revised designs for the retaining wall adjacent to number 39 Plough Hill Road to reduce its prominence, as well as elevational details of the wall fronting plots 7-11. The approved screen walls/fences shall be erected before the use hereby approved is commenced and shall subsequently be maintained as such.

#### REASON

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

19. No development shall be commenced before details of the (a) facing bricks, (b) roofing tiles, (c) stone headers and cills, (d) chimneys and (e) road surfacing materials 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 the area.

20. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan detailing the existing and finished site levels, along with the finished floor levels of the dwellings. The approved levels shall then be implemented.

#### REASON

To protect the amenities of nearby residential property.

21. No development shall be commenced before details of a scheme to reduce residual energy requirements within the dwellings by at least 10% have been submitted to and approved by the Local Planning Authority in writing. The approved details shall then be implemented accordingly.

#### REASON

In order to ensure that energy demands arising from the lighting, heating and use of the building are met on site as far as possible.

22. Before the development commences a scheme for the construction of the foul and surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON

To prevent pollution of the water environment and to minimise the risk of flooding on or off the site.

23. The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to, and approved in writing by, the Local Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the Local Planning Authority.

REASON

In the interests of fire safety

24. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, luminance and type of lighting to be erected. The approved lighting shall be erected/installed before the first occupation of the dwellings hereby approved and shall subsequently be maintained.

REASON

In the interests of the amenities of the area and security for occupiers of the proposed development.

**Prior to occupation conditions**

25. The development hereby permitted shall not be occupied until all parts of existing accesses to Plough Hill Road (C12), not included in the proposed means of access, have been permanently closed and the highway features, (including the verge and kerbline) have been reinstated in accordance with details approved in writing by the Local Planning Authority.

REASON

In the interests of safety on the public highway.

26. The development shall not be used for the purposes hereby permitted unless adequate vehicular turning space is provided and maintained within the site so that vehicles are able to enter and leave the highway in a forward gear.

REASON

In the interests of safety on the public highway.

27. The development hereby permitted shall not be occupied before the highway (verge/footway) crossing has been laid out and constructed to the satisfaction of the Local Planning Authority in accordance with the standard specification of the Highway Authority.

REASON

In the interests of safety on the public highway.

28. The development hereby permitted shall not be occupied until the bollards within the public highway verge, have been provided in accordance with the standard specification of the Highway Authority.

REASON

In the interests of safety on the public highway.

**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), Core Policy 12 (Implementation), HSG2 (Affordable Housing), HSG4 (Densities), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV10 (Energy Generation and Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations in New Development), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking); and the North Warwickshire Core Strategy (pre-submission document, September 2012): NW1 (Settlement Hierarchy), NW3 (Housing Development), NW4 (Split of Housing between Settlements), NW5 (Affordable Housing), NW8 (Sustainable Development), NW9 (Renewable Energy and Energy Efficiency), NW10 (Quality of Development) and NW19 (Infrastructure).
2. Not all reserved matters have been submitted for approval. Without approval of details of landscaping full permission has yet to be granted and works should not be commenced until this approval have been obtained. Remaining details must be submitted for approval within three years of the date of the grant of this outline permission.
3. The applicant should note the requirements of conditions 12-15 and 17-25 which require details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development/works/first occupation/use.
4. The applicant is advised to have regard to Secured by Design requirements relating to appropriate glazing and doors to public elevations of the dwellings hereby approved.

5. The granting of Planning Permission does not give the Applicant/Developer consent to carry out works on the Public Highway (verge, footway or carriageway). To gain consent from the Highway Authority, not less than 28 days notice shall be given to the County Highways Area Team (01926 412515) before any work is carried out. This shall include for materials and skips which are stored within the highway extents. A charge will be made for the carrying out of inspections and the issue of permits.
6. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant/developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days notice will be required. For works lasting longer than 10 days, three months notice will be required.
7. Before any improvement works required by this planning permission are commenced to the existing highway, the developer shall enter into an Agreement under Section 184 of the Highways Act 1980 with the Highway Authority (Warwickshire County Council).
8. The developer is encouraged to contribute £50 per dwelling for Sustainable Welcome Packs and to help promote sustainable travel in the local area. For further information regarding Sustainability Welcome Packs, contact Nicola Small, Sustainable Project Officer on 01926 412105.

## **Justification**

The proposal provides a material improvement to the character of the immediate area, with development of redundant land. The dwellings, amenity and circulation spaces are not considered to give rise to unacceptable impacts on neighbouring amenity, drainage and flooding, design and character, and existing trees and hedgerows. The highway safety impacts are considered to be acceptable subject to conditions, and it is recognised that the extinguishment of the existing Fletchers Drift will represent a material improvement here. Whilst contamination and coal mining legacy issues are largely unknown at this time, and thus make viability uncertain; conditions can appropriate address these and also secure provision of affordable housing. Subject to landscaping matters being reserved, and conditions to address boundary treatments, renewable energy, and the future use of the dwellings; the proposal is considered to be in accordance with saved policies Core Policy 2, Core Policy 12, HSG2, HSG4, ENV4, ENV6, ENV8, ENV10, ENV11, ENV12, ENV13, ENV14, TPT1, TPT3 and TPT6 of the North Warwickshire Local Plan 2006, emerging policies NW1, NW3, NW4, NW5, NW8, NW9, NW10 and NW19 of the North Warwickshire Core Strategy (pre-submission document, September 2012), adopted supplementary planning guidance 'A Guide for the Design of Householder Developments' (2003) and national policies as set out in the National Planning Policy Framework. There are no material considerations that indicate against the proposal.



In reaching this Decision the Council and Highway Authority have worked with the applicant over the last 4-5 years in a positive and proactive manner, seeking solutions to problems where considered necessary and/or possible and looking to provide a holistic development of the land available to materially improve the character of the area and highway safety. As such the Council considers it has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2011/0527

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	11/10/2011 17/10/2011
2	Environmental Health Officer	Consultation reply	15/11/2011
3	Case Officer	Email to Agent	15/11/2011
4	Severn Trent Water	Consultation reply	17/11/2011
5	Mrs E A Johnson	Representation	18/11/2011
6	Ansley Parish Council	Consultation reply	21/11/2011
7	Mr W R Brookes	Representation	22/11/2011
8	Alan Hall	Representation	22/11/2011
9	Coal Authority	Consultation reply	22/11/2011
10	Case Officer	Email to Cllr Fox	24/11/2011
11	Gareth Middleton	Representation	26/11/2011
12	Richard Maby	Representation	27/11/2011
13	D J Moore	Representation	28/11/2011
14	County Highway Authority	Consultation reply	28/11/2011
15	Nuneaton & Bedworth Borough Council (NBBC)	Notification of application	28/11/2011
16	Roy Hartley	Representation	28/11/2011
17	Case Officer	Consultation reply to NBBC	29/11/2011
18	Case Officer	Email to Agent	29/11/2011
19	Graham Wilson	Representation	29/11/2011
20	M Markham	Representation	29/11/2011
21	Emma Wills	Representation	29/11/2011
22	Ms L Haydon	Representation	01/12/2011
23	R Maskell & S Norman	Representation	01/12/2011
24	Mr & Mrs Ridgeway	Representation	01/12/2011
25	Mrs Patricia Ireland	Representation	01/12/2011
26	W R Brookes	Representation to NBBC	01/12/2011
27	K & P O'Rourke	Representation	05/12/2011
28	K & P O'Rourke	Representation to NBBC	06/12/2011
29	Mrs E A Johnson	Representation to NBBC	06/12/2011
30	Mr S Jones	Representation	07/12/2011
31	M D & L M Porter	Representation to NBBC	07/12/2011
32	M D & L M Porter	Representation	08/12/2011
33	Solicitor to the Council	Email to Case Officer	08/12/2011
34	Mr S Jones	Representation to NBBC	08/12/2011
35	Jane Williams	Representation	11/12/2011
36	Warwickshire Police Crime Prevention Advisor	Consultation reply	12/12/2011
37	Case Officer	Email to NBBC Case Officer	12/12/2011
38	Environmental Health Officer	Email to Case Officer	13/12/2011

39	Mr & Mrs Ridgeway	Representation to NBBC	13/12/2011
40	Mr & Mrs A Cowap	Representation to NBBC	15/11/2011
41	245 Plough Hill Road	Representation to NBBC	16/11/2011
42	Agent	Email to Highways Officer	19/12/2011
43	Highways Officer	Email to Agent	19/12/2011
44	Case Officer	Email to Neighbour	19/01/2012
45	Highways Officer	Email to Agent	16/02/2012
46	Gareth Bent	Email to Agent & Case Officer	29/05/2012

### Application re-registered at this point

47	The Applicant or Agent	Application Forms, Plans and Statement(s)	19/07/2012 20/07/2012 01/08/2012
48	Mr W R Brookes	Representation	04/08/2012
49	Warwickshire Fire & Rescue Service	Representation	07/08/2012
50	Mrs E A Johnson	Representation	07/08/2012
51	Gareth Bent	Representation	09/08/2012
52	Mr & Mrs P M Markham	Representation	10/08/2012
53	Coal Authority	Consultation reply	13/08/2012
54	NBBC Case Officer	Email to Agent	16/08/2012
55	Warwickshire County Council Library Service	Representation	17/08/2012
56	M D & L M Porter	Representation	21/08/2012
57	Mr & Mrs G Wilson	Representation	21/08/2012
58	K & P O'Rourke	Representation	21/08/2012
59	Warwickshire Police Crime Prevention Advisor	Consultation reply	22/08/2012
60	Ansley Parish Council	Consultation reply	22/08/2012
61	K & P O'Rourke	Representation to NBBC	22/08/2012
62	R Maskell & S Norman	Representation	23/08/2012
63	Environmental Health Officer	Consultation reply	23/08/2012
64	Case Officer	Email to Warwickshire County Council Library Service	24/08/2012
65	Mrs E A Johnson	Representation to NBBC	28/08/2012
66	Mr W R Brookes	Representation to NBBC	28/08/2012
67	Warwickshire County Council Library Service	Emails to Case Officer	03/09/2012 04/09/2012
68	Agent	Amended draft Section 106 agreement	05/09/2012
69	M D & L M Porter	Representation to NBBC	10/09/2012
70	County Highway Authority	Consultation reply	14/09/2012
71	Case Officer	Email to NBBC, WCC, Housing Officer and Agent	19/09/2012
72	Marrons o/b/o NHS Works	Representation	20/09/2012
73	NBBC Case Officer	Email to Case Officer	20/09/2012
74	Marrons o/b/o NHS Works	Amended Representation	24/09/2012
75	NWBC Housing Officer	Email to Case Officer	25/09/2012

76	County Highway Authority	Emails to Case Officer	25/09/2012
77	Case Officer	Email to Warwickshire County Council Library Service	01/10/2012
78	Case Officer	Email to Marrons o/b/o NHS Warks	01/10/2012
79	NBBC Case Officer	Email to Case Officer	02/10/2012

*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.*



**(2) Application No: PAP/2011/0527**

**31 Plough Hill Road, Chapel End, CV10 0PJ**

**Outline (only landscaping reserved): Residential development of six detached 5-bed houses with detached garage to plot 1, a terrace of three 2-bed houses and two 2-bed apartments, and one 3-bed detached dormer bungalow with integral garage; along with associated external works, formation of a new access off Plough Hill Road, and closure of Fletchers Drift Lane with formation of single dwelling access to serve the dormer bungalow, for**

**The Executors of Mrs Hilda Morris**

### **Introduction**

This application is reported to Board in light of there being a Section 106 legal agreement involved and at the discretion of the Head of Development Control at this stage.

### **The Site**

The majority of the site lies behind properties on Coleshill Road and Plough Hill Road, and is bounded by the existing Fletchers Drift lane. It is a former small holding of a hobby nature, but has not been used in such a fashion for a number of decades with the land becoming overgrown in the interim. Former buildings have been demolished. To the front of the site, and facing Plough Hill Road, is number 31 – a detached property linked to the aforementioned land. To the north-eastern side is a run of terraced properties, to the west is number 39 – a further detached dwelling. Adjacent to number 39 is Fletchers Drift which turns around the rear of number 39's garden before serving the existing 6 detached dwellings along the lane, all facing into the main part of the application site. To the other side of Fletchers Drift is a dormer bungalow (number 43) beyond which are further terraced dwellings. Further terraced properties line the northern edge of the site, along Coleshill Road.

Fletchers Drift is not adopted and maintained by the Highway Authority, with the exception of the bellmouth. Both the lane and the bellmouth are substandard in terms of layout and construction, and results in problems for refuse collections to the properties on Fletchers Drift. The lane is set lower than number 43 but higher than number 39, as Plough Hill Road slopes down from west to east before turning a bend towards the junction with Coleshill Road. There is notable on-street parking on this bend at various points of the day, although officer observations at various times demonstrate this is not consistently the case. The levels within the main part of the site slope towards the north-east where the Barpool Brook runs from under Coleshill Road before continuing under Plough Hill Road and out to the south-west.

## **The Proposal**

It is proposed, in outline with only landscaping being reserved for later consideration, to demolish the existing dwelling at number 31, and erect 5 terraced properties – three 2-bedroom dwellings and two 2-bed apartments in its place. A further 6 dwellings are proposed in the main part of the site facing towards the existing dwellings on Fletchers Drift. A further dormer bungalow is proposed on the initial leg of Fletchers Drift, between numbers 39 and 43; with Fletchers Drift “moved” to the opposite side of number 39. This new access road would then serve both the proposed development and the existing dwellings on Fletchers Drift, with the existing bellmouth onto Plough Hill Road to be closed off. The plans at Appendix A better show the proposed layout and street scenes.

## **Background**

This application marks the third major revision to the redevelopment of this site. An initial application in 2010 was withdrawn following officer concerns that the site was not being used to the “best effect” and thus was not delivering any affordable housing. There were further concerns as to access, contamination and coal mining risks. A revised application in 2011 began addressing the concerns and went further in proposing further dwellings, but still did not look to holistically develop the available land. The proposal now presented follows many months of negotiation between the applicant, officers, landowners, consultees and neighbours. This does not necessarily mean that all parties accept the proposal however, and consultation responses and representations will outline this. The proposal is considered to be a much more appropriate solution for the wider site – one which should have been considered at the time Fletchers Drift was originally proposed. At that time, not all landowners were willing to be involved.

Members should also note that this application is a cross-boundary application, with Nuneaton and Bedworth Borough Council determining the same application in respect of land within their jurisdiction. The split between the two authorities is shown at Appendix B.

## **Development Plan**

North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), HSG2 (Affordable Housing), HSG4 (Densities), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV10 (Energy Generation and Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design) and TPT1 (Transport Considerations in New Development), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

## **Other Relevant Material Considerations**

Government Advice: National Planning Policy Framework (NPPF).

Supplementary Planning Guidance: A Guide to the Design of Householder Developments (2003).

Local Finance Considerations: New Homes Bonus (NHB).

## **Consultations**

Following a change in the application site boundaries, the application was re-registered on 1 August 2012. Statutory and technical consultees were re-consulted on the same day. This includes the Highway Authority, the Coal Authority, the Environment Agency, Environmental Health, Severn Trent Water, Warwickshire Wildlife Trust, the County Museum (Archaeology), Nuneaton and Bedworth Borough Council and Ansley Parish Council.

Responses from these consultees will be reported to the Board when the application is presented for determination.

## **Representations**

Neighbours were re-consulted on 1 August 2012, with a site notice erected on 9 August 2012. Responses from neighbours and other interested parties will be reported to the Board when the application is presented for determination.

## **Observations**

As noted above, this application is a cross-boundary application. This has impacts on the Section 106 legal agreement as well as which elements of the proposal are more relevant to North Warwickshire. At the time of writing, Nuneaton and Bedworth are anticipating determination of their application in early to mid-October. It is thus considered appropriate to wait for that determination to be made as the access to the whole development lies within their jurisdiction. As such this report is provided as an interim report only.

Other than matters of principle, affordable housing provision, ground conditions and contamination, it is clear that there will be considerable focus on highway safety, neighbouring amenity, design and phasing of the works to ensure that existing dwellings on Fletchers Drift remain habitable. These are matters which Members may wish to offer opinion and thought on such that it is recommended that a site visit is undertaken prior to the application being presented for determination. As the development is somewhat complicated by land ownership and highway matters, it is felt this would be beneficial.

## **Recommendation**

That Members of the Planning and Development Board undertake a site visit accompanied by officers to appreciate the site characteristics and surroundings prior to considering this application at a later meeting.



## BACKGROUND PAPERS

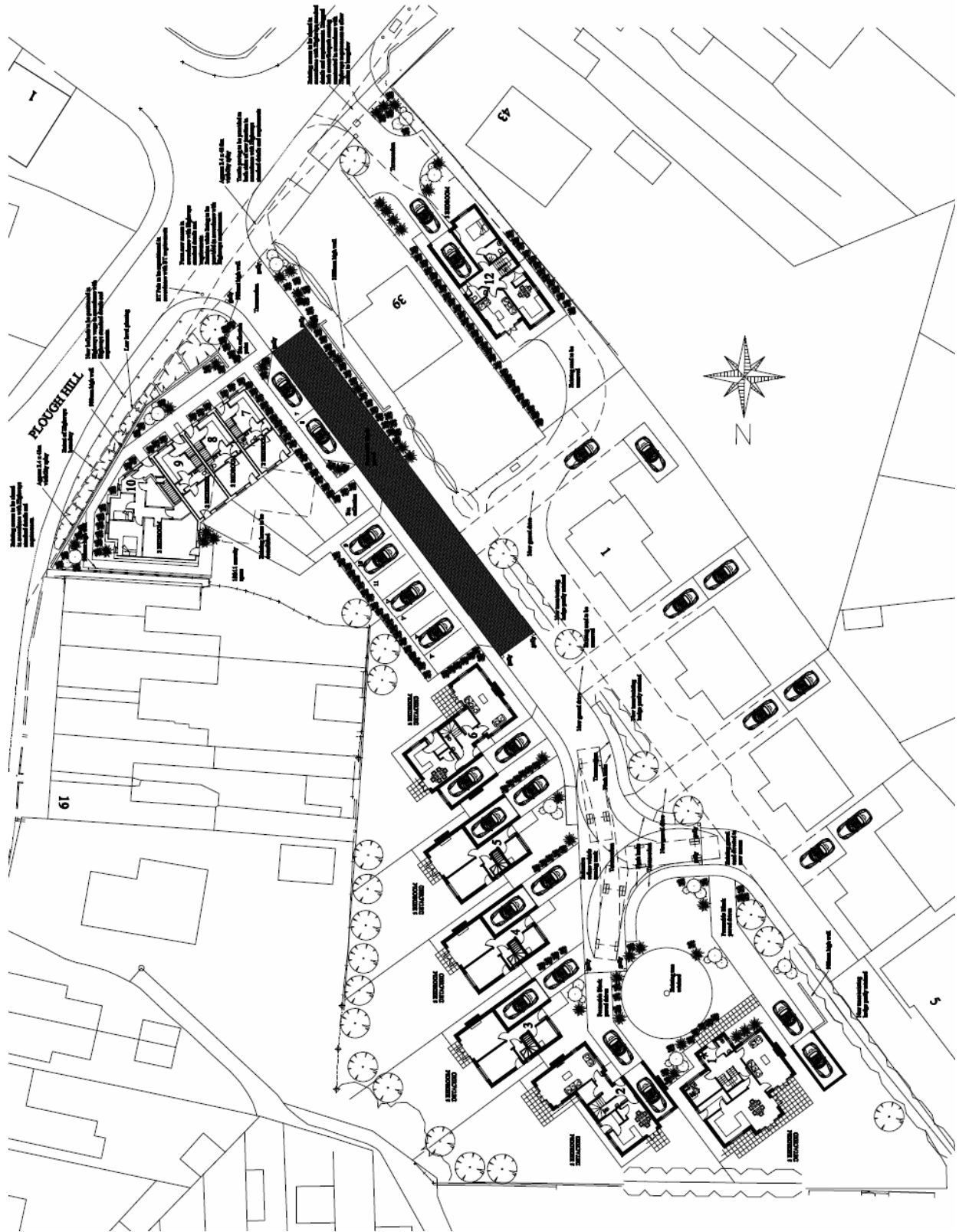
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

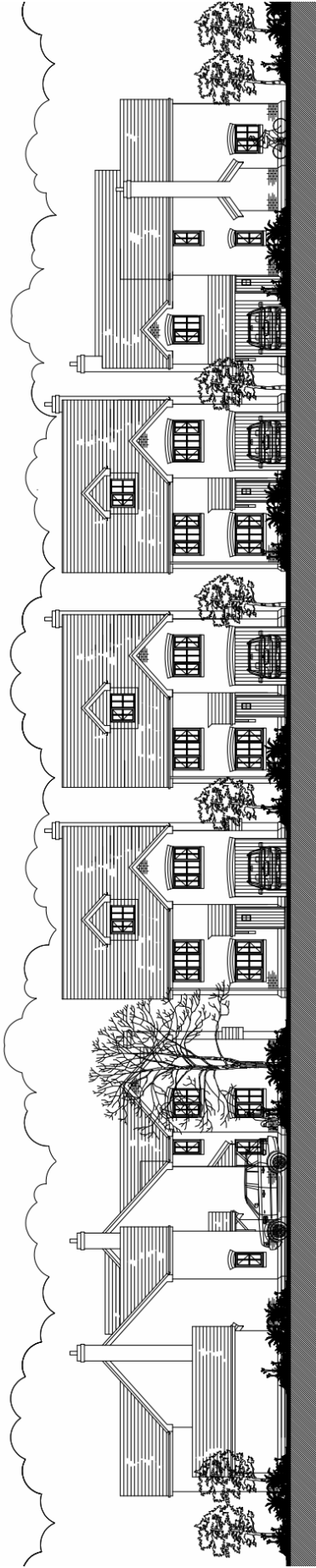
Planning Application No: PAP/2011/0527

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	11/10/2011 17/10/2011 19/07/2012 20/07/2012 01/08/2012

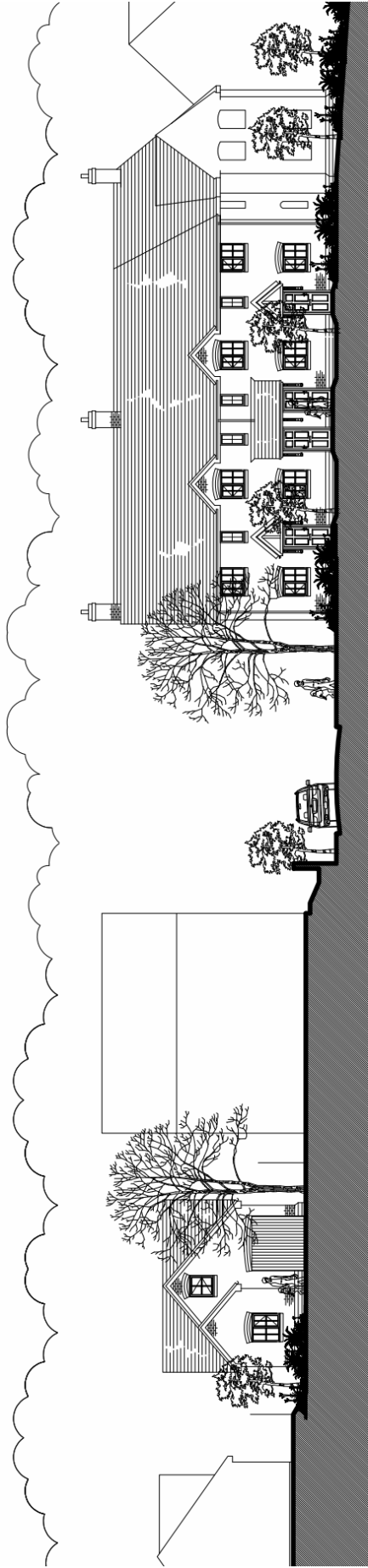
*Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.*

*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.*

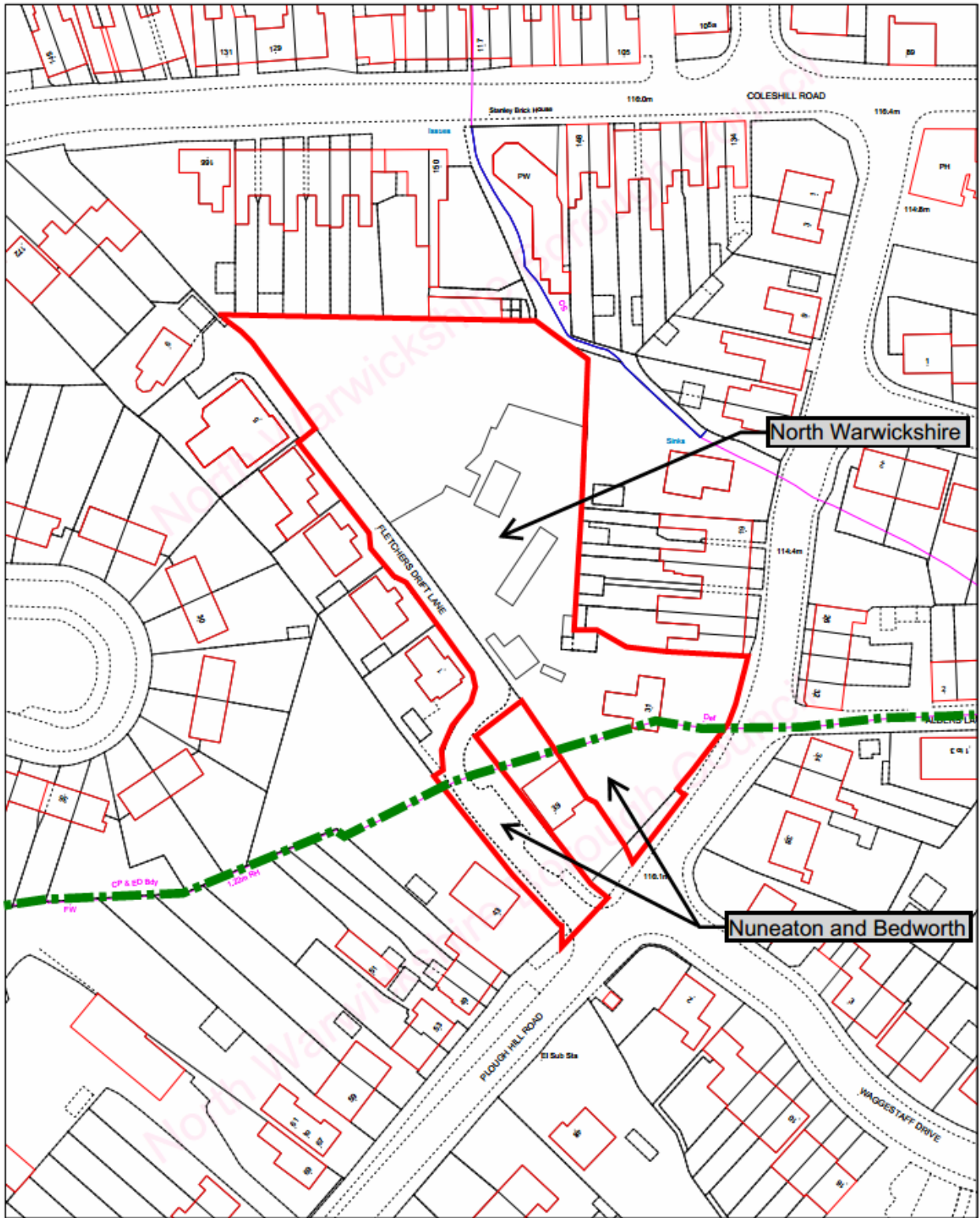




**STREET SCENE FLETCHERS DRIFT LANE ELEVATION**



**STREET SCENE PLOUGH HILL ELEVATION**



## 7. APPLICANT AND OWNER'S OBLIGATIONS

*The Applicant and the Owners hereby covenant with NWBC that:*

7.1 *Should the planning permission be implemented within the meaning of section 56 of the Act, to provide TWO, two-bedroom dwellings ("the dwellings") to be made available as follows:*

- (i) The Dwellings will be occupied only by those nominated by NWBC;*
- (ii) The applicant will ensure that details of the dwellings will be made available to NWBC six months prior to completion;*
- (iii) If after 6 weeks after completion or any subsequent vacancy of the Dwellings no nomination is forthcoming in accordance with paragraph (i) above that dwelling may be offered for rent privately, or sold in accordance with paragraph (v) and (vi) hereof;*
- (iv) Where in accordance with the preceding paragraphs any of the dwellings are rented to those nominated by NWBC or privately rented, the rent charged shall not exceed the Local Housing Allowance for that Dwelling;*
- (v) Where in accordance with paragraph (iii) above any of the dwellings are sold that dwelling will first be offered for sale to a Registered provider for three months and if no sale can be agreed within that time the dwelling will be offered for sale via the HomeBuy scheme using an agent approved in writing by NWBC;*
- (vi) If no sale is agreed within four months of being offered for sale in accordance with this section a Dwelling may be sold on the open market.*

*The Applicant and the Owners hereby covenant with NBBC that:*

7.2 *Should the planning permission be implemented within the meaning of section 56 of the Act, to provide THREE, two-bedroom dwellings ("the dwellings") to be made available as follows:*

- (i) The Dwellings will be occupied only by those nominated by NBBC;*
- (ii) The applicant will ensure that details of the dwellings will be made available to NBBC six months prior to completion;*
- (vii) If after 6 weeks after completion or any subsequent vacancy of the Dwellings no nomination is forthcoming in accordance with paragraph (i) above that dwelling may be offered for rent privately, or sold in accordance with paragraph (v) and (vi) hereof;*
- (viii) Where in accordance with the preceding paragraphs any of the dwellings are rented to those nominated by NBBC or privately rented, the rent charged shall not exceed the Local Housing Allowance for that Dwelling;*
- (ix) Where in accordance with paragraph (iii) above any of the dwellings are sold that dwelling will first be offered for sale to a Registered provider for three months and if no sale can be agreed within that time the dwelling will be offered for sale via the HomeBuy scheme using an agent approved in writing by NBBC;*
- (x) If no sale is agreed within four months of being offered for sale in accordance with this section a Dwelling may be sold on the open market.*

7.3 *The Applicant or Owners shall not carry out the development except in accordance with the planning permission or amendments approved by NWBC or NBBC, as the case may be.*

7.4 *Before the first construction of a dwelling pursuant to the Planning Permission, the developer will submit details, in writing to NWBC and NBBC Heads of Development Control, of the two or three dwellings (as the case may be) for approval in writing.*

*The Applicant and the Land Owner hereby covenant with the County Council that:*

7.5 *Prior to first occupation of the development the applicant agrees to pay the County Council £2240.00 as a contribution towards the provision of Library Services to be used by the County Council in accordance with paragraph 8.3.*

*The Applicant and the Land Owner hereby covenant with the Primary Care Trust that:*

7.6 *Prior to first occupation of the development the applicant agrees to pay the Primary Care Trust £12,381.55 as a contribution towards the provision of Healthcare Services to be used by the Primary Care Trust in accordance with paragraph 8.4.*

*The Applicant and the Land Owner hereby covenant with NBBC that:*

7.7 *Prior to first occupation of the development the applicant agrees to pay NBBC £10,680 as a contribution towards the provision and maintenance of Play and Open Space to be used by NBBC in accordance with paragraph 8.5.*

## **8. NWBC, NBBC, COUNTY COUNCIL AND PRIMARY CARE TRUST COVENANTS**

*NBBC and NWBC covenant that:*

8.1 *Upon completion of this Agreement, each will immediately issue the Planning Permission subject to conditions.*

8.2 *Upon the reasonable written request of the Land Owner, Applicant or its successor in title, from time to time each will give written confirmation that (if that be the case) the obligations in clauses 7.1 or 7.2 (as the case may be) have been carried out as far as is required at the date of confirmation.*

*The County Council covenants that:*

8.3 *The contribution detailed in paragraph 7.5 will only be spent by the Library Service and within 3 years of receiving that contribution in full. The County Council will take reasonable steps to inform the public of where and for what the contribution has been used for and also inform the Land Owner, Applicant or its*

*successor in title, by letter on upon reasonable request.*

*The Primary Care Trust covenants that:*

- 8.4 *The contribution detailed in paragraph 7.6 will only be spent by the Primary Care Trust and within 3 years of receiving that contribution in full. The Primary Care Trust will take reasonable steps to inform the public of where and for what the contribution has been used for and also inform the Land Owner, Applicant or its successor in title, by letter on upon reasonable request.*

*NBBC covenants that:*

- 8.5 *The contribution detailed in paragraph 7.7 will only be spent by NBBC's Parks and Landscape Service and within 5 years of receiving that contribution in full. NBBC will inform, by letter upon reasonable request, the Land Owner, Applicant or its successor in title of where and for what the contribution has been used for.*



Your ref: PAP/2011/0527  
My ref: NW110527, a



**Communities**

Planning & Development Group  
Sustainable Communities  
PO box 43  
Shire Hall  
Warwick  
CV34 4SX

Mr J Brown  
Head of Planning  
NORTH WARWICKSHIRE BOROUGH COUNCIL  
PO BOX 6, The Council House  
South Street, Atherstone  
CV9 1DE

**FAO : Chris Nash**

DX 723360 WARWICK 5  
**Tel: (01926) 412274**  
Fax: (01926) 412641  
Christhorley@warwickshire.gov.uk  
[www.warwickshire.gov.uk](http://www.warwickshire.gov.uk)

14 September 2012.

Dear Mr Brown,

**PROPOSAL:** Outline (only landscaping reserved): Residential development of six detached 5-bed houses with detached garage to plot 1, a terrace of three 2-bed houses and two 2-bed apartments, and one 3-bed detached dormer bungalow with integral garage; along with associated external works, formation of a new access off Plough Hill Road, and closure of Fletchers Drift Lane with formation of single dwelling access to serve the dormer bungalow.

**LOCATION:** 31 Plough Hill Road, Chapel End. CV10 0PJ

**APPLICANT:** The Executors of Mrs Hilda Morris.

Following the Highway authority Objection to the proposals of 28 November 2011, the Applicants Agent, Highway Authority and LPA, a number of options were considered by the Applicants Agent and the Highway Authority.

The current proposals (drawing "452\_2011\_200 Rev A") have not previously been discussed, and show the closure of the existing Fletchers Drift Lane access to the existing dwellings, the construction of a single dwelling served off the revised Fletchers Drift Lane; and the construction of a new access serving 11 new dwellings and 5 existing dwellings (making a total of 16).

For avoidance of doubt, the layout as submitted will not be suitable for Adoption (and subsequent maintenance at the public expense) by the Highway Authority.

*Working for  
Warwickshire*



The access layout shown has been derived as a result of the discussions and has been located to give a 2.4m x 43m visibility splay to the left on egress and 2.4m x 49m to the right on egress, which complies with the visibility splays required in Manual For Streets (MfS).

The applicant has also designed the proposed terrace housing in such a way and location as to make it undesirable to park cars associated with the development on the public highway (Plough Hill Road). The Highway Authority will require the provision of additional bollards within the highway extents in order to further deter frontage parking and thus maintain visibility splays ~ this will be dealt with by condition.

Whilst there is some parking which currently takes place on the carriageway in relation to adjacent dwellings, MfS does to some extent accept parking in visibility splays (para 7.8.5), and in this case the larger width of splay to the left (north) means that there is more opportunity to "see through" such vehicles. Further, vehicles approaching from either direction would (at times of highway parking) be travelling at slower speeds due to the alignment and perceived reduction in visibility.

Additionally vehicles approaching from the left will likely to be on the opposite side of the road to the development, whereas approaching vehicles from the right should have virtually unobstructed visibility.

Whilst the proposed new access is in close proximity to the junction of Plough Hill Road and Wagstaff Drive, the Highway Authority considers that the opposing turning movements would be subject to "give and take", it should also be noted that not all turning movements would effectively be in opposition; as a "rule of thumb", within the peak hour 0.6 trips per dwelling would be anticipated within the peak hour ~ and not all of those movements would be "out" movements.

16 dwellings would therefore be expected to generate some 9-10 additional trips within the peak hour, such a number of trips would not be considered to be material in this location.

In the past 3 years there have been two recorded accident involving the junction with Wagstaff Drive, both involved vehicles failing to stop at the give way junction. The proposals would not be likely to have any implications to this access.

The LPA is advised to also confirm with the Emergency Services that the proposed development does not require the provision of alternative emergency access.

The applicant does not appear to have considered the provision of a suitable refuse collection point to serve the proposed development, such a point must not impinge upon the visibility splays. The LPA is therefore advised to consult further with the appropriate refuse collection authority and to require the provision of further plans should such a point be deemed necessary.

The proposed access to the new dwelling (plot 12) is too narrow to comply with highway standards, and the proposed turning head is too small for the turning of a vehicle. The access should be 3.0m wide, and the turning head will need to be resized – this can be dealt with by appropriate condition.

I am also concerned that the parking of contractors/delivery vehicles on the highway during the construction works, could be the cause of undue disruption on the highway, accordingly, the developer is required to park such vehicles within the site during construction works – this can be dealt with by an appropriate condition.

Overall the Highway Authority's response to your consultation in regard to the above application is one of **NO OBJECTION**, subject to the following suggested conditions:-

1. Notwithstanding the details shown on the approved drawing, prior to commencement revised drawings shall be submitted for the approval of the LPA in consultation with the Highway Authority showing the widening of the access to plot 12 to a width of 3.0m for the first 7.5m into the site, and the provision of a larger turning area to make it suitable for cars. Works shall then take place in accordance with the approved plans.
2. Visibility splays for vehicles shall be provided with an 'x' distance of 2.4 metres and 'y' distances of 43 metres to the left on egress, and 47 metres to the right on egress; as measured from the centre of the access. No structure, erection, trees or shrubs exceeding 0.6 metres in height shall be placed, allowed to grow or be maintained within the visibility splays so defined.
3. The access shall not allow surface water to run off the site onto the highway.
4. The development hereby permitted shall not be occupied until all parts of existing accesses to Plough Hill Road (C12), not included in the proposed means of access, have been permanently closed and the highway features, (including the verge and kerblines) have been reinstated in accordance with details approved in writing by the Local Planning Authority in consultation with the Highway Authority.
5. The development shall not be used for the purposes hereby permitted unless adequate vehicular turning space is provided and maintained within the site so that vehicles are able to enter and leave the highway in a forward gear.
6. The development hereby permitted shall not be occupied before the highway (verge/footway) crossing has been laid out and constructed to the satisfaction of the Local Planning Authority in accordance with the standard specification of the Highway Authority.
7. During the construction period, no vehicles calling at the site or being in the control of the developer/occupier or Contractors employed by the developer/occupier shall be loaded, unloaded or parked on the highway (Plough Hill Road – C2, Wagstaff Drive – D6953, & Alders Lane – D1010). Adequate measures shall be taken to prevent deleterious matter being carried onto all nearby highways.



8. The development hereby permitted shall not be occupied until revised plans showing the provision of suitable bollards within the public highway verge, have been submitted to, and approved by the LPA in consultation with the Highway Authority, showing the provision of suitable bollards within the public highway verge. The works shall be carried out in accordance with the approved drawings.
9. The development hereby permitted shall not be occupied until the applicant has provided Sustainable Welcome Packs for each household.

#### INFORMATIVES

- N1 The granting of Planning Permission does not give the Applicant/Developer consent to carry out works on the Public Highway (verge, footway or carriageway). To gain consent from the Highway Authority, not less than 28 days notice shall be given to the County Highways Area Team – Tel 01926 412515, before any work is carried out, this shall include for materials and skips which are stored within the highway extents. A charge will be made for the carrying out of inspections and the issue of permits.
- N2 In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the [applicant(s)/ developer(s)] must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days notice will be required. For works lasting longer than 10 days, three months notice will be required.
- N3 Before any improvement works required by this planning permission are commenced to the existing highway, the developer shall enter into an Agreement under Section 184 of the Highways Act 1980 with the Highway Authority (Warwickshire County Council).
- N4 The developer is required to contribute £50 per dwelling for Sustainable Welcome Packs and to help promote sustainable travel in the local area. For further information regarding Sustainability Welcome Packs, contact Nicola Small, Sustainable Project Officer on 01926 412105.

Yours sincerely

Chris Thorley  
Assistant Engineer – Development Management

**(4) Application No: PAP/2012/0212**

**Cow Lees Care Home, Astley Lane, CV12 0NE**

**Proposed Construction of a “Young On-set Dementia unit” under Use Class C2 of the Use Classes Order, for**

**Mr John O'Sullivan**

**Introduction**

Members will recall that the receipt of this planning application was reported to the Board earlier this year, and that an opportunity was taken to visit the site. As a consequence of several matters, revised plans have been received and it is these that are now reported for determination.

The previous report is attached for convenience at Appendix A. This describes the site and the proposals at that time. It also sets out the relevant parts of the Development Plan and the main planning issues. It is not proposed to repeat these, but of necessity, there is a need to outline the changes that have occurred since that report was prepared.

The site plan is attached at Appendix B.

As Members will recall, this application because of its size and its location within the Green Belt, falls within the terms of the Direction requiring referral to the Secretary of State should the Council resolve to support the proposals. The Board can refuse planning permission without recourse to such a referral.

**The Amendments**

In short it is not the nature or scope of the proposal that has been amended since submission, but the design approach to the proposed new extension. The proposal is thus still for a new two storey “wing” on the south east side of the existing complex providing 24 new bedrooms.

The main changes relate to how the design of the extension has been approached. Members will recall the weight that was given by the clinical evidence to the link between the treatment of dementia and a rural location. As a consequence this has now been given priority in the design, such that the front elevation facing into the garden is essentially a glazed wall throughout its full length and height. Inside, widened corridors would run the length of the building such that all the accommodation would effectively be at the rear. In order to accommodate the required associated uses – offices, nursing stations, lounges etc, the shape of the building has also been altered so as to provide rear extending wings which themselves would enclose sheltered courts. Secondly a basement has been added which reduces the footprint. However in overall round terms both the footprint and the volume of the proposed new wing remain the same as the original submission

That original submission would have resulted in the loss of twelve trees. The current proposal would involve the loss of ten trees – seven conifers, a Norway Spruce, a silver birch and a cedar. The original submission would have resulted in two additional trees going – two lime trees.

Appendix C illustrates the original house – Cow Lees; the 1998 extension – Astley House, and the site of the current proposal.

Appendix D illustrates the elevations of the proposals.

## **Background**

The previous report outlined the extent of the supporting documentation that has been submitted in respect of the growing needs and demands for specialised dementia provision; the particular growing interest in the on-set of dementia in younger people, the existing supply of specialist accommodation in the area and the clinical evidence relating to the location for such accommodation. Members are referred to this evidence which is all available on the web site.

Additionally the Design and Access Statement accompanying the application has been updated to account for the amended proposal. It is noteworthy that this Statement illustrates alternative locations for a further extension to accommodate the current proposal. These are attached at Appendix E. Following their site visit, Members will have a better appreciation of the impacts of these alternative locations on the character and appearance of the site together with the openness of the Green Belt.

## **Consultations**

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

Nuneaton and Bedworth Borough Council – No objection

Severn Trent Water Ltd – No objection

Warwickshire Museum - No objection

Warwickshire Police – No objection

Environmental Health Officer – No objection but draws attention to the fact that there might be contaminated land or landfill in the land adjoining the site in the Nuneaton and Bedworth Borough Council's area.

## **Representations**

One objection has been received from a resident living in Surrey. This says that the development would be in "violation" of the Green Belt; that there is no mains sewer system to support the development and that the access onto the road would be unsafe.

There have been no further representations received following re-consultation on the amended plans.

## **Observations**

### **a) Introduction**

There are two substantial policy issues here – the Green Belt and the fact that the site is not within a settlement and thus in an unsustainable location. These are set out below and will be looked at in turn in the first part of this report.

### **b) The Green Belt**

The site is in the Green Belt and it is agreed by the applicant that the proposal is for inappropriate development within the Green Belt as it does not meet the requirements of paragraph 89 of the NPPF. In short, this is a disproportionate extension to the original building. The reasons for this conclusion are two-fold. Firstly, the original building was the large Victorian villa known as Cow Lees which stood in extensive grounds. It became a Nursing Home in 1989. A substantial extension was granted planning permission to the south east in 1998 and this is now known as Astley House. The proposal will be in addition to Astley House. Together they would amount in round terms to a 350% increase in footprint and an equivalent % increase in volume over that of the original Cow Lees dwelling. By fact and by degree these increases are substantial. Secondly, the proposed extension marks a significant move into the open grounds to the extent that two sides of the garden would essentially be fully built up. As a consequence the character and appearance of the site would substantially alter and change by fact and by degree.

As a consequence of this conclusion the presumption from the NPPF is that planning permission should be refused – that is to say that inappropriate development is by definition harmful to the Green Belt and thus should not be permitted. The applicant however has forwarded a number of planning considerations which in his view would be of such weight to amount to the “very special circumstances” necessary to override this presumption. The Board will need to explore these and see if it too agrees with the applicant. However before doing so it needs to decide what is the degree of “harm” here to the Green Belt, because that would set the level of how significant any planning considerations need to be.

It is considered that the harm to the Green Belt in this case is significant, in other words the “bar” is set at a high level. The reasons for this have been alluded to above. This is a very large extension which will impact not only on the character and appearance of the site as a whole but also on the openness of the Green Belt. Moreover it is of a size that could be considered to encroach into the countryside thus impacting on the very reason for including land within the Green Belt. This is because of the large open garden here adds to the countryside appearance and ambience and is immediately surrounded by open land – either agricultural land or woodland. The proposed built development will encroach on this character and materially change the appearance of this open space.

Having established this, it is next necessary to explore the material considerations put forward by the applicant. Each will now be explained and a conclusion reached as to how much weight should be attached to each.

The first of these is the “fall-back” position of current Social Care legislation. This was explained in the previous report at Appendix A, but essentially it means that the existing care establishment would need to expand if it is to continue to operate under new guidelines and new legislation whereby all residents should have a single room rather than share a room. In order to retain the existing numbers the applicant explains that a 14 bedroom extension would be required. He calculates that this would take up around 58% of the current proposal. This argument is understood and acknowledged. Members will be aware that this was the reason for a recent permission to a Care Home elsewhere in the Borough. Although that was not in the Green Belt, it was in a rural countryside location outside of any defined settlement. The fall-back position here is material because it is governed by relevant legislative change outside the control of the applicant and which materially affects his business, and which he has to follow if he is to continue. As a consequence an application for a further extension here would probably be inevitable in the very near future. This consideration therefore carries some weight.

The second consideration is that without the retention of at least the current number of residents in Cow Lees and Astley House – 52 – the viability of the whole business would be jeopardised. Documentary evidence has been provided by the applicant’s accountants to verify this conclusion. The reason why this is important from a planning perspective is that the Council should “test” whether the provision of single rooms could be achieved solely or largely through the refurbishment of the existing accommodation within the existing structure, without the need for further extension. If this was possible then the weight given to the fall-back position above would be severely weakened. The submitted evidence provides a robust case for retaining at least the same number of residents at the site, and this therefore strengthens the weight to be given to the fall-back position.

The third consideration is that the proposal put forward is the minimum necessary to provide for the additional accommodation. The applicant has looked at the need for separate ancillary and associated accommodation to see if there is capacity in the existing provision to cope with a greater use – eg the laundry and kitchens. This analysis suggests that the scale of the ancillary accommodation being proposed is proportionate, although the opportunity has been taken too to improve existing provision. In overall terms the scale of the extension is considered to be justified. The consideration therefore does carry some weight.

The fourth consideration is the national and regional need to meet the growing demand for dementia patients. Members are aware of references to this issue in the national media from time to time coupled with the evidence from the recent Census results pointing to an increasing proportion of the population being in the elderly age cohorts. The applicant has supplemented this anecdotal evidence with documentation from the Alzheimer’s Society and Dementia UK. This is supported by documentation from the Warwickshire County Council and NHS Warwickshire, together with a consultant’s report commissioned by the applicant. These were alluded to in the previous report and can be viewed in detail on the planning application pages of the Council’s website in connection with this application. The documentation suggests that there is likely to be a 30% increase in people living with dementia in Warwickshire by 2022. More local predictions indicate that in the Nuneaton and Bedworth area that this too will be the expected increase by 2022, with it rising to 70% by 2031. A key finding from these documents is the noticeable increase in diagnosis of the on-set of dementia in younger age groups - between 30 and 64, because of a far greater understanding that dementia does affect younger age groups. The documentation indicates that in the Nuneaton and Bedworth area there is likely to be a shortfall of some 225 “dementia” bed-spaces by

2021. The supply of bed spaces falls short of existing demand – the gap is estimated to be around 500 in the Nuneaton area by 2022. The previous report indicated that the closest places for specialist residential care for the younger age cohorts were at Milton Keynes and Peterborough. As a consequence of this evidence base which is also relevant to the locality, the increasing demand for specialist residential accommodation carries significant weight.

The fourth consideration is the need for a rural location. This is perhaps, naturally, the most difficult consideration to fully accept. The test is whether it is essential rather than just desirable to have a rural location for a dementia home. In response Members are reminded that it is material that the Council has already accepted this argument when it granted permissions for Astley House and also at Linden Lodge near Polesworth. However because of the size of the current proposal here the applicant was asked to provide further evidence to support this claim. He has done so through the provision of support from the resident Consultant Psychiatrist at Cow Lees and by referencing substantial clinical evidence – over forty recent research papers. Clinical evidence and that from practitioners is highly relevant and in these circumstances it is considered that it does carry significant weight.

The fifth consideration is that through adopting the design they have, the impact of the building on the openness of the Green Belt is to some degree mitigated. Members will recall that the initial proposal here was for a “solid” brick and tile building whose appearance matched that of the original “Victorian” house on the site and reflected the same approach adopted for Astley House. The present scheme is all together different with essentially a fully glazed front elevation. This has several design advantages – it “lightens” the whole built form; reduces the perception of its mass, allows for light reflections and is able to act as a mirror for the open garden and trees. As a consequence overall, whilst still a sizeable building, it does lessen the “built” impact on the openness of the Green Belt and on the open garden which it will face. Interestingly, it also addresses the issue raised above. By having over wide corridors on the outside of the building rather than internally and central, it enables patients to perceive themselves as “being outdoors” because of the glazed elevation. In other words it is a “bespoke” design. It also has been designed to retain more of the existing trees on the site. This is achieved through the addition of the rear wings which enable sheltered courtyards at the rear to be provided, located around existing trees. Members should be aware that the size of the building both in terms of footprint and volume has not really altered from that of the original application. However the design now adopted is superior in its impact on the openness of the area; its bespoke features to its purpose and the additional retention of more trees. As a consequence this consideration does carry weight.

The final consideration is that there is no objection or harm to any other material planning factors – for example adverse traffic impacts. As can be seen from the consultation section above there are no “technical” concerns from the usual agencies. This consideration therefore does carry some weight.

It is clear from the above that the considerations put forward by the applicant are material and relevant and that they each do carry weight. The two that stand out are the ones relating to the likely continuing under-provision of this type of accommodation and to the clinical evidence to support a rural location for this accommodation. They may well be considered to be of such weight to overcome the significant harm done to the Green Belt as identified at the commencement of this section. However prior to making such an assessment it is appropriate to look at all the other planning considerations first.



### **c) The Location**

The site is in open countryside, isolated and well beyond any settlement. The proposal does not therefore accord with Development Plan policy of directing services and facilities to existing settlements in order to retain and enhance their viability and vitality. The planning principles set out in the NPPF also follow this approach. In geographic terms therefore the site is in an unsustainable location. This is emphasised by the lack of public transport provision along the adjoining road. The Council will need to consider whether there are any reasons why it is essential that this site should be promoted for this use, rather than it being within an existing large settlement.

To a great extent the answer to this question has been provided above. However, it is necessary to see whether there are any other matters which would either add weight to that answer or not. This is clearly not a sustainable location. However traffic generation is low and unlikely to materially increase as a consequence of this proposal. Residents at the site are not car drivers. Deliveries have to be made and these may increase. Staff numbers may increase but not materially and they already work shift patterns. Visitors will not be coming and going such as at a large hotel and not at peak times. The proposal is thus unlikely to materially affect traffic generation. Additionally, future patients and residents who might reside here would be housed further afield if this proposal does not go ahead, and visitors would have much further to travel. In all of these circumstances, whilst this is not a sustainable location, the very nature of the development itself is not one that would be unlikely to worsen that position. Whilst too, it could be argued that staff and perhaps visitors could also use other facilities and services if they were located in a larger settlement – shops and banks etc- the numbers involved are not significant; the nature of the use is very much about on-site care and there is already an existing lawful use on site. In all of these circumstances it is not considered that there is sufficient weight of evidence to support a refusal based on an argument that this proposal has to be located within a more sustainable location.

### **d) Other Planning Policy**

It is noteworthy that the significance of changes to demography, to health and well-being issues and their links to the spatial aspects of planning are far more significant than they have previously been. This is to be seen in the NPPF and the Council's own emerging Core Strategy. The NPPF particularly requires Local Planning Authorities to work towards solutions to planning issues and concerns rather than to refuse planning permission. The changes to the design and appearance of this proposal are considered to be an example of this so as to put the proposal in the best possible position when it is finally assessed at determination stage.

As indicated above there are no other planning issues arising from the consultation process. Additionally, there are very few neighbours here and there have been no representations received at any stage in the handling of the application.

Members may also recall that mention was made by the applicant that ancillary built development might be contemplated in the open fields beyond the garden – e.g. shelters and seats. In order to protect the openness of the Green Belt here and the rural character of the countryside an appropriate restrictive condition is recommended.

## **e) Conclusion**

The proposed development is inappropriate in the Green Belt by definition. It is concluded that the harm done to the Green Belt would be significant as there would be a material loss of openness. As a consequence there is a presumption that planning permission should be refused. The applicant has put forward a series of planning considerations which in his view are of such weight as to override the harm and thus the presumption of refusal. It is agreed that all of those considerations are material and relevant to the case. They also each carry weight. Two in particular carry significant weight – namely the continuing under-provision for the type of development proposed and the clinical evidence for a rural location. Given that there is already a substantial existing and lawful use already in operation here and that it will have to refurbish and expand to meet relevant Social Care legislation, it is considered that the cumulative weight of all of the considerations identified in this report does provide the “very special circumstances” to override the presumption of refusal.

## **Recommendation**

That the Council is minded to support this development proposal and as a consequence, it is referred to the Secretary of State under paragraph 9 of the 2009 Consultation Direction with a recommendation that planning permission be granted subject to the following conditions:

- 1 Standard Three year condition
- 2 Standard Plan numbers – Location plan received on 19/4/12, and plan numbers 11020/610; 611,612A, 613A, 614A, 615A, 616, 617 and 618 all received on 21/9/12.

### **Controlling Conditions**

- 3 For the avoidance of doubt this planning permission is granted for the building hereby approved to be used solely as a “Young On-Set Dementia Unit”, and for no other purpose within Class C2 of the Town and Country Planning (Use Classes) Order 1987 as amended or as may be subsequently amended.

### **REASON**

In order to recognise the “very special circumstances” of this case in view of it being inappropriate development within the Green Belt and because of its location outside of any development boundary as defined by the Development Plan.

- 4 No development whatsoever shall take place within the hatched areas shown on the plan attached to this Notice.

### **REASON**

In order to protect the openness of the Green Belt and the rural character of the countryside.

### **Pre-commencement Conditions**

- 5 No development shall commence on site until such time as a badger survey has first been completed and the findings referred in writing to the Local Planning Authority. The report shall recommend mitigation measures as may be necessary and proportionate to the survey findings. Work shall only commence following written approval of the Local Planning Authority.

#### **REASON**

In the interests of protecting wildlife and enhancing the bio-diversity of the site

- 6 No development shall commence on site until such time as full details of all of the facing materials to be used in the construction of the new building have first been submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall then be used.

#### **REASON**

In the interests of good design and the visual amenities of the area.

- 7 No development shall commence on site until such time as a landscaping scheme has first been submitted to and approved in writing by the Local Planning Authority.

#### **REASON**

In the interests of the visual amenities of the area and so as to enhance bio-diversity in the area.

- 8 No development shall commence on site until such time as details are submitted in writing to show the provision of an on-site turning area for the use of construction vehicles during that period and for the measures to be installed on-site during that construction period for the prevention of dust and mud being transported on to the local highway network. Work shall only commence once these details have been approved in writing by the Local Planning Authority and the approved details are then fully installed on site.

#### **REASON**

In the interests of highway safety.

### **Pre-Occupation Conditions**

- 9 The building hereby approved shall not be occupied for the use hereby permitted until such time as any mitigation measures approved under condition (v) above have first been fully provided to the written satisfaction of the Local Planning Authority.

#### **REASON**

In the interests of enhancing the bio-diversity of the area

## Notes

- 1 Attention is drawn to the Wildlife and Countryside Act 1981 which protects a number of species which might be found to be present on this site. It is recommended that the badger survey referred to above is undertaken by an appropriately qualified ecologist. Should bats be found on site or signs of their presence be found then a Licensed bat worker must be notified and be present on the site.
- 2 Attention is also drawn to the bird breeding season and the relevant legislation in this respect. It is also recommended that a number of new bird boxes are provided on site following completion.
- 3 The landscaping scheme required under condition (vii) above should include species that will enhance and improve the bio-diversity levels of the site. This should particularly include replacement native tree and shrubs.
- 4 Standard Coalfield Standing Advice
- 5 The Development Plan policies relevant to this application are Saved Core Policy 2 and saved policies ENV1, ENV2, ENV3, ENV4, ENV11, ENV13, ENV14, TPT3 and TPT 6 of the North Warwickshire Local Plan 2006.

## Justification

The proposal is inappropriate development in the Green Belt by definition. The harm done would be significant as there would be a material loss of openness. The applicant has put forward a series of planning considerations which are relevant and material to the case. They are considered to cumulatively be of sufficient weight to override the harm done to the Green Belt. They are the continuing under-provision of this type of facility; the clinical evidence to support a rural location, the fall-back position of the facility here having to adapt to meet current Social Care legislation in any event, the scale of development being the minimum necessary for the viability of the new facility and the continuation of the lawful use, and that the design of the building does assist in mitigating the harm. Given that there is an existing lawful use here which would act as a "hub" for the new facility in the provision of ancillary and associated uses and from a professional practice point of view, and that the traffic generated by the new use is unlikely to be material, it is considered that the development can be considered to be sustainable. There are no adverse impacts on highway safety or drainage issues. No objections have been received from the local community. The Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and in the request for amended design approaches in order to address the planning issues which have arisen in relation to dealing with this application. As such it is considered that the proposal accords with saved policies ENV2, ENV3, ENV4, ENV11, ENV13, ENV14, TPT3 and TPT6 of the North Warwickshire Local Plan 2006 together with the planning principles set out in the NPPF 2012.

## BACKGROUND PAPERS

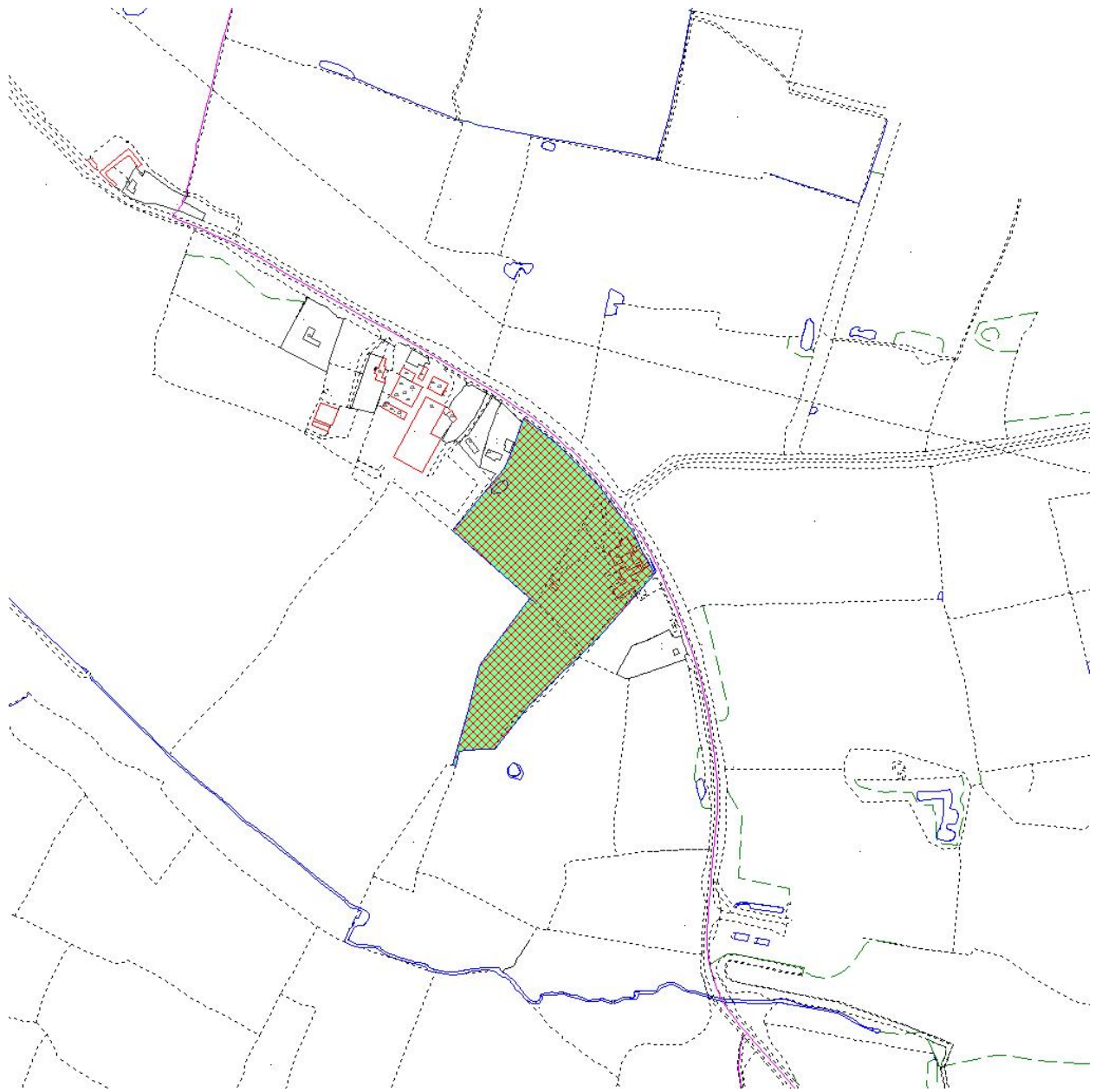
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2012/0212

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	19/4/12
2	Head of Development Control	Letter	23/4/12
3	Head of Development Control	Letter	8/5/12
4	Warwickshire County Council	Consultation	10/5/12
5	Environmental Health Officer	Consultation	3/5/12
6	Warwickshire Police	Consultation	4/5/12
7	Severn Trent Water Ltd	Consultation	2/5/12
8	Nuneaton and Bedworth Borough Council	Consultation	17/5/12
9	Agent	E-mail	6/6/12
10	Site Visit	Note	12/6/12
11	D Green	Objection	1/8/12
12	Head of Development Control	Letter	2/8/12
13	Agent	E-mail	6/8/12
14	Agent	E-mail	20/9/12

*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.*



PA2012/0212

Cow Lees Care Home, Astley Lane, Astley

**Proposed Construction of a “Young On-Set Dementia Unit” under Class C2 of the Use Classes Order, for**

**Mr J O’Sullivan**

### **Introduction**

This application is being reported to the Board for determination in view of it being of a significant scale to warrant referral to the Secretary of State should the Council resolve to support the proposals. This is because the size of the new floor-space being proposed exceeds the thresholds set out in a 2009 Direction in respect of inappropriate development in the Green Belt. The Board can refuse planning permission, but should it wish to support the grant of planning permission, the application would first need to be referred to the Secretary of State to see whether he wishes to “call-in” the application for his own determination following a Public Inquiry. At this time however, this report will just introduce the application and outline the main issues which will be involved when the Board comes to consider its determination.

### **The Site**

The Cow Lees Care Home stands in around four hectares of park and woodland on the south side of Astley Lane some two kilometres east of the hamlet of Astley itself, and around a kilometre from the edge of Bedworth. It is an isolated location set in an agricultural setting. There is a former complex of agricultural buildings some 150 metres to the west but these are now in commercial use. There are however residential uses here too. To the east is a smaller cottage but not in the ownership of the applicant. The frontage to the site is heavily wooded as are other boundaries. The Home was a former large Victorian Villa which stood in its own large garden and grounds, and this is set behind the wooded frontage.

The site is illustrated at Appendix A.

### **The Proposals**

#### **a) Background**

Cow Lees Nursing Home has operated since 1991 following the grant of planning permission in 1989 for the change of use of the former house to a Nursing Home under Class C2 of the Use Classes Order. It originally had 8 single and 10 double bedrooms. In 1998, planning permission was granted for a 24 bedroom extension to the south east of the main house. Smaller ancillary works have been permitted since 1990 – conservatories and laundry rooms for example.

## **b) The Proposal**

Current legislation now requires that residents have single rooms with en-suite bathrooms. Internal alterations to accommodate this requirement would result in there being 14 single rooms in the original building, rather than the original 18, but the 24 in the extension would remain. Overall there would thus be a reduction in the capacity of the whole home from the current 52 residents to 38. This, it is said, would make the Home unviable. As a consequence, the applicant would have to provide a new development of 14 additional rooms to bring the total back up to the existing 52 resident capacity.

Instead of developing such an extension, the applicant wishes to widen the range of provision at the site to include a Young On-Set Dementia unit. This would comprise a separate building providing 24 new rooms, thus taking the overall capacity up to 62 residents. The new unit would cater for 30 to 64 year olds and comprise 2000 square metres of new floor space spread over two floors and including reception rooms, activity, meeting, treatment and staff rooms, a laundry and kitchen.

The new building would be located on the south east side of the site and run back into the present garden area thus creating an overall "L" shaped building. This is shown at Appendix B. The design of this new build would closely reflect the Victorian appearance of the original house – see Appendix C.

The proposal does involve the loss of twelve trees.

The existing Home employs some 77 employees and the proposal would increase this to 93.

## **c) Supporting Documentation**

The applicant suggests that if he is to remain in business, he would have to submit an application for a 14 bedroom extension to the Nursing Home in order to comply with current care legislation. He is saying that this at minimum would amount to a floor area of around 1200 square metres which is 58% of the floor area of the new unit as proposed. As a consequence he is asking that this be treated as a "fall-back" position in that if the current application is refused, he would make such an application.

He has submitted evidence to support the change in nature of the proposed work from additional Nursing Home rooms to that of introducing a Dementia Unit to the site, and particularly for one catering for younger age-groups. This comes in the form of a Needs Assessment Report which concludes that the surrounding area has both a "qualitative" need for increasing the supply of residential care accommodation that meets current standards, and a "quantitative" shortfall in respect of the provision compared with the ageing population. A second report prepared by Warwickshire County Council and NHS Warwickshire, specifically looks at Dementia in Warwickshire. It draws attention to the increasing numbers of the elderly with dementia, but also to an increase in the younger age cohorts. A letter from the Consultant Psychiatrist at Cow Lees reports on the shortage of appropriate care homes for dementia patients and pointing out that Warwickshire presently has no accommodation specifically for those in younger age groups who suffer from



dementia – the nearest specialist providers are at Milton Keynes and Peterborough. Further references are made to research material – particularly from the Alzheimer’s Society - which reflects the growing need for specialist accommodation and the importance of a quiet, preferably rural location. These documents are available to view on the case file, or on the web-site.

The application is accompanied by a Transport Statement which concludes that trip generation from the proposal would not be significant given the residential nature of the accommodation. It is suggested that overall there would be an increase of 15 to 20 vehicles a day visiting the site – a 1% increase in existing flows along Astley Lane. A Travel Plan is recommended for staff so as to reduce the use of the private car particularly through a staff mini-bus. There is an infrequent Flexi-bus Service (number 232) which runs along the Lane on a Wednesday and Friday.

A Design and Access Statement has been submitted which shows how the location and design of the proposed new building has been arrived at. Several alternative locations are shown – see Appendix D.

Additional documentation includes a Tree Survey, and a Protected Species report. The former provides a professional analysis of the trees likely to be affected by the proposals. The twelve trees proposed to be removed are seven conifers; a silver birch, a Norway Spruce, two limes and a cedar tree. The Protected Species report concludes that there is little evidence of significant populations of protected species, but makes precautionary recommendations in respect of bats and badgers, together with biodiversity enhancements.

#### **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policy 2 (Development Distribution) and ENV1 (Protection and Enhancement of the Natural Landscape), ENV2 (Green Belt), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV11 (Neighbour Amenities), ENV13 (Building Design), ENV14 (Access Design), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

#### **Other Material Planning Considerations**

The National Planning Policy Framework (NPPF) – Protecting Green Belt Land, Conserving the Natural and Historic Environment, Requiring Good Design and Promoting Healthy Communities

#### **Observations**

##### **a) The Central Issues**

The application site is wholly within the Green Belt. This proposal is inappropriate development in the Green Belt by definition, because it does not meet the criteria set out in the NPPF. The presumption is therefore that planning permission be refused. The applicant is putting forward a number of material planning considerations which he argues together amount to the “very special circumstances” necessary to outweigh

this presumption. This will be the central issue that the Board has to consider. Moreover it will also need to come to a decision on whether the proposed development has any impact on the openness of the Green Belt.

Moreover the site is in a wholly rural location, well outside of any defined Main Town or Local Service Centre. New services and facilities are directed towards such locations in order to retain and enhance their viability and vitality for the benefit of all residents and visitors. Here however a major new service is proposed outside of any settlement and in a location which is considered to be “unsustainable”, given the lack of other facilities and particularly the lack different transport modes to reach the site. Members will need to decide if an exception can be made.

**b) Other Matters**

Clearly the Board will also have to consider a number of other matters – the adequacy of the access arrangements; the impacts on the nature conservation and ecology value of the site, the impact on the existing tree cover because of the proposed loss of some trees, together with the design and appearance of the building.

**c) Site Visit**

This is quite a significant proposal in terms of its scale and thus its impact on the openness of the Green Belt. In view of the application falling under the terms of the 2009 Direction it is considered appropriate that Members visit the site to assess this impact, and the recommendation is made accordingly.

**Recommendation**

That the Board visits the site prior to the determination of the application.

Background Papers

Application 17/4/12

2012 / 0212



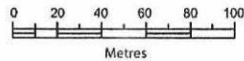
Reproduction in whole or in part is prohibited without the prior permission of Ordnance Survey.

Ordnance Survey and the OS Symbol are registered trademarks and OS MasterMap is a trademark of Ordnance Survey, the national mapping agency of Great Britain.

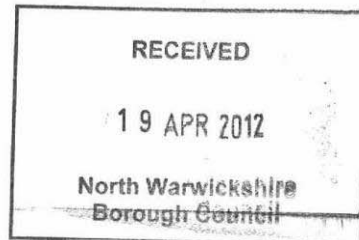
The representation of a road, track or path is no evidence of a right of way.

The representation of features as lines is no evidence of a property boundary.

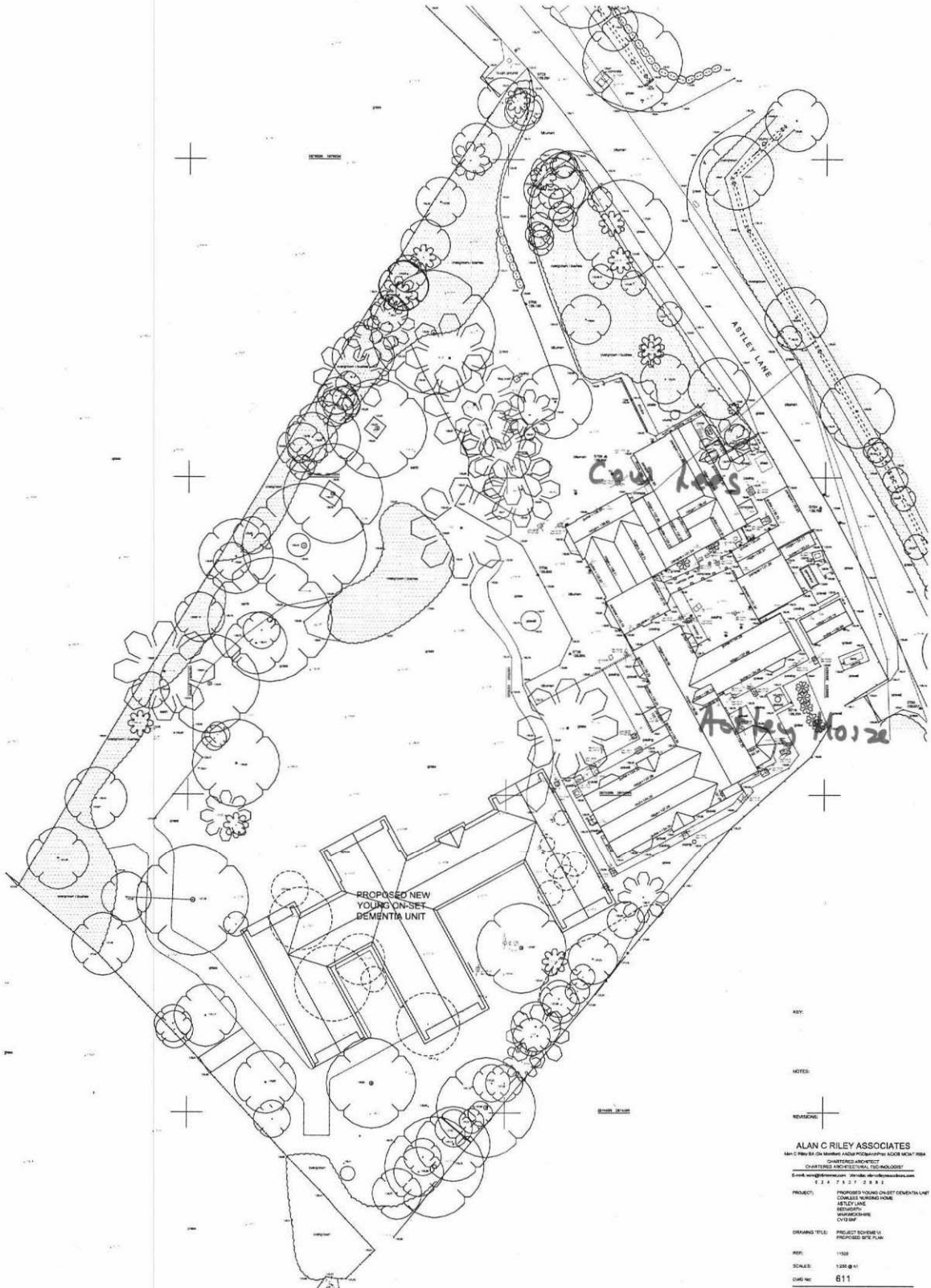
Scale 1:2500



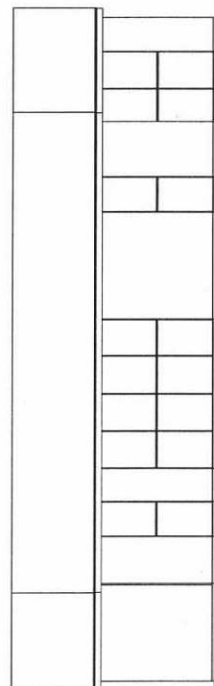
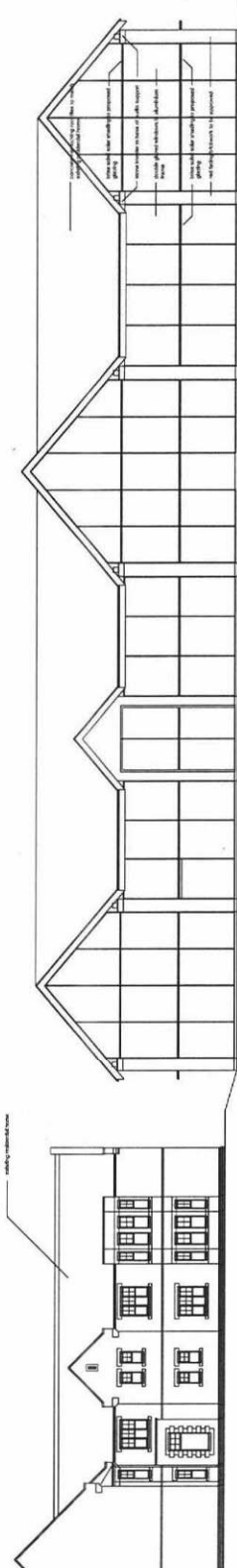
Supplied by: Gotmapping  
OS License Number: 100030848



APPENDIX C



# APPENDIX D



NOTES:  
 REVISIONS:

**ALAN C RILEY ASSOCIATES**  
 1001 E. Main Street, Suite 100, Aurora, CO 80012  
 Phone: (303) 733-1111  
 Fax: (303) 733-1112  
 Email: alan@acrailey.com  
 www.acrailey.com

PROJECT: PROPOSED NORTH WEST ELEVATION, 1001 E. MAIN STREET, AURORA, CO 80012

DATE: 08/11/2011

DRAWING TITLE: PROPOSED NORTH WEST ELEVATION, 1001 E. MAIN STREET, AURORA, CO 80012

DATE: 08/11/2011

SCALE: 1/8" = 1'-0"

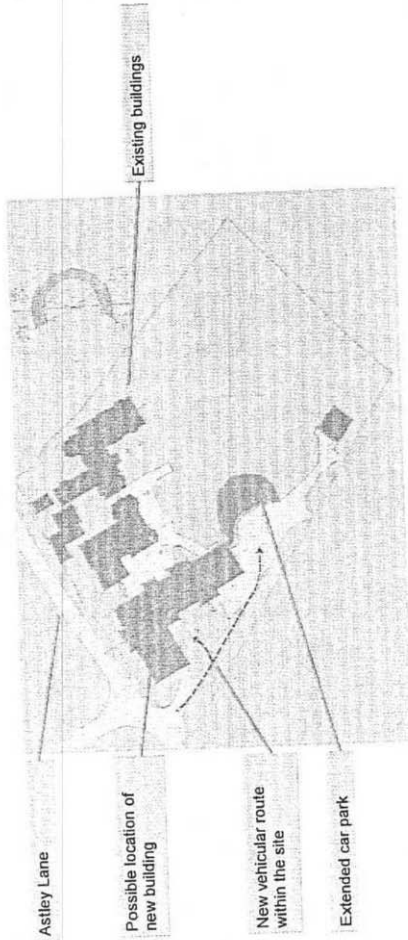
DATE: 08/11/2011

616



Design and Building Proposals

Option A

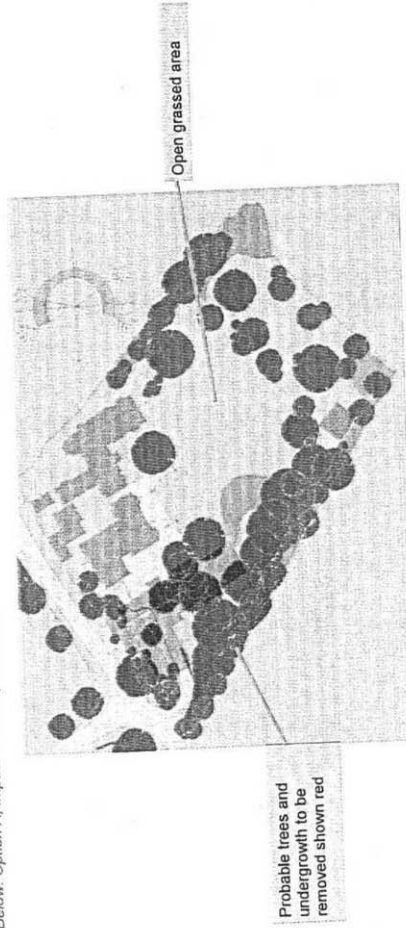


Siting of the new unit alongside the existing Cow Lees Nursing Home would reduce the expansion of development away from Astley Lane. It would require a new vehicular access into the site and an extension to the existing car park. However positioning the development in this location would have a devastating effect upon the trees that form the Northern boundary. It would also increase the prominence of, not just the new development, but also the existing buildings, on the street scene on Astley Lane and thereby increase the impact on the green belt.

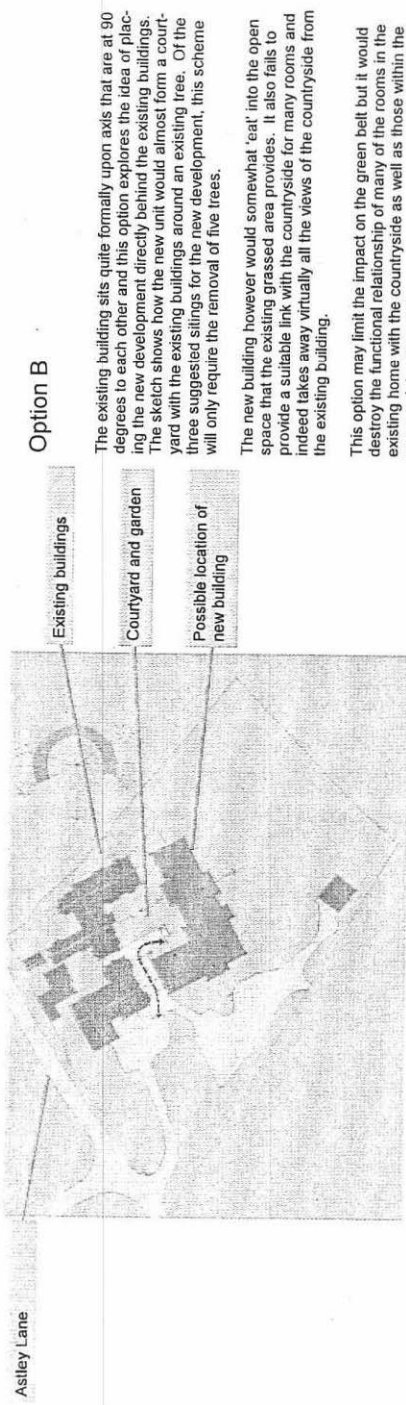
Locating the building in this position also limits the opportunities for interaction with the countryside. Certainly the removal of trees on the boundary would facilitate this but it is unlikely to mitigate the removal of the boundary trees based upon that premise.

Above: Option A, plan without trees

Below: Option A, impact of development on trees

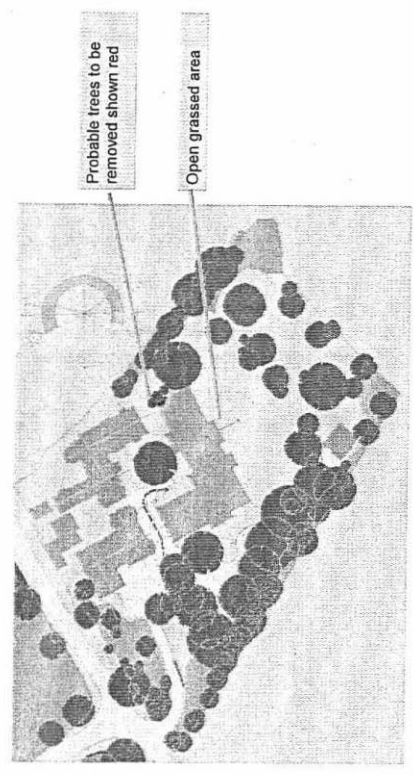


## Design and Building Proposals



Above: Option B, plan without trees

Below: Option B, impact of development on trees

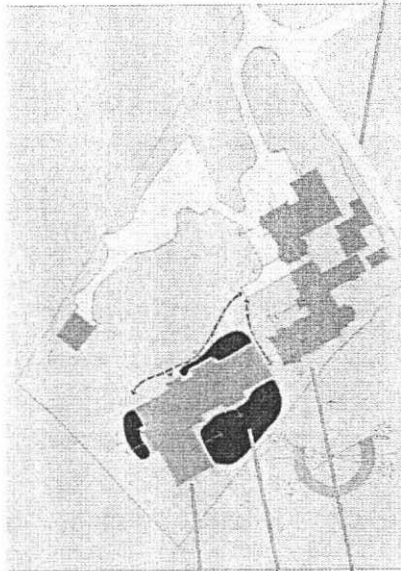


## Design and Access Statement



## Design and Building Proposals

Aslley Lane



Existing buildings

New garden

Possible location of new building

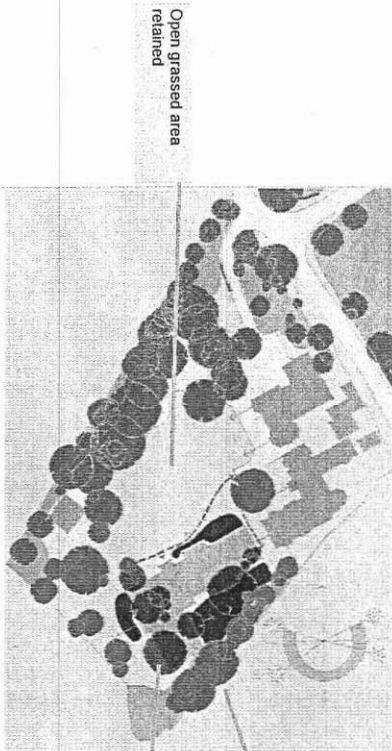
### Option C

In 2003 a new building was opened to the South of Cow Lees for a unit containing 24 single bedrooms. Although the unit followed the axis of the original home it did not, perhaps fortuitously for this proposal, provide rooms with views of the courtyardside from the Western gabled elevation. This elevation has only en-suite windows and an emergency fire escape, and therefore placing the new unit in this position does not block any windows like the previous option. It would require approximately 12 trees to be removed within the site, but it is believed that all trees to the South-Eastern boundary will be able to be retained. Piled foundations, for example, can be used to minimise any damage to tree roots.

Views out from the existing nursing home will be maintained. The new development will directly link to the proposed shaded garden area and also to the open grassed area. The impact on the green belt will thereby be minimised.

Above: Option C, plan without trees

Below: Option C, Impact of development on trees



Open grassed area retained

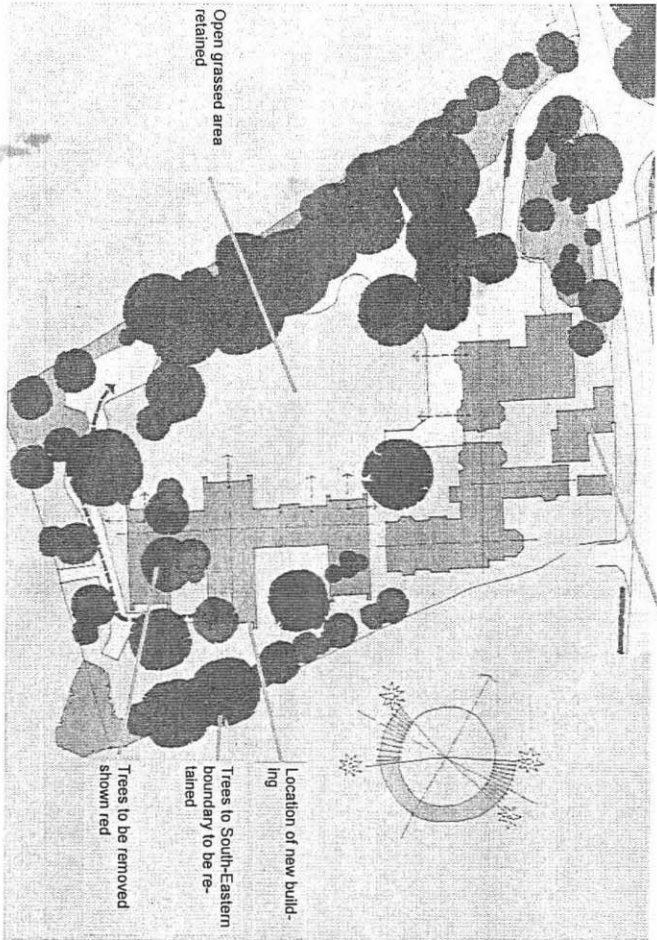
Trees to South-Eastern boundary to be retained

Probable trees to be removed shown red

## Design and Access Statement

## Design and Building Proposals

Astley Lane  
Existing buildings  
Final Proposal



Above: Location of Final Proposal

## Final Proposal

After consultation with the local authority the final proposal has taken a new approach that will provide a high standard of design and high quality living space for the occupants. The final proposal succeeds in relating the open grassed area and with the exterior glazed design will fully embrace the idea of living with nature. Dr Garuth Chalfont of Bradford University's Dementia Group has stated that nature can provide multi-sensory therapy for people with dementia. It has also been found to help with attentiveness to the environment, increase appropriate communication and reduce disturbed behaviour. The changing seasons, for example, can give a better understanding of time.

Large areas of glass to the living areas and corridor will provide that link with nature, whilst private bedrooms will overlook tree shaded courtyards around which the gardens can be cultivated by the residents themselves. Raised beds will allow everyone to take part, and benches a place to sit and watch the flowers and vegetables grow.

The scheme minimises the removal of trees. Only ten trees will be removed, of which seven of these are leylandi. Like the previous option it is intended to use piled foundations close to remaining trees to reduce the impact on tree roots.

The final proposal now includes a basement and the area of ground coverage has been reduced to save important trees and open space, thereby minimising the impact on the environment.

## Design and Access Statement

**(5) Application Nos: PAP/2012/0256 and PAP/2012/0257**

**Flavel Farm, Warton Lane, Austrey, Atherstone, Warwickshire, CV9 3EJ**

**Retrospective: Change of use from workshop to a live work unit (PAP/2012/0256), and**

**Retrospective: Change of use of livestock buildings to incorporate greyhound kennels, with the two buildings incorporating 16 kennels each (8 each side with a passage between) (PAP/2012/0257), for**

**Ms Cath Pegg**

### **Introduction**

This application is reported to Board due to there being an extant enforcement notice on part of the site and the recommendation having implications on this.

### **The Site**

The site lies some 500 metres south-west of Austrey, outside of any defined settlement boundary, within open countryside. The immediate site consists of a bungalow, saddlery workshop and further agricultural/equestrian buildings. This cluster is accessed from Warton Lane. The 80 acres of farmland is put to pasture with sheep and “wedding” horses kept. A plan shows this context at Appendix A. The workshop is a simple building, with openings to the front and rear within the roof space. Those plans are attached at Appendix B. The agricultural buildings are of basic construction and generally reflect the form of buildings found at small farm enterprises.

### **The Proposal**

The two applications seek continued use of the saddlery workshop for residential accommodation with a small workshop to the rear; whilst two of the livestock buildings are to be retained as greyhound kennels. No changes to access or the external faces of the buildings will be made.

### **Background**

There is a long history relating to this site. The existing bungalow was established upon appeal in April 1991. The bungalow is restricted by an agricultural occupancy tie; and although it is noted that there have been no extensions, it appears that conversion of internal spaces has been undertaken to provide additional living accommodation.

The saddlery workshop was erected following permission in October 2000. The equestrian business (Austrey Shires) developed a result of this permission, with this now predominantly based around carriage hire for weddings and other social events, with a group of trained shire horses to facilitate this as well as tack and equipment. There is also a small saddlery/leather working element. A further consent to extend the workshop in 2003 has since expired. The remaining buildings appear to have been erected without the benefit of permission, although the passage of time now makes these lawful.

An enforcement complaint was raised in 2006 alleging the use of the saddlery workshop as a residence. Investigations concluded this was the case, and ultimately led to the serving of an enforcement notice preventing the residential use of the building (Appendix C). This notice took effect in October 2006 and was observed to have been complied with shortly afterwards. However it remains extant. A further complaint was raised in early 2012 again alleging residential use of the workshop. Investigations concluded that this was occurring, in breach of the extant enforcement notice. These applications have been submitted in an attempt to address both this breach and the need for permission for the kennels use.

## **Development Plan**

North Warwickshire Local Plan 2006 (Saved Policies): CORE POLICY 2 (Development Distribution), ECON9 (Re-use of Rural Buildings), HSG3 (Housing outside of Development Boundaries), ENV6 (Land Resources), ENV9 (Air Quality), ENV11 (Neighbour Amenities) and ENV14 (Access Design).

North Warwickshire Core Strategy (Pre-submission Document September 2012): NW1 (Settlement Hierarchy), NW3 (Housing Development), NW4 (Split of Housing between Settlements), NW5 (Affordable Housing), NW8 (Sustainable Development) and NW14 (Economic Regeneration).

## **Other Relevant Material Considerations**

Government Advice: National Planning Policy Framework (NPPF).

## **Consultations**

Austrey Parish Council has not provided a response to either application.

The Environmental Health officer comments in respect of potential disturbance to occupiers of the bungalow (if they are not associated with the business) arising from the kennels; as well as the need to prevent burning of waste on site. They also note the need to seek a licence under Environmental Health legislation. In terms of the live/work unit, initial concern focused around the use of the workshop for saddlery purposes – which normally involves the use and storage of chemicals. However the applicant confirmed the saddles are not manufactured; and repairing/refurbishing of saddles, tack, horse rugs and other such items takes place instead. The Environmental Health officer thus raises no objection.

In responding to the kennels proposal, the County Highway Authority notes that the visibility is lower than recommended in a southerly direction, but as vehicles are likely to be travelling at a lower speed than permitted, the visibility achieved is acceptable. As there is also space to park a vehicle off the carriageway whilst gates are opened, they raise no objection. There is also no objection to the live/work proposal.

## **Representations**

No further representations have been received.

## **Observations**

It is intended to consider the kennels application first so the basis of any accommodation need can be properly assessed. The kennelling part of the wider proposals applies to two buildings at the farm. No external changes are proposed.

### **(a) The principle of re-use**

Saved policy ECON9 sets out a number of qualifying criteria. There is conflict with the opening criterion in that the building does not have direct access to the rural distributor road network (this being some considerable distance away to the north beyond Austrey, in No Mans Heath). There is however a regular bus service past the site. In terms of the use proposed, there will be an increase in trips to the site. Countering this is the fact that the use has continued for a number of years without complaint, that dog owners are unlikely to drop off/pick up their animals by using public transport; and the surrounding C-class road network is considered adequate to support smaller private vehicles. In terms of the appearance of the building and its structural condition to withstand re-use and conversion; this is acceptable – particularly when the application is retrospective.

### **(b) Re-use objectives**

Policy then imposes a sequential test. This first requires consideration be given to farm diversification and the application is advanced on this basis. The wider business includes Austrey Shires (including the saddlery element) as well as the agricultural activities of Flavel Farm. No separate accounts have been provided to demonstrate how much income is provided by the business in order to confirm that it supports the main farm. It is thus not possible to establish that it is farm diversification, and not a business which is supported by the farm income. Notwithstanding this, there is not considered to be harm brought about by such a business continuing in this location.

### **(c) Other matters**

There is not considered to be a highway safety issue, with the Highway Authority raising no objection. The level of traffic associated with the use will not represent a material increase on the surrounding rural lanes. In respect of noise, which greyhounds (a relatively timid breed) are housed at the current time, any permission would stand with the land. As such any future owner could choose to accommodate different breeds. The bungalow is in close proximity and the agricultural tie limits occupation to someone employed (or last employed) in agriculture. This is presently the applicant's mother. This does not connect the kennels use to that bungalow such that separate ownership/tenancy could occur. In order to prevent potential noise issues, a condition shall be attached to link the business to the bungalow. A further condition to ensure appropriate disposal of waste shall also be attached.

Turning to the live/work unit, there is not considered to be a highway safety issue and the potential for disturbance from dogs and livestock on the holding can be addressed by tying any accommodation to the wider enterprise. There is also no concern regarding drainage and potential contamination risks. However this proposal seeks permission to reside in the saddlery workshop. Not only does this raise sustainability concerns through introducing a residential use in a countryside location, it is also contrary to the requirements of the enforcement notice. That notice prevents residential use – it does not define a lesser or partial extent. In this respect, even a mixed use (such as a live/work unit) would conflict with the notice, and this point is considered below.

#### **(d) Status of Development Plan policies**

It is important to consider the status of the Local Plan in light of the publication of the NPPF. The NPPF points out that the starting point is still the Development Plan. However it does outline that decision makers should consider the degree of weight which should be attached to policies prepared before the publication of the NPPF. It allows “due weight” to be given to policies in existing plans according to their degree of consistency with the NPPF (paragraphs 214 and 215). Although the Local Plan was formally adopted some 6 years ago; the examination in public resulted in changes to accord to current legal provisions and the suite of former PPS’s and PPG’s – many of which remained unchanged prior to their replacement with the NPPF. Further consideration is also given to the emerging Core Strategy which broadly continues the strategic aims of the Local Plan thus ratifying their “up-to-date” status. Hence it is considered that considerable to full weight can be given to the saved policies mentioned above, with them in accordance with the strategic aims of the NPPF.

#### **(e) The principle of re-use**

The same conflict as outlined at (a) is applicable here. However the regular bus service and provision of employment for the occupants within the building concerned and on adjacent land are material factors in offsetting this harm.

#### **(f) Employment uses**

Turning to the sequential test, the proposal is advanced as farm diversification. The saddlery workshop was originally advanced as farm diversification, with the equestrian element adding to the overall agricultural enterprise. This proposal now will not contribute to the host business (i.e. Flavel Farm) in the same manner. Indeed accounts provided demonstrate that the equestrian business is very nearly an equal contributor to overall turnover; if not the dominant part of the wider business given income from the kennels is not provided separately. The proposal is thus not *farm* diversification, especially as it is clear that a live/work unit falls under later re-use objectives.

In the absence of other evidence provided by the applicant, consideration is given to the remaining objectives of the sequential test. There is no known local community need for the building, and it is not considered to be suitably located or designed for re-use to facilitate access to the countryside (e.g. visitor centre or stables). However in terms of a stand-alone workshop/starter unit, this building was and thus can provide as a suitable contender. It was originally granted permission on the basis of such a use. Nevertheless, whilst no marketing exercise has been undertaken to demonstrate that further objectives of ECON9 should be considered, potentially providing the basis for a refusal; the size and location of the unit is quite unlikely to attract an investor or tenant in the current market. In this context, the rural enterprise at Flavel Farm, and the NPPF encouraging a flexible approach; it is not considered a refusal could be sustained on this basis.

### **(g) Residential uses**

Attention is given to whether sufficient weight for residential accommodation exists, arising from the needs of the farm holding. It must be remembered that an enforcement notice was served to prevent residential use of the building in 2006 as there was not considered to be suitable reasons for a dwelling here. Any material considerations would need to be so substantial to “overrule” the reasons behind the serving of that notice. Consideration is first given to whether there is a functional need for a worker to reside at this site by way of the rural businesses operated here. The Council’s Rural Land Consultant has offered advice.

Firstly it is noted that the applicant used to live with her mother at the bungalow. This arrangement is now apparently untenable due to her deteriorating health. Whilst the letter from her GP is noted, the health problems are not hinged upon mental or serve physical incapacity and are similar to those carried by a significant proportion of the elderly population – many of whom continue to live quite independent lives, even in sheltered accommodation. Furthermore at the time of writing, the applicant is unable to provide any care yet the mother continues to reside at the bungalow. The care need is thus far from constant with the applicant able to oversee the farm, equestrian and kennel businesses in the majority of her time. It thus not considered that this provides any weight to justify another person to live at this site – it is instead a personal preference. Nevertheless it must be acknowledged that the mother is no longer able to contribute to the running of the farm, kennels and equestrian businesses.

Over recent years the pure farming side of the business has declined, with only 77 ewes now on the farm. Turnover is similar to the equestrian business, and this may well include the kennels. The farm is presently tied with the bungalow, currently occupied by the applicant’s elderly mother. The right to reside in the bungalow will pass to the applicant in due course. Focus turns to whether a functional need for a worker to live at the site still exists, as was considered to be in the case in 1991. Saved policy HSG3 is applicable and this relies on Annex A of PPS7. Whilst replaced by the NPPF, planning authorities are encouraged to avoid permitting new isolated homes in the countryside unless there are special circumstances, such as *“the essential need for a rural worker to live permanently at or near their place of work in the countryside...”*. The manner in which this should be tested is not outlined in the NPPF, but recent appeal decisions indicate that Annex A can still be a material consideration given its long standing status prior to the NPPF.

The level of stock gives rise to only a seasonal overnight requirement to deal with foaling and lambing. For the remainder of the year, day to day care and welfare of these animals can be addressed from accommodation off the site. The equine and

kennel elements do not change this. Horses require minimum twice daily checks, and checks across a normal working day address welfare needs for the greyhounds. The animals held on the farm thus do not give rise to an *essential* need. Whilst equipment associated with the equine business is valued at around £50,000; this does not weigh significantly in favour as appropriate storage and securing of buildings, and the presence of a resident – the mother – at all times act as deterrents to crime; and appropriate insurance can protect against any infrequent/unlikely loss. There is thus no need for a worker to reside at the site. The fact that the bungalow is unavailable as it is occupied by a retired worker makes no difference.

No suitable breakdown of income and labour is provided so it is impossible to attribute time and of income to each element of the overall enterprise. The Council's rural consultant was informed that the wedding element of the business is now the predominant activity; the saddlery workshop is now given over to a predominantly residential use, with just one small room as a dedicated workshop; the sheep enterprise is at a very low level; and it has not been possible to ascertain the number of dogs being boarded. The land farmed has *reduced* from 80 acres in 1991 to 62.6 acres in 2012. All labour is provided by the applicant with part time assistance as required. In terms of animal welfare requirements, there is normally around seven foalings per annum – occurring from April to July. Lambing occurs either in the buildings or surrounding fields, normally between March and April. Aside from this the horses (understood to have reduced in number since the application was submitted) and kennelled dogs bring about a welfare requirement. However with the applicant clearly able to put a significant proportion of time to the wedding and saddlery businesses (i.e. non-welfare related), this further supports the stance that welfare requirements do not come close to a full time essential need.

As noted, a complete break down of income across the enterprise has not been provided. The farm and equestrian elements show a 50:50 split of income for the applicant, but both show a very low wage draw for both the applicant and part time labour. The total full time wage is well below the national average for a farm worker and in fact below minimum wage. It is thus considered that wages are understated, and when adjusted accordingly raises question over the profitability of the enterprise – particularly when a 50% proportion of the farm income is taken as a (presumed) pension by the mother and the figures may well include income from the kennels business. The intention to increase the sheep flock thus looks unlikely; although the farm element will likely cover its annual costs on an ongoing basis. The equine element is equally uncertain. The business made a loss in 2010; and whilst profits are noted in 2011 and 2012, when accounting for a more appropriate wage, the business *may* have been profitable for the last couple of years on an increasing basis, although more recent events will likely change this.



In summary, without a functional need being identified there is no requirement for anyone to live at Flavel Farm, and the information provided makes it difficult to establish the financial situation and labour requirements. It is convenient that a dwelling has been established in the past, but the business case for that dwelling has long since evaporated such that if one were to assume there was no bungalow already, a new dwelling should not be granted now. In the absence of any other particular reasons or needs, the proposal cannot fulfil this objective of ECON9.

The next requirement is for affordable housing provision. The size of the unit is acknowledged to be suitable, with potential internal changes facilitating two rooms in the roof space and sufficient living space downstairs. However its location is an issue, being at some distance from local services and facilities thus placing greater reliance on private vehicle – especially outside of bus operation times. This is not a suitable location for affordable housing which is better placed within or adjacent to the existing settlements and management of it would be problematic. Without a particular benefit in favour of the proposal (e.g. working at this site), there are no material considerations which outweigh this matter. It is considered the building cannot fulfil this objective.

#### **(h) Live/work unit**

This is where the proposal falls to be considered. In terms of the existing live/work element, the saddlery is now a fractional part of the applicant's business and appears to be confined to a small room within the converted workshop building used predominantly as a residence. The building comprises a living room and kitchen on the ground floor and a bedroom and bathroom on the first floor. Its primary function is thus a residence. The applicant advances that the living room is also used to meet and greet wedding customers, but this is not considered to be the dominant purpose of that room. In any case a live/work situation is not necessary to accommodate such meeting and greeting (the building in its lawful workshop use could achieve this). The work element set aside now is thus no different to the use of a single room within a dwelling as an office or for teaching of music lessons for instance. In those circumstances, subject to fact and degree, the use of the building would be as a C3 dwellinghouse. It is not a genuine live/work use split between C3 and B1. It is acknowledged that a larger "proportion" of the work is attributed to land and buildings outside of the dwelling and application site; but the proposal is then thus a rural enterprise with a workers dwelling, and this has already been considered under (g) above. There is also nothing to prevent a reduction in the wider enterprise thus leaving a stand alone dwelling (unlike where the whole work element is an integral and defined part of the building).

In recognition of this conflict, the applicant proposes to increase the floor space set aside for work. The plans at Appendix B show this and control can be exercised over this 33% to 66% split. The applicant also asks that this proposed is considered as separate (i.e. what would the Council's decision be if this were just a standalone barn put to conversion for live/work purposes?). There is some merit in this proposal in this sense, but the wider enterprise cannot be ignored as it clearly extends into the use of the proposed live/work unit at the current time, and this is likely to continue especially in the context of a personal consent being suggested.

The balance is therefore a very fine one. On one hand the proposal appears to simply seek a dwelling to accommodate a worker who employs some of their time in repairs and refurbishment of saddles, etc; and the rest on the farm and land. On the other hand, the proposal does secure the continued employment of a rural worker and some infrequent part time employment and has little outward harm on the character of the area. As noted the NPPF above does advocate a flexible approach to the re-use of buildings, as well as recognising there can be benefits in allowing both accommodation and employment needs to occur side by side. To further support the case, the applicant is willing to have any permission limited to their occupation only and for a temporary period. The latter would enable re-assessment of the situation at a later date, and should the Bungalow be available then they would occupy that and revert the workshop to its current use. It is thus concluded that the balance should fall in favour of the proposal, particularly when there is some form of a link between the wider enterprise and the live/work unit such that the harm arising at the current time is primarily one of policy harm.

### **(i) The enforcement notice**

It is clear from the above assessment that the proposal can only succeed due to the particular circumstances of this case and the willingness to only pursue the residential use of the building whilst the Bungalow is unavailable. A permission results in conflict with the requirements of the enforcement notice; but in the same stance the notice is necessary to ensure appropriate control beyond the life of the permission or whenever occupation of the Bungalow by the applicant occurs. In this context, it is considered that the Council should not withdraw the notice – instead it gives an undertaking not to prosecute whilst permission for residential occupation exists.

### **Recommendation**

Three recommendations are advanced:

**(A)** That the kennels application (PAP/2012/0257) be **Granted** subject to the following conditions:

1. The kennels hereby approved shall be operated solely in connection with main dwelling at Flavel Farm known as The Bungalow, Flavel Farm, Warton Lane, Austrey, CV9 3EJ; and shall not be sold off, sub-let or used as a separate kennel business. The kennels business shall remain ancillary to the main agricultural enterprise at Flavel Farm.

#### **REASON**

To prevent unauthorised use of the property so to ensure adequate standards of amenity for occupiers of nearby dwellings; and to ensure the business remains as a supporting element to the main farm enterprise, in line with farm diversification aims.

2. There shall be no burning of waste arising from the use hereby approved.

#### **REASON**

To protect the amenities of nearby residential property.

## Notes

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies): ECON9 (Re-use of Rural Buildings), ENV9 (Air Quality), ENV11 (Neighbour Amenities) and ENV14 (Access Design); and the North Warwickshire Core Strategy (Pre-submission Document September 2012): NW8 (Sustainable Development) and NW14 (Economic Regeneration).

## Justification

The proposal is considered to be an appropriate re-use of rural buildings, without the need for external changes to accommodate the use. Whilst access to the site is along rural lanes, the level of trips associated with the business is likely to be low. There is not considered to be harm to highway safety, nor is the amenity of nearby residents unacceptably harmed (subject to conditions). The proposal is thus in accordance with saved policies ECON9, ENV9, ENV11 and ENV14 of the North Warwickshire Local Plan 2006, emerging policies of the North Warwickshire Core Strategy, and national policies as set out in the National Planning Policy Framework.

**(B)** That the live/work application (PAP/2012/0256) be **Granted** subject to the following conditions:

1. The use hereby approved shall enure solely for the benefit of Ms Catherine Pegg and for no other person whomsoever, and specifically not for the benefit of the building identified within the red line on the site location plan received by the Local Planning Authority on 10 May 2012, and shall be discontinued on or before 15 October 2017 or the vacation of the building by Ms Catherine Pegg, whichever date is the earlier.

### 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.

2. The development hereby approved shall not be carried out otherwise than in accordance with the site location plan received by the Local Planning Authority on 10 May 2012 and the plan numbered FLF.EXP.001 Rev A received by the Local Planning Authority on 19 September 2012.

### REASON

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

3. The residential accommodation hereby approved shall be occupied solely in connection with the use of the workshop areas identified on the approved plans, and shall not be sold off, sub-let or used as a separate unit of accommodation.

REASON

To prevent unauthorised use of the property.

4. The workshop areas hereby approved shall be used solely in connection with the residential accommodation identified on the approved plans, and shall not be sold off, sub-let or used as a separate unit of accommodation.

REASON

To prevent unauthorised use of the property.

5. The floor space split of residential accommodation and workshop areas shall be maintained as per that shown on the approved plans, with the use of each space strictly falling under residential or employment uses as the case may be.

REASON

To prevent unauthorised use of the property.

**Notes**

2. 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), ECON9 (Re-use of Rural Buildings), HSG3 (Housing outside of Development Boundaries), ENV6 (Land Resources), ENV11 (Neighbour Amenities) and ENV14 (Access Design); and the North Warwickshire Core Strategy (Pre-submission Document September 2012): NW1 (Settlement Hierarchy), NW3 (Housing Development), NW4 (Split of Housing between Settlements), NW5 (Affordable Housing), NW8 (Sustainable Development) and NW14 (Economic Regeneration).

## **Justification**

The proposal carries conflict with saved policies ECON9 and HSG3 of the North Warwickshire Local Plan 2006 and emerging policies within the North Warwickshire Core Strategy in that it is an unsustainable location for new residential and employment uses, and there is not an essential need for a worker to reside at this site. However the existing rural enterprise at the site and the linked use of the unit offers employment and has done so for a number of years, and along with material changes in national planning policy and the particular circumstances of the case and the applicant, there is considered to be material weight in favour of the proposal and sufficient to outweigh this harm. The proposal is otherwise in accordance with saved policies ENV11 and ENV14 of the North Warwickshire Local Plan 2006, and national policies as set out in the National Planning Policy Framework.

- (C)** That the Council not pursue prosecution relating to residential occupation of the live/work unit from the date of permission until its expiry, or should occupation occur after Ms Pegg has vacated the live/work unit.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0256

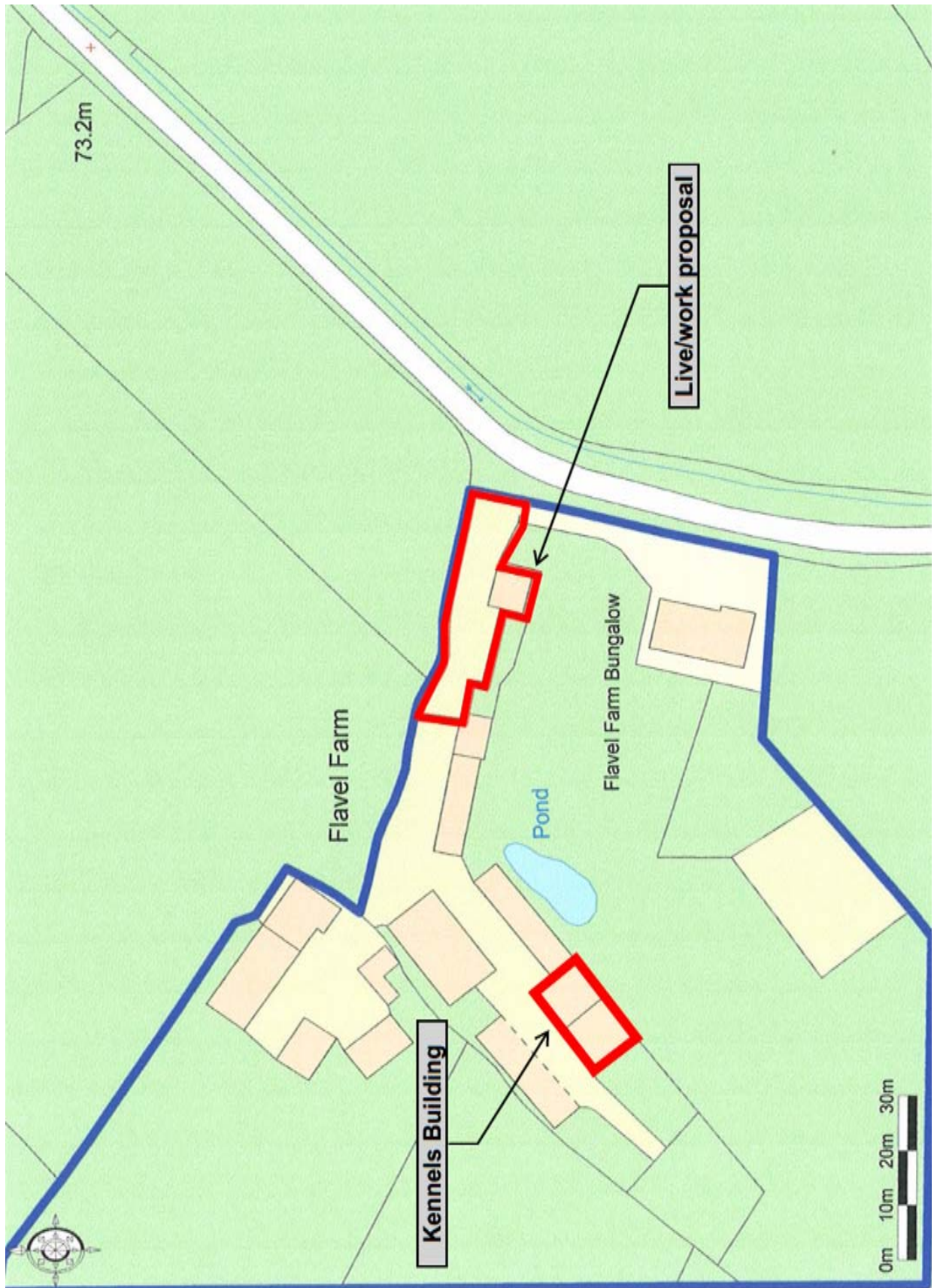
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	11/05/2012 23/09/2012
2	County Highway Authority	Consultation reply	30/05/2012
3	Environmental Health Officer	Consultation reply	07/06/2012
4	Paul Rhodes Rural Land Consultant	Agricultural appraisal	31/07/2012
5	Agent	Email to Case Officer	13/09/2012
6	Agent	Email to Case Officer	14/09/2012
7	Agent	Emails to Case Officer	17/09/2012
8	Case Officer	Email to Agent	18/09/2012

Planning Application No: PAP/2012/0257

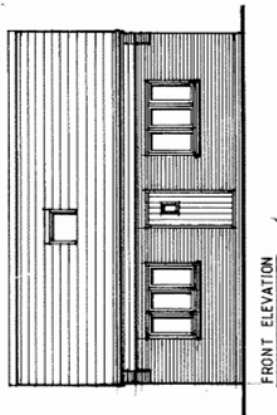
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	11/05/2012
2	Environmental Health Officer	Consultation reply	23/05/2012
3	County Highway Authority	Consultation reply	30/05/2012
4	Environmental Health Officer	Consultation reply	19/06/2012

*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.*

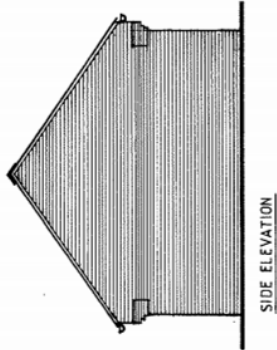
*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*



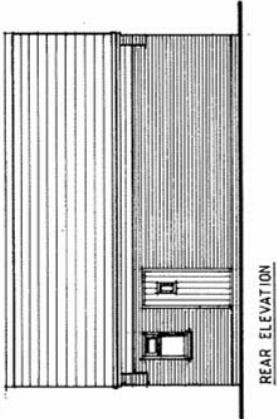
PAP/2012/0256



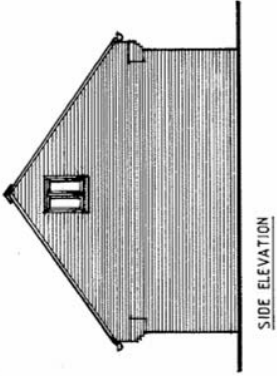
FRONT ELEVATION



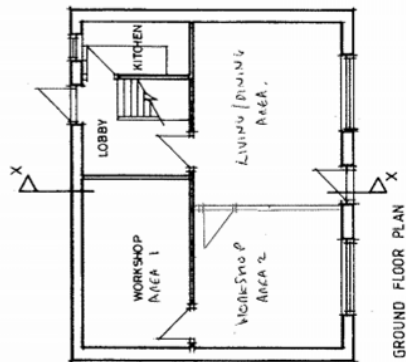
SIDE ELEVATION



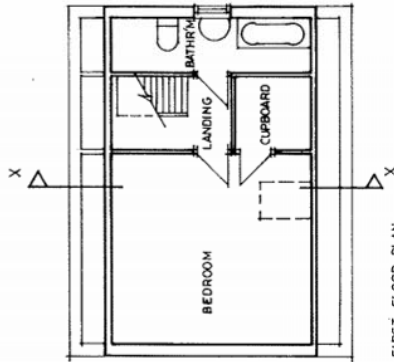
REAR ELEVATION



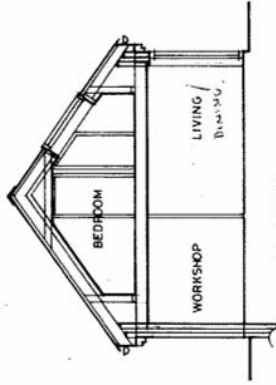
SIDE ELEVATION



GROUND FLOOR PLAN



FIRST FLOOR PLAN



SECTION XX

PROJECT	FLAVEL FARM, WARTON LANE, AUSTREY LIVE WORK UNIT
CLIENT	ANDREW LARGE SURVEYORS
DRAWING	PLANS ELEVATIONS AND SECTION
 GREEN SIDE UP ARCHITECTURAL AND LANDSCAPE DESIGN CONSULTANTS <small>Green Side Up, Upper Station Drive, Strick, Essex, SS24 4EQ, Tel: 01275 336660</small>	
SCALE	1:100
DATE	28.4.12
DRAWING NUMBER	FLF EXP 001
REV	A

NORTH WARWICKSHIRE  
 BOROUGH COUNCIL  
**RECEIVED**  
**19-Sep-12**  
 PLANNING & DEVELOPMENT  
 DIVISION



I certify this to be a true copy of the original, which has been seen by me.

Annie Ryan  
Solicitor  
North Warwickshire  
Borough Council

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT, 1990

4/9/06.

## ENFORCEMENT NOTICE – MATERIAL CHANGE OF USE

Issued by: NORTH WARWICKSHIRE BOROUGH COUNCIL

1. THIS IS A FORMAL NOTICE which is issued by the Council because it appears to them that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations.
2. THE LAND AFFECTED  
Building at Flavel Farm  
at Warton Lane, Austrey, North Warwickshire.  
[shown edged red on the attached plan].
3. THE BREACH OF PLANNING CONTROL ALLEGED  
Without planning permission the change of use of the building (as indicated approximately on Plan 2).  
from saddlery workshop  
to a mixed use comprising saddlery workshop and residential accommodation.
4. REASONS FOR ISSUING THIS NOTICE  
It appears to the Council that the above breach of planning control has occurred within the last ten years.  
The continued use of the building for a mixed use comprising saddlery workshop and residential accommodation is considered unacceptable for the following reason:  

The owner of the site has not justified the re-use of the storage space above the workshop for residential purposes in relation to the sequential test imposed by ECON 12 - Re-use Of Rural Buildings, of the North Warwickshire Local Plan, July 2006. The space would be more appropriately used for storage of material and equipment in relation the existing business.
5. WHAT YOU ARE REQUIRED TO DO
  - i. Cease the residential use of the building.

6. TIME FOR COMPLIANCE

Six months from when this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 9<sup>th</sup> October 2006

unless an appeal is made against it beforehand.

Dated: 4<sup>th</sup> September 2006 Signed *Shri R. Anni*

Designation *Solicitor to the Council*

The Council's authorised officer

*Address to which all communications should be sent:-*

The Solicitor to the Council  
North Warwickshire Borough Council  
PO Box 5  
The Council House  
South Street  
Atherstone  
Warwickshire  
CV9 1BD

**YOUR RIGHT OF APPEAL**

You can appeal against this notice, but any appeal must be in writing and received, or posted in time to be received, by the Secretary of State before 9<sup>th</sup> October 2006.

The enclosed booklet "Enforcement Appeals - A Guide to Procedure" sets out your rights. Read it carefully. You may use the enclosed appeal forms. One is for you to send to the Secretary of State if you decide to appeal. The other is for you to keep as a duplicate for your own records. You should also send the Secretary of State the spare copy of this enforcement notice which is enclosed.

Your appeal should also outline the grounds on which that appeal is to be made. The grounds of appeal are explained in the booklet. Each ground of appeal should be accompanied briefly by the facts that support that ground. If the grounds of appeal are not sent in writing at the time of appeal, then they should be provided within fourteen days of any written request by the Secretary of State.

You are also reminded that under Regulation 10 of the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989, a fee of, £530 is payable for the

deemed planning application for the development alleged to be in breach of planning control on the Enforcement Notice. Half of the fee will be payable to the Council and half will be payable to the Planning Inspectorate (payable to the Office of the Deputy Prime Minister). If you appeal against this enforcement notice the Planning Inspectorate will inform you when the fee should be paid.

*continued overleaf*

***WHAT HAPPENS IF YOU DO NOT APPEAL***

If you do not appeal against this enforcement notice, it will take effect on 9<sup>th</sup> October 2006, and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

This Notice has been served on the following:

Ms Catherine Pegg, Flavel Farm, Warton Lane, Austry, North Warwickshire, CV9 3EJ

North Warwickshire  
Borough Council

North Warwickshire  
Borough Council

**Enforcement: Building at Flavel Farm  
Warton Lane  
Austrey**

Scale: 1:2500    Date: 31.07.06    File No.    Drawn By: J.S.



Assistant Director  
(Planning)

**North Warwickshire Borough Council**  
Directorate of Housing & Environment  
PO Box No. 6  
The Council House  
South Street  
Atherstone  
Warwickshire CV9 1BG  
Telephone (01827) 715341

RECEIVED  
North Warwickshire  
Borough Council  
- 6 SEP 2006

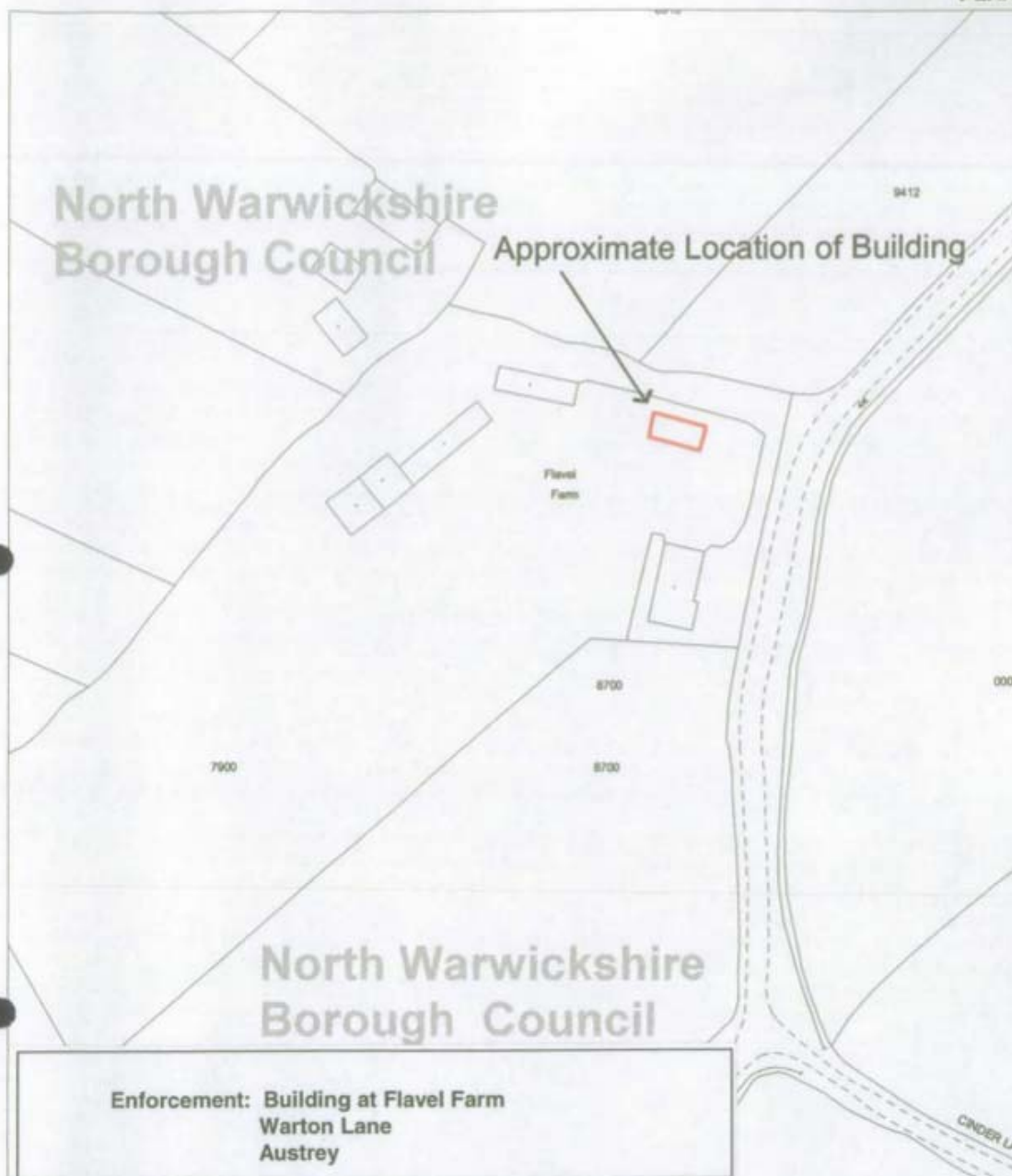


Reproduced from the Ordnance Survey Mapping with the permission of the Controller of Her Majesty's Stationary Office.  
(c) Crown Copyright. North Warwickshire Borough Council - Licence No. 100017910.  
Unauthorized reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.



North Warwickshire  
Borough Council

Approximate Location of Building



**Enforcement: Building at Flavel Farm**  
Warton Lane  
Austrey

Scale: 1:1250	Date: 31.07.06	File No.	Drawn By: J.S.
---------------	----------------	----------	----------------




Assistant Director  
(Planning)

**North Warwickshire Borough Council**  
**Directorate of Housing & Environment**  
 PO Box No. 6  
 The Council House  
 South Street  
 Atherstone  
 Warwickshire CV9 1BG

Telephone (01827) 715341

RECEIVED  
 North Warwickshire  
 Borough Council  
 - 6 SEP 2006



Reproduced from the Ordnance Survey Mapping with the permission of the Controller of Her Majesty's Stationery Office.  
 (c) Crown Copyright, North Warwickshire Borough Council - Licence No. 100017910.  
 Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

**(6) Application No: PAP/2012/0297**

**Land At Rowland Way, Rowland Way, Atherstone, CV9 2SQ**

**Residential development for 88 dwellings with associated areas of landscaping and open space, for**

**Redrow Homes Midlands**

**Introduction**

This application is reported to the Board for determination because it involves a legal Agreement, and because it is for major development not in accordance with the Development Plan.

**The Site**

The site has an area of some 3.03 hectares of land and comprises two fields which are presently utilised as grazing land. The site is located on the edge of Atherstone and some 1.5 km from its town centre. The site is bounded by Rowlands Way to the south, Old Holly Lane to the west, a commercial nursery gardens to the north and a private residential estate (Fielding Close) to the east. The Innage Brook runs along this eastern boundary with Fielding Close. The boundary hedgerows will be retained. The nearest bus stop is some 350 metres away in St Georges Road.

**The Proposal**

Some 2.31 hectares of land would be developed to erect 88 dwellings with associated roads and parking.

The 88 dwellings would comprise:

- Ten two-bed two-storey affordable houses to be transferred to a Registered Social Landlord;
- Sixteen three-bed two-storey affordable houses to be transferred to a Registered Social Landlord;
- Eight two-bed two-storey market houses;
- Twenty six three-bed two-storey market houses; and,
- Twenty eight four-bed two-storey market houses.

To the east of the site and so adjoining the properties in Fielding Close and the Innage Brook, an area of open space would be provided as an Attenuation Area and a footpath will be provided to access the land to the north. This area of open space comprises some 0.69 hectares and will be managed by a Management Company.

The development would utilise and upgrade the existing access into the site off Rowland Way and use the remaining access as an emergency access/pedestrian access onto Rowland Way.

The following documents accompanied the planning application:

- Planning Statement (including Statement of Community Involvement);
- Design and Access Statement;
- Transport Assessment;
- Flood Risk Assessment and Drainage Strategy;
- Noise Assessment;
- Phase 1 Geo-Environmental Assessment;
- Landscape and Visual Assessment;
- Arboriculture Assessment;
- Ecology Assessment; and
- Archaeology Assessment.

A Draft Section 106 Agreement has been suggested with the following heads of terms:

- i) A £152,582.55 Open Space Contribution towards upgrading Formal Open Space Provision in Atherstone;
- ii) A 30% On-Site Affordable Housing to be transferred to a Registered Social Landlord;
- iii) A £523,600 Off-Site contribution towards 10% Affordable Housing to be provided on Council owned sites in Atherstone,
- iv) A Management Agreement for maintenance of the on-site open space, the flood attenuation area, the SUDs system, the western bank of the Innage Brook and the channel up to the centre of the watercourse, and the provision of a wetland habitat.

## **Background**

Planning permission was granted in 2002 for the retention of a wooden shelter to keep horses on the site.

Redrow Homes undertook a public consultation prior to submitting the application in May 2012.

## **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 - Core Policies 2 (Development Distribution), 8 (Affordable Housing) and 12 (Implementation) and policies HSG2 (Affordable Housing), HSG4 (Densities), HSG5 (Special Needs Accommodation), ENV1 (Protection and Enhancement of Natural Landscape), ENV4 (Trees and Hedgerows), ENV8 (Water Resources), ENV10 (Energy Generation and Energy Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations in New Development), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking)

Regional Spatial Strategy - Policies CF5 (Delivering Affordable Housing and Mixed Communities), QE3 (Creating a High Quality Built Environment for All), QE4 (Greenery, Urban Green Space and Public Spaces) and QE9 (The Water Environment)

## **Other Relevant Material Considerations**

Emerging Core Strategy in the Proposed Submission – Policies NW1 (Settlement Hierarchy), NW3 (Housing Development), NW4 (Split of Housing Between Settlements), NW5 (Affordable Housing), NW8 (Sustainable Development), NW9 (Renewable Energy and Energy Efficiency), NW10 (Quality of Development), NW11 (Natural and Historic Environment), NW12 (Nature Conservation), NW13 (Green Infrastructure), NW15 (Atherstone) and NW19 (Infrastructure).

The North Warwickshire Borough Council Green Space Strategy

The National Planning Policy Framework 2012

The New Homes Bonus

## **Consultations**

Environmental Health Officer – He agrees with the findings of the submitted noise assessment in that some mitigation measures will be required to enable a good standard of living accommodation at the site. Standard double glazing will offer sufficient noise attenuation in certain rooms, however, the report shows that there will need to be higher specification acoustic double glazing in habitable rooms, capable of sound reduction of up to 29dB in some cases. These details will need to be provided and so a planning condition should be attached to any consent granted. In addition to this, the EHO recommends that a boundary wall of some 1.8 to 2 metres should be provided to give greater protection. Specific details of the proposed noise barrier and brick wall will need to be provided and so again a planning condition should be attached.

Warwickshire Fire and Rescue Service – No objection to the scheme subject to the imposition of a planning condition requiring further details of the water supply and fire hydrant points to be provided for fire fighting purposes.

Severn Trent Water Ltd – No objection to the scheme subject to the inclusion of a planning condition requiring additional details of the disposal of surface water and foul water drainage.

Environment Agency – No comments received

Nuneaton and Bedworth Borough Council – The Council confirms that an application was received from Redrow Homes to vary a legal agreement of more than five years old for a housing scheme in Tuttle Hill. The developers purchased the site in 2006 and began constructing a successful challenging housing scheme. The original scheme included the filling of a void adjacent to the quarry and the construction of a retaining structure which have exceeded the original estimates of £7 million. The obligations along with the increased costs on the site it was argued had made the development completely unviable. Officers negotiated on-site shared equity housing and £300,000 of off-site contributions which were accepted by Members at Committee. The reason for this consultation will become apparent from reading one of the representations received, and it is referred to in the Observations section below.



Warwickshire County Council Asset Strategy Manager – Sufficient places are available at local schools to meet the demand from this residential scheme.

Warwickshire County Council's Finance Officer – Requests a contribution towards the Library Services in Atherstone of £14,679. Officers have requested the evidence to justify how this figure is directly related to this proposal.

NHS Coventry and NHS Warwickshire – Requests a contribution of £99, 052 towards primary healthcare provision and the costs of running those facilities. Officers have requested the evidence to justify how this figure is directly related to this proposal.

Building for Life Assessor – considers that the scheme generally performs well in environment and community, character and streets, parking and pedestrianisation sections. There are considered to be opportunities which are missed in each of these sections in particular the lack of forward thinking to any future developments to the north and the lack of renewable energy provision. It is recommended that more detail and amendments are made so that the scheme can achieve the Gold (16/20) status as its present status is 12.5/20.

Warwickshire Police – Confirms that the Police do not object to this planning application but wish to make recommendations to assist in keeping this development as crime free as possible: where rear access to multiple rear gardens is provided then the gates provided need to be lockable; the parking area behind plots 20-22 needs to have more surveillance and to have lighting.

Forward Planning and Economic Strategy Team – Requires a contribution to be made towards off-site open space provision. It is agreed that 0.69 hectares of informal open space will be provided on the site, however, in light of some of this site being used as a Flood Attenuation Area, not all of it will be usable space during various times of the year. A contribution of £152,582.55 is required for the upgrading of Children and Young People's Open Space and Sports Pitches at Race Meadow Recreation Ground to accommodate the additional people generated by this development.

Housing Strategy and Development Officer – Agrees that 30% of affordable housing should be provided on the site and accepts that £523,600 will be a sufficient contribution to develop three sites at Princess Road, St Georges Road and Lister Road with the remaining 10% off-site affordable housing. He confirms that the Council would expect to have spent this money within a five-year period.

Highways Authority – No objections to the scheme provided conditions are attached to any consent granted to cover: visibility splays; the provision of a 2 metre wide footway link along Gypsy Lane; and suitable measures to prevent mud and spoil entering the highway. The developer is required to contribute £50 per dwelling for sustainable welcome packs and to help promote sustainable travel in the local area.

Warwickshire County Council as Land Drainage Authority – confirm that they are satisfied with the Flood Risk Assessment and Drainage Strategy as submitted, but wish to make further comments on the detailed design and accept that this can be dealt with by way of a planning condition. The developer is proposing that a Management Company take on the responsibility of the sustainable drainage arrangements on-site and this should be included in the Section 106 Agreement along with an inspection and maintenance plan for the balancing pond and open space area.

## Representations

Atherstone Town Council – States that they are pleased that quality development is coming to Atherstone. However, they do express concerns that the present facilities such as community buildings, nursery accommodation, dentists and doctors are not keeping pace with the development already seen in Atherstone, through non application of suitable 106 provisions. They agree that 40% affordable housing provision is necessary in the town, however, they wish for this affordable housing to be pepper-potted and for some of this provision to be provided off-site and closer to the town for elderly person's accommodation.

They further state that such a housing scheme should be a showcase example reflecting the countryside nature of the surroundings in this part of Atherstone and that they are not totally convinced that the present design achieves this ambiance with the vernacular.

Atherstone Civic Society – Considers that the scheme is well-designed and well located. They welcome the provision of larger family homes and also affordable housing for young people who find it difficult to buy a home of their own.

Eight letters of objection and a petition signed by 39 residents from Fielding Close, Willday Drive, Northcote Walk and River Drive have been received objecting to the scheme for the following reasons:

- Flooding – they have significant and major concerns about the increased risk of flooding to the properties in River Drive and Fielding Close if this development is approved , because of the amount of surface water drainage which is already discharged to the Innage Brook
- Anti-social behaviour – the Flood Attenuation Area will attract children
- Encroaching into a Rural Area – The scheme will lead to more buildings in this area and will destroy the rural character of the area. The rural life in this area has already been destroyed by the Aldi and TNT schemes and the industrial sites off Abeles Way and Sheepy Road
- Lack of Supporting Facilities – there are not enough schools in the area or doctor's surgeries or employment or facilities for young children or emergency services. Redrow has already failed to complete an agreement to provide community facilities for the site they are developing in Tuttle Hill, Nuneaton.

Two further letters of objection have been received based on the amended plans submitted. The authors maintain their previous objections to the housing scheme for the following reasons:

- Flooding – over the last 25 years they have observed a change in the amount of water in the Innage Brook which has changed from a “gentle trickle” to a “raging torrent.” Building houses in the floodplain should not be allowed. Will the Council maintain the Flood Alleviation Scheme and the Innage Brook? They want reassurances that if they are flooded as a result of this housing scheme then Redrow Homes and NWBC are held accountable for this.
- The site is totally unsuitable for housing as it is adjacent to two large warehouses which operate intensively 24 hours a day. The Council needs to consider the impact of diesel fumes on young children and the potential for a cancer “cluster” in years to come.

- The new plans do not address the obvious increase in light pollution, loss of light or privacy issues or the reduction in the quality of life for residents in Fielding Close.
- Is the land to the North going to be developed as well? Why is there a need for a potential access to this land to the North?
- We want the Council to accept liability if our properties do flood in the future.

Aldi Foodstores – They have submitted a holding objection to the proposal. They own the land to the south of Rowland Way which is allocated in the Local Plan for employment purposes. Further reference is made in the Emerging Core Strategy to the allocation of this site for Aldi's purposes. They wish to ensure that the development of their site will not be jeopardised by approving a residential scheme on the opposite side of the road from noise issues and traffic generation.

## **Observations**

### **i) Introduction**

There are a significant number of issues involved here, not least that the proposal is on land outside of the current Atherstone development boundary. Whilst this application may therefore appear to be a likely candidate for refusal of planning permission, Members will understand immediately that there are two other material planning considerations that will have a bearing on the determination of this application – namely the emerging Core Strategy that will replace the Local Plan and the Government's new National Planning Policy Framework (NPPF). The Board will need to examine these two other considerations and assess what weight they should carry in balancing the merits of the proposal against the policies of the present Local Plan. It is therefore proposed to deal with the matter of principle first before examining the many detailed planning considerations that arise as a consequence of the proposal.

### **ii) The Principle Issue**

The site lies outside of the Development Boundary for Atherstone as identified in Saved Core Policy 2 (Development Distribution) in the North Warwickshire Local Plan 2006. The Development Boundary for Atherstone does abut the eastern, southern and western boundaries of the site and so the site is located on the edge of the Development Boundary.

Saved Core Policy 2 does state that outside the development boundaries and except where other policies of the Plan expressly provide, development will be limited to that requisite for agriculture, forestry or other uses that can be shown to require a rural location. The proposal is for residential development which would be contrary to this Policy. The North Warwickshire Local Plan, having been adopted after the 2004 Act, does carry significant weight during the one-year transition period allowed under the NPPF because of its consistency with the NPPF. The justification for Core Policy 2 is that the primary planning policy in North Warwickshire is one of sustainable development. It goes on to state that the land within the Development Boundaries has been found (and the results validated by Consultants) to be in sustainable locations. As the whole thrust of the NPPF is grounded on the "golden thread" of sustainable development, it follows that Core Policy 2 is in compliance with the NPPF and it thus carries significant weight.

However the NPPF continues by stating that Local Planning Authorities should be able to demonstrate that they have a five year housing land supply, with at least a 5% buffer. It is agreed by the applicant and officers that a five-year housing land supply plus 5% cannot be demonstrated in North Warwickshire at the present time. The applicants' figure of this land supply suggests a figure of 3.59 years. This is disputed as the Annual Monitoring Report for 2010/11 demonstrates that the current housing land supply in North Warwickshire is 4.46 years.

The Draft Pre-Submission Core Strategy has recently been out to public consultation and seeks to deliver 3,800 (net) dwellings over the Plan period 2006-2028. Paragraph 216 of the NPPF suggests that the policies and proposals in an emerging Core Strategy are also of relevance in the determination of planning applications. Indeed, following the consultation exercise, the Policies in the emerging Core Strategy are now gathering weight. Policy NW1 continues with the existing settlement hierarchy which focuses development towards the market towns. The text does include reference to necessary amendments being made to settlement boundaries in a later Development Plan Document. Policy NW4 further goes on to state that the main market town of Atherstone/Mancetter will be required to provide a minimum housing figure of 600 dwellings. Policy NW15 (Atherstone) expands on this figure by stating that development on sites inside the development boundary will be pursued, but it is recognised that in order to maintain a five year housing supply, growth may need to take place beyond its current boundaries. This draft policy states that further growth will be directed beyond the current development boundary to the north-western area of Atherstone.

The above policies formed part of the Draft Pre-Submission Core Strategy and so it is important to assess the consultation responses which were received in this document's consultation process during August 2012 – particularly in respect of draft policy NW15. There was support for these policies from Redrow Homes and Bloor Homes in conjunction with the Merevale Estate. Atherstone Town Council did not object to the contents and wished to seek a prestige office development in the area around Holly Lane and the A5. English Heritage did object to this Policy on the grounds of the lack of an adequate assessment of the impact on the historic environment if the north-western area of Atherstone was developed. There were no letters of objection received from members of the public to this Draft Policy.

Draft Policy NW8 (Sustainable Development) states that development should meet the needs of residents and businesses without compromising the ability of future generations to enjoy the same quality of life that the present generation aspires to. The site lies in a sustainable location and the emerging Core Strategy identifies land to the north west of Atherstone as being the likely area to accommodate the additional housing growth required in Atherstone and Mancetter. Apart from English Heritage's concerns that the historic environment may be impacted upon (concerns which would not relate to this development site as there are not any historic buildings or monuments within the vicinity of the site) there has not been any objection received during the consultation exercise on the Draft Core Strategy to Policy NW15. The Council has now considered all the representations received on this and has agreed not to vary the approach taken in Policies NW1, NW4 and NW15.

Notwithstanding the location of the site presently outside of the defined development boundary, it is accepted that the Borough cannot demonstrate a five-year housing land supply which is a material consideration of significant weight. Additionally, the application site is clearly within the general direction agreed for future residential development in Atherstone as identified in emerging policy. That policy is now gathering weight. Moreover, the NPPF states that Local Planning Authorities should approach

decision-taking in a positive way to foster the delivery of sustainable development and to seek solutions to the management of new development proposals rather than just seeking possible reasons for refusal. These three factors are material planning considerations of substantial weight and given that the site itself lies on the very edge of the existing defined development boundary it is concluded that these considerations carry enough weight to override the present Local Plan position. As such, it is concluded that provided other issues are addressed with the development of this site, the principle of this residential scheme can be supported.

### **iii) Affordable Housing**

Saved Local Plan Policy HSG2 (Affordable Housing) states that in Atherstone and Mancetter a target of 40% of affordable housing will be sought in all developments that exceed a site area of 0.5 hectares. Emerging Policy NW5 in the Draft Pre-Submission Core Strategy states that a target of 40% of dwellings completed in the plan period will be in the form of locally affordable housing achieved through on-site contributions and/or financial contributions and/or land. The layout plan submitted states that 30% of the housing units will be given over to a Registered Social Landlord (RSL). A financial contribution of £523,600 towards off-site provision is proposed to make up a further 10%. This will go to the development of Council owned sites in Atherstone for elderly persons' accommodation. This contribution would form the basis of a Section 106 Agreement.

The mix of affordable housing to be provided on site would be a combination of two and three-bedroom units. The Section 106 Agreement would seek to ensure that they are disposed of to an RSL and that the mix of tenures is 70% rented accommodation, being all of the two-bedroom units and eight of the three-bedroom units, with the remaining 30% being shared ownership.

In light of the above, the scheme is considered to comply with affordable housing policies in the Development Plan and the emerging Core Strategy.

### **iv) Flooding**

The eastern section of the site lies within Flood Zones 2 and 3 of the Innage Brook. Saved Local Plan Policy ENV8 (Water Resources) states that the water resources of the Borough will be safeguarded and enhanced, and development will be protected from floodwater by applying the sequential test approach; by ensuring that new development has satisfactory surface and foul water drainage systems and not permitting development that would prevent maintenance access to watercourses. Technical Guidance on Flood Risk in the NPPF has replaced the guidance referred to in Policy ENV8, namely PPS25. This Technical Guidance follows on the theme of Saved Policy ENV8 in that inappropriate development (particularly residential) in areas at risk of flooding should be avoided, by directing development away from areas at highest risk. This Technical Guidance is a material consideration of significant weight as being up-to-date Government Guidance on flooding.

Within the Guidance, Sequential Tests are used to steer new development to areas with the lowest probability of flooding. Zone 1 comprises land assessed as having the lowest probability of flooding being less than 1 in 1,000 year annual probability of river flooding. All of the 88 dwellings proposed along with all associated roads and gardens are located within Zone 1. The Technical Guidance further goes on to state that a Flood Risk Assessment is required for schemes exceeding one hectare. An Assessment has been submitted with this application. The policy aims in the Technical Guidance state

that in Flood Zone 1, “developers and local authorities should seek opportunities to reduce the overall level of flood risk in the area and beyond, through the layout and form of the development and the appropriate application of sustainable drainage systems.”

Following concerns raised by residents relating to the flood risk and drainage aspects of developing this site for housing, the applicant’s agents have responded to the points of concern raised in their letter of 27 July 2012. As raised above, none of the new dwellings will be located within Flood Zones 2 and 3 which have the highest probability of flooding. It is acknowledged that the housing in Fielding Close, Northcote Walk and River Drive are located within Flood Zones 2 and 3 where dwellings are located within 14 metres of the Innage Brook compared to the housing scheme the subject of this application where the closest property will be some 40 metres from the Brook. As stated in the Technical Guidance it is NOT for this scheme to remove areas already located within the floodplain of the Innage Brook which in this case would be the housing in Fielding Close, Northcote Walk and River Drive. The policy aim of the Technical Guidance is to seek opportunities to reduce the overall level of flood risk in the area and beyond through the layout and form of the development and the application of sustainable drainage systems (SUD).

The layout of this housing scheme shows some 0.69 hectares of land will remain undeveloped alongside the Brook. This will become a Flood Attenuation Area and will be clear of any development. Being the riparian owners of this western bank, then under the Land Drainage Act 1991 it will be the responsibility of the landowner to maintain this watercourse to the centre of its channel. Maintenance of the Innage Brook from the western boundary can be achieved through leaving this area clear unlike its riverbank on the eastern bank where residential gardens and associated close boarded fences form the majority of its channel and so maintenance is extremely difficult. The wording in the Section 106 Legal Agreement to accompany this planning application will ensure that this area of open space is maintained by a Management Company appointed by Redrow Homes. Its responsibilities will include ensuring that this western bank and into the centre of the channel is free of obstructions and that the Flood Attenuation Area works to its maximum capacity through regular maintenance of this area and of the SUDs scheme proposed.

Indeed, through the existence of this large open area for the Flood Attenuation basin, the existing floodplain of the Innage Brook will be preserved. As per the requirements of the Technical Guidance, the surface water drainage system from the housing scheme has been designed to store and hold back surface water run off from rainfall events. The Flood Attenuation Basin has been designed to hold an additional 30% of storage as a precautionary value to allow for climatic change. The SUDs system has been designed to store and release surface water runoff at a green field runoff rate of 5.7 l/s into the Innage Brook which provides significant betterment over the existing system, where the rainfall falling onto this undeveloped site is not controlled. Presently in high rainfall events this would yield a higher surface water runoff rate from the site. Even through rainfall events where the ground is saturated, the scheme is designed to hold back flows and discharge to the Innage Brook at a rate of 5.7l/s.

Warwickshire County Council is the Lead Authority for non-main rivers such as the Innage Brook. It has no objection to the drainage scheme proposed provided terms of maintenance can be included in the Section 106 Agreement to ensure that the Flood Attenuation Basin, the SUDs system and the western bank of the Innage Brook are regularly maintained.

Based on the above, although reassurances cannot be given to existing residents located within the floodplain of the Innage Brook that their properties will no longer experience a flood event, the design of the proposed scheme will ensure that any flood event will involve less water than if this site was not developed through the increased storage capacity of this Flood Attenuation Basin and through restricting the rate of discharge into the Innage Brook. Maintenance of this watercourse will also increase its channel capacity. None of the new dwellings proposed should experience any flooding due to their distance from the Innage Brook and their location within Zone 1.

In light of the technical advice above it is considered that although part of the site lies within Flood Zones 2 and 3, the layout and design of this scheme fully complies with the Government's Technical Guidance in the NPPF on flooding. As such, through the use of planning conditions and a Section 106 Agreement, the long-term management of this site can be controlled to ensure that this is the case.

#### **v) Highways**

A Transport Assessment has been submitted for the scheme as required under Saved Local Plan Policy TPT1 (Transport Considerations in New Development). The proposal is for the two existing accesses onto Rowland Way to be utilised. The access to the north-west will become the main vehicular access with that closest to the Innage Brook becoming an emergency and pedestrian access. In addition to this, Redrow Homes propose to install a two metre wide footway link with street lighting along Gypsy Lane in places where this is missing. The intention is to improve this footway link into the town.

The Highway Authority has no objection to the scheme as submitted provided that standard planning conditions are included.

In respect of the objection received from Aldi, the Highway Authority has stated that although the employment land may be allocated, any prospective applicant will still need to demonstrate that the impact on the highway network can be accommodated and appropriately mitigated. On this point, the allocation does not specify a position for the access onto the Aldi land and it is likely that an access would in fact be onto Holly Lane rather than Rowland Way.

In light of the advice from the Highway Authority it is considered that the proposal accords with the relevant transport local plan policies.

#### **vi) Noise**

Saved Local Plan Policy ENV9 (Air Quality) requires that development will not be permitted where the occupants of noise-sensitive uses would experience significant noise disturbance. The site lies to the north and east of existing and proposed employment sites. The Environmental Health Officer agrees with the findings of the noise assessment submitted with the application. He does however wish to reserve an assessment on the impact of the allocated land to the south. The applicant has undertaken further work in this respect and thus the officer's observations will be reported verbally to the Board. The conclusions arising from the existing assessment give rise to mitigation measures including a brick wall along the garden boundary of the proposed houses with Rowland Way and acoustic double glazing being installed in front facing windows. It is highly likely that these measures will need to be extended over a wider area as the outcome from the receipt of the further work referred to above. In these circumstances, it is considered that the use of the recommended mitigation

measures will overcome potential noise disturbance arising from the nearby commercial areas. There are no issues from the Environmental Health Officer arising from air quality matters.

#### **vii) Nature Conservation**

Saved Local Plan policies ENV3 (Nature Conservation) and ENV4 (Trees and Hedgerows) seek to retain and to enhance areas of nature conservation value. It is presently low grade pasture being used for horses. Objections have been received indicating that there is a variety of wildlife in the area. The application was accompanied by a Landscape and Visual Assessment; an Arboricultural Assessment, an Ecology Assessment and an Archaeological Assessment. The North Warwickshire Landscape Character Assessment locates the site being within an area of low sensitivity around the periphery of the town and describes the corridor of the Innage Brook as being well vegetated and separated by modern residential properties, a field used for horse grazing and a new road with young unmanaged hedges. The Ecology survey concludes that there are no habitats of any protected species located on the site. The area of open space will be managed so as to encourage wildlife and the basin can be designed to permanently contain a small amount of water to create a wetland area. The layout seeks to retain all of the existing hedgerow boundaries. Coupled with the creation of the wetland area, which can be covered through the 106 Agreement, it is considered that the habitat value of the area should be enhanced over the existing, and thus the proposals would accord with both of the policies referred to in opening.

#### **viii) Loss of Amenity**

Saved Local Plan Policy ENV11 (Neighbour Amenities) requires that residents should not experience a loss of amenity through overlooking or loss of privacy. The nearest residential property is some 56 metres from the existing houses in Fielding Close, and are separated by the area of proposed open space. As Members are aware, the loss of a view and the loss of house value are not planning considerations. As far as the internal layout is concerned then none of the future properties are likely to experience material loss of amenity because of the separation distances involved. It is considered that there is no reason for refusal here based on this Local Plan policy.

#### **viii) Urban Design**

Saved Local Plan Policy ENV12 (Urban Design) requires all of the elements of a proposal to be well related to each other and to harmonise with both the immediate setting and the wider surroundings so as to present a visually attractive environment. The site layout seeks to develop around 74% of the site with the balance being public open space. The density is 38 dwellings to the hectare and all are two storey units with both front and rear gardens. The scheme thus reflects nearby estates. The Civic Society describes the layout as well designed too. The Building for Life Assessment and the Police also agree that with amendments, the layout is well laid out and designs out crime. A planning condition can pick up on the proposed amendment – namely the design of the parking area in the north-west of the site. Based on these matters, it is considered that this policy has been met.



### **ix) Potential to Develop Land to the North**

Emerging Policy NW15 of the Pre-Submission Core Strategy (Atherstone) states that further growth of the Atherstone and Mancetter area, outside of the current boundaries, will be focused in the broad direction of the north-west of the settlement. The land at Durno's Nurseries has been put forward as a potential housing site to be considered within the forthcoming Site Allocations DPD. There is concern that consideration of this current application in advance of a comprehensive development brief for the north-west of Atherstone could jeopardise the delivery of a much wider area of land. The applicant points out that proposed connections – a footpath link and continuation of the open space would not lead to the problem as envisaged. The Highway Authority has indicated that the proposed access off Rowland Way is designed so as to accommodate additional capacity and that other alternative access points off Old Holly Lane and the Sheepy Road are also likely to become available. As such it is not considered that the present proposal would be pre-mature in respect of prejudicing the future development potential of a significant area of land, should this be required at a later date.

### **x) Energy Generation**

Saved Local Plan policy ENV10 (Energy Generation) requires that 10% of the energy used by this scheme is generated on site through renewable energy. The applicant's Energy Statement proposes the installation of PV cells on 55 of the plots. This can be required by condition and would satisfy the policy requirement.

### **xi) The Section 106 Agreement**

Saved Local Plan Core Policy 12 and Emerging Policy NW19 of the Pre-Submission Core Strategy (Infrastructure) state that the Council's policies and proposals will be implemented by working in constructive partnership with funding agencies and service providers in order to secure the key priorities of affordable housing, protection and enhancement of the environment, the provision of necessary services, facilities and infrastructures to meet the demands of new development to include open space and the provision of training.

Members will be aware of the changes in planning legislation affecting Section 106 Agreements and particularly the introduction of the Community Infrastructure Levy (CIL). In short, the remit of Section 106 Agreements has been sharply curtailed and there are now statutory tests for contributions. Such Agreements can however still relate to the provision and delivery of affordable housing.

Dealing with affordable housing provision first, then the Council's 40% policy requirement is met with this proposal. Additionally the Council has an adopted SPD on the provision of and contributions towards affordable housing delivery. There is 30% on-site provision with this proposal, and a financial contribution equivalent to the remaining 10%, so that this can be provided off-site. This amounts to £523,600. This will assist in the implementation of elderly housing accommodation in Atherstone. Planning applications have already been submitted for bungalow developments at Princess Road (elsewhere on this Agenda) and for St. George's Road. The Housing Officer acknowledges the significance of this contribution and welcomes the full 40% provision.

Members are familiar too with the need to deal with the direct impact of new development in enhancing amenity and recreation space off-site, if there is no on-site provision to be made. Here, whilst there clearly would be some amenity space provided, there is no formal play or recreation provision. The Council has an adopted Green Space Strategy and an associated draft SPD dealing with contributions. The applicant has agreed that in line with the SPD, a contribution of £152,582 is applicable for upgrading formal open space provision in the town.

Members will have noted the other requests for contributions. These will not be followed through in a Section 106 Agreement. Firstly there is no direct evidence linking the requests to the application; there is no adopted or agreed policy on how such contributions can be expended, and the Council has as yet, no Infrastructure Delivery Plan. These requests are more appropriately dealt with through the CIL procedures and will apply if the Council proceeds to become a Charging Authority. At the present time these requests fall outside of the new legal requirements of Section 106.

The Agreement will contain a clause relating to the management of the on-site open space and the flood attenuation area for use by members of the public.

## **xii) Other Material Considerations**

In addition to the above, a material consideration is the amount of New Homes Bonus that such a residential scheme would attract. This has limited weight in the assessment of this application as there are direct planning policy requirements of far more substance that already support the grant of planning permission here. In other words, the recommendation below would still have been the same without the existence of this Bonus.

The NPPF aims to ensure that the local community is involved in development schemes. In accordance with the Council's arrangements for pre-application advice the applicants undertook pre-application consultations with officers of the Council and with local residents prior to the submission of the application.

One of the objectors referred to the current applicants dealings with the Nuneaton and Bedworth Council in respect of Section 106 Agreements. The consultation response from Nuneaton included above was requested from that Authority for clarification because of the suggestion made in the objector's remarks. This objection carries no weight in the determination of this current application.

## **xiii) Conclusions**

The site is outside of the development boundary for Atherstone, and thus this proposal does not accord with the Development Plan. The relevant policies of the Development Plan in this respect carry weight as they align with the general approach of the NPPF – ie the promotion of sustainable development. Section 38(6) of the Planning and Compensation Act 2004 however states that whilst development proposals must be determined in accordance with the Development Plan, material planning considerations can indicate otherwise. Here there are three material planning considerations. Firstly it is accepted that there is a housing shortfall in North Warwickshire, and secondly the proposal clearly is in accord with the emerging policies of the Core Strategy. Thirdly the site adjoins the development boundary of one of the Borough's main and most sustainable settlements. These three considerations each carry substantial weight

because the former is contained within the NPPF and the other two are in the Core Strategy to be submitted to the Secretary of State. In these circumstances it is considered that they outweigh the non-compliance with the current Development Plan.

Moreover, the residential scheme is small within the context of the overall housing requirement for Atherstone and Mancetter of 600 dwellings. It is acceptable in visual and landscape terms and lies within a sustainable location being on the edge of residential and employment uses. Part of the site does lie within Flood Zones 2 and 3, however, there will be no dwellings located within this area. The provision of a Flood Attenuation Area within an area of open space should improve the floodplain capacity in the area and should not exacerbate the risk of flooding elsewhere as required in the Technical Guidance attached to the NPPF.

Mitigation measures are proposed to address issues of noise disturbance, flooding, surveillance, the need for energy generation and need to improve footpaths in the area. This, coupled with a Section 106 Agreement will ensure that this scheme blends into the surroundings as well as delivers much needed affordable housing provision in the town.

### **Recommendation**

That subject to the signing of a Section 106 Agreement covering the matters set out in section (xi) above, and that there be no further objection from the Environmental Health Officer, planning permission be granted subject to the following conditions which are set out in general terms, and that the exact wording of these be delegated to officers to conclude.

- 1) Standard three year time condition
- 2) Standard plan numbers list
- 3) Details of boundary walls, heights and location etc for noise reduction to be agreed
- 4) Details of noise reduction measures to dwellings along Rowland Way to be agreed
- 5) Need for principal windows at first floor level to be provided with double glazing on the side elevation of plots 19 and 20
- 6) 55 plots to have PV panels installed in accordance with the Energy Statement submitted by Redrow Homes on 11 September 2012.
- 7) Standard drainage condition on Foul and Surface Water details
- 8) Archaeological Investigations prior to any works commencing on site
- 9) Highway condition to cover road layout
- 10) Highway condition to cover visibility splays onto Rowland Way
- 11) Provision of a 2-metre footway along Gypsy Lane with street lighting prior to occupation of first dwelling;
- 12) Provision of measures to prevent mud and spoil being deposited onto Rowland Way during construction work;
- 13) Provision of gravel footpath along western bank of Innage Brook from Rowland Way to land to the north prior to the first occupation of any dwelling;
- 14) Provision of the Flood Attenuation Area in accordance with the details hereby approved in the Flood Risk Assessment and Drainage Strategy submitted by Halcrow, prior to first occupation;
- 15) Only facing bricks and roofing as detailed on approved plans to be used on the scheme;
- 16) The potential access between plots 43 and 44, 45 and 46 to be made available for use up to adoptable standards.
- 17) Position of Fire Hydrants to be agreed

- 18) Any other conditions required as a result of additional technical evidence required on noise generation.

### **Justification**

The site is outside of the development boundary for Atherstone and thus the proposed residential development does not accord with the Development Plan. This carries weight as it aligns with the overall approach of the National Planning Policy Framework in seeking sustainable developments. However there are four planning considerations of significant weight which cumulatively provide the weight to override the Development Plan. These are that the Local Planning Authority does not presently have a five year supply of housing land; that the site is located and accords with the general policies emerging in the Authority's draft Core Strategy which is now gathering weight, that the site adjoins the existing development boundary for Atherstone and that there are no other technical or planning matters of such weight that can not be overcome by condition. In all of these circumstances it is considered that the development is a sustainable scheme in a sustainable location. There are no objections to the scheme from technical consultation responses. Moreover the proposal is accompanied by a Section 106 Agreement which will provide the Council's requirements in respect of affordable housing provision and open space improvements together with the management on on-site open space and flood attenuation matters. The Local Planning Authority has worked in a positive and pro-active way through pre-application discussions; jointly considering consultation responses and representations received, negotiating design changes and becoming engaged in Section 106 discussions in order to deal with the planning issues arising from this application. It is considered that the proposal accords with the planning principles of the NPPF 2012; emerging planning policies NW1, NW4 and NW15 of the Proposed Submission Core Strategy 2012 and saved core policies 8 and 12, together with saved policies ENV1, ENV4, ENV8, ENV10, ENV11, ENV12, ENV13, ENV14, HSG2, TPT1, TPT3 and TPT6 of the North Warwickshire Local Plan 2006.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0297

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	13/6/12
2	J & M Griffin	Representation	20/6/12
3	F Albrighton	Representation	25/6/12
4	Press Notice		21/6/12
5	E Levy	Letter to NBBC	25/6/12
6	Nuneaton & Bedworth BC	Correspondence	25/6/12
7	E Levy	E mail to Applicant	26/6/12
8	E Levy	E mail to Warwickshire County Council Highways Authority	27/6/12
9	E Jordan	Objection	29/6/12
10	E Jordan	Objection	2/7/12
11	J Griffin	Objection letter and petition	28/6/12
12	Warwickshire County Council Highways	E-mail	2/7/12
13	E Levy	E-mail	3/7/12
14	Warwickshire Fire & Rescue	Consultation response	3/7/12
15	P Twyneham	Objection	30/6/12
16	Severn Trent Water	Consultation response	4/7/12
17	Atherstone Town Council	Consultation response	6/7/12
18	Freeguard	Objection	8/7/12
19	WCC Highways	E-mail	9/7/12
20	Atherstone Civic Society	Consultation response	9/7/12
21	Environmental Health Officer	Consultation response	9/7/12
22	J Tortise	Objection	9/7/12
23	E Levy	Letter to WCC Land Drainage	16/7/12
24	E Levy	Letter to WCC Archaeology	16/7/12
25	WCC Finance Officer	Consultation response	6/8/12
26	Meeting Agenda		17/7/12
27	Applicant's Agent	E-mail	16/7/12
28	Building for Life Assessor	Consultation response	18/7/12
29	S Wilkinson	E-mail to WCC Highways	20/7/12
30	S Wilkinson	E-mail to Agent	20/7/12
31	Warwickshire Police	Consultation response	20/7/12
32	WCC Asset Strategy Manager	Consultation response	3/8/12
33	Halcrows	Letter regarding drainage	27/7/12
34	Forward Planning Team	Consultation response	15/8/12

35	Agent	Revised plans	7/9/12
36	Agent	Revised plans and Energy Statement	11/9/12
37	S Wilkinson	Reconsultation letter on amendments	11/9/12
38	Agent	Revised plans	21/9/12
39	E Levy	Screening Opinion	3/7/12
40	WCC Highways	Consultation response	5/9/12
41	S Wilkinson	E-mail to J Griffin	4/9/12
42	S Wilkinson	E-mail to E Jordan	6/9/12
43	Atherstone Civic Society	Consultation response	5/9/12
44	WCC Highways	E-mail	14/9/12
45	WCC Land Drainage	Consultation response	17/9/12
46	Warwickshire Fire & Rescue	Consultation response	18/9/12
47	Meeting Agenda		18/9/12
48	Housing Strategy and Development Officer	Consultation response	13/9/12
49	WCC Asset Strategy Manager	Consultation response	6/8/12
50	J Griffin	Objection	21/9/12
51	Atherstone Town Council	Consultation response	24/9/12
52	E Jordan	Objection	25/9/12
53	Aldi	Objection	25/9/12
54	Warwickshire NHS	Consultation response	25/9/12

*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.*











Shrewsbury



Oxford



Broadway



Mansfield

Fig 21: Appearance of development; a selection of Redrow house type images

**(7) Application No: PAP/2012/0313**

**Car Park, Park Road, Coleshill, B46 3LA**

**Application to Vary Condition 13 of the planning permission 2011/0529 relating to the hours of delivery in respect of the new retail store for**

**W M Morrison Supermarkets**

**Introduction**

This application is reported to the Board for determination at the discretion of the Head of Development Control given the nature of the representations that have been received.

**The Site**

The site was a car park together with a former bowling green lying between Parkfield Road and the Birmingham Road just to the west of Coleshill town centre. It has a triangular shape tapering in the west to the junction of these two roads. There are residential properties on the opposite side of the Birmingham Road and also immediately to the east in the form of a block of apartments. There are also residential properties adjoining its south east corner.

**Background**

Planning permission was granted for this store in 2010. A revised layout was subsequently approved in late 2011, and it is this permission that is currently being implemented on site. Applications to discharge conditions have been submitted and approved.

The approved layout has the store at the far eastern end of the site. Delivery vehicles would access the site from the single main access into the site from the Birmingham Road and travel across the front of the store to a delivery area on the south side of the store. Reversing would be necessary and this would take place partly in the car park.

Amongst the conditions attached to the permission is one relating to delivery hours – number 13. This states that deliveries have to be made only between 0700 and 1900 hours during the week; 0700 to 1300 hours on Saturdays and between 0900 and 1600 hours on Sundays. Retail trading hours are conditioned so as to be from 0700 to 2200 hours on weekdays and Saturdays, with 1000 to 1600 hours on Sundays.

## **The Proposal**

The application seeks the operation of the store without compliance with condition 13 enabling deliveries 24 hours a day and on 365 days of the year. It is said that this would enable fresh produce to be on the shelves at opening time thus negating the need for larger concentrated deliveries during a shorter time when the car park and entrance are being used by the public. The applicant quotes Government guidance that supports night time deliveries provided that they don't create disturbance. The Quiet Deliveries Demonstration Scheme has been developed by the Government and the Noise Abatement Society in order to relax restrictions. However this is still predicated on implementing practices and measures to ensure residential occupiers are not disturbed. These include turning off both refrigeration units and reversing "bleeps" when an HGV enters a site. The applicant would wish to work within this guidance, because a Noise Assessment report which accompanies the application concludes that there is unlikely to be disturbance.

Moreover the applicant says that due to the small size of the store here, there would be a low number of night time deliveries – three.

## **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – ENV11 (Neighbour Amenities)

## **Other Material Planning Considerations**

The National Planning Policy Framework 2012 – (NPPF)

Government Circular 11/1995 – The Use of Conditions in Planning Permission

## **Consultations**

Environmental Health Officer – There was an objection to the original Noise Assessment Report as it was considered that the recorded night time noise levels in the vicinity of the site had been over-estimated. In other words the site was "quieter" than suggested by the report. As a consequence, fresh survey work was undertaken by the applicant in order to establish the night time noise "climate". The scope of this work was agreed beforehand in consultation with the Environmental Health Officer.

Having reviewed the findings from the latest survey, the advice from the Environmental Health Officer is that subject to conditions there are not sufficient grounds to object to the proposal. The conditions would require a noise threshold to be identified; that there is a test "monitoring" period of twelve months, and that a noise management plan be agreed.

## **Representations**

There have been twelve written objections to the proposal from local residents. The matters covered fall into three different areas. The first of these is that some residents remain opposed in principle to the introduction of the supermarket to this location. The second are objections opposed to 24 hour delivery because of the potential for noise nuisance at night. The third area are objections highly critical of Morrison's in that the retailer sought a planning permission based on restricted delivery times; accepting the hours condition, but then reneged on that by seeking to remove the condition all together. This "underhand" and "dishonest" approach is referred to by most of the objectors in very strong terms.

The Coleshill Town Council reflects the strength of this feeling. Its letter is attached in full at Appendix A.

Coleshill Civic Society strongly objects to the proposal,

Three Local Ward Members – Councillors Ferro, Fowler and Watkins - have also expressed dissatisfaction with the approach of Morrison's in this respect.

## **Observations**

Objections that question the principle of this development will carry no weight in the determination of this application. The sole issue is whether there is sufficient evidence to support the removal of the condition governing delivery times.

In this respect it is worthwhile immediately tackling the criticisms expressed by the local community about how the applicant has approached this matter. Any applicant or developer is perfectly in his rights to seek to vary approved plans or conditions. Current planning legislation and procedures enable this to happen and Members will know that this is a common occurrence. This application can not be refused on the grounds that the 24 hour delivery period was not set out in the original application. Neither can it be refused on the grounds that the applicant should have known about the Quiet Delivery Scheme at the outset; that this was part of their own corporate policy or that the operational arrangements undertaken to calculate the number and type of deliveries to this store should have been known to the applicant from the outset. Furthermore the application cannot be refused on the grounds of "undertakings" given by its representatives in public meetings respecting the approved delivery hours. All of these issues may not lie comfortably with Members too, but in short, they simply are not planning reasons for refusal.

The Board is therefore strongly advised to solely focus on the planning issue here. It is best to start by looking at the reason why the condition was imposed in the first place. This was, "in order to protect the residential amenity of adjoining occupiers of residential property". So the planning issue is, whether the removal of this condition would lead to adverse impacts on the residential amenity of adjoining occupiers. The applicant provides three arguments to support his case – namely that he would comply with the Delivery Scheme by turning off refrigeration plant and reversing bleeps; there would only be very irregular and infrequent night time deliveries, and that the noise evidence does not suggest that harm would be caused. The last of these is considered to be the critical one.

The applicant has undertaken new noise surveys in line with advice and guidance from the Council's Environmental Health Officers. Their conclusion from this evidence is that provided noise limits are applied and adhered to, then night time deliveries may not cause sleep disturbance at neighbouring properties. That advice would need to be translated into a different and new planning condition. This leads to two further matters – is it physically possible to deliver to the site within such a noise “threshold”, and secondly, bearing in mind that the noise survey was only undertaken at one point in time, would a monitoring period, during which this “threshold” was applied, be advisable, so as to assess any impacts with different background noise situations? The Environmental Health Officers have taken up both of these matters with the applicant, and he considers that they could work to that threshold and that a monitoring period would be reasonable. As a consequence the advice from the Environmental Health Officers is that the removal of the condition would not lead to a worse situation for adjoining occupiers provided that there are substitute conditions.

It is appropriate at this time for the Board to see what the Development Plan actually says in respect of noise. Saved policy ENV11 of the North Warwickshire Local Plan 2006 says that development will not be permitted if the occupiers of nearby properties would suffer “significant loss of amenity or disturbance due to noise”. The NPPF says that all planning decisions should, “avoid noise from giving rise to significant noise impacts”. The same key word is included in both quotations – “significant”. Based on up to date and relevant evidence, the advice from the Environmental Health Officers is that with substitute conditions, noise impacts would not be significant.

The NPPF continues by saying that planning decisions should mitigate and reduce to a minimum, adverse impacts arising from noise from new development, “including through the use of conditions”. The Government's Circular 11/1995 itself says that conditions can be used to control or reduce noise levels, and to have “trial runs” in order to monitor potential impacts. Indeed it recommends wording for these. Given the advice of the Environmental Health Officer, it is considered that this is the appropriate and proper course to follow.

One other matter has been raised and that is likely disturbance from the lights of delivery vehicles. Given the site layout; the location of houses around the site, the general road network, and the likely number of vehicles, it is not considered that this is a material issue.

## **Recommendation**

That Condition 13 of planning permission 2011/0529 dated 20 December 2011 be **VARIED** so as to read:

“13A. Within one month of the date of this permission, the applicant shall submit a noise management plan to the Local Planning Authority to include measures for the minimisation of noise arising from night time deliveries. No night time deliveries shall take place to this store prior to this plan being approved in writing by the Local Planning Authority. For the avoidance of doubt for the purposes of this condition, night time deliveries are defined as deliveries between 1900 and 0700 hours on any day.

## **REASON**

In the interests of the residential amenity of surrounding residential property.

13 B. Following written approval of the plan referred to above, any noise arising from any night time delivery to the site – that is to say between 1900 and 0700 hours on any day – shall not be greater than 40dB LAeq and 55dB LAm<sub>ax</sub> when measured at one metre from the façade of any residential property surrounding the site.

#### REASON

In the interests of the residential amenity of surrounding residential property.

13C. The noise management plan as agreed under condition 13A, and the noise thresholds as set out in Condition 13B, shall continue for a period of twelve months from the first date on which the store is open for business. No night time deliveries whatsoever, as defined in condition 13A, shall continue after this twelve month period, unless agreed in writing by the Local Planning Authority through application to vary this conditions 13A, B and C.

#### REASON

In the interests of the residential amenity of surrounding residential property.”

#### Notes

- i) The noise management plan referred to in condition 13A shall particularly concentrate on measures such as the reversing alarms, refrigeration units and cab radios are turned off.
- ii) The Development Plan policy relevant to this decision is saved Policy ENV11 of the North Warwickshire Local Plan 2006.

#### Justification

Evidence has been submitted and verified to show that noise disturbance is unlikely subject to conditions. Given that there are residential properties in the vicinity it is considered that a monitoring period is required in order to “test” these arrangements. The Local Planning Authority has worked with the applicant in a positive and proactive manner through involvement in scoping a new noise assessment survey and in working with the use of conditions, in order to seek solutions to planning issues arising in dealing with this application. In all of these circumstances the proposal would accord with saved policy ENV11 of the North Warwickshire Local Plan 2006; the NPPF and Government advice on conditions in its Circular 11/1995.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0313

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	21/6/12
2	Central Services Support Officer	Letter	26/6/12
3	Agent	Letter	13/7/12
4	Mr I Gilmore	Objection	18/7/12
5	Mrs Richards	Objection	20/7/12
6	Environmental Health Officer	Consultation	19/7/12
7	Head of Development Control	Letter	23/7/12
8	Mr J Harrison	Objection	27/7/12
9	Coleshill Town Council	Objection	30/7/12
10	Councillor Fowler	Objection	2/8/12
11	Applicant's Noise Consultant	E-mail	2/8/12
12	Mr A Farrell	Objection	9/8/12
13	Sandra Greatrex	Objection	14/8/12
14	Councillor Ferro	Objection	14/8/12
15	Mr & Mrs Gascoigne	Objection	14/8/12
16	Coleshill Civic Society	Objection	15/8/12
17	Councillor Watkins	Objection	15/8/12
18	Mr H Taylor	Objection	16/8/12
19	P Ross	Objection	18/8/12
20	Katherine Shepherd	Objection	19/8/12
21	Mr Groll	Objection	28/8/12
22	Environmental Health Officer	E-mail	22/8/12
23	Head of Development Control	E-mail	31/8/12
24	Mr Clemson	Objection	5/9/12
25	Mr Scott	Objection	4/9/12
26	Environmental Health Officer	Consultation	14/9/12

*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.*





## **(8) Application No: PAP/2012/0444**

**Land adjacent to 1, Princess Road, Atherstone, CV9**

**Demolition of two lock-up garage blocks and construction of 2 bungalows, for  
Waterloo Housing Group**

### **Introduction**

This application is referred to the Board for determination as the Borough Council is the land owner.

### **The Site**

This is a rectangular plot of land, 0.08 hectares in extent currently occupied by two rows of lock-up garages on either side of a central access drive, on the south side of Princess Road. To the east is the three storey, flat roofed block of flats known as Alexandra Court, and to the west is a frontage of semi-detached and longer runs of residential property, which is repeated at the rear of the site. The site fronts Princess Road which is immediately to the south of and parallel with the Town's A5 By-pass. The site is illustrated at Appendix A.

### **The Proposal**

The garages would be demolished and a pair of semi-detached bungalows constructed at the front, sharing a common access, but set back from the road's edge. Parking space would be provided together with rear gardens. The proposed layout and elevations are shown at Appendices B and C.

The properties would be constructed to meet Code Level 4 of the Code for Sustainable Homes.

The application is accompanied by a ground condition survey which finds that there is a low degree of contamination in some soil samples in certain parts of the site and as such remedial measures are recommended. An ecological survey shows the site to be of limited wildlife value, but recommends that a landscaping scheme to enhance its value including advice on species selection.

The applicant says that only three of the garages are currently in use.

### **Background**

The Council's Resources Board has agreed to the disposal of this land for the purpose described above.

### **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policies 2 (Development Distribution) and 8 (Affordable Housing) together with saved policies ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design) and ENV14 (Access Design)

## **Other Material Planning Considerations**

The National Planning Policy Framework 2012

The Council's Draft Pre-Submission Core Strategy – June 2012

New Homes Bonus

## **Consultations**

Environmental Health Officer - Recommends that a remediation method statement should be undertaken prior to work commencing and that any works are verified through a Validation report. Additionally he requires a condition requiring details of noise attenuation measures .

## **Representations**

None had been received at the time this report was prepared. Any received afterwards will be reported to the Board at its meeting.

## **Observations**

The site lies within the development boundary for Atherstone as identified in the Local Plan and as such there is no objection in principle to this proposal. The garages are now no longer in common or regular use as tenants now tend to park on-street in front of their houses, and the site has thus become run down and provides an opportunity for anti-social behaviour. It is considered that its re-development for accommodation that is needed in the town is of greater benefit than retaining the under-used garage blocks. The bungalows would be managed by the applicant Association as affordable units in conjunction with the Borough Council. Housing Officers fully support the application.

The development is set between a three storey residential block and two storey dwellings, but will not reflect either in terms of design or appearance. However this is not considered to be over-riding given the overall setting within a residential estate.

## **Recommendation**

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

- 1 Standard Three Year condition
- 2 Standard Plan numbers 11004/1A, 2, 4, 5 and 6 all received on 5 September 2012.
- 3 No development shall commence on site until such time as full details of all of the facing materials to be used have first been submitted to and agreed in writing by the Local Planning Authority. Only the approved materials shall then be used.

## **REASON**

In the interests of the visual amenities of the area so as to enable the development to be in keeping with its surroundings.

- 4 All trees shown to be retained on the site on the approved plan shall be protected in accordance with BS 5837 at all times prior to and during the construction of the site until such time as the dwellings are completed.

REASON

In order to protect existing trees on site for their landscape and ecological value.

- 5 No development shall commence on site until such time as a remediation method statement, including any remedial measures, has first been agreed in writing by the Local Planning Authority.

REASON

In the interests of reducing the risk of pollution.

- 6 No dwelling hereby approved shall be occupied until such time as any measures as may be agreed under condition (v) above have first been completed in full to the written satisfaction of the Local Planning Authority. This shall be achieved through the submission of a Validation Report upon completion of the measures.

REASON

In the interests of reducing the risk of pollution.

7. No development shall commence on site until such time as details of the noise attenuation measures to be installed have first been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall then be installed.

REASON

In the interests of reducing noise disturbance

**Notes**

- 1 The Development Plan policies relevant to this decision are saved Core Policies 2 and 8, together with saved policies ENV11, ENV12, ENV13 and ENV14 of the North Warwickshire Local Plan 2006.
- 2 Standard Radon Gas note
- 3 Guidance and advice on the content on landscaping details in order to enhance the bio-diversity value of the site can be found in the report from Curious Ecologists received by the Local Planning Authority on 5 September 2012.
- 4 A 750mm public sewer crosses the site. Advice on the retention of the safeguarding distances required should be obtained from Severn Trent Water Ltd and attention is drawn to the Water Industry Act 1991 and the Water Act 2003. Please contact 0116 2343834.
- 5 Advice on the scope of the remediation statement can be discussed with the Council's Environmental Health Officers. In particular it will need to concentrate on organic contamination especially in the areas of the garages and the proposed garden areas.

## **Justification**

The site lies within the development boundary for Atherstone as defined by the North Warwickshire Local Plan 2006 and thus is acceptable in principle. The loss of the garages is not considered to be of significance as only three are currently let. There is a need for affordable housing in the town and for bungalow accommodation. It is considered that the greater public benefit lies in this provision rather than that of retaining the garage blocks. The design and appearance of the buildings are appropriate to the setting. There are no technical issues arising. The Local Planning Authority has worked with the applicant through pre-application discussions in a positive manner in order to seek a solution to this site and to resolve any planning issues that have arisen. The proposal accords with saved core policies 2 and 8, together with saved policies ENV11, ENV12, ENV13 and ENV14 of the North Warwickshire Local Plan 2006 and the principles of the NPPF 2012.

## BACKGROUND PAPERS

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

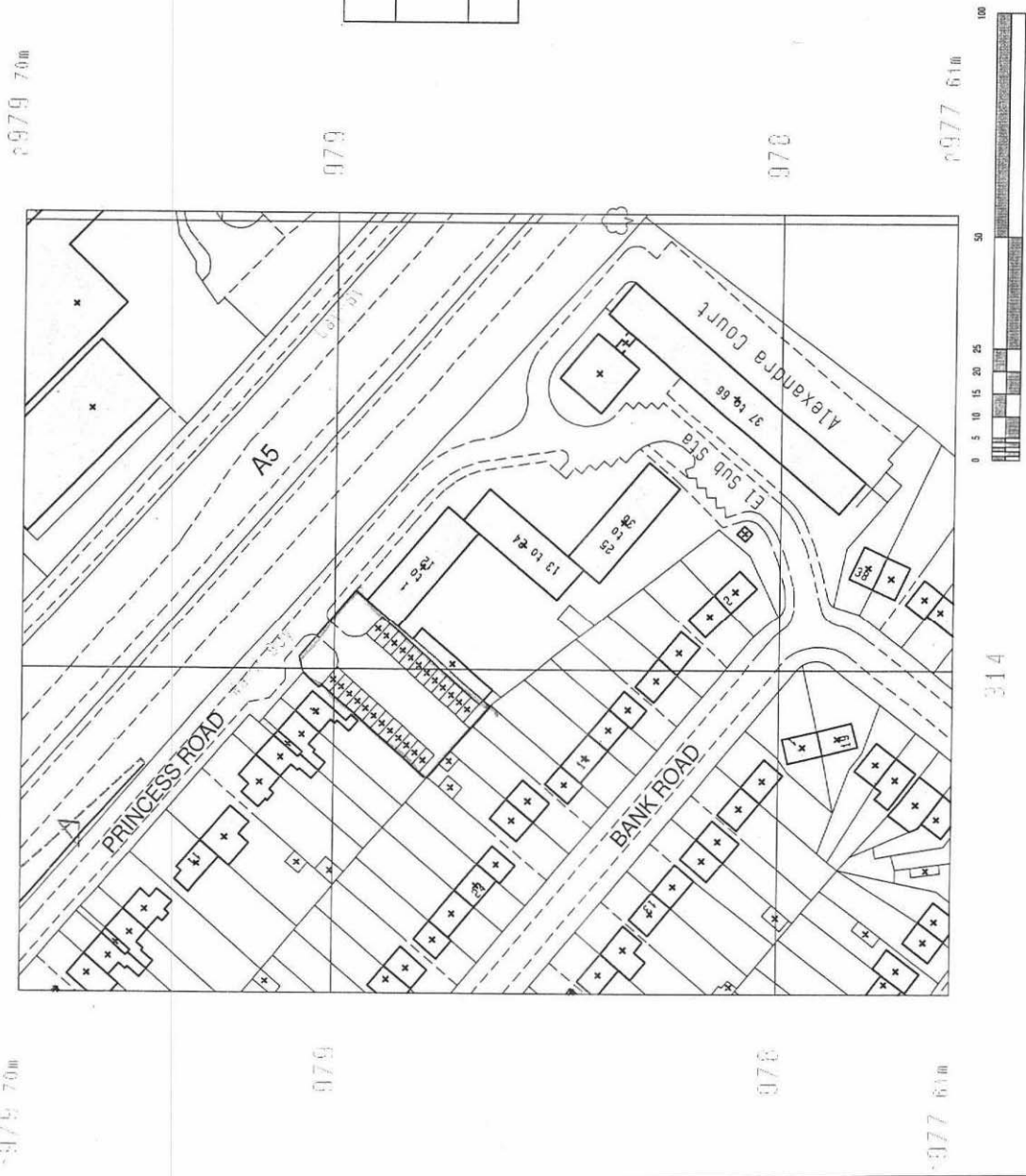
Planning Application No: PAP/2012/0444

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	5/9/12
2	Environmental Health Officer	Consultation	27/9/12
3	Environmental Health Officer	Consultation	3/10/12

*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.*



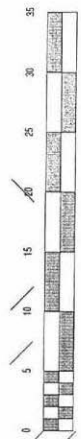


	SITE AREA 840 SQ M	<div style="border: 1px solid black; padding: 2px;">2012/0444</div>		
	<table border="1"> <tr> <td>NORTH WARWICKSHIRE BOROUGH COUNCIL</td> </tr> <tr> <td>RECEIVED 5-Sep-12</td> </tr> <tr> <td>PLANNING &amp; DEVELOPMENT DIVISION</td> </tr> </table>		NORTH WARWICKSHIRE BOROUGH COUNCIL	RECEIVED 5-Sep-12
NORTH WARWICKSHIRE BOROUGH COUNCIL				
RECEIVED 5-Sep-12				
PLANNING & DEVELOPMENT DIVISION				
<table border="1"> <tr> <td>A SCALE BAR ADDED REVISIONS</td> <td>20/8/12 DATE</td> </tr> </table>		A SCALE BAR ADDED REVISIONS	20/8/12 DATE	
A SCALE BAR ADDED REVISIONS	20/8/12 DATE			

**S. P. Faizey**  
*Chartered Architects*  
 1 Station Court, Girton Road,  
 Cannock, Staffs WS11 0EJ  
 Tel: 01543 466 447 Fax: 01543 466 746  
 E: arch@spfaizey.co.uk W: www.spfaizey.co.uk

WATERLOO/NWBC		
RESIDENTIAL DEVELOPMENT		
PRINCESS ROAD, ATHERSTONE		
LOCATION PLAN		
scale@A4	date	drawn
1:1250	JAN 11	SPF
		drawing
		11004/1A

Copyright of this drawing remains with S. P. Faizey Chartered Architects. Do not scale off drawing.



Scale 1:500

2012/0444

SITE AREA 840m<sup>2</sup>

ACCOMMODATION

2 No 2B 3P Bungalows @ 59.6m<sup>2</sup>



NORTH WARWICKSHIRE  
BOROUGH COUNCIL

RECEIVED  
5-Sep-12

PLANNING & DEVELOPMENT  
DIVISION



**S. P. Faizey**  
*Chartered Architects*

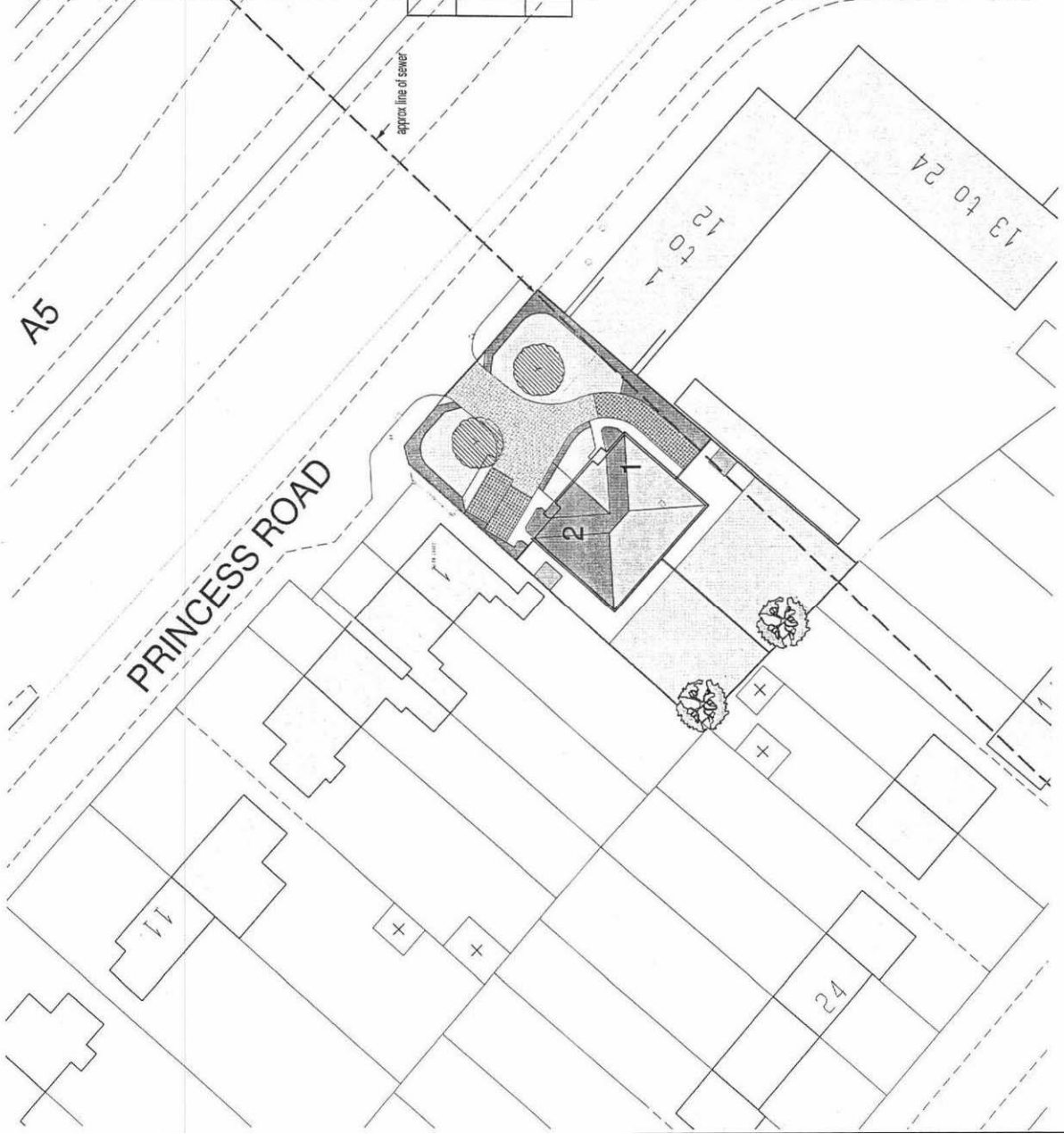
1 Station Court, Girton Road,  
Cannock, Staffs WS11 0EJ

Tel: 01543 466 447 Fax: 01543 466 746

E: [arch@spfaizey.co.uk](mailto:arch@spfaizey.co.uk) W: [www.spfaizey.co.uk](http://www.spfaizey.co.uk)

WATERLOO/NWBC	
RESIDENTIAL DEVELOPMENT	
PRINCESS ROAD, ATHERSTONE	
SITE PLAN	
scale@A4	drawn
1:500	SPF
date	drawing
JUL 11	11004/2

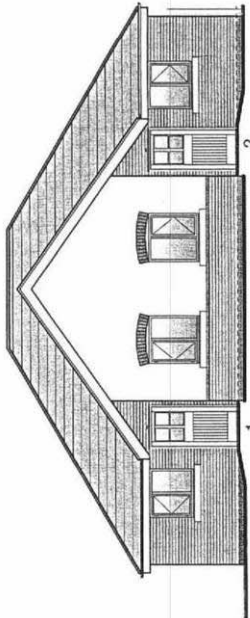
Copyright of this drawing remains with S. P. Faizey Chartered Architects. Do not scale off drawing.



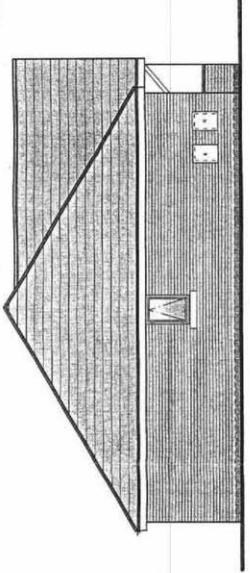


ZU1ZU444

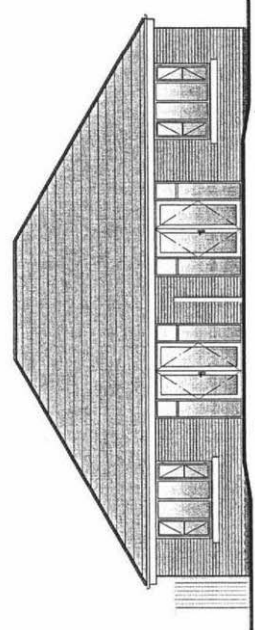
<b>Plot 1</b> 2 Bed 3 Person Bungalow Area 59.60 m <sup>2</sup>
<b>Plot 2</b> 2 Bed 3 Person Bungalow Area 59.60 m <sup>2</sup>
<b>MATERIALS</b> WALLS: Facing brickwork with soldier brick arches reconstituted stone cills. Weber Monocoche through coloured render where shown on the drawings ROOF: Interlocking concrete tiles at 30° and 35° pitch to front gable WINDOWS: Upsc framed double glazed



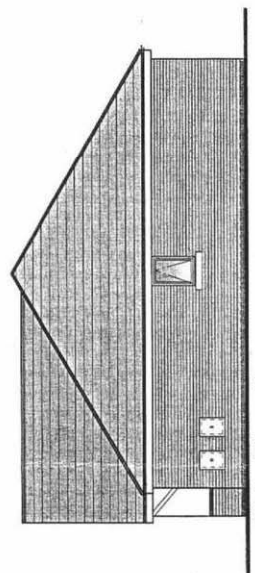
Front Elevation



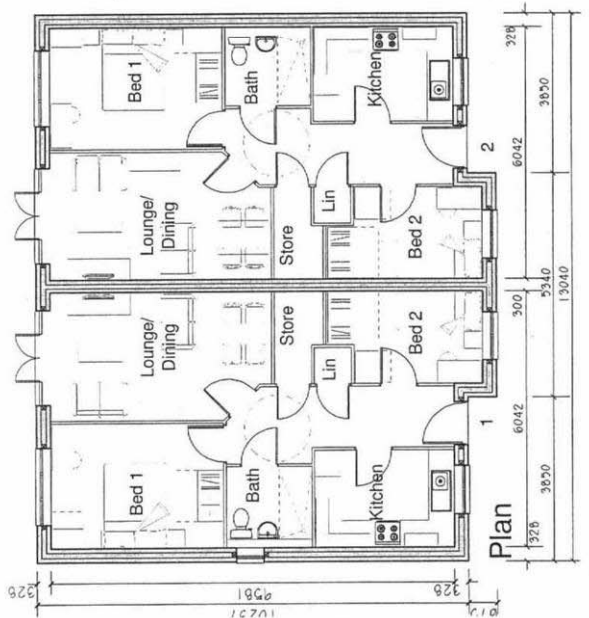
Side Elevation



Rear Elevation

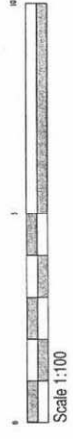


Side Elevation



Plan

NORTH WARWICKSHIRE  
BOROUGH COUNCIL  
RECEIVED  
5-SEP-12  
PLANNING & DEVELOPMENT  
DIVISION



**S. P. Faizey**  
*Chartered Architects*  
1 Station Court, Girton Road,  
Camcock, Staffs. WS11 0EJ  
Tel: 01543 466 447 Fax: 01543 466 746  
E: arch@spfaizey.co.uk W: www.spfaizey.co.uk

**APPENDIX C**

WATERLOO/MWBC	
RESIDENTIAL DEVELOPMENT	
PRINCESS ROAD, ATHERSTONE	
PLANS & ELEVATIONS	
Scale	1:100
Date	JUL 12
SPF	
Drawn	
Checked	
Drawn	11004/5

Copyright of this drawing remains with S. P. Faizey Chartered Architects. Do not scale off drawing.

## **Agenda Item No 8**

### **Planning and Development Board**

**15 October 2012**

**Report of the  
Head of Development Control**

**Consultation Paper -  
Renegotiation of 106 Obligations**

## **1 Summary**

- 1.1 The Government has published a consultation paper on the re-negotiation of Section 106 Agreements in order to attempt to stimulate the commencement of development projects that may have been “stalled” because of those Agreements.

### **Recommendation to the Board**

**That whilst the proposed changes will have no impact on North Warwickshire, the Council considers that existing legislation is adequate to meet the challenge of resolving “stalled” developments.**

## **2 Background**

- 2.1 Section 106 of the 1990 Act allows Local Planning Authorities to enter into legally binding agreements with a landowner in association with the granting of planning permission. They are however only to be entered into under defined legal requirements.
- 2.2 The Government’s research indicates that there are around 1400 housing schemes nationwide that are “stalled”, and it is looking at ways of “kick-starting” these developments. One such option that is being considered is to look at re-negotiating 106 Agreements to ensure that they reflect current economic conditions. It is being suggested that older 106 Agreements entered into in more favourable conditions, may now be more than likely to “stall” a development in that these are now becoming unviable.

## **3 Proposals**

- 3.1 The 1990 Act already allows for voluntary re-negotiation of a 106 Agreement at any time, but where such voluntary arrangements cannot be reached, there is the opportunity for a formal request to be made to the Authority for re-consideration if the Agreement is five years old. There is then a right of appeal too if the Authority doesn’t renegotiate.

- 3.2 All Authorities were contacted by the Government in early 2011 urging them to seriously consider any request for renegotiation because of the change in economic circumstances, in order to stimulate development and growth. The Government however now wishes to take this further in view of the continuing downturn. As a consequence, new Regulations are proposed to be introduced such that a land owner can require an Authority to formally renegotiate any Agreement signed prior to 6 April 2010 if the development has not commenced or has become stalled. The Government stresses that this should not mean automatic reductions in contributions or in the terms of Agreements. Evidence must be submitted and tested to see if the economic viability of a development is reasonably being “stalled” by the terms of an existing 106 Agreement. It sees the formal request as an opportunity to consider alternative arrangements or terms in a 106 – e.g. different phasing of payments.
- 3.3 Members will be aware that 106 Agreements contribute to affordable housing provision in the Borough. The Government’s view is that where developments included high levels of affordable provision under 106 Agreements made prior to early 2010, then those schemes may now no longer be viable. As such it may be better to agree to less affordable housing rather than to none at all, or to review other opportunities such as re-considering the tenure mix, or by agreeing to off-site contributions rather than on-site provision.

#### 4 **Observations**

- 4.1 It is not considered that these proposals are necessary. There is already a mechanism to re-negotiate 106 Agreements with the right of appeal. Negotiation is still the best way forward and this, if undertaken with the appropriate evidence, can deliver different arrangements and greater degrees of flexibility. The right of appeal gives adequate recourse to any land owner or developer if agreement can then still not be reached. This Authority would not refuse to re-negotiate if a request came forward and there is no need to make that mandatory. The recent Atherstone garage case reported to the last meeting is a very good example of this. Moreover it is strongly argued that it is not necessarily the planning system that is not performing or delivering new housing schemes, but the reluctance of banks and other institutions to lend and perhaps too, the unrealistic expectations of land owners.
- 4.2 Furthermore, the proposed change will have no impact on North Warwickshire. This is because the proposed date for the introduction of formal requests to renegotiate is April 2010. There are no North Warwickshire Agreements dated prior to this, where developments with financial contributions have not yet commenced. Hence there are no “stalled” schemes within the terms of the proposals. There are however certainly developments with associated Agreements after this date that are yet to be commenced, but these would be the subject of existing legislation in any event and thus still open for re-negotiation.

## 5 Report Implications

### 5.1 Financial and Value for Money Implications

5.1.1 There will be no impact as a direct result of the proposed Regulations, but any request to re-negotiate a Section 106 Agreement may result in reduced contributions or in different terms, dependant on the strength of the evidence submitted to support such each request.

### 5.2 Environment and Sustainability Implications

5.2.1 There are no direct implications arising from the proposals. However reduced contributions as a consequence of any re-negotiation of post 2010 Agreements are unlikely to impact significantly on the environment as they will mainly be small in scale – e.g. reduced open space improvements for instance, but they might impact on sustainable transport provision. The biggest impact is likely to be on the contributions towards affordable housing.

### 5.3 Health, Well-Being and Leisure Implications

5.3.1 There will be no direct implications as a consequence of the proposals. But as 106 Agreements do contribute to open and green space provision and enhancements, there may be some limited impacts if these Agreements are renegotiated, but as the sums involved are small, the likelihood that they alone are preventing a development from commencing is likely to be slight.

### 5.4 Links to the Council's Priorities

5.4.1 The proposals themselves will have no direct impact but any future renegotiations may well particularly impact on the provision and delivery of affordable housing in the Borough.

The Contact Officer for this report is Jeff Brown (719210).

### Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
1	DCLG	Consultation Paper	August 2012

**Agenda Item No 9**

**Planning and Development Board**

**15 October 2012**

**Report of the  
Chief Executive**

**Exclusion of the Public and Press**

**Recommendation to the Board**

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

**Agenda Item No 10**

**Breaches of Planning Control - Report of the Head of Development Control.**

Paragraph 6 – by reason of the need to consider appropriate legal action

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