

## **Agenda Item No 4**

### **Planning and Development Board**

**16 April 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, 21 May 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.

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## **General Development Applications**

### **(1) Application No: PAP/2012/0070**

**Land adjacent to Austrey House Farm, Orton Lane, Austrey, CV9 3NR**

**Erection of a 60m high meteorological wind monitoring mast for a period of eighteen months, for**

**Mr Stuart Barber (Gaoh Energy Ltd)**

#### **Introduction**

This application is reported to the Board following its deferral at the March meeting in order to undertake a site visit. At the time of writing this is scheduled to take place prior to the meeting of 16 April. The visit will also include a “tour” of the area in order to assess the likely visual impact of the mast from a number of vantage points. These have been agreed in advance with the applicant and the objectors.

For convenience the previous report and addendum are attached at Appendices 1 and 2 respectively. A plan illustrating the vantage points visited during the site visit is attached at Appendix 3.

#### **Amendments**

Since the March meeting, a revised application site plan has been provided and this is attached at Appendix 4. The nature of this revision has no material effect on the assessment of the planning merits of the application. It addressed a technical issue regarding the site area and the fee paid such that these now correspond. The applicant has also agreed to reduce the temporary period sought from 24 to 18 months.

Both of these amendments are the subject of re-consultation at the time of writing, and any further representations will be reported at the meeting.

#### **The National Planning Policy Framework (NPPF)**

Since the last Board meeting, the Government has published the NPPF. It now replaces previous national planning guidance and policy statements. As a consequence, any such references to these documents in the previous report and addendum no longer carry any weight. This report will assess the application against the NPPF because it now carries significant weight as a material planning consideration.

#### **Further Representations**

Two further objections have been received since the last Board meeting, bringing the total to 228 objections from 205 different addresses. One cites the same common concerns previously outlined. The other responds to one of matters discussed at the March meeting – namely the release of data gathered. It raises concern over the applicant’s statement that the raw data would not be meaningful or easy to interpret, that suitable data is already available from the Met Office, and that the applicant is not an independent data collection body.

## Observations

### a) Introduction

There are a number of matters which need to be made explicit from the outset, as they properly define the nature of the Board's remit in considering this application:

- As previously outlined, assessment of this application must be based on the actual proposal before Members. This is for a mast. It is not for a wind turbine and not for a wind farm. The Board's determination should thus address the planning merits of that proposed mast.
- The application before the Board is to site the mast for a temporary period of up to 18 months. The applicant is not seeking a permanent consent. The Board should determine the application on that basis.
- The Board should not speculate as to what may or may not happen if this application is approved. It should not use this application to "pre-empt" a future decision on any subsequent proposal, and certainly not as a means of laying down a "marker" for future applications. Members will be aware of the consequences of such decision making. Future applications should be determined on their own merits at the appropriate time.
- It is not appropriate to consider possible new legislation which is going through Parliamentary processes at present in respect of the location of wind turbines. This action has no legal standing and is not a material planning consideration in this case. Again, the application is for a mast – not a turbine.
- As Members are fully aware, the motives of the landowner and developer are not material planning considerations, and neither is the current debate relating to national subsidies for wind farms – particularly when this proposal is not for a turbine. The correct channel for opposition is through MPs.
- As a matter of fact the application site and its environs are not located in a designated landscape area – either as an AONB or defined within adopted Supplementary Planning Guidance. For the purpose of completeness, neither is it in the Green Belt.

Members are thus requested to determine the application as submitted, and now amended, by considering the relevant Development Plan policies and any other material planning considerations. It is not proposed to repeat the observations from the previous reports, but it is note-worthy and thus of substantial weight that no objections to the mast have been received from the Ministry of Defence or the Warwickshire Wildlife Trust. Hinckley and Bosworth Borough Council has neither lodged an objection. Bearing in mind these responses; the matters highlighted in the introduction to this section and the assessments made in the previous reports, it is not considered that refusal reasons could be defended at appeal in respect of the matters covered by these consultations. From the contents of the objections received from the local community and again bearing in mind the general observations made by way of introduction here, the Board's attention should be particularly focussed on one central objection – that is to say, the likely visual impact. It is thus proposed to re-examine this issue. The site visit enabled Members to appreciate the context of the site and surrounding area from both the valley floor and at various points along the escarpment. The conclusions thus now drawn below can be "tested" by the Board with the benefit of that visit.

## b) Landscape Character and Visual Amenity

Commentary in the March report described the Landscape Character Area (LCA) for this part of North Warwickshire – namely the area including Austrey, Newton Regis, Seckington, Shuttington, and Warton, as defined by the 2010 Landscape Character Assessment. In brief, it is summarised as mixed farmland located within a distinctive bowl landform, punctuated by scattered farmsteads, lanes and hill-top villages. It is a visually open landscape with an overall rural character and appearance displaying both more traditional and modern agricultural practices. There is still a large amount of hedgerow, trees, woodlands and copses. The escarpment is prominent. It has a “bearing” on the lower lying land and can be seen from some distance away. It also commands significant views from its top. There are however some more urban influences present such as the M42 Motorway and other masts.

Notwithstanding the lack of formal landscape designation or recognition, it is accepted that the character of the area is valued locally by its residents and representatives, and that it substantially underlies the local appearance which marks out this distinctive part of North Warwickshire. This is reflected in the NPPF, which recognises that the “*intrinsic character and beauty of the countryside*” is a material planning consideration. The key issue here before Members is to decide what the visual impact of the mast will be and then to assess whether that is acceptable given its temporary nature and other considerations.

The mast will be a slim line feature – some 25 centimetres in diameter and as depicted at Appendix 5. It is not equivalent to the Austrey relay mast in mass or visual complexity. It is neither as tall as the transmitters at Hopwas and Sutton, and neither will it have the bespoke design appearance of the Birchmoor “sail” telecommunications mast. However it will be located towards the top of prominent scarp which forms a high point locally. It will thus be visible over a wide geographic area. This visibility is mitigated by a number of factors – the design of the mast as described above; that it will largely be seen against the backdrop of the sky, particularly from long distance views, and that it will be partially obscured by trees over the wider area. It is acknowledged that this will not occur at more medium distances – in closer proximity or where the existing landscape has more open agricultural fields. Indeed it is accepted too that on the top of the scarp there will be no mitigation other than its design. As a consequence it is considered as in the previous reports, that the mast will have a visual impact. The issue is how adverse that impact will be.

Apart from the matters raised above, Member’s attention was specifically drawn to the various church spires and towers in the villages around the site, particularly the Grade 1 church in Orton-on-the-Hill. The objectors suggested that the mast would affect the setting of these in their own right and detract from the overall impact that these features have in the landscape. It is considered that the setting of these features will not be irrevocably lost or prejudiced because of the reasons already set out and because of the distances involved, notwithstanding that the Orton church is a sky-line feature.

In conclusion it is not considered that there will be a significant visual impact arising from the mast. This is particularly because of the design of the mast and its short term duration; the differing long, medium and short distance views; and because there would be no irrecoverable loss of visual amenity or character. However that is not to say that there will be no impact. Overall it is considered that the impact will be moderately adverse, but short term.

This conclusion needs to be balanced against another planning consideration and this will be explored below.

## **b) Renewable Energy**

This consideration is to look at the reason for this application – namely as a monitoring mast to assess the meteorological wind conditions. It was made explicit earlier that it was not material to determine the application as if it were a single turbine or to treat the site as a possible location for multiple wind turbines. The purpose behind the application however is relevant and material, provided that the application is determined on the basis that it is the merits of the mast that are under consideration and not other matters.

As a consequence it is material and of significant weight that policy ENV10 of the Local Plan supports renewable energy schemes in principle. Moreover, the NPPF states that Local Planning Authorities should, “*recognise the responsibility on all communities to contribute to energy generation from renewable sources*” in order to help increase the use and supply of renewable energy, and that decisions should “*support the transition to a low carbon future and encourage the use of renewable resources (for example by the development of renewable energy)*”. In respect of applications it says that applicants should not be required to demonstrate the overall need for renewable energy and that planning applications should be approved if their impacts are acceptable. The use of monitoring masts in order to provide meteorological data in order to establish the suitability of a site for future wind turbines is a regular occurrence. Indeed permission has been granted for such masts at Lea Marston and Dosthill, both of which lie within the Green Belt and 70 metres tall – 10 metres taller than proposed here. The principle of approving such masts is thus acknowledged by the Council. It is thus of significant weight that there is support for this “category” of application in principle in both national and local planning policy.

Members also might wish to reflect on the use of temporary permissions. One of the reasons accepted by Government for the use of conditions limiting the “life” of a planning permission is so that a use can be monitored in order to establish and to understand its impacts. This then provides the evidence base for future applications for permanent use. The situation here can be considered as being similar – in order to establish whether the site is likely to be a candidate for future applications, and in order to assess the visual impact of a structure at this location over time.

Returning to the matters raised in the introduction to this section, it needs to be emphasised that a grant of permission here does not mean that a future application for a wind turbine or turbines will be an automatic outcome, or that it would commit the Council to supporting such a project. It does not. Future applications will be determined at the appropriate time with regard to planning matters relevant at that time. It is however worth emphasising that visual impact would play a significant role in any such assessment. It perhaps also needs to be said that even a refusal of planning permission for the mast would not prevent the submission of a future application for a turbine or turbines.

### **c) Conclusions**

Members are reminded from the outset that there is a presumption to grant planning permission unless material planning considerations indicate otherwise. This is repeated in the NPPF. In this particular case this assessment really focuses on whether the visual impact here is so adverse as to warrant refusal instead of approval subject to conditions.

It is acknowledged that the objectors consider that there is no question that the visual impact will be substantially adverse and that this outweighs all other considerations. Members should be aware however that they have to consider all matters before deciding whether they agree. Officers remain of the view that this application can be supported. The following argument is put forward to support such a recommendation.

There is substantial weight given in National Planning Policy and in the Development Plan for proposals which provide energy from renewable sources. This weight reflects onto this proposal. The Council has approved similar masts as a consequence. The mast will have a moderately adverse visual impact because of its location. However this is significantly lessened due to its short term duration – particularly as the applicant has agreed to reduce this from 2 years to 18 months and the full time of the consent may not be utilised. There is no recognised landscape designation applicable here. There would be no irreparable or irrecoverable visual damage or harm to the overall character of the landscape or to heritage assets. There are no objections from the Ministry of Defence or from the Warwickshire Wildlife Trust. A temporary consent can thus be recommended.

### **d) Other Matters**

There has been reference to the potential release of data collected from the mast should planning permission be granted and it be brought into use. Whilst the applicant has agreed to this being made available, there has been some concern from objectors that it will not be easy to interpret and a suggestion that if analysis is carried out by the applicant that conclusions reached may not be impartial. It is considered that it is in all party's interests to have the raw data released. This will enable any of the parties to then commission a qualified person to interpret the data should they wish to do so. At the present time it is considered that the matter should be the subject of a planning condition.



## Recommendation

In light of the above, the recommendation remains largely as outlined in the main report, although with slight amendments and a further condition (number 5):

1. The development hereby approved shall be discontinued on completion of the data collection exercise or before 18 months from the date the mast is first erected, whichever is sooner; whereupon associated equipment shall be removed and the ground restored to its original condition within 3 months. The applicant shall notify the Council in writing of the date of erection of the mast no later than 7 days prior to the works commencing.

### REASON

To ensure that the use does not become permanently established on the site and to enable appropriate monitoring of the consent period and its impacts.

2. The development hereby approved shall not be carried out otherwise than in accordance with the 1:5000 location plan received by the Local Planning Authority on 2 April 2012; and the Meteorological Mast elevational drawing received by the Local Planning Authority on 7 February 2012.

### REASON

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

3. The guy ropes supporting the mast shall be fitted with bird diverters/reflectors as per a detailed scheme to be submitted to and approved in writing by the Local Planning Authority prior to works commencing.

### REASON

In the interests of the protection of migratory birds and minimising the risk of collision with the development hereby approved.

4. The mast shall be sited at least 50 metres away from the nearest linear feature. This measurement shall be taken from the nearest point where a guy ropes is affixed to the ground.

### REASON

In the interests of minimising the risk to EU protected species.

5. The data collected shall be made available to the Local Planning Authority in both its raw and adjusted forms prior to submission of any subsequent application for a wind turbine(s). If an application is submitted prior to completion of the data collection exercise, the applicant shall endeavour to ensure that the data is as complete as possible up to that point in time.

### REASON

In order to allow independent verification of any data collected.

## **Notes**

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies): ENV1 (Landscape Character), ENV3 (Nature Conservation), ENV6 (Land Resources), ENV10 (Energy Generation and Energy Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design) and ENV16 (Listed Buildings).

## **Justification**

The proposal is considered to have a limited and short term impact on the surrounding landscape character, with its temporary nature ensuring no irrevocable or net harm is brought about here. The slim design and appearance minimises the impact on visual and neighbouring amenity, and appropriate conditions can address concerns in respect of migratory birds. It is also noted that there is a presumption in favour of renewable energy schemes under local policy and the National Planning Policy Framework, and this is considered to afford further support to this proposal which merely looks to inform the potential for such energy generation. The proposal is therefore in accordance with saved policies ENV1, ENV3, ENV6, ENV10, ENV11, ENV12 and ENV16 of the North Warwickshire Local Plan 2006 and national policies as set out in the National Planning Policy Framework. There are no other material considerations that indicate against the proposal.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0070

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
262	SSWAT Co-ordinator	Email to Case Officer	19/03/2012
263	Head of Development Control	Letter to applicant	20/03/2012
264	Alan Towner	Representation	20/03/2012
265	Applicant	Email to Case Officer	21/03/2012
266	SSWAT Co-ordinator	Email to Case Officer	21/03/2012
267	Case Officer	Email to SSWAT Co-ordinator	21/03/2012
268	Applicant	Email to Case Officer	22/03/2012
269	Dr Simon Shakespeare	Letter	23/03/2012
270	SSWAT Co-ordinator	Email to Case Officer	28/03/2012
271	Applicant	Email to Case Officer	29/03/2012
272	Applicant	Amended plan	02/04/2012
273	Applicant	Amended description email	02/04/2012
274	MP Dan Byles	Letter to Head of Development Control	02/04/2012
275	Head of Development Control	Email to Councillors	02/04/2012

*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. Previous background papers are attached to the respective reports, usually appended to this report.*

*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.*

(11) Application No: PAP/2012/0070

Land adjacent to Austrey House Farm, Orton Lane, Austrey, CV9 3NR

Erection of a 60metre high meteorological wind monitoring mast for a period of twenty four months, for

Mr Stuart Barber (Gaoh Energy Ltd)

### Introduction

This application is reported to the Board following requests from Ward Councillors citing concerns over the visual impacts and wider development concerns.

The representations received relate to the time of preparing this report. If others are received before the meeting, they will be reported verbally.

### The Site

The site lies to the north of Orton Lane/Austrey Lane and to the west of Norton Lane/Orton Hill. To the north-west is the settlement of Austrey, to the south-east is Orton-on-the Hill, and to the south-west is Warton. There are no public footpaths immediately across or adjacent to the site, but some are noted within a 1 kilometre radius. The land concerned is presently in agricultural use, used for production of arable crops.



Austrey House Farm lies immediately to the west, with further dwellings along Orton Lane, some 700 metres or more distant, as it leads into Austrey. There are further residences along Orton Hill to the north-east, some 570 to 970 metres distant, including Orton House Farmhouse – a Grade II Listed Building. The Church of St Editha lies to the south on the edge of Orton-on-the-Hill – this is Grade I Listed.

The landscape is generally flat and open to the west and south-west, with the land rising relatively sharply towards the east and north here. The farmland is generally devoid of boundary features with just the ad-hoc tree along ditch courses. There is a small plantation to the south.

## **The Proposal**

It is proposed to erect a 60 metre high meteorological wind monitoring mast for a period of twenty four months.

## **Background**

This application follows the issue of Screening and Scoping Opinions relating to the potential for a wind farm at this location. The proposal for the current temporary monitoring mast is *not* considered to constitute EIA Development under the 2011 Environmental Impact Assessment Regulations as its impacts are not considered to be significant. However should an application be submitted at a later date for a larger wind “farm”, then it is considered that that application would require the submission of an Environmental Statement.

## **Development Plan**

North Warwickshire Local Plan 2006 (Saved Policies): ENV1 (Landscape Character), ENV3 (Nature Conservation), ENV10 (Energy Generation and Energy Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design) and ENV16 (Listed Buildings).

## **Other Relevant Material Considerations**

Government Advice: PPS22 (Renewable Energy) and the draft National Planning Policy Framework.

## **Consultations**

Ministry of Defence – no objection to the proposed mast

Warwickshire Wildlife Trust – raise no objection subject to conditions to ensure siting away from hedgerows and the use of bird deflectors

Hinckley and Bosworth Borough Council – no objections raised to the proposal

## **Representations**

Austrey Parish Council – no response received at the time of writing although they have noted their intention to reply following their meeting on 14 March 2012.

Shuttington Parish Council – object due to the size and visibility of the mast, as well as concerns over the heritage impacts.

Polesworth Parish Council – no response received at the time of writing

Twycross Parish Council – object due to the effect on views and heritage, and landscape character impacts.

Neighbour notifications were sent on 17 and 21 February 2012, and a site notice was erected on 20 February. It is also known that a local action group (SSWAT) has circulated letters to approximately 1,200 residences in the locality (Appendix A).

At the time of writing, a total of 162 objections have been received from 147 different addresses. These cite common concerns in respect of:

- The impact on landscape character and visual amenities of the area, particularly in respect of views and footpaths for both residents and visitors
- The impact on local wildlife, particularly migratory birds and bats
- The impact on heritage assets, most notably the Grade I Church in Orton-on-the-Hill
- Aviation impacts, both hobby aircraft and military.

Other concerns relate to proximity to dwellings, loss of agricultural land, noise from the guy ropes in high winds, the highway capacity for the construction and use of the proposal, the requirements for security fencing, the requirement for a construction track, effect on livestock and Twycross Zoo, and the effect on nearby woodland.

Many of the objections raise objection on the basis that this proposal is a potential precursor to a wind farm at this location. Indeed many object to the associated impacts with such turbines. As noted above, the Council has been formally approached in respect of such development but only to agree the scope of environmental reports and studies necessary to accompany any such application. Members should note this does not mean that an application will be submitted at all, particularly when planning permission is just one of many factors which influence whether development proposals are actually pursued. Should an application be made in the future, *that* is the appropriate time to discuss the merits of such a proposal; and in any case the outcome of this application does *not* set a precedent for a wind farm.

Some of the objections also encourage the Council not to consider this application; some encourage consideration of Parliamentary bills which have not yet been taken forward as legislation. Members will be aware that legislation requires consideration of all applications submitted, and on the basis of the legislation applicable at the time of decision. There are suggestions that an alternative site should be found, but this is not a valid reason to decline to consider this proposal. Some also cite the effect on property value, but Members will also be aware this is not a material planning consideration.

One letter of support has been received considering the impacts to be temporary and not significant; and recognises that in the wider picture wind farms are one of many methods of electricity generation, of which this location may save it being proposed in a less suitable location. A further 'neutral' letter has been received requesting that the Council consider those impacts as outlined above.

## **Observations**

There are considered to be four main issues to consider, and these are similar to the common concerns under the above objections.

### **(a) Landscape character and visual amenity**

The Landscape Character Area (LCA) here is of mixed farmland located within a distinctive bowl landform, punctuated by scattered farmsteads and hill-top villages with prominent church spires. It is noted as a visually open landscape, although the M42 cuts centrally through the area providing a notable urban influence. There is little roadside planting associated with the motorway and therefore wide open views are possible both from and towards it. In the lower lying areas alongside the watercourses, small fields are used for grazing and are enclosed by low hedgerows, particularly notable to the south of Austrey. On higher land, towards the distinctive escarpment upon which the proposal would be sited, the field pattern is less intact with larger, intensively managed arable fields with few hedgerows, although remaining lines of hedgerow trees hint at the historical pattern. The human influence for modern agricultural practices is thus evident. From elevated locations, distant wooded ridgelines and hilltop masts are visible.

The introduction of a tall narrow mast and guy ropes will run somewhat against the generally rural grain of the LCA. However the context of the proposal must be fully appreciated. Visually, the proposal will fall against the general backdrop of the sky when viewed at medium to long distances, with no antennae or dishes attached which would otherwise increase its prominence. The ability to view the Birchmoor telephone mast (38 metres), Austrey Microwave Relay Station to the north-west (Appendix B), Hopwas Hill transmitter at Tamworth (305 metres) and Sutton Coldfield transmitter (245 metres) means that masts are not wholly alien to the surrounding terrain. With the number of public footpaths in the area limited, with none passing immediately adjacent to the site (the closest is around 750 metres to the north), and there being no specific parkland or other designations, the impact on views into and out of the LCA is limited.

It is clear from supporting documents that this mast is to monitor wind speeds and direction in order to determine the site's suitability for any future wind energy proposal. Paragraph 32 of the Technical Annex to the PPS22 Companion Guide states *"measurements from anemometers help to determine whether or not a candidate site is suitable and, if it is, the measurements help to determine the best position for the wind turbines within the site's boundary. The masts should be approximately as tall as the hub height of the planned turbine. However, often when the mast is erected it is not known either if the site is suitable for wind farming or which turbine type would be most suitable."* Whilst merely explaining the possible reasons for pursuing such a temporary mast, the direct relationship of this Companion Guide to PPS22 should be noted. PPS22 itself lends *significant weight* to proposals for renewable energy, and ENV10 of the Local Plan reflects this. Whilst not a renewable energy proposal per se, it is clear from the above quotation that a mast will better inform any such application in line with these strategic objectives.

Hence whilst the full significant weight is not afforded here, considerable weight is.

The temporary nature of the mast is also a material consideration. A maximum period of 24 months is sought. In the local area, the mast at Birchmoor and the bulkier mast at Austrey Relay Station are both clearly visible. Both these examples are permanent – the proposal is not. The harm to the LCA is thus time limited. Indeed the permanent transmitter masts outlined above are of similar style and of greater height, yet these are not considered to cause unacceptable harm.

The land will remain in agricultural use, with the loss of active arable land temporary. Concerns in respect of security fencing (if at all necessary) are not considered significant, especially when the landowner has the right to erect a 2 metre fence without the need for planning consent here. No temporary tracks are proposed, with the method of construction possible across crop stubble.

On balance it is acknowledged there will be some interim effect on visual amenity, but it is not of a type or scale to bring about permanent harm to the intrinsic qualities of the existing landscape, which will remain unaltered.

## **(b) Ecology and wildlife**

Warwickshire Wildlife Trust has considered the proposal in terms of impacts on birds and bats. The site does not lie adjacent or close to statutory ecological constraints. The Trust has also spoken to the RSPB and confirmed that neither party are aware of any specific bird migratory route in this locality. The River Anker, like many watercourses, holds potential for migrating species, but no specific evidence suggests that the numbers are significant at county or regional level, unlike that observed within the Tame and Blythe Valley. For this proposal, it is considered that concerns relating to potential bird strike will be resolved by use of bird deflectors. This approach was considered appropriate for a similar site actually in the Tame Valley – a regionally important migratory bird route that was situated adjacent to a SSSI. Natural England, the Trust and the RSPB concurred with that view. As this site has a much lower significance, it is considered there is no reason for objection here.

There is a nearby hedgerow which may offer potential for bat foraging, but the connectivity of this hedgerow to other foraging habitats is poor. Nevertheless, the Trust advises a precautionary approach by requiring the siting to be no less than 50 metres from this feature. Accounting for the spread of the guy ropes, two to three times this distance can be achieved.

## **(c) Heritage**

The proximity to the Grade I St Editha's Church in Orton-on-the-Hill is the primary focus here. Consideration partly hinges into that discussed under landscape character above. Views from the Churchyard are partially or totally obscured to the north-west by trees in immediate or close proximity. The only clear views of the site will be from the far western corner of the grounds, and that view will be across an adjacent residential property. The setting of the Listed Building is therefore not considered to suffer significant harm, especially in the physical and temporary context of the proposal.



**(d) Aviation**

The MoD has been consulted as their view can affect the principle of development. However they raise no objection to this proposal, particularly given the proposal is static and thus does not cause a shadow effect on military radar. Fixed obstructions are recorded by the MoD so that flight paths and manoeuvres can account for them. The site is also beyond the safeguarding zone for East Midlands Airport and the same considerations are applicable here.

**(e) Other matters**

The nearest residents are 570 metres from the site. The only moving part of the proposal is a small vane and anemometer at the top of the mast, akin to a church spire. Noise concerns relating to the guy ropes in high winds are thus not a concern, particularly when those ropes would have to 'knock' against another part of the structure to cause an issue. In turn, these observations raise no concern for the welfare of livestock, horses or animals at the nearby Twycross Zoo.

Any loss of agricultural land is minimal, temporary and not subject to local policy protection. There is no concern as to the highway capacity for the construction phase and occasional visits to the structure;

**Recommendation**

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

1. The development hereby approved shall be discontinued on or before 31 March 2014, whereupon associated equipment shall be removed and the ground restored to its original condition within 3 months.

REASON

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 1:50000 and 1:5000 location plans received by the Local Planning Authority on 10 February 2012; and the mast layout as shown in Figure 1 of the Design and Access Statement received by the Local Planning Authority on 7 February 2012.

REASON

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

3. The guy ropes supporting the mast shall be fitted with bird diverters/reflectors as per a detailed scheme to be submitted to and approved in writing by the Local Planning Authority prior to works commencing.

REASON

In the interests of the protection of migratory birds and minimising the risk of collision with the development hereby approved.

4. The mast shall be sited at least 50 metres away from the nearest linear feature. This measurement shall be taken from the nearest point where a guy ropes is affixed to the ground.

#### REASON

In the interests of minimising the risk to EU protected species.

#### Notes

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies): ENV1 (Landscape Character), ENV3 (Nature Conservation), ENV10 (Energy Generation and Energy Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design) and ENV16 (Listed Buildings).

#### Justification

The proposal is considered to have a limited and short term impact on the surrounding landscape character, with its temporary nature ensuring no net harm is brought about here. The slim design and appearance minimises the impact on visual and neighbouring amenity, and appropriate conditions can address concerns in respect of wildlife. It is also noted that significant weight is afforded to renewable energy schemes under PPS22, and this is considered to afford further support to this proposal which merely looks to inform the potential for such energy generation. The proposal is therefore in accordance with saved policies ENV1, ENV3, ENV10, ENV11, ENV12 and ENV16 of the North Warwickshire Local Plan 2006 and national policies as set out in Planning Policy Statement 22. There are no other material considerations that indicate against the proposal.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0070

<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)	07/02/2012 10/02/2012
2	Mark Critchley	Representation	16/02/2012
3	Ruth Galliers-Bradshaw	Representation	17/02/2012
4	Case Officer	Email to Councillors	20/02/2012
5	Edith Critchley	Representation	20/02/2012
6	Marie Wilson	Representation	21/02/2012
7	Michaela Daulman	Representation	22/02/2012
8	Philip Daulman	Representation	22/02/2012
9	Barrie Eaton	Representation	23/02/2012
10	Mr & Mrs S Beard	Representation	23/02/2012
11	Lee Ryan	Representation	23/02/2012
12	Leigh Bilson	Representation	23/02/2012
13	Reine Plumpton	Representation	23/02/2012
14	Joseph Plumpton	Representation	23/02/2012
15	David Wilkins & Ruth Williamson	Representation	23/02/2012
16	D S Hardcastle	Representation	23/02/2012
17	G S Hardcastle	Representation	23/02/2012
18	Judith Hill	Representation	23/02/2012
19	Gerard Hill	Representation	23/02/2012
20	Hinckley & Bosworth BC	Consultation reply	24/02/2012
21	Brian Dawson	Representation	24/02/2012
22	Diana Davies	Representation	24/02/2012
23	Gordon & Doreen Ball	Representation	24/02/2012
24	Ms Catherine Pegg	Representation	24/02/2012
25	Hugh F Ford	Representation	24/02/2012
26	Keith Bradshaw	Representation	24/02/2012
27	N H & F E Walker	Representation	24/02/2012
28	Mr Christopher Meredith	Representation	25/02/2012
29	Peter Koziot	Representation	25/02/2012
30	Richard Crooke	Representation	25/02/2012
31	David Studd	Representation	25/02/2012
32	Adam Barker	Representation	25/02/2012
33	Anne & Roland Salt	Representation	25/02/2012
34	Lynsey Treadwell	Representation	25/02/2012
35	Austrey Parish Council	Consultation reply	25/02/2012
36	Derek Molyneux	Representation	26/02/2012
37	Mrs J Day	Representation	26/02/2012
38	Leslie Sherriff	Representation	26/02/2012
39	R P Darwin	Representation	26/02/2012
40	Ian Wood	Representation	26/02/2012

41	Karen Wood	Representation	26/02/2012
42	Alan & Christine Ellis	Representation	27/02/2012
43	Rita Reading	Representation	27/02/2012
44	Maxine Maddox	Representation	27/02/2012
45	Ruth Pickering	Representation	27/02/2012
46	Madge Sumner	Representation	27/02/2012
47	Ivan Ould o/b/o Twycross Residents	Representation	27/02/2012
48	C Richardson	Representation	27/02/2012
49	Jonathan Salt	Representation	27/02/2012
50	Mrs C Salt	Representation	28/02/2012
51	Susan Belcher	Representation	28/02/2012
52	David Key	Representation	28/02/2012
53	Debbie Walker	Representation	28/02/2012
54	Mr M Abbott	Representation	28/02/2012
55	Tina Baines	Representation	28/02/2012
56	David Lodge	Representation	28/02/2012
57	Barrie & Penny Rees	Representation	28/02/2012
58	Mr G E Kane	Representation	28/02/2012
59	Valerie & Geoffrey Freaks	Representation	28/02/2012
60	Mr & Mrs Cook	Representation	28/02/2012
61	Case Officer	Emails to SSWAT (Local Action Group) Co-ordinator	28/02/2012
62	SSWAT (Local Action Group) Co-ordinator	Emails to Case Officer with attached leaflet/letter	28/02/2012
63	David Tredinnick MP	Representation	29/02/2012
64	M G Bagnall	Representation	29/02/2012
65	J L Bagnall	Representation	29/02/2012
66	David Rowse	Representation	29/02/2012
67	Zoe Connor	Representation	29/02/2012
68	John Daley	Representation	29/02/2012
69	Julie McCallion	Representation	29/02/2012
70	Philip McCallion	Representation	29/02/2012
71	Mrs M Reynolds	Representation	29/02/2012
72	Mrs Carole Ryan	Representation	29/02/2012
73	Mr Peter Ryan	Representation	29/02/2012
74	Mary & Ray Smith	Representation	29/02/2012
75	Nick Fennell	Representation	29/02/2012
76	Dr G Evans	Representation	29/02/2012
77	Harvey	Representation	29/02/2012
78	Michelle Deeming	Representation	29/02/2012
79	Anthony Deeming	Representation	29/02/2012
80	M J Liggett	Representation	01/03/2012
81	Dr J Jacob	Representation	01/03/2012
82	Dr C Jacob	Representation	01/03/2012
83	R H C Penny & S E Penny	Representation	01/03/2012
84	Pete & Jean Dawson	Representation	01/03/2012
85	P F & P M Langtree	Representation	01/03/2012
86	Mrs P & Mr J Trevis	Representation	01/03/2012
87	Case Officer	Referral to Councillors	01/03/2012
88	Mrs J A Taylor	Representation	01/03/2012
89	Mr K Reynolds	Representation	01/03/2012

90	Mr C Boneham	Representation	01/03/2012
91	Julia Heritage	Representation	01/03/2012
92	Nigel Tongue	Representation	01/03/2012
93	Agent	Email to Case Officer	01/03/2012
94	Bill & Mary Willis	Representation	02/03/2012
95	Ms B Jean Bentley	Representation	02/03/2012
96	Mr & Mrs G S Barton	Representation	02/03/2012
97	Mrs Susan Meredith	Representation	02/03/2012
98	A Callow	Representation	02/03/2012
99	Graham Roberts	Representation	02/03/2012
100	Mandy Critchley	Representation	02/03/2012
101	Carol Tilley	Representation	02/03/2012
102	Mrs V Crooke	Representation	02/03/2012
103	Mrs Susan Mason	Representation	02/03/2012
104	SSWAT Co-ordinator	Letter to Case Officer	02/03/2012
105	Jean Ball	Representation	03/03/2012
106	Richard Mills	Representation	03/03/2012
107	Pauline Towner	Representation	03/03/2012
108	Gerard Whitehouse	Representation	03/03/2012
109	Mr Richard & Mrs Dawn Doe	Representation	03/03/2012
110	Darren Greally	Representation	04/03/2012
111	Brian Ball	Representation	04/03/2012
112	Mary Ould	Representation	04/03/2012
113	Simon Fisher	Representation	04/03/2012
114	Dawn Ryan	Representation	04/03/2012
115	David Roberts	Representation	04/03/2012
116	Andrew Buckingham	Representation	04/03/2012
117	Rosalind & Patrick Eston	Representation	04/03/2012
118	Richard Parker	Representation	05/03/2012
119	Linda Buckingham	Representation	05/03/2012
120	Mrs G Sutton	Representation	05/03/2012
121	Mr D Sutton	Representation	05/03/2012
122	Frances Beard & family	Representation	05/03/2012
123	Mr & Mrs N Dix	Representation	05/03/2012
124	B Chapman	Representation	05/03/2012
125	Iain Handy	Representation	05/03/2012
126	Mr & Mrs Flynn	Representation	05/03/2012
127	Gillian Sutton	Representation	05/03/2012
128	Mr John Boyle	Representation	05/03/2012
129	George Brotherhood	Representation	05/03/2012
130	Ward Councillors	Request for determination at Planning Board	05/03/2012
131	Mark Oldham	Representation	06/03/2012
132	Mr S R Hart	Representation	06/03/2012
133	Mrs A E Appleyard	Representation	06/03/2012
134	Mr S J West	Representation	06/03/2012
135	Margaret McKay	Representation	06/03/2012
136	Michael McKay	Representation	06/03/2012
137	Mrs D Jenkins	Representation	06/03/2012
138	Mr David Jenkins	Representation	06/03/2012
139	David & Sara Kearsley	Representation	06/03/2012

140	John Walters	Representation	06/03/2012
141	Lorna & Keith Gregory	Representation	06/03/2012
142	Warwickshire Wildlife Trust	Consultation reply	06/03/2012
143	David Hunt	Representation (2 copies)	06/03/2012 07/03/2012
144	W H and M M Liddell	Representation	06/03/2012
145	Mrs C Banks	Representation	06/03/2012
146	Mrs Beryl Grix	Representation	06/03/2012
147	Martin Tallett	Representation	06/03/2012
148	Tara Farrand	Representation	06/03/2012
149	Alison Robinson	Representation	06/03/2012
150	Richard Collingwood	Representation	06/03/2012
151	Jillian Parker	Representation	06/03/2012
152	Speight	Representation	06/03/2012
153	Mr Anthony R Cooper	Representation	06/03/2012
154	Peter & Judith Stark	Representation	06/03/2012
155	Case Officer	Email to SSWAT Co-ordinator	06/03/2012
156	Case Officer	Email to Chris Meredith	06/03/2012
157	Case Officer	Email to Agent	06/03/2012
158	R J Quine	Representation	07/03/2012
159	Mr P N & E A Ghent	Representation	07/03/2012
160	Dan Byles MP	Letter to Case Officer	07/03/2012
161	Ministry of Defence	Consultation reply	07/03/2012
162	Twycross Parish Council	Consultation reply	07/03/2012
163	Paul Langman	Representation	07/03/2012
164	J W Seward	Representation	07/03/2012
165	S J M Elliot	Representation	07/03/2012
166	Gary Elliot	Representation	07/03/2012
167	Joanne Norris	Representation	07/03/2012
168	Dean Ashley	Representation	07/03/2012
169	Michelle Fawcett	Representation	07/03/2012
170	Tracey Liggett	Representation	07/03/2012
171	Compton & Rachael Bill	Representation	07/03/2012
172	L Waplinton	Representation	07/03/2012
173	Anita Allsopp	Representation	07/03/2012
174	Shuttington Parish Council	Consultation reply	07/03/2012
175	Alan Tarpey	Representation	07/03/2012
176	Nigel Taylor	Representation	07/03/2012
177	Lynda Taylor	Representation	07/03/2012
178	Gregory Parkes	Representation	07/03/2012
179	Rose Steward	Representation	07/03/2012
180	SSWAT Co-ordinator	Email to Case Officer	07/02/2012
181	Alan Parsons	Representation	08/02/2012
182	Elizabeth Hunt	Representation	08/02/2012
183	Richard Meredith	Representation	08/02/2012
184	Tamworth Herald	Article published 08/02/2012	08/02/2012
185	R Lamb	Representation	08/02/2012
186	Case Officer	Email to SSWAT Co-ordinator	08/03/2012

*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.*







As you are aware we have been closely monitoring the Planning Authorities of North Warwickshire Borough Council (NWBC) and Hinckley & Bosworth Borough Council (HBBC), in order to be alerted to any planning application for development of a Wind Farm around Austrey House Farm, Orton Lane.

Our vigilance has found that a **Planning Application to erect a Meteorological Mast has just been lodged with NWBC.**

(<http://planning.northwarks.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=100951>)

The reason to erect a mast is usually to provide data to support a subsequent application to develop a Windfarm in the same area. The impact of such a development in the neighbourhood cannot be underestimated.

If you wish to lodge an objection to the erection of the mast, then you will only have until the **7th March 2012**. That is only in **21 days from now**.

Any such objections need to be specific and there is guidance on the NWBC website and can be found at the following link:

<http://planning.northwarks.gov.uk/portal/servlets/PlanningComments?REFNO=PAP/2012/0070>

It is most important that your objection be based only on sound 'planning considerations'. The above link provides the most significant of these.

Also important is that the objection should only relate to the current application for the Meteorological Mast and not to any potential Windfarm application that is likely to follow. That fight can only be addressed if and when an application is actually submitted.

Understanding that you may have questions, or indeed be confused how best to proceed, please do not hesitate to send any questions to this email address and we will seek to assist.

**We are here to support you and our community.**

Kind regards

Damian Gallagher  
Coordinator

on behalf of  
**SSWAT Action Group**  
(Stop Subsidised Windfarms Around Tamworth)

(emailed 15<sup>th</sup> February 2012 to current list of campaign supporters)

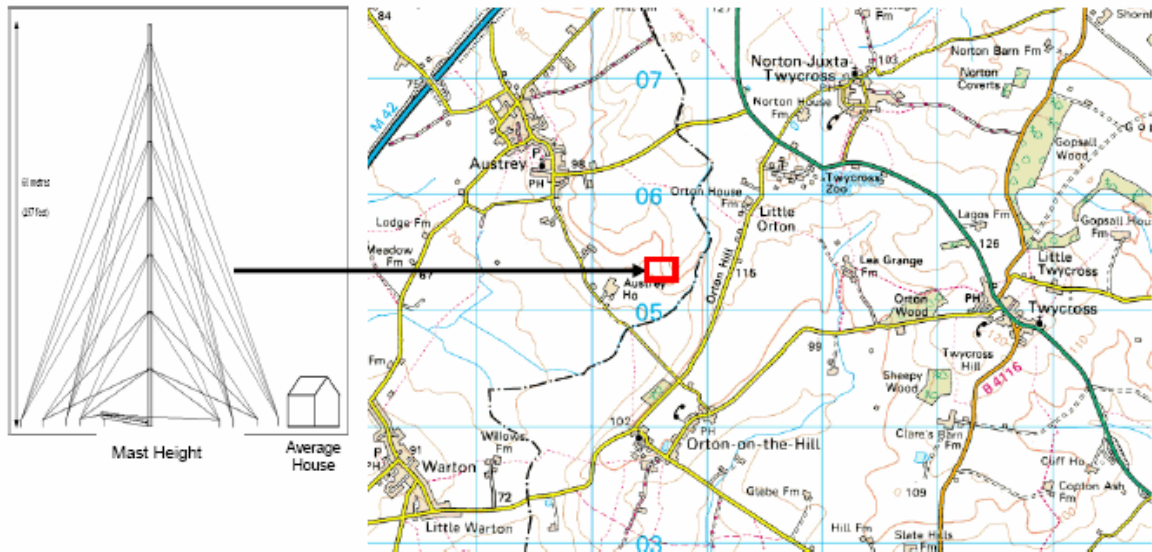
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Email circulated to current SSWAT supporters



# Stop Subsidised Windfarms Around Tamworth

sswat



## A PLANNING APPLICATION

for a

## 60m (i.e.197 ft) HIGH METEOROLOGY MAST

has been submitted to be erected on farm land, between the villages of

## Warton, Austrey, Orton-on-the-Hill and Twycross

This is part of a process to seek permission for a large

## WINDFARM DEVELOPMENT

To find out more and register your comments go to the NWBC website <http://www.northwarks.gov.uk>  
& search the Planning Applications section for application number PAP/2012/0070 or write to:  
Chris Nash, NWBC, Council House, South Street, Atherstone, CV9 1DE  
(or email: [planningcontrol@northwarks.gov.uk](mailto:planningcontrol@northwarks.gov.uk), FAO: Chris Nash)

Please do register your comments on the application;  
they must be  
**submitted by 9<sup>th</sup> March 2012**

*Please see overleaf for suggested objections*

***There is much at stake to maintain the beauty of our countryside.***

(We will try and answer any questions if you mail them to: [sswat2012@live.co.uk](mailto:sswat2012@live.co.uk))

Flyer delivered to residences in Austrey, Warton, Orton-on-the-Hill and Norton-Juxta-Twycross

## Suggested Objections

1. The area in which the mast will be positioned is a rural area of exceptional natural beauty. The appearance of a 60m industrial structure will have a significant impact on this outstanding and unspoilt countryside.
2. Visitors regularly park and admire the views. On a clear day the Peak District can be seen in the distance. The proposed mast would strongly detract from these views.
3. The proposed mast would be visible over a wide area, not just affecting houses in close proximity.
4. There will be a significant loss of amenity for the many people who regularly use the footpaths in the vicinity.
5. The proposed development contravenes North Warwickshire Borough Council Local Plan policy ENV1 – Protection and Enhancement of Natural Landscape. The Local Plan is available for viewing by the public on the North Warwickshire Borough Council website.
6. The proposed mast is on a flight path regularly used by swans, geese, ducks and herons to and from Shuttington. Buzzards, Kestrels, Owls and Sparrow Hawks all nest and feed in the area. The many steel guy wires used to support the mast would place these birds at great risk.
7. The proposed mast would be double the height of St Edith's Church nearby at Orton-on-the-hill, a grade 1 medieval church that was built in the 14<sup>th</sup> Century. The scale of the mast would detract from this historic asset.

*These points are for guidance only; it is important that you use your own words and add further reasons if you feel they are applicable. Each and every member of your home can register their own comments*

***Please do register your comments/objections as there is much at stake.  
Remember this is only the first part of our campaign to stop the windfarm  
development.....***

***Thank you.***

---

Flyer delivered to residences in Austrey, Warton, Orton-on-the-Hill and Norton-Juxta-Twycross



Austrey Microwave Relay Station, north-west of the proposed site

**Application No: PAP/2012/0070**

**Land adjacent to Austrey House Farm, Orton Lane, Austrey, CV9 3NR**

**Erection of a 60metre high meteorological wind monitoring mast for a period of twenty four months, for**

**Mr Stuart Barber (Gaoh Energy Ltd)**

### **Introduction**

This addendum reports additional representations received since the time of preparing the agenda, and addresses any further matters arising. It should be read in conjunction with the main report.

### **Further consultation replies**

Austrey Parish Council – objection on the grounds of harm to the landscape, the visual impact and effect on views and impact on wildlife. Reply also carries details of voting for, against and neutral at their meeting, and forwards concerns from residents regarding the extent of consultation.

Polesworth Parish Council – objection on the grounds that the area carries outstanding natural beauty; is harmful to landscape character; the proposal would have an adverse effect on flora and fauna; and the impact on heritage assets.

Newton Regis, Seckington and No Man's Heath Parish Council – objection on the grounds that the area carries outstanding natural beauty; is harmful to landscape character; the proposal would have an adverse effect on wildlife; and the impact on heritage assets.

Campaign for the Protection of Rural England – objection on the grounds of the impact on views and landscape; the effect on local tourism; the need to consider this cumulatively with other turbines; impact of the turbines on residents health; safety concerns around turbines; impact on wildlife; and effect on heritage assets in the locality.

### **Further representations**

At the time of writing a further 64 objections have been received from 57 different addresses, bringing the total to 226 and 204 respectively. These cite many of the same common concerns previously outlined, as well as echoing previous concerns over wind turbines and their effect.

Further to those other concerns previously outlined, additional points of concern have been raised. These focus on tourism impacts, including views; ensuring collected data is made publically available; motives of the landowner and developer; technical concerns regarding the application and supporting documents; and the soundness of conditions. Some make calls for Councillors to make a site visit prior to determination.

## Observations

As previously outlined, assessment of this application must be based on the proposal placed before Members and not what may happen in the future. Should an application for a wind farm be made in the future, *that* is the appropriate time for such discussion. For the same reasons, it is not appropriate to consider Bills which have no legal standing at the current time. Attention is also drawn to the fact that the motives of the landowner and developer are not material planning considerations; nor is discussion relating to national subsidies for wind farms – particularly when this proposal is not for a turbine and the correct channel for opposition is through MPs.

Moving to address the planning considerations raised under the further representations, these follow a similar line to that discussed in the main report:

### **(f) Landscape character and visual amenity**

Representations motion that the landscape is greater than suggested in the main report, with many referring to the area as an area of outstanding natural beauty. However no such statutory designation exists which would afford greater strength to the protection of the countryside here, nor is there a 'right to a view', and consideration must therefore be based against the Landscape Character Area (LCA). Members will note that officers acknowledge that the proposal "*will run somewhat against the generally rural grain of the LCA*". It is not disputed there will be an impact, but the focus is on whether that impact is *unacceptable*. This is discussed at length in the main report, with focus given to the weight afforded by the temporary nature of the mast, it's appearance and national planning guidance.

### **(g) Ecology and wildlife**

Representations echo the previous concerns in respect of bat and bird impacts. Attention is drawn to the fact that Warwickshire Wildlife Trust in liaison with the RSPB raises no objection to the proposal. Bats navigate by sonar and avoid fixed static objects in this manner; and the inclusion of bird diverters by way of the condition proposed addresses any residual concerns. Claims that the site lies on a migratory corridor are not echoed by the Trust, and Members attention is drawn to the main report demonstrating the approach taken where such a constraint exists.

### **(h) Heritage**

Representations motion that the heritage impact has been 'played down' in the main report. The focus is on how the proposal affects the *setting* of heritage assets (i.e. when viewed at/from that asset). The focus is on the Grade I St Edith's Church in Orton-on-the-Hill given its Grade status, open aspects towards the west, and the setting of the churches in Austrey, Warton, Twycross and Norton-Juxta-Twycross being more 'enclosed' by surrounding built form and vegetation. The impact on the setting is discussed in the main report, and consideration of long distance views into the area, incorporating any church spires/towers on the horizon line is more appropriately considered under landscape character.

## **(i) Aviation**

Further representations echo aviation concerns. As noted, the MoD raises no objection. Civil Aviation Authority requirements and guidelines address private aircraft concerns.

## **(j) Other matters**

The further representations introduce other considerations. The first is the impact on tourism, including those visiting the area for views and the zoo. As noted above, the area is not a recognised area of outstanding beauty, nor is there evidence of designated view points in the area. The zoo provides its own reason for tourism to the area and does not rely on views for this. In any case, it is considered that the proposed siting will not unacceptably interfere with views from the escarpment.

Some object to the loss of agricultural land. However land does not have to stay in one particular use, and this proposal will not sterilise it. Any loss of land will have a minimal impact on the farm's productivity.

Some request that the collected data is made publically available. Whilst not a matter which can be conditioned, the applicant raises no objection to the release of such data. Indeed a recent High Court case resulted in the release of withheld data for a wind farm elsewhere in the UK.

Technical concerns regarding the application, supporting documents and recommendation have been raised. Officers have considered the accuracy of information provided, and where errors are identified they are not considered to prejudice any person's ability to understand and comment on the application. The recommended conditions are considered to meet the tests set out in Circular 11/95. The call for a full ecology study is considered disproportionate to the scale of the proposal, and reference should be made to Warwickshire Wildlife Trust's opinion.

The applicant has had sight of all representations received. In light of this they provide a bullet list of responses to the matters raised. This is considered to be a useful reference tool, and is enclosed at Appendix C.

## **Recommendation**

In light of the above, the recommendation remains as outlined in the main report, although with an amendment to condition 1:

1. The development hereby approved shall be discontinued on completion of the data collection exercise or before 31 March 2014, whichever is sooner; whereupon associated equipment shall be removed and the ground restored to its original condition within 3 months.

## **REASON**

To ensure that the use does not become permanently established on the site.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0070

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
187	Karen Hall	Representation	08/03/2012
188	Mary Gallagher	Representation	08/03/2012
189	Mrs L J Smith	Representation	08/03/2012
190	Mr G W Parkes	Representation	08/03/2012
191	Tracey & Michael Halliwell	Representation (2 copies)	08/03/2012
192	Shirley Baxter	Representation	08/03/2012
193	Case Officer	Emails to SSWAT Co-ordinator	08/03/2012
194	Neil Wragg	Representation	08/03/2012
195	Writer requests anonymity	Representation	08/03/2012
196	Neville Ellis	Representation	08/03/2012
197	Chris & Kate Stone	Representation	08/03/2012
198	P Savage	Representation	08/03/2012
199	Newton Regis, Seckington & No Man's Heath Parish Council	Consultation reply	08/03/2012
200	Catherine Wood	Representation	08/03/2012
201	Margaret Dalton	Representation	08/03/2012
202	Steve Town	Representation	08/03/2012
203	Teresa Town	Representation	08/03/2012
204	David Hanks	Representation	08/03/2012
205	Dr S A Shakespeare	Representation	08/03/2012
206	Mrs Z Shakespeare	Representation	08/03/2012
207	Georgie Guest	Representation	08/03/2012
208	Mr Barry Shakespeare	Representation	08/03/2012
209	Pete Wileman	Representation	08/03/2012
210	Mrs Anne-Marie Wileman	Representation	08/03/2012
211	Mrs L Allton	Representation	08/03/2012
212	Sue Downes	Representation	08/03/2012
213	Matt Sandbrook	Representation	08/03/2012
214	Richard Collingwood	Representation	09/03/2012
215	Mr S G Steward	Representation	09/03/2012
216	Allan Taylor	Representation	09/03/2012
217	C C Harrington	Representation	09/03/2012
218	Sally Taylor	Representation	09/03/2012
219	D H Taylor	Representation	09/03/2012
220	Julie Talbot	Representation	09/03/2012
221	Polesworth Parish Council	Consultation reply	09/03/2012
222	Brigitte Hounsome	Representation	09/03/2012
223	S J Orton	Representation	09/03/2012
224	M O Doherty	Representation	09/03/2012
225	Fiona Dalton	Representation	09/03/2012
226	John Smyczek	Representation	09/03/2012



227	M J Sandbrook	Representation	09/03/2012
228	Cate Barker	Representation	09/03/2012
229	Alan Grimley	Representation	09/03/2012
230	Miss Katherine Steward	Representation	09/03/2012
231	Helen Oldham	Representation	09/03/2012
232	SSWAT Co-ordinator	Email to Case Officer	10/03/2012
233	Sally-Anne Munroe	Representation	10/03/2012
234	Miss Joyce Carroll	Representation	12/03/2012
235	Imogen Wright	Representation	12/03/2012
236	R E Rowell	Representation	12/03/2012
237	Mrs K Rowell	Representation	12/03/2012
238	Barbara Treadwell	Representation	12/03/2012
239	Tony Treadwell	Representation	12/03/2012
240	Case Officer	Email to objector	12/03/2012
241	Cllr Kevin Morrell (HBBC)	Representation	12/03/2012
242	Campaign for the Protection of Rural England	Representation	13/03/2012
243	D C Newman	Representation	13/03/2012
244	Damian Gallagher	Representation	13/03/2012
245	Joanna Gallagher	Representation	13/03/2012
246	Alastair Hayward	Representation	14/03/2012
247	Case Officer	Email to objector	14/03/2012
248	Anne Rock	Representation	14/03/2012
249	Pamela Smith	Representation	14/03/2012
250	Eifion Hughes	Representation	14/03/2012
251	Case Officer	Email to SSWAT Co-ordinator	15/03/2012
252	Malcolm Pennycuick	Representation	16/03/2012
253	Agent	Email to Case Officer	16/03/2012
254	Mr B Johncock	Representation	16/03/2012
255	Austrey Parish Council	Consultation reply	16/03/2012
256	Stuart Lamb	Representation	17/03/2012
257	Deborah Reynolds	Representation	17/03/2012
258	Sarah Bullivant	Representation (2 copies)	17/03/2012
259	Newton Regis, Seckington & No Man's Heath Parish Council	Email to Case Officer	18/03/2012
260	Mr M Black	Representation	19/03/2012
261	Cllr May (via email distribution)	Circulation of Background Paper #63 to Board Members	19/03/2012

*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.*

-----Original Message-----

From: Stuart Barber [mailto:stuart.barber@gaoh-energy.com]

Sent: 16 March 2012 13:57

To: Nash, Chris

Cc: Paul Smith

Subject: RE: PAP/2012/0070

Good Afternoon Chris,

Firstly thank you for forwarding over all the correspondence, I understand it must have been a particularly laborious task.

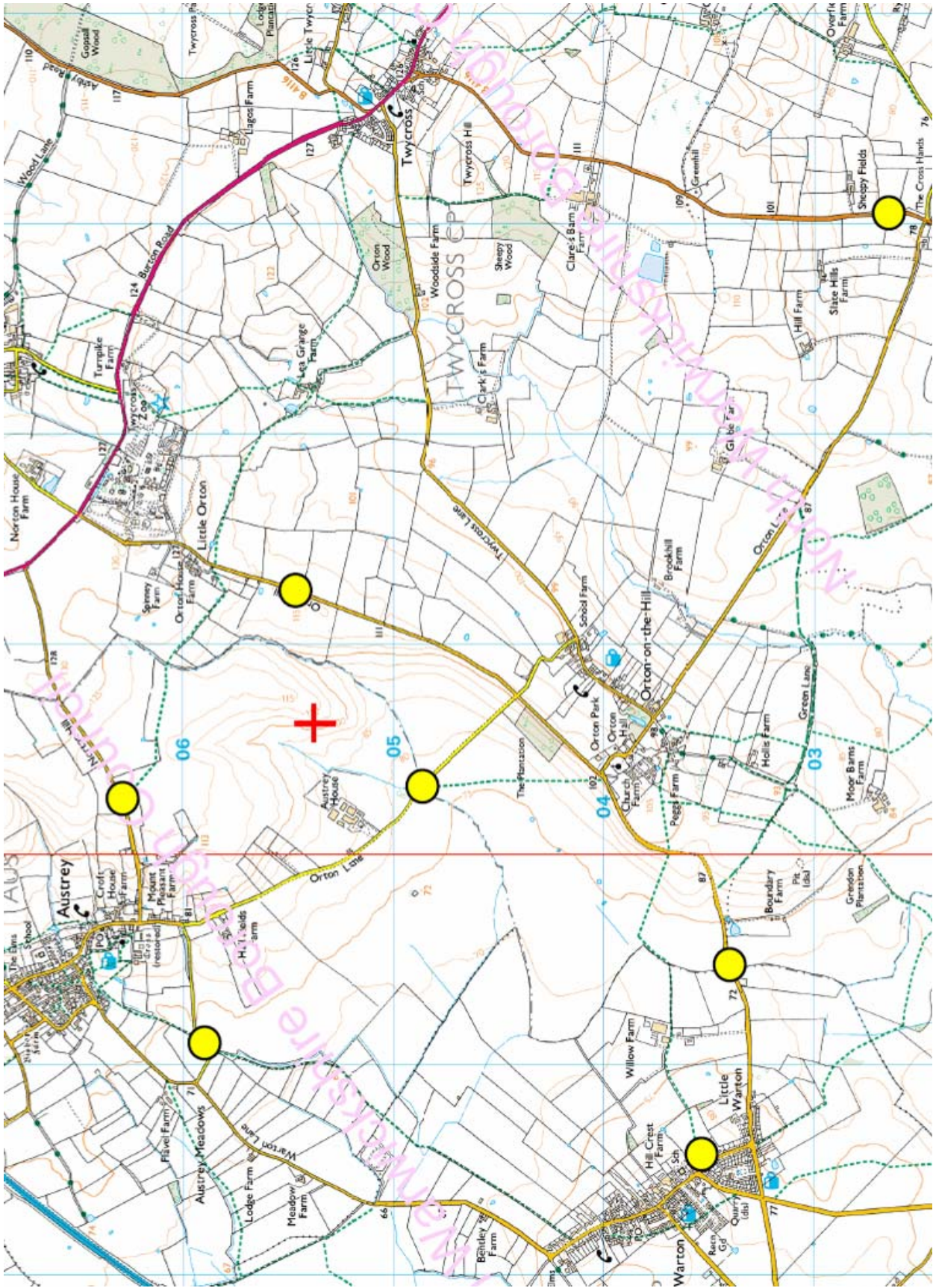
I understand that you have already produced your recommendation for the application. However, for the sake of the development board, I have raised a few points that seem to be common throughout the objection letters and I have tried to address them as succinctly as possible. Obviously Paul will be able to explain these better at the planning meeting on Monday evening.

1. Impact on Low Flying military aircraft - The MoD have not objected to the application
2. Impact on wildlife (specifically birds) - Neither the RSPB or Warwickshire Wildlife Trust have objected to the application
3. The mast will generate noise - The only moving parts are the anemometers and wind vanes.
4. The vast majority of the letters are stating reasons for objecting to a wind farm, the application isn't for a wind farm at all.
5. The site is an Area of Outstanding Natural Beauty - There are no statutory designated sites in the immediate vicinity of the application area.
6. The mast will have an impact on house prices - There is no evidence to support this claim.
7. The mast will have an impact on health - Again, there is no evidence to support this claim.
8. The mast will be supported by concrete foundations - No foundations are required for the mast at all, it is supported upright by the guide wires.
9. The mast will result in the closure of public rights of way - There are no such rights of way in close proximity to the application area, therefore we are not requesting such closure.
10. There is inadequate access for the works vehicles - The site will be accessed via a 4 x 4 type vehicle via an existing on-site track.
11. This application is subsidised by the government - This application is funded purely by private finances, at no point is government money involved.
12. This application has been proposed by the Land Owner - The application is proposed by Gaoh Energy Ltd with the permission of the land Owner.

13. The proposal is within a Green belt area - The application site isn't within such an area.
14. The application would change the use of the land - All normal agricultural activities can be carried out regardless.
15. The mast will cause light pollution - An aviation light will only be fitted as part of any attached conditions. Even so, it will not cause significant impact.
16. The proposed mast is not 100% efficient - We have a lot of experience with this sort of mast and they perform exceptionally well and to a high standard.
17. The mast is much higher than necessary - This height of mast is as representative as possible, eliminating the need for significant extrapolation.
18. There will be a need for heavy vehicles to constantly access the site - Once the mast has been erected, it requires very little maintenance. Perhaps a visit once a year by an engineer.
19. The mast will cause flicker - As the mast is a static object no flicker will occur.

Chris, I can understand that people have reservations about the application. At the end of the day it is quite unique and isn't something the general public come across too often. However, we have tried to be as transparent about this application as possible. Thanks for your time on this one, I can see that you have had a lot to deal with and lots of queries.

Kind Regards,  
Stuart






Site visit/tour viewpoints (yellow circles – mast location as a red cross)

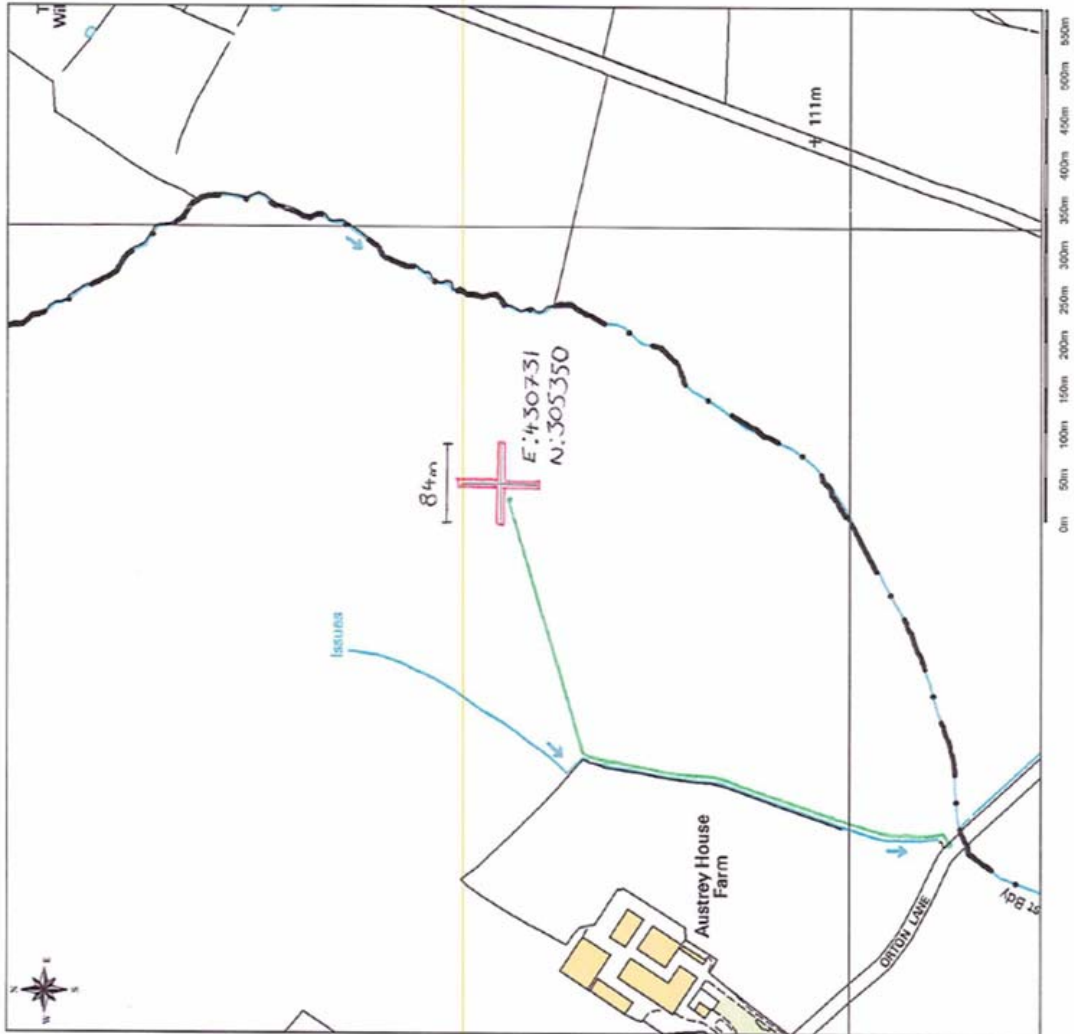
2012 / 0070

Austrey Mast site plan Rev III

Date: 28.03.12

Key:

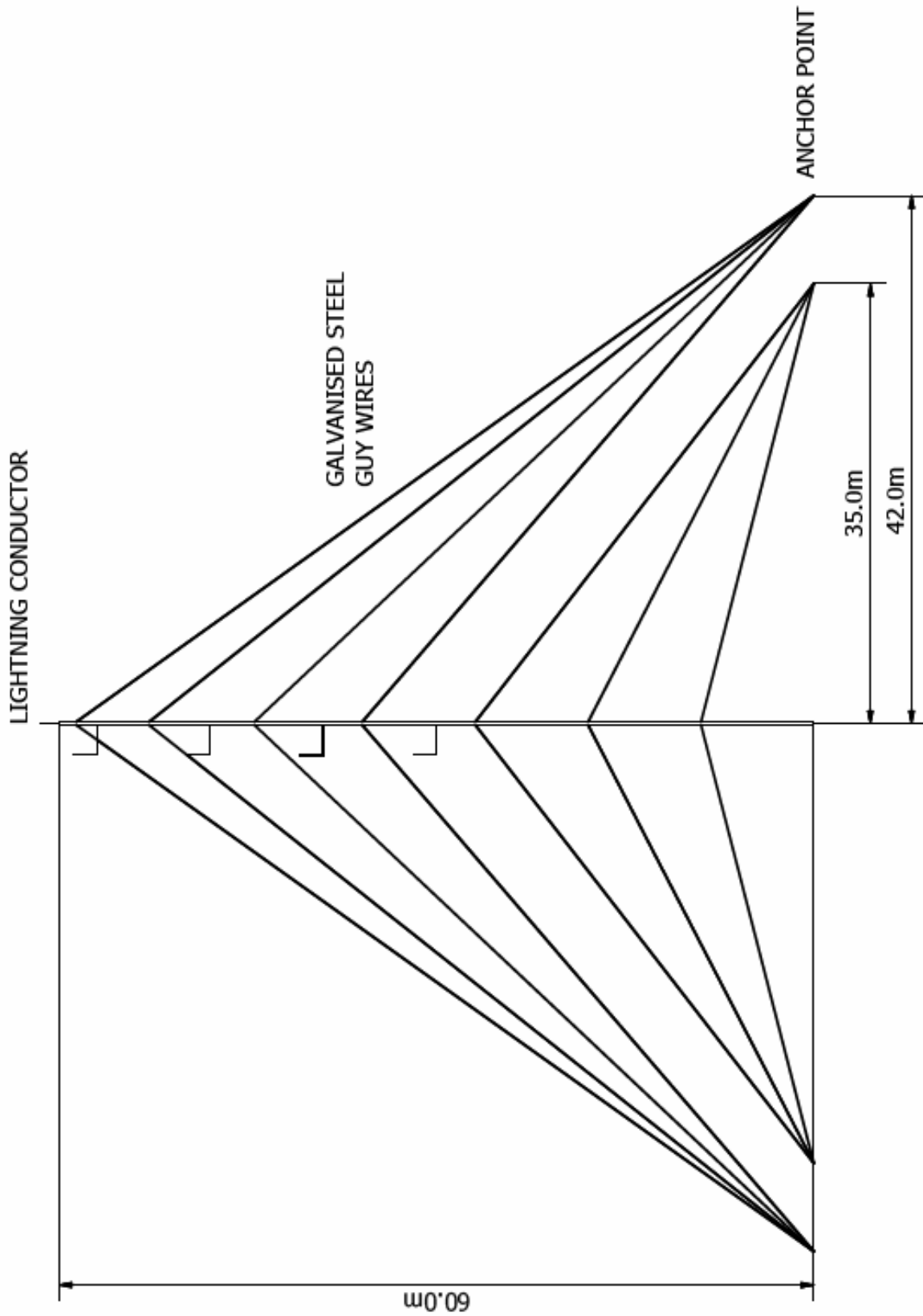
-  position of mast
-  mast site area
-  access route



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Revised site location plan



Mast elevations and dimensions

**(2) Application No: PAP/2011/0565**

**Laxes Farm, Nuneaton Road, Over Whitacre, B46 2NL**

**Construction of fishing pool and associated earthworks and new farm access track. Change of use from agriculture to stock fishing pool with occasional private fishing, for**

**Mr & Mrs J Clarke**

**Introduction**

This application was referred to the March meeting but determination was deferred in order to request the applicant to consider the amount of material proposed for import and secondly to provide more information on the type of material to be imported. The applicant has responded through the submission of a further document.

The previous report is attached as Appendix A and the additional document is at Appendix B.

**The Applicant's Additional Document**

In short this does not propose any revisions to the scheme but it does provide further background information. It is confirmed that the project is part of a farm diversification scheme (paragraph 1.2 and paragraph 1.8) overseen by an environmental consultant and action plan (paragraphs 1.3 and 1.9). The actual location of the pool is further described (paragraph 1.4). There is also an extended section referring to the importation of material (paragraphs 1.5 to 1.7). The applicant's assessment of planning issues is at Section 2 and a short summary concludes at Section 3.

**The National Planning Policy Framework**

Since the date of the last meeting, the Government has published the National Planning Policy Framework (NPPF). This replaces all previously published Planning Guidance Notes and Planning Policy Statements, and thus references in the previous report to these documents now carry no weight. The NPPF is a material planning consideration of significant weight and it will be referred to within this report.

**Additional Representations**

The applicant's additional document was received just prior to preparing this report, but it has been circulated to local Members, the Parish Council and to those who addressed the Board at the last meeting. Further representations have been received from the CPRE and from Mr Hancocks. These are attached at Appendices C and D.

The applicant has seen a copy of these later representations and has provided a response at Appendix E. This has in turn been forwarded to the CPRE and Mr Hancocks, but in view of the time periods for preparing this report, any further representations will have to be reported verbally to the meeting.

## **Observations**

### **a) Introduction**

It is not proposed to repeat the matters contained in the previous report but to focus on some of the main issues. Before doing so however it is considered important to stress a number of factors which the Board should be aware of the making its decision.

- The determination of this application should be made on the basis of the proposed development, namely a fishing pool. Whether or not Members or the local community consider that this is proposed, or has come about for other reason, is not a material planning consideration. The motive of the applicant is irrelevant to the decision as is the suggestion that the proposal is just an opportunity to “dump waste materials” in the countryside, or that this is an “abusive” activity. Members will understand the consequences of such decision-making
- The quality of the imported material will be monitored by the Environment Agency through its Permit system. It has the appropriate controls and monitoring regime to enforce that system. The Council’s remit as Planning Authority does not extend into that system. It is material to the determination of the application that such controls exist and therefore the Board should derive the necessary comfort as a consequence. Members will understand the consequences of its decision-making should it consider a refusal based on doubts about the imported material.
- References to the Localism Act are misunderstood. Planning applications are determined under the terms of the Planning Act 1990 as amended. That means that determinations are to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. An objection from a neighbour or a local resident does not mean automatic refusal of any application – it just one material planning consideration. This has always been the case and the Localism Act does not alter that position.

### **b) Planning Policy**

The proposal is not inappropriate development in the Green Belt. Members will know that engineering operations that do not affect the openness of the Green Belt are not inappropriate developments. Moreover the uses of land in the Green Belt are, amongst others, to provide opportunities for outdoor sport and recreation and to enhance bio-diversity. This proposal meets these objectives. Development Plan policy and NPPF policy supports agricultural diversification and other land-based rural businesses. It is thus worth stressing from the outset that there is thus no objection in principle to this proposal. Indeed equivalent proposals have been permitted in the neighbourhood and elsewhere in the Borough.

### **c) Impacts**

In these circumstances, the Board’s consideration of the proposal revolves around whether there are likely to be any adverse impacts of such dis-benefit to refuse the application. It is of substantial weight that there are no objections from the Highway Authority; the Environment Agency, the Warwickshire Wildlife Trust or from Birmingham Airport. The Board is strongly advised to consider the consequences of a refusal without support from these Agencies.

It is considered that the issues that have been raised that Members should give further



attention to are the visual impact of the proposed pool; the traffic impact and the cumulative impact of there being a series of similar pools in this particular valley which are accessed by the same road network.

The previous report; the supplementary documents and the background information all point to there being no significant adverse visual impact. It is accepted that there will be a change in the appearance of the landscape and thus that there will be a visual impact. The issue is whether that impact is so significantly adverse to warrant refusal. It is considered not because this impact is only in the immediate vicinity of the pool; because of the setting of the existing contours and tree cover, and because it is not substantial in scale or mass so as to result in an overall change in the character or appearance of the landscape. It follows from these reasons that there would be little impact on the openness of the area hereabouts – there would be no enclosure or sense of intrusion on open space. It is also material that other pools in this valley have been granted permission such that they too have not been considered to have had an adverse visual impact or affected the openness of the landscape.

The Highway Authority has not objected to the application and it has not done so in the past with similar proposals. This is of significant weight. From its perspective, access is onto a main distributor road with the capacity to take the HGV traffic; the permission involves the temporary use of the site and road by HGV traffic and conditions can be attached to any permission granted. It therefore retains a consistent approach to all such applications. A refusal here based on HGV movements is unlikely to be supported given such a background. Additionally, problems that may have occurred on other sites should not be assumed will occur with this proposal. This is a separate application with a different applicant and with different land ownership. Members should be very wary of transposing problems that are said to have occurred at other sites to this application as a reason for refusal. For completeness, Members can be assured that as a matter of fact, officers have investigated alleged breaches of conditions at these other sites and have found no case to take further action.

This leads to the issue of whether there is a case for refusal because of cumulative impacts. In terms of highway impacts then clearly the same highway network is to be used as in previous cases. However each of these cases is a separate and discreet case. The project commences and then finishes. At the present time there is only one unfinished project and that is several miles distant from this site. A refusal here would be difficult to defend in such circumstances. It would be necessary to show that this proposal is the “straw that breaks the camel’s back”, or that this case was so particularly different to have significantly adverse traffic impacts. Given that the scale of this proposal is very similar to others granted in the vicinity that is not considered to be the case here. The cumulative impact on the landscape is perhaps more likely to carry more weight because once the projects are completed, their visual impact remains as a permanent feature unlike that of the traffic impacts. However care must be taken. Firstly, the area here is not designated as an AONB and it is not recognised in any formally adopted Supplementary Planning Guidance. Secondly, the visual impact of this particular proposal is very limited as argued above. Thirdly, it must be shown if this is to be followed as a potential refusal, that it is this proposal which causes that cumulative loss of landscape character. It is considered that this is not the case or that the cumulative impact of previous similar projects has so materially altered the landscape hereabouts so as to erode its essential character as identified in the Warwickshire Landscape Guidelines.

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

The responses – Appendices C and D – to the applicant’s initial Supplement – Appendix B – cover some of the arguments relating to the matters raised above. They additionally attempt to offer alternative arrangements to the proposal. Members will be aware that it is not within its remit to redraw a planning proposal. The Board should determine the application before it. In this case that is for a fishing pool as part of a farm diversification project that does involve the import of material. That it involves such importation is not in itself a reason for refusal as this and the previous report have explained.

#### **e) Conclusion**

Notwithstanding the fact that the applicant does not propose to revise the submitted scheme, it is still considered that the application can be supported for the reasons given in the previous report as supplemented in this report. The Board is strongly encouraged not to determine the application on the basis that the proposal is only a means of depositing waste. Whilst that perception might be understood, it should not form the basis of a determination. In order to assist Members it is recommended that an informative is included, should a planning permission be granted, as advised by the Environment Agency, informing the applicant of the need to abide by the Environment Agency’s Permit system and to warn of inappropriate “waste” materials.

Members will be aware that all determinations rest on a balance or assessment of Development Plan policy and other material planning considerations. Local objections and representations are one such consideration. However they have to be assessed against Development Plan policy and the NPPF. Therein there is general support for this type of development – it is appropriate in the Green Belt, it supports outdoor recreation and leisure, it enhances bio-diversity and it supports agricultural diversification and thus the rural economy. Members need to decide whether the impacts of the proposal are so adverse as to warrant refusal given that there is no objection from any of the technical consultation responses and that there are previous approvals for this type of development in the neighbourhood. It is also considered that the prospect of a refusal based on the cumulative impact of this proposal following on from those previous permissions is limited.

#### **Recommendation**

That planning permission be granted subject to the conditions as outlined in Appendix A and subject to the additional informative as advised in the conclusion to the report above.

## BACKGROUND PAPERS

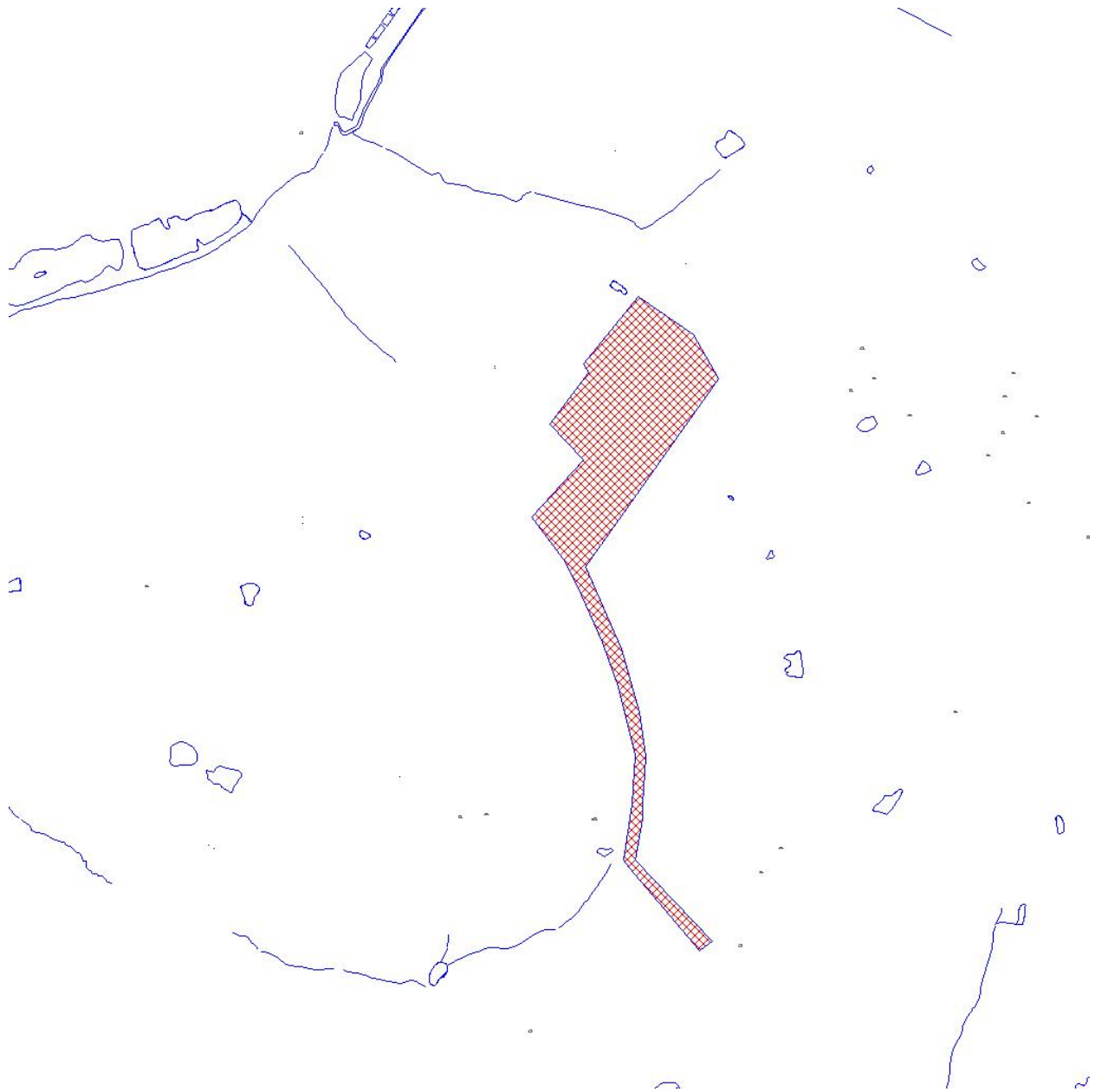
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2011/0565

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	Head of Development Control	Letter	20/03/12
3	Mr Hancocks	Representation	20/03/12
4	Mr Hancocks	Representation	21/03/12
5	Applicant	Additional Document	30/03/012
6	Environment Agency	Letter	22/02/12
7	Mr Hancocks	Representation	31/03/12
8	CPRE	Representation	31/03/12
9	Applicant	Additional Document	02/04/12
10	R Poulson	Objection	03/04/12
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*Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.*

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



## **General Development Applications**

**(#) Application No: PAP/2011/0565**

**Laxes Farm, Nuneaton Road, Over Whitacre, B46 2NL**

**Ground works to form a fishing pool and a new vehicle access track. Change of use of land from agriculture to fish breeding / stocking pool with occasional private fishing use for**

**Mr and Mrs J Clarke**

### **Introduction**

This application is referred to the Board at the discretion of the Head of Development Control.

### **The Site**

This covers an area of some 3.0 ha of agricultural land, forming part of Laxes Farm, and is within the West Midlands Green Belt. The site is a part of a larger field, which has previously been partly arable and partly grass pasture. The land slopes down from the south east to the north west. The sloping topography limits views from the south east and adjacent woodland limits views from the north east. Three public footpaths pass close to the site; the routes of these will not be obstructed.

### **The Proposal**

This involves the formation of a pool with a surface area of some 2.2 ha; a reed bed with an area of 150m<sup>2</sup> and the formation of a new track to provide vehicle access to the pool.

The pool will be retained by a broad low embankment on the downslope. The maximum height of this will be 1.25m above existing ground levels and the downslope gradient will be similar to that of the surrounding land. On the upslope, banks will be graded into the surrounding land and finished levels overall will blend with existing landscape contours. The design of the pond reflects guidance to provide a good aquatic environment and to dissuade use of the site by larger birds, such as Canada geese, and to minimise the hazard to overflying aircraft. The normal water level will be 92.7m above OD, and depth is designed to vary from shallows to 2m. The pool will drain to an existing ditch via an outfall pipe and reed bed, which will be formed downslope to the west of the pool.

Vehicle access to the site is from the existing vehicle access to the B4114, Nuneaton Road, via the existing private road to Laxes Farm, which also serves Estate Cottage and Keepers Cottage.

The pool is to be used to breed coarse fish. Fish will be introduced as 'fingerlings' and raised to an average size of 2lbs before being sold to stock fisheries elsewhere. It is stated the pool will also be used for occasional club fishing by prior arrangement.

The pool will be formed by using a 'cut and fill' technique involving cutting into the existing slope. Excavated earth material will be used to construct the new earth embankment to retain the pool. Hours of working are proposed to be from 0800 hrs to 1700 hrs Monday to Friday inclusive and 0800 to 13:00 on Saturday with no working on Sundays or public holidays. The formation of the pool will require the importation of 20300 m<sup>3</sup> of additional inert earth material to form the embankment and to provide an impermeable clay lining to the pool. A permit from the Environment Agency will be required to authorise the deposit of material on the land. The permit regime requires operators to keep records of material imported, including type, amount and the source of material and of the location within the site where it is deposited.

Construction works are programmed to take between 9 to 18 months to complete. This range reflects that work is dependent on weather and on the availability of the suitable inert materials required, as these derive mostly from development sites. Given the present climate of reduced activity in this sector, sources of suitable material are more limited. The number of lorries bringing material to the site would be a maximum of 5 per hour. If this rate was sustained, construction could be complete within 7 weeks. The actual rate is likely to be less and there are likely to be periods when no lorries visit the site. If construction was completed over 30 weeks, this would require an average of 10 lorry visits / day.

Comprehensive detail and assessment of the proposed development is submitted with the application in the following documents :-

Supporting Information - this summarises the proposed development.

Landscape and Visual Assessment - this sets out the approach and methodology of the visual assessment undertaken and concludes that once complete the overall visual impact of the development will be neutral. Whilst differing in appearance, this will be neither better nor worse than at present. Adverse visual impact will be experienced during the construction phase. This is considered to be of medium significance to walkers on nearby footpaths and medium to low significance for nearby properties with views of the site.

Protected Species Assessment – details the surveys undertaken; it found no evidence of protected species on the site or in the near vicinity; it identifies existing habitats to be retained, eg hedgerows and includes recommendations to ensure this is undertaken in accordance with environmental legislation and best practice.

Hydro-Geological Assessment and Hydrological Assessment – these show the proposed development will not result in any adverse impact on the water environment or for flooding.

Landscape and Habitat Management Plan – this details measures to be implemented to ensure the development provides a good aquatic environment; to minimise aviation bird strike hazard; to reduce the visual impact; to protect existing wildlife habitats, the planting schedule and the ongoing maintenance for planting and the pool environment.

Environmental Action Plan - the development will be undertaken in accordance with this document. This details how the development will be progressed during the design, construction and post-construction stages to ensure it is constructed and managed in

accordance with legislative requirements and best practices. It sets out objectives, procedures and practices to be followed, details resources and staff responsibilities to ensure constraints and required mitigation are fully addressed.

### **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006: Core Policy 3 (Natural and Historic Environment), ENV1 (Protection and Enhancement of Natural Landscape), ENV2 (Green Belt), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows) ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenities), (Access Design)

### **Other Relevant Material Considerations**

Government Advice: - PPS1 (Delivering Sustainable Development), PPG2 (Green Belt), PPS4 (Planning for Sustainable Economic Growth)

The draft National Planning Policy Framework

### **Consultations**

Birmingham International Airport – No objection subject to a condition to require measures to reduce risk to over flying aircraft from bird-strike.

Severn Trent Water – No objection.

Warwickshire County Council - Highways – No objection subject to conditions to provide a bound surface to the vehicle access and to prevent extraneous material from the site being deposited on the highway.

Warwickshire County Council - Rights of Way – No objection providing public footpaths remaining unobstructed at all times and appropriate signage is provided where the vehicle access track crosses footpaths.

Warwickshire Wildlife Trust – The proposal is likely to enhance local biodiversity due to the creation of the reed beds, the wetland areas around the pool edges and additional woodland planting. It is noted that existing features most important to biodiversity, i.e. the surrounding hedgerows and woodland, will all be retained.

Environment Agency – No objection.

### **Representations**

Over Whitacre Parish Council – Objects, citing that the main purpose of this type of development is to provide opportunity for tipping of waste material and that the developments are irrelevant to agricultural diversification and to the improvement of the local landscape and that the construction brings considerable upheaval to the local community from high numbers of tipper lorry movements, mud on highway, and the deposition of unregulated waste.

CPRE Warwickshire – Objects, citing

- the proposed development will not protect or enhance the existing 'Ancient Arden' landscape, contrary to saved policies CP3 and ENV1;
- the cumulative damaging impact of other similar small developments often promoted as farm diversification which together have eroded character of the Ancient Arden landscape;
- the development is an opportunity for cheaper landfill, tipping will generate a stream of HGV's and require formation of new access tracks;
- the proposed pool will be larger and bear little resemblance to the small field ponds identified in the Warwickshire Landscape Guidelines as typical of 'Ancient Arden' landscape
- the site is within the Special Landscape Area designated within the former Warwickshire Structure Plan 1996-2011,
- details indicate that there are no listed buildings near the development site, however six of the buildings named in the Landscape Visual Appraisal submitted are listed buildings;
- the emerging draft Core Strategy recognises the importance of the natural and historic environment of North Warwickshire and proposes to conserve and enhance the quality, character, diversity and local distinctiveness.

Three separate representations have been received from four local residents. All object to the proposed development. Concerns identified are summarised below:-

- the fishing pool will not provide economic growth or meaningful employment;
- the proposal is unsustainable development and will result in the irretrievable loss of agricultural land
- the importation and tipping of waste material will result in intensive use of local rural roads by HGV's, these will pollute the environment and be detrimental to the quality and enjoyment of the visual and residential amenity and to businesses wholly dependant on the visual attractiveness of the landscape and amenity in this locality;
- fishing pools and similar developments should only be permitted where all minerals required are available on the site, to avoid import or export of materials;
- previous problems with drainage systems and mud deposits on the local highway;
- the need for this development , given other similar developments exist nearby;
- the proposal is essential to enable tipping of waste material on agricultural land within the green belt;
- the proposed pool will alter the character of the Arden landscape;
- increased traffic will cause inconvenience and disturbance during construction phase, vehicles exiting the site will cause traffic hazard given the national speed limit in place on this stretch of the B4114.
- The development will be visible from the Centenary Way, a recreational path, this will detract from enjoyment of the Arden landscape.

The following paragraphs have been provided by the applicant in response to the concerns raised in the representations received:-



"The stated intention is to use the proposed pool to breed and stock fish. These will be sold to other fisheries. The proposal is thus a commercial enterprise and as such it could contribute to economic growth although it will not provide any additional employment. The pool will also be used for occasional fishing.

The development is not necessarily unsustainable. The proposed fish breeding / stocking use is appropriate to a rural location and will not give rise to significant additional traffic. The importation of material will require journeys by lorry, however the removal of waste material from construction sites usually requires such a journey to a suitable disposal landfill, a reduction in the distance travelled could improve overall sustainability.

The development will result the loss of agricultural land, however this will be limited to the area of the pool, the access track and immediate surroundings, around 3ha in all, adjacent areas will be planted with trees and surrounding grass land will provide pasture.

The importation of material will require tipper lorries to visit the site during the construction phase. Actual numbers of vehicles and the duration of this phase may vary within the limits referred to previously. This will result in increased numbers of lorries and this is likely to have an impact on the local highway and on amenity. Adverse impacts arising from the construction activities will however be limited to the period of construction. Measures to mitigate adverse impacts during this phase can be required by conditions to, limit hours of operations, numbers of vehicles, minimise the deposit of material from the site on the highway and planting to reduce visual impact

The planning system has a presumption in favour of development that is in accordance with the development plan and planning guidance. The existence of other pools nearby is not per-se a valid reason to require justification of the need for another similar development. Such justification would be appropriate only if this is required by specific policy or where this is identified to be a material consideration, however evidence of the scale of the adverse impact and the resulting harm would be essential to properly assess cumulative effect.

The existing vehicle access to Laxes Farm has been altered recently to improve visibility for vehicles exiting the site. The Highway Authority do not object to the proposal subject to conditions.

The development will have a visual impact. Assessment of visual impact involves judgement. The landscape assessment submitted has been undertaken in accordance with published guidance and provides a clear statement of the approach and methodology adopted."

### **Observations**

The proposed development is an open area use and it will preserve the openness of the green belt. No built structures are proposed. It is thus is appropriate development within the green belt and thus is in accord with saved policy ENV2.

The details submitted clarify the proposed development and consultation responses conform that it would have no adverse impact on the water environment or for flooding;

that no protected species were found on the site or in the near vicinity; the more valuable existing wildlife habitats, such as existing hedgerows will be retained and protected during construction and that the development is designed to provide a varied aquatic environment and to minimise aviation bird strike hazard. The proposal is thus in accord with saved policies ENV3, ENV4 and ENV8.

The Highway Authority has no objection to the proposed vehicle access subject to conditions to ensure a bound surface is provided together with measures to prevent deposit of extraneous material on the highway. The vehicle access is thus in accord with saved policy ENV14.

The impact on neighbouring properties and visitors on footpaths will be experienced most during the construction phase. These impacts can be mitigated through conditions to limit working hours and the numbers of lorries accessing the site per hour. The Environmental Action Plan details clearly how the development will be progressed during the design, construction and post-construction stages to ensure it is constructed and managed in accordance with legislative requirements and best practices. The objectives, procedures and practices to be followed, details of resources and staff responsibilities to ensure constraints and required mitigation are fully addressed provide a robust development framework. The proposal is thus considered to be in accord with saved policy ENV11.

Saved policy ENV6 seeks to protect best and most versatile agricultural land. The most recent agricultural land classification provides six grades of classification 1, 2, 3a, 3b, 4 and 5. Land in grades 1, 2 and 3a is considered to be best and most versatile agricultural land. The broad strategic level information available indicates this land is within grade 3, it is not however possible to identify whether it is grade 3a or 3b. Notwithstanding this, the area that would be permanently lost is relatively small, less than 3 ha. The harm resulting from the loss of this limited area is not in this instance considered to be sufficient to justify refusal of the development on this issue alone.

The most significant planning consideration is the impact of the development on the character of the existing landscape. Saved policy ENV1 requires that development that would not protect or enhance the existing landscape will not be permitted. Consideration of this impact for the proposed development is finely balanced.

The landscape character of this area is classified within the Warwickshire Landscape Guidelines as Ancient Arden; the characteristic features of which are varied undulating topography with irregular pattern of small to medium sized fields, field ponds associated with permanent pasture, hedgerows, roadside oaks and narrow winding lanes. The Guidelines seek to conserve this pastoral character and to convert less valued arable land back to permanent pasture and to retain and manage field ponds. The proposal includes elements that further this conservation management strategy with the reversion of arable land to grassland and introduction of pool and wetland areas, although these are larger than the traditional field pond.

The applicants contend the visual impact of the complete development is neutral in that although the earthworks will be a slightly alien feature, the impact is reduced through careful grading and planting. The CPRE however contend that the proposed development will not protect or enhance the existing 'Ancient Arden' landscape, and is thus contrary to saved policies CP3 and ENV1. This partly derives from a view that

there has been a cumulative effect on landscape quality, due to the impact of already implemented similar developments, often promoted as farm diversification, and outstanding planning permissions, which erode the character of the 'Ancient Arden' landscape. Assessing the significance of cumulative effect is often problematic as the effect is often perceived rather than quantified and frequently involves a judgement. It is not clear at present that the cumulative effect referred can be shown to have significantly eroded the character of the existing landscape.

The WLG were produced in 1993, since then a number of changes have occurred within the landscape as a result of farming practices, most significantly the removal of field boundaries resulting in the formation of larger fields and the erosion of the traditional field pattern identified. Aerial photography shows the application site has itself experienced this phenomenon. Given the above, the application site is now not entirely characteristic of the 'Ancient Arden' landscape identified.

The sloping topography of the site, and the proximity of the established woodland, limit views of the completed development from the wider area. The significant visual impact will be limited to views from the land closer to the site and thus will be experienced by walkers. The impact is experienced as a transitory rather than a permanent effect. Although the new pool will differ from the characteristic field ponds, being larger, it will provide diverse wet land habitat that is being lost elsewhere and the design does integrate the new pool into the existing landscape.

Given the above it considered that although the development provides limited protection or enhancement to the natural landscape as defined by the landscape character assessment, and thus is not be fully compliant with saved policy ENV1, it will not result in significant harm to the character of the existing landscape here and it will improve local biodiversity thereby enhancing the natural local environment which is in accord with saved policy CP3.

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### **Recommendation**

That the application be granted subject 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 plan received on 09/11/2011, drawings numbers 11336PROP & 11336SEC received on 02/11/2011 & the Topographical Survey received on 23/2/2012.

**REASON**

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

3. No development shall commence before details of the protection measures proposed for existing trees and hedges on the site have been submitted to, and approved in writing by the Local Planning Authority. The approved measures shall then be in place prior to work commencing.

REASON

In the interests of the protecting the visual amenity of the landscape and the conservation of protected species.

4. No development shall commence until a turning area has been provided within the site so as to enable all vehicle types to leave and re-enter the public highway in a forward gear and the existing vehicle access to the B4114 Nuneaton Road has been surfaced with a bound material in accordance with details submitted to and approved in writing by the Local Planning Authority.

REASON

In the interests of safety on the public highway

5. No development shall commence until written notice has been given to the Local Planning Authority of the date the approved works will commence and a period of 14 days has elapsed since the giving of notice.

REASON

To limit the duration of the construction operation in the interest of amenity.

7. No construction traffic or lorries shall access the site and no material shall be imported or exported from the site unless measures are in place to minimise the deposit of extraneous material onto the public highway by wheels of vehicles accessing the site in accordance with details submitted to and approved in writing by the Local Planning Authority. The details shall include arrangements for the sweeping of the public highway. The agreed measures shall be implemented and maintained in good working order at all times.

REASON

In the interests of safety on the public highway.

8. Within three calendar months of completion of the works detailed within this application all site access roads other than those marked on the approved plans shall be removed and the land reinstated to its original condition.

REASON

In the interests of amenity.

9. The development shall be constructed, operated and maintained in accordance with the Environmental Action Plan Ver 1.1 received on the 23/02/12 and the Landscape & Habitat Management Plan received on 02/11/2011.

REASON

In the interests of amenity, safety, prevention of pollution and to protect ecology.

10. No waste soils, including subsoils or other fill shall be imported to the site until a scheme of sampling of imported waste material and a means of importation control has been submitted to, and agreed in writing by the Local Planning Authority. This scheme shall ensure that a written record is maintained of all of the material deposited at the site so as to identify the quantity, source and type of material. The scheme shall also ensure material deposited at the site is sampled and a written record of the sampling and the results is maintained. The written records shall be available for inspection at the site at all times.

REASON

In the interests of avoiding contamination and pollution of the ground water environment.

11. No material shall be imported, deposited or exported from the site after the expiry of a period of 18 months from the date works commenced.

REASON

In the interests of amenity.

12. No materials shall be delivered to or exported from the site; other than between 0800 hours and 1700 hours on Monday to Friday and 0800 hours and 13:00 hours on Saturday There shall be no such activity on Sundays, Bank Holidays or other public holidays.

REASON

In the interests of amenity.

13. All vehicles carrying fill material into or from the site shall be sheeted or covered at all times.

REASON

In the interests of highway safety.

14. Any facilities for the storage of oils; fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage; the compound shall be at least equivalent to the capacity of the largest tank; vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points; associated pipework; vents; gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse; land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

**REASON**

To prevent pollution of the water environment.

15. The development shall be carried out in accordance with the section details as shown on the approved drawing 11336 SEC. No more than 20358 m<sup>3</sup> of material shall be imported to the site, as stated to be required in the Environmental Action Plan Ver 1.1 received on the 23/02/12. Within three months of the completion of the ground works a survey of the final ground levels on the site shall be undertaken and the results submitted in writing to the Local Planning Authority.

**REASON**

To ensure that the development is undertaken in accordance with the approved plans.

16. The pool hereby approved shall be used for fish breeding and stocking purposes and for private fishing use by the occupiers of Laxes Farm only. No other fishing use, including occasional use by angling clubs, shall take place until details of proposed use have been submitted to and approved in writing by the Local Planning Authority.

**REASON**

In the interests of amenity and highway safety.

**Justification**

The proposed development is in line with the conservation and management strategies within the Warwickshire Landscape Guidelines; it includes features broadly characteristic of the Ancient Arden landscape which, when mature, will not have any significant adverse visual effect on the landscape. The proposal will retain existing tree

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and hedgerows, will not have harmful effects for any protected species and will create new habitats that will enhance local biodiversity. The proposal will not result in the significant loss of best or most versatile agricultural land and will not have any adverse impact for existing water resources or on risk of flooding. The resulting feature will not result in any significant loss of amenity for occupiers of nearby properties; disturbance during the construction period will be time limited and will be mitigated through the measures identified in the Environmental Action Plan. The proposal is thus considered to accord with Saved Policies CP3, ENV3, ENV4, ENV6, ENV8, ENV11 and ENV14 of the North Warwickshire Local Plan 2006.

## BACKGROUND PAPERS

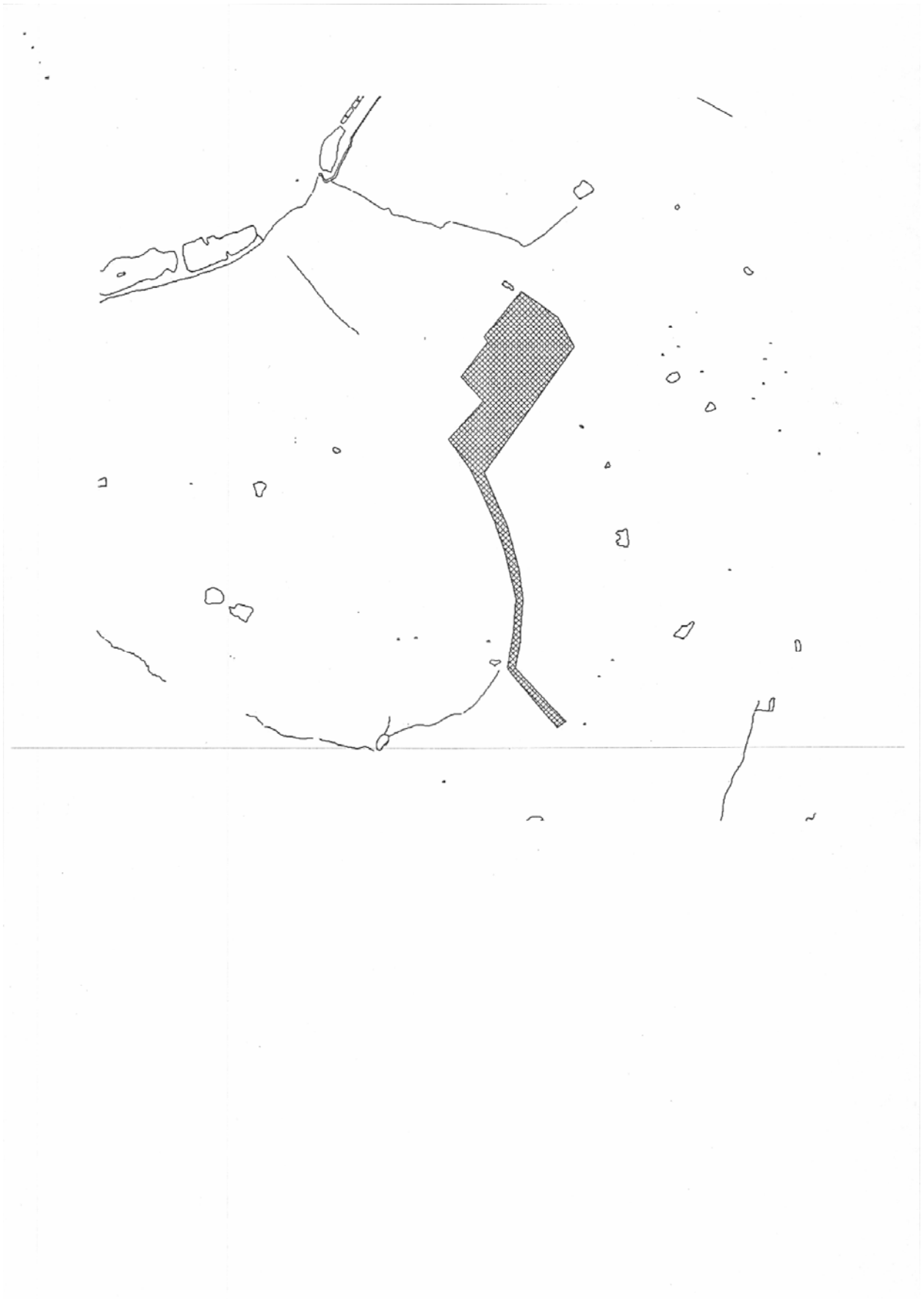
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2011/0565

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statements	2/11/11 27/2/12
2	A Davies BIA	Consultation	6/1/12
3	C Thorley WCC	Consultation	6/12/11
4	E Bettger WCC	Consultation	12/12/11
5	P Gethins EA	Consultation	5/1/12
6	J Vero CPRE	Consultation	7/12/11
7	B Walton STW	Representation	7/12/11
8	R Hancocks	Representation	19/11/11, 21/11/11, 21/12/11 9/2/12
9	S Long	Consultation	30/12/11
10	L Chandler OWPC	Consultation	12/1/12
11	R Poulson, A Callwood	Consultation	10/2/12
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*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.*





**Supporting Information 2**  
**Planning Application**  
**New Fishing Pool, Laxes Farm, Over Whitacre**

29<sup>th</sup> March 20121



**1. Supplementary Information and Explanations**

**1.1 Introduction**

This additional supporting information has been prepared to clarify a number of issues raised by Councillors and members of the public at the Planning Board meeting held on Monday 19<sup>th</sup> March 2012.

**1.2 Proposed Use**

The applicants Mr and Mrs Clarke have farmed this land for many years and the land has been in the Clarke family for a number of generations. As farmers they have a direct interest to ensure that any changes will not adversely affect or pollute their land. This project seeks to create a sustainable farm diversification project in the form of a fish stocking pool which will complement the wider agricultural activities on the farm.

**1.3 Commitment to Environmentally Sensitive Solution**

It is entirely in the interests of the applicants that this fishing pool in constructed and managed in an environmentally sensitive manner.

The project will use the 'Environmental Action Plan' concept, whereby, we have identified and assessed possible issues and then provided a commitment to a series of objectives and targets (the Environmental Action Plan). This concept was developed by Dr David Hickie whilst working as Head of Environmental Impact Assessment for the Environment Agency and now is used in many countries worldwide. The Environment Action Plan ensures that potential adverse impacts are identified with agreed objectives and targets for community and environmental protection.

**1.4 Location of the Pool**

The application is for the creation of a fish stocking pool on the slope of a hill that is in a secluded location and is not readily visible from any public road, public footpath or any nearby residence.

The site has been selected to provide both a new farm enterprise in the form of a fish stocking pool and to help solve a problem of damp field at the bottom of a

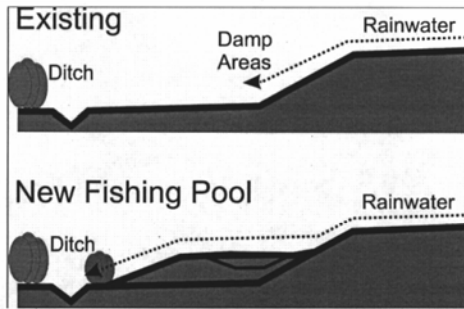
slope which does not naturally drain quickly especially in winter. The rainwater runoff from the top of the hill and slopes means that this area becomes hard to work at various times of the year. Altering the topography slightly with the importation of material will allow for both the creation of the new fish pool and the better drainage of the field with more continuous slope across the majority of this part of the field.

Figure 1: Existing view north-eastwards towards location of fishing pool



Areas of damp soil can be seen on the base of the main slope of hillside in the photograph above.

Figure 2: Diagram of Section of Hillside and Proposed Fishing Pool



### 1.5 Amount of Imported Material

We have explored the possibility of reducing the scale of the imported material required. A key factor in the project is actually providing a fishing pool that is large enough to be sustainable as a farm diversification project and not just another pool in the landscape. Scaling back the size of the pool reduces the fish stock capability and the additional biodiversity provide by a larger pool circumference. The applicants are, therefore, not keen to reduce the size of the pool.

A review of importation requirements for the pool has been undertaken and reconfirmed that the proposed is the minimum required for safe soil stability and visually acceptable appropriate ground moulding.

The proposed changes in the level of the land required to form the pool has been designed in a way that reflects the topography of the surrounding landscape. The banks will be graded into the surrounding land and the finished levels will carefully blend into the surrounding landscape contours.

### 1.6 Permitted Imported Material

Two types of material will be required to be imported. Clay material will be required to line the pool to form an impervious layer. Other material will be required to provide earthwork support and allow the topography to be carefully remoulded. This material traditionally would have been natural sub-soil which could have been either from somewhere else on the site or a nearby location. However, an alternative sustainable material that can be used is locally recycled material approved by the Environment Agency. The use of recycled materials rather than 'subsoil' allows for the conservation of natural resources and is entirely sustainable.

The exact sources and types of these permitted materials cannot be specified at this point in time, as suitable sources change quickly over time.

Once planning permission has been granted, a 'Waste Recovery' standard rules permit SR2010No7-50Kte for importation of material will be sought from the Environment Agency. In order to apply for the permit, a Waste Management Plan will be prepared which details all procedures, monitoring and recording systems to be used.

The approved permit will state what type of materials can be imported, the records that must be kept and the monitoring and management of the site. The permit lists allowable materials from the standard list of approved recycled materials. Wastes containing solely or mainly of dusts, powders or loose fibres; hazardous wastes; and wastes in liquid form will not be allowed.

The permit requires the site operator (site manager) to be trained in site management and understand how to check and monitor vehicles entering the site, and to check and record the associated waste transfer permits and other paperwork. Quarterly reports on materials accepted on the site will be provided to the Environment Agency as required by the permit.

As explained by Jeff Brown, Head of Planning at the last Planning and Development Board meeting, the Environment Agency has full jurisdiction for permitting and monitoring the importation of the required recycled materials.

### 1.7 Soil Conservation and Rebuilding Agricultural Soil Structure

The applicants, as farmers, are keen to ensure that the topsoil will be properly conserved and replaced to form a good agricultural soil structure once the fishing pool is in place. The topsoil will be carefully removed and stored in protected mounds no more than 2m high. The imported material will be carefully monitored to ensure no undesirable or polluted material is used, in accordance the approved Environment Agency monitoring and recording systems. The soil materials will be graded, ripped and harrowed to provide a good soil structure on completion.

### 1.8 Use of the Pool

The proposal is to create a fishing pool at Laxes Farm as part of a diversification proposal to be used for the breeding of course fish.

The pool will be used to breed coarse fish, initially being brought in as fingerlings and being raised to an average size of 2lbs, before being sold onto other fishing enterprises.

The removal of the fish from the pool will normally be undertaken by netting and transfer of the fish to a fish tank on a trailer which is then pulled by a 4x4 vehicle. It

is proposed to retain the access track from the farm to the fish pool to allow for such vehicles to safely access the pool site.

Figure 3: Typical Fish Tank on Trailer used for moving fish off site



available, in addition to site management staff, to address any issues raised by the Planning Authority, Environment Agency, any other agencies, neighbours and members of the public. Dr Hickie was formerly Head of Environment Impact Assessment for the Environment Agency and has wide experience of successfully delivering major infrastructure projects in an environmentally sensitive manner.

Full contact details will be provided on information boards at the entrance to the site and adjacent to footpath crossing of the access track. All residential neighbours will be informed 14 days before commencement of works and provided with contact details in the event of anyone wanting to report a problem or discuss an issue.

### 1.9 Commitment to be a 'Good Neighbour'

It is quite understood that some members of the public and Councillors are worried about a range of nuisances that could occur because of problems on other projects in the vicinity. This fishing pool and associated works have been designed to minimise any such nuisances and ensure that the project is delivered in an acceptable manner.

To ensure that the project will be actually delivered in such a manner, specialist environmental consultant Dr David Hickie has been commissioned (subject to planning permission) to be the Environmental Assessment Manager for this site. See submitted Environment Action Plan for details of role. He will be readily

## 2. Planning Issues

We concur with the officer's observations in the report to the Board held on the 19<sup>th</sup> March 2012 dated highlighting that the application is in accord with the majority of planning policies. Whilst it "is not be fully compliant with the saved policy ENV1, it will not result in significant harm to the character of the existing landscape and it will improve local biodiversity thereby enhancing the natural local environment which is accord with saved policy CP3."

North Warwickshire Borough Council has approved a number of similar fishing pool applications in the vicinity and this particular one is not significantly different in planning terms.

Nearby applications include:

PAP/2006/0620 Jersey Wood, Ansley  
PAP/2008/0217 Thistley Field, Ansley  
PAP/2008/0513 Manor House, Farm Fillongley  
PAP/2009/0385 Manor House, Farm Ansley

Whilst we accept there have been problems with some of these projects, it should not be a material matter for consideration of this planning application that these similar projects failed to comply with their planning conditions.

If the Council chose to refuse this application, we are confident that any appeal is likely to be upheld due to the fact that:

- a) the application is in accord with all planning policies except ENV1 which is judged by officer's not to result in significant harm to the existing landscape; and,
- b) the Council have approved similar applications in the vicinity (and there has been no real change in planning policy since these approval).

### 3. Summary

In summary, the applicant is keen to diversify the farm operations to include a fish stocking pool.

We have explored the possibilities of reducing the amount of material required to be imported but have concluded that we cannot reduce the amount required to provide a sustainable sized fish stocking pool which allows for slopes that neatly mould into the surrounding landscape.

All materials imported onto the site will be strictly controlled by the requirements of the Environment Agency permit. There will be an experienced and trained site manager responsible for all operations and activities at all times. It is not in the interests of the applicants, Mr and Mrs Clarke - who farm this land, to allow any material which would pollute the land, surface water or groundwater, or be in any other way unsuitable.

Mr and Mrs Clarke are keen to be responsible and good neighbours. They have ensured that this project has been designed in an environmentally sensitive manner and will be delivered in an environmentally and socially responsible manner. The appointment of an Environmental Assessment Manager and delivery of Environmental Action Plan targets will help ensure that such aims are achieved.

The application accords with all North Warwickshire Borough Council Planning Policies with the exception of ENV1, however, it is judged by Council officers not to result in significant harm to the character of the existing landscape.

We hope that this additional explanation of the application will have given comfort to Councillors that this fishing pool project can now be approved.

**Brown, Jeff**

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**From:** Judy Vero [judy@grendonlodge.co.uk]  
**Sent:** 02 April 2012 13:44  
**To:** Brown, Jeff  
**Cc:** Rita Poulson; mark cpre; Myles Thornton  
**Subject:** Laxes Farm

Dear Mr Brown,

Thank you for sending Supporting Information for the Laxes Farm fishing pond proposal (PAP2011/0565).

CPRE Warwickshire remains strongly opposed to this proposal, which will impact on the character and the integrity of the Ancient Arden landscape.

We see nothing in the Supporting Information which alters our view. We can understand that clay would be necessary to line the pond, but if this pond is to 'reflect the topography of the surrounding landscape' it should not be necessary to import material. Arden pools were indentations in the landscape, often where marl had been extracted, and they filled up with water naturally. They did not involve the importation of material to create banks, but were level with the pasture so that animals could use them for watering. The proposed pool would have the effect of raising the natural level of the landscape and would not be suitable for stock watering.

The Supporting Material leaves us in no doubt that Waste Management is a primary motive for the scheme. Whereas it is true that NWBC has in the past approved several of these developments, the cumulative impact is now of such harm to the landscape that it is in danger of destroying the character of Ancient Arden. The Council has strong policies in place to protect the Arden landscape, through the recently published Landscape Character Assessment which complements the Draft Core Strategy as SPG, and also through the Saved Local Plan.

At Draft Core Strategy policy NW5 the Council pledges to 'protect historic character.' At NW6 it goes further in stating that, 'The quality, character, diversity and local distinctiveness of the natural and historic environment will be conserved and enhanced. Within identified landscape character areas development will conserve, enhance and where appropriate, restore landscape character as well as promote a resilient functional landscape able to adapt the climate change. Specific landscape, geodiversity, wildlife and historic features which contribute to local character will be conserved and enhanced.'

Laxes Farm lies in an area which was shown on the 1993 WLG: Arden map as in no need of enhancement. Since then there has been a considerable loss of hedgerow which has had a harmful impact on the landscape, added to which has been the impact of the fishing ponds on neighbouring farms. Under the new Landscape Character Assessment, Laxes Farm comes within LCA7: Church End to Corley – Arden Hills and Valleys. At page 48 of this document are guidelines which have been considerably strengthened since the Warwickshire Landscape Guidelines: Arden, was written in 1993. These guidelines, soon to be SPG, recommend the, '(conservation) of the rural character by restricting changes in the use of rural land.' They also advise the '(retention and management of) field ponds in areas of permanent pasture.' This does not include the creation of new ponds by landfill. Indeed, there would be a stronger argument for the development if the pond were to be located, as the Arden ponds were, in the corner of a field and without importation of material. But such a pond would not be deep or large enough for fish farming. Therefore this development is clearly a form of agricultural diversification.

Saved Local Plan Policy ECON8 allows farm diversification, if there is 'no adverse impact on the character of

02/04/2012



the surrounding natural and historic environment.' At paragraph 28, the recently published National Planning Policy Framework promotes 'sustainable new development in rural areas.' However, the importation of material on rural roads by HGV makes this development unsustainable. The site is also in the Green Belt, and, as in the former PPG2, the NPPF at para 88, states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.' No 'very special circumstances' exist in this case. The NPPF also requires (at para 81) the '(retention) and enhancement of landscapes and visual amenity' in the Green Belt. It also states at para 109 that the planning system should protect 'valued landscapes'. This landscape, though not an AONB in planning terms, was a Special Landscape Area until the designation was abolished by WCC. It is highly valued by local people and visitors, who walk the footpaths which cross it and the longer Centenary Way. In a wider context it is valued as 'The Forest of Arden.'

CPRE believes that there are strong planning grounds on which to reject this application. If Ancient Arden is to remain an iconic element of England's cultural and natural heritage, it is important that this landscape is conserved and any new development restores rather than harms its character.

We respectfully urge the Council to refuse this application.

Judy Vero  
CPRE Warwickshire  
41A Smith Street  
Warwick CV34 4JA  
Tel: 01926 494597  
[office@cprewarwickshire.org.uk](mailto:office@cprewarwickshire.org.uk)

02/04/2012

**Brown, Jeff**

**From:** Richard Hancocks [castlegreenbungalows-rjh@yahoo.co.uk]  
**Sent:** 31 March 2012 13:24  
**To:** Brown, Jeff  
**Cc:** Secretary@atherstonecivicsociety.co.uk  
**Subject:** Re: Laxes Farm- Applicants Supporting Info of 29th March 2012 - Response  
**Attachments:** LAXES FARM 3.jpg

*I here object, as a resident of Monwode Lea, Over Whitacre for 36 years, to Planning Application No PAP/2011/0565 and comment on the Agent's further submission on behalf of his Clients, which is dated 29th March 2012*

To summarise the Agent's further submissions on behalf of his Clients.

1) Apparently, the transportation of massive amounts of construction waste materials along the same rural roads for importation into and tipping at the application site for a minimum period of eighteen months, is now needed to solve the minor problem of two damp spots in a field.

Comment. This agricultural production land has a natural slope towards an existing boundary ditch. If there are damp spots? then they could easily be drained by the installation of 100mm diameter land drainage pipe laid in conventional 'herringbone' fashion to outfall into the existing boundary ditch. This work would take a professional agricultural land drainage contractor about one day to install. There is no sensible or reasonable need for the importation and tipping of massive amounts of construction waste materials at the site, to be able to create a fish pool.

**AN ALTERNATIVE DESIGN NOT REQUIRING THE IMPORTATION OR EXPORTATION OF ANY MATERIAL FROM THE SITE AND POSITIONING THE POND IN THE CLAIMED DAMP SPOT AREA, IS ATTACHED TO THIS E-MAIL**

2) The access road is needed to allow vehicles to safely access the pool to move fish of site. Figure 3 shows a picture of a Typical Fish Tank Trailer of about 1 tonne capacity that is used for moving fish off site

Comment. The proposed access road is more akin to the Atherstone Bypass and I doubt the access road to Grimsby Fishing Port is larger.

Farm vehicles, trailers and equipment regularly transit farmland in due process of farming and working the land. The suggestion that a new road is needed so that a 1 tonne trailer and towing vehicle can move a few fish to and from the pond, probably no more than once a year, is farcical

3) The applicant still fails to provide a business plan or other information on which the economic viability of the proposed fish pool enterprise can be assessed.

Comment. It is considered beyond any reasonable doubt the main motivation behind these type of applications is financial profit from the abusive activity of the importation and dumping of construction waste materials in the countryside

4) The Agent representing the Applicants says that if the Council chose to refuse the application he is confident that any Appeal is likely to be upheld.

Comment. A Public Inquiry into the continuous approval of abusive importation and tipping activities on farmland in the same locality is needed.

The Local Planning Authority has a duty of care and due consideration to avoid the adverse environmental, social and economic impacts caused by the cumulative effect of the importation and tipping of massive amounts of construction waste materials on agricultural production land in the same locality. **THUS FAR, OVER THE PERIOD OF THE LAST EIGHT YEARS THE LPA HAS FAILED TO DO THAT.** The LPA has had sufficient time to evaluate the wealth of information available relating to the harm and detriment being caused by the cumulative effect of continuous abusive tipping activities in the same locality.

The Local Planning Authority may decide in reaching a decision to give different weight to social, environmental, resource or economic considerations.

02/04/2012

Where this is the case, the reasons for doing so must be explicit and the consequences of adverse environmental, social and economic impacts should be avoided, or compensated for.

Should the LPA be minded to approve this application in its existing form, or approve any other application involving the abusive activity of importing and tipping construction waste materials on farmland in the same locality, then it is wholly reasonable the Council shall be held liable and accountable for the harm and detriment so caused.

**Richard Hancocks**  
[castlegreen@btinternet.com](mailto:castlegreen@btinternet.com)

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**From:** "Brown, Jeff" <JeffBrown@NorthWarks.gov.uk>  
**To:** Richard Hancocks <castlegreenbungalows-rjh@yahoo.co.uk>; elizabeth chandler <owpc@hotmail.co.uk>; Judy Vero <Secretary@atherstonecivicsociety.co.uk>  
**Sent:** Friday, 30 March 2012, 16:35  
**Subject:** FW: Laxes Farm

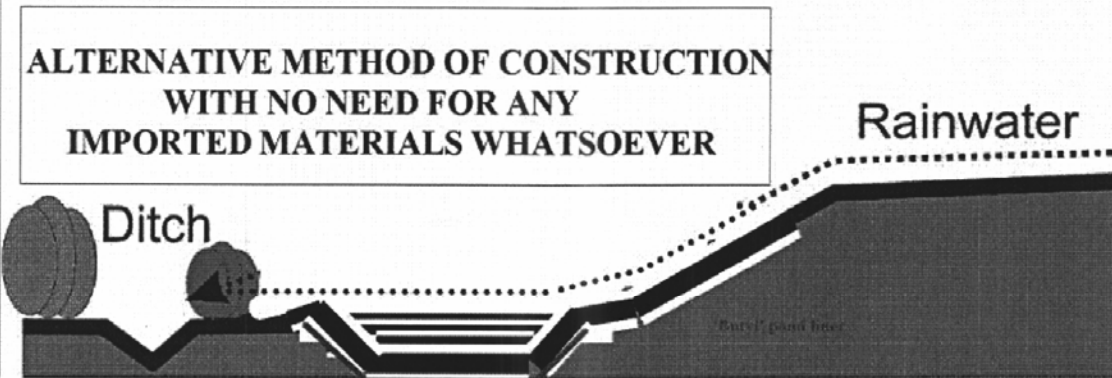
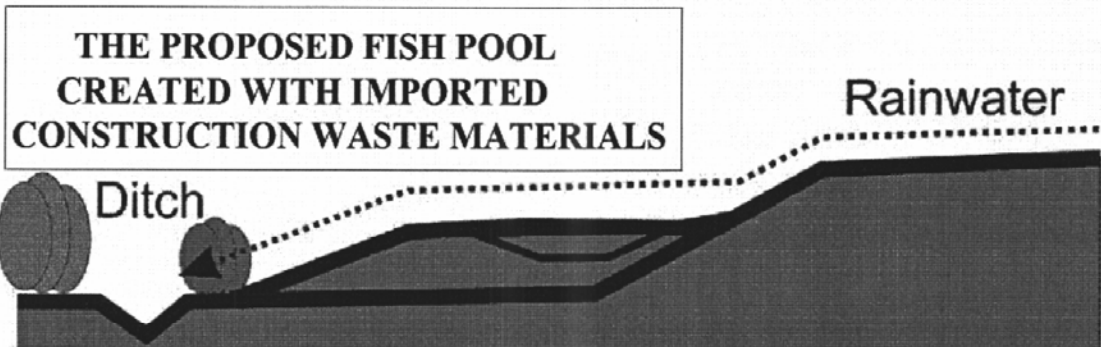
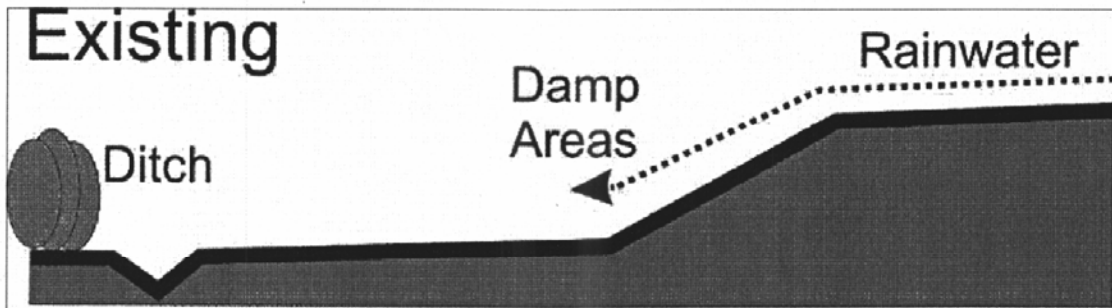
You will recall that the Planning Board deferred determination of the proposed pool at Laxes Farm, when it met on 19 March. The agent dealing with the application has taken instructions from Mr Clarke and the attached document has been received. In short, no alterations are proposed. This matter will now be referred back to the Board's next meeting on 16 April.

As the Easter period affects the deadlines for preparation of the Agenda for that meeting, the report has to be completed by noon on 3 April. Any written representations on the attached document received by then will be included in that written report otherwise they will be referred to verbally at the meeting.

I will confirm matters for speaking to the Board next week.

Jeff Brown

02/04/2012



**THE ALTERNATIVE METHOD OF CONSTRUCTION  
WOULD ONLY USE THE EXISTING MINERALS ON SITE  
THE POOL WOULD BE SEALED WITH A BUTYL POND LINER  
NO IMPORTATION OR EXPORTATION OF MATERIALS INTO OR  
OUT OF SITE WOULD BE NECESSARY, OR ANY NEW ROAD REQUIRED**

Supporting Information 3  
Planning Application  
New Fishing Pool, Laxes Farm, Over Whitacre

2<sup>nd</sup> April 2012



## 1. Response to Recent Comments

### 1.1 Introduction

We welcome the opportunity to respond to the comments made by Mr Hancock dated 31<sup>st</sup> March and CPRE dated 2<sup>nd</sup> April 2012 addressed to NWBC.

### 1.2 Rejection of Mr Hancock's suggestion that alternatives could work better

#### Land Drainage

Mr Hancock suggests that the drainage issue could be solved by the insertion of new land drains. However, this is not an application for a land drainage improvement scheme.

The application is for a fish stocking pool on Mr and Mrs Clarke's farm. This particular site has been selected because: it is not clearly visible to public roads, footpaths or any nearby residential property; and, the topography and opportunity for improved drainage; and allow for a 'win-win' solution.

#### Alternative Pool Location

Mr Hancock suggests an alternative pool location at the base of the slope. We have considered this option but have rejected it on a number of counts including: because water levels would be lower than ideal with respect to the adjacent ditch; and, the need for man-made land drainage solutions rather than a low tech natural gradient drainage solution.

The low level means that when the pool is drained for maintenance or netting, a pump would be required for a number of days to pump out the water. Such pumps are particularly irritating when run constantly for a number of days a rural location such as this and would be a significant nuisance to neighbours.

We also suggest that the idea of using approximately 5000m<sup>2</sup> of butyl liner as a substitute impervious layer is not a particularly sustainable option. The butyl liner

would require the use of natural resources and energy (quoted cost £90K to lay) rather than the use of recycled clay material from a local source.

Our proposals seek to optimise the best location and levels for the fish stocking pool. The proposal is a mix of 'cut' and 'fill', and not just the use of imported material, as suggested by some.

The typical detailed section in Figure 1 (overleaf) shows that pool has been excavated into the hillside. This section is more detailed than the simplified one shown in 'Supporting Information 2'. The excavated material and newly imported material is required to carefully grade into the surrounding topography and to support the new pools to ensure lateral stability and safety. The section was provided with the original planning application.

The total onsite excavated material for the project will be 12047m<sup>3</sup>. The final shaping of the topography and construction of the access track will require 32405m<sup>3</sup> in total. This means that 20358m<sup>3</sup> of imported material is required, including that for the lining the pool with an impervious clay layer. Therefore, over 37% of the required material for the project actually comes from the site itself.

### 1.3: Rejection of Mr Hancock's suggestion that no access track is required

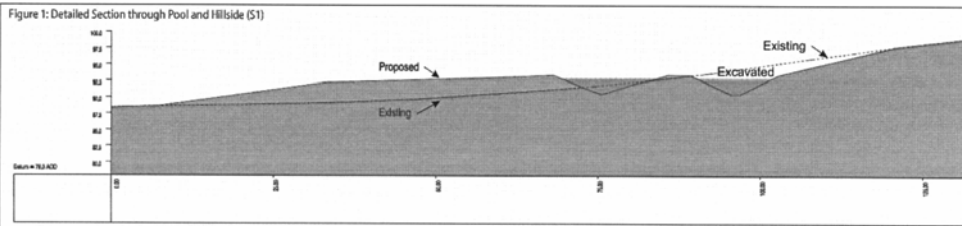
Mr Hancock suggests that an access track will not be required. We think that Mr Hancock has not considered the practicalities of safe fish transport on and off site. We are not quite sure how Mr Hancock would intend to transport a trailer with a heavy fish tank full of water over a field with a crop on it or in a ploughed state without a proper access track.

We would suggest problems would include:

- a) High fish mortality rates after being thrown around in the fish tank when going over uneven ground, with the remainder likely to have severe trauma and damage to their scales and fins; and,

b) High likelihood of severely damaged trailer.

The idea of the fish stocking pool is to receive and grow on healthy fish, and to be able to move them on elsewhere at a later date in a healthy state. A simple 3m wide typical farm access track as proposed is essential to the operation of the fish stocking pool. We are not sure how Mr Hancock concluded that the proposed track would be of the scale of Atherstone bypass.



1.5 CPRE: Comments in Email dated 2<sup>nd</sup> April 2012

The CPRE comments highlight that this farm lies in an area where the Warwickshire Landscape Guidelines (1993) suggested that there was no need for enhancement. They then note in their comments that there has been a considerable loss of features in the area. We suggest that the need for enhancement has, therefore, now changed and the provision of some beneficial features via this project will make up for some of these lost elements.

Our assessment of this North Warwickshire area of the Arden landscape type indicates that there will be no significant adverse impact on the landscape. This assessment is concurred with in the officer's report to the Board meeting on the 19<sup>th</sup> March 2012.

We are not quite sure how the CPRE came to the conclusion that the recycling of suitable inert materials is a non-sustainable activity in a case like this. The inert material proposed to be imported would very often have just gone to landfill. If it is used on this site it will replace the need for using 'natural resources', i.e. subsoil. Replacing the need to use natural resources by the use of recycled materials is seen in most quarters to be a sustainable choice.

We accept the CPRE statement that this is not a small corner pond and it is farm diversification project.

It is our contention that this application accords adequately with planning policies and, therefore, respectfully should be approved.

**(3) Application No: DOC/2012/0016**

**Car Park, Park Road, Coleshill, Birmingham, B46 3LA**

**Application to discharge condition 25 of planning permission PAP/2011/0529 dated 20 December 2011 relating to car park management plan.,for**

**W M Morrison Supermarkets Ltd**

**Introduction**

Receipt of this application was reported to the last meeting of the Board for information. It is now referred for a determination. That previous report is attached at Appendix A, and a copy of the submitted scheme is included in that report.

**Further Information**

Since the date of the application, the applicant has undertaken a short survey of the use of the car park during the period 0900 hours to 1900 hours on Friday 9 and Saturday 10 March. The results are referred to below within his response to the representation received.

**Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – TPT6 (Vehicle Parking)

**Other Material Planning Considerations**

National Planning Policy Framework 2012 – Ensuring the vitality of town centres and Promoting Sustainable Transport.

**Representations**

One representation has been received and this covers a number of points:

- i) Why has a charge been introduced to what is and has been a free car park?
- ii) Three hours is not long enough for people to do everything they want to do in the town?
- iii) How will the ten long stay spaces be managed?
- iv) They should not be allowed to close the car park at night if there is crime or anti-social behaviour, particularly as it serves neighbouring properties in the evening.
- v) The parking restrictions should be the same as on other car parks in the town.
- vi) Where will the staff park?

The applicant has been forwarded a copy of this representation and has made the following replies to the concerns raised.

- a) The only charge to be made is a "penalty" charge for drivers exceeding the three hour period.
- b) The recent survey showed that the great majority of cars stayed for less than three hours (89% and 94% respectively for the Friday and Saturday surveyed).



- c) The ten long stay spaces will probably be along the Park Road boundary and they will be coloured and demarcated as such.
- d) The applicant considers that it should have the right to protect its property if the need arises and particularly if advised by the Police.
- e) The current restrictions coincide with store opening times. The other car parks do not have stores.
- f) Morrison's are to prepare a Green Travel Plan as required by Condition 26 of the outline planning permission, which is in the course of preparation. Morrison's will not be designating staff spaces on the car park as it is its policy to encourage staff to walk, cycle or use public transport particularly where the store is in a sustainable location as at Coleshill. Staff parking cars on the car park will thus be subject to the three hour limit and to the penalty charge if appropriate.

## **Observations**

As noted in the previous report the submitted scheme includes matters specifically requested by the Council when it took the original decision to grant planning permission in 2009 – namely a maximum free stay of three rather than two hours, and secondly by the Planning Board at the end of 2011 – namely the inclusion of a six and twelve month survey following opening of the store. There appears to be one or two issues raised in the representation that need to be explored further.

Firstly the continuing concern about whether a three hour stay is long enough. The evidence is that it is. Recent survey work shows that say 90% of users stay less than three hours. This matches the results of a similar survey undertaken at the time of the original submission which showed the figure to be 85%. In light of this evidence, there is not a case for altering this period.

Secondly, the location of the long stay spaces is reasonable given that users will want to use the pedestrian link via Park Road into the town. The spaces will be marked as such and Morrison's monitoring arrangements will control any abuse – particularly by staff.

Thirdly, the peripheral issues about the ability to close the car park at night and comparisons with other car parks do not carry any weight given the permissions that have been granted and the main content of the submitted scheme.

Finally, there is the staff parking issue. There is to be no dedicated staff parking on the site and the Green Travel Plan to be submitted shortly is anticipated to actively discourage car use.

The proposal fully accords with the principles of the National Planning Policy Framework in that adequate time has been allowed for visitors to park here and visit the town as well as allowing some provision for longer term parking. Moreover with no staff car parking to be allocated there will be a stronger sustainable approach to implementing a Green Travel Plan for the site. It is thus considered on balance, that given all of the issues involved, the submitted scheme can be supported.

**Recommendation**

That the Car Parking Management Scheme as submitted on 27 February 2012 be approved in discharge of Condition 25 of planning permission 2011/0529 dated 20 December 2011.

**BACKGROUND PAPERS**

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

Planning Application No: DOC/2012/0016

<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)	27/02/12
2	D Lewis	Board Report	19/03/13
3		Representation	07/03/12
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*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.*

**DOC 2012/0016  
Car Park, Park Road, Coleshill**

**Application to Discharge Condition 25 of planning application 2011/0529 dated 20 December 2011 relating to the car park management plan for**

**W M Morrison Supermarkets Ltd**

**Introduction**

This application is reported for information at this time, with a view to a determination at the April Board meeting.

**The Site**

This is the car park at the junction of Park Road with the Birmingham Road on the west side of Coleshill opposite the Memorial Park and the Leisure Centre.

**Background**

Outline planning permission was granted for the construction of a retail store on this and adjoining land in 2009. This was later amended in December 2011. The application was the subject of several conditions. Matters to do with the design and appearance of the building together with other items are dealt with under separate cover elsewhere on this agenda. This particular application seeks to discharge details of a Car Parking Management Scheme for the car park. This presently is a free long stay public car park, and with the arrival of the store, the permission contains a condition to look at measures to manage the different usage of the new car park.

**The Proposal**

Condition 25 of the 2011 permission states,

“No development whatsoever shall commence on site until such time as a car park management plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall describe how the car park is to be made available to the general public and how the use of the car park is to be managed, together with the provision of 10 long stay car parking spaces. The approved plan shall remain in operation at all times unless otherwise agreed in writing by the Local Planning Authority.” The reason for the condition is “to ensure that the car park is made available to the general public as well as to customers.”

A copy of the proposed management plan is attached at Appendix A.

Members’ attention is drawn to the following matters:

- Maximum free short stay of three hours together with penalty charges thereafter.
- Car parking surveys undertaken after six and twelve months following first trading.

- Free car parking outside of trading hours throughout the remainder of the 24 hour period.
- 10 “long stay” spaces will be identified and these will be exempt from the three hour maximum stay.

**Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – TPT 6 (Vehicle Parking)

**Other Material Planning Considerations**

Government Guidance – PPG13 (Transport)

Draft National Planning Policy Framework

**Observations**

Members will recall that when the outline application was reported to Council in 2009, and again when the proposed alterations to the access arrangements were discussed in late 2011, that the Board was advising on a three hour free stay during trading hours, and this seems to have been taken on board by Morrison’s. Also at the time of considering the 2011 amendment, Members specifically requested that car park usage be surveyed regularly during the first year of operation in order to see how the management scheme was operating. This is built in to the draft submitted.

**Recommendation**

That the report be noted at this time

Background Papers

Application 27/2/12

2012 / 0016

APPENDIX A

RECEIVED

27 FEB 2012

North Warwickshire  
Borough Council

Car Park Management Plan, for Morrisons Store, Coleshill

1. This Car Park Management Plan relates to the car park bounded by Park Road / Birmingham Road adjacent to the proposed Morrisons Store to be constructed in Coleshill.
2. The Car Park Management Plan shall take effect upon the opening of the proposed supermarket on the adjacent Site, and shall have effect during such period(s) as the adjacent site is used as a retail store. The car park may be closed during construction of the Store.
3. Use of the car park will not be restricted to users of the store and will be available for parking, subject to conditions set out below, to users of the town centre and other adjacent properties. Entry to the car park by vehicles other than private motorcars and motorcycles may be restricted, save to the extent that the vehicles are delivering to or otherwise servicing the supermarket.
4. Morrisons reserve the right to control entry and exit of vehicles by manual or automatic barrier or Parking Eye System.
5. Morrisons will manage and monitor the car park as a short-stay town centre car park with a maximum permitted free stay of 3 hours per day (which may be reviewed subject to the results of full car parking surveys that will be completed after both 6 & 12 months by Morrisons or successor in title). Use in excess of 3 hours shall be prohibited and penalty charges of such amount as Morrisons, or its successors, from time to time stipulate may be imposed and enforced.
6. These charges will apply during the conditioned retailing hours, these are: Monday to Saturday inclusive 0700-2200 and Sundays 1000-1600. These hours may be subject to change if required, by submission and approval of appropriate planning application. Outside these hours, the car park will be free for all users. It is envisaged that the car park will be open to the public 24 hours a day Monday to Sunday.
7. In accordance with Planning Condition 25 which is placed on the application by North Warwickshire Borough Council. Morrisons will provide 10 'long stay' spaces

that will be exempt from the 3 hour maximum stay.

8. Should issues / reports of crime and disorder be reported then Morrisons reserve the right to secure the Car park at night by telescopic bollards or other appropriate entry control systems.
9. Staff authorised by the company to use the car park may be exempted from the maximum stay restricted and copies of car park monitoring information will be provided to the Council on request at intervals to be agreed.
10. Morrisons will retain all receipts from car park excess charges.
11. Morrisons reserve the right to sub-contract the management of the car park to a specialist company, which will be responsible for the collection of excess charges and the monitoring and supervision of the car park.
12. Morrisons will be responsible for the day-to-day inspection, maintenance and repair of the car park and associated equipment.
13. Morrisons reserve the right to restrict the use of the car park by vehicles other than cars, light vans, motorcycles and bicycles and will provide the Council with reasonable notice of such restrictions.
14. Morrisons reserve the right to close all or parts of the car park as necessary for maintenance or repair or operations, such operations to be carried out with undue delay and will provide the Council with reasonable notice of such closure.
15. Should there be abuse of the short stay nature of the car park then Morrisons and / or NWBC reserve the right, subject to agreement between both parties, to implement new measures of car park enforcement.

**(4) Application No: PAP/2011/0666**

**Brookfield Bungalow, 8 Cottage Lane, Nether Whitacre, B46 2EL**

**Replacement dwelling for**

**Mr and Mrs Stephen Smith**

**Introduction**

This application is reported to the Board because a Section 106 Agreement is involved.

**The Site**

The site lies in Green Belt, and is 0.2 hectares in area.

The existing bungalow is detached and sited approximately 45 metres from the main Birmingham Road, which is to the north. To the side of the existing dwelling house is Cottage Lane which is about 4 metres away. The garden area is large and is to the front, side and rear of the existing dwelling house. Given the narrow nature of the site the western boundary is approximately 8 metres away.

The existing dwelling is a bungalow, which has been previously extended. The site is just outside the development boundary of Whitacre Heath.

**The Proposal**

The proposal is a replacement two storey dwelling house, with living accommodation within the roof space. This would be 7.2 metres wide, 12.375 metres wide and 8.9 metres high to the ridge of the roof. To the front is a ground floor porch with a front slight protruding gable design feature. Two chimneys are proposed, with one on either side.

The dwelling house is sited 36 metres away from the main Birmingham Road to the north, and 4 metres away from Cottage Lane that runs to the eastern side.

The layout of the dwelling will lead to the following rooms; ground floor – hall, family room, utility and dining / kitchen; first floor – landing, study, bathroom, two bedrooms with one en suite; and roof space – two bedrooms and shower room.

The majority of the windows are to the front and rear elevations which are generally northern and southern facing respectively. The side elevation facing east wards only contains ground floor windows to the utility and family rooms, with also has two front facing windows. The western facing elevation has one Juliet balcony which overlooks the fields and one roof space gable window. Two velux roof lights are proposed to the front and three to the rear.

The proposed elevations and layout plan can be viewed at Appendix A. The siting of the dwelling and existing dwelling can be viewed on the site plan at Appendices B and C.

The application is accompanied with a legal agreement in which it is proposed for the existing bungalow to be removed within three months of the first occupation of the proposed dwelling house. This is because the site of the new dwelling house is



proposed to be just forward of the existing bungalow, and thus could remain if its demolition is not agreed. The existing garage would however remain.

Given the dwelling house is within the flood zone, the proposed building will be sited 0.3 metres higher than the existing bungalow.

Photographic images of the existing dwelling house and surrounding area can be viewed at Appendix D.

## **Background**

The planning history of this property is significant to the approach to be taken to this current application. The existing bungalow has been extended over time with various extensions.

The most important relevant planning application was a certificate of lawfulness in 2011, which set out under permitted development what could be constructed without requiring planning permission. This will be covered later in the report in full.

## **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 - Core Policy 2 (Development Distribution), ENV2 (Green Belt), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 ( Building Design), ENV14 (Access Design), ENV10 (Energy generation and energy conservation), HSG2 (Affordable Housing), HSG4 (Densities), TPT3 (Access and sustainable travel and transport), TPT6 (Vehicle Parking) and Core Policy 5 (Development in Town and Villages).

## **Other Relevant Material Considerations**

Government Advice: - National Planning Policy Framework 2012

Supplementary Planning Guidance: - The Council's SPG – A Guide for the Design of Householder Developments – Adopted September 2003

Local Finance Considerations: New Homes Bonus (NHB), Community Infrastructure Levy (CIL)

## **Consultations**

Severn Trent Water Ltd - No comments

Environmental Health Officer - There is no report with this application to address ground conditions. The proposed development is surrounded by former sand and gravel pits which have been in-filled. This matter should be addressed by desk study, site visit (by an appropriately qualified person) and followed up with a risk assessment providing advice on the next step work site investigation if necessary (likely to be).

The Solicitor to the Council – The Undertaking is satisfactory.

## **Representations**

No responses have been received from the Parish Council or neighbours.

## **Observations**

This application has generated a number of issues, and all of these will need to be addressed in the determination of this case.

### **a) Fall back position and volume calculations**

As members are aware, saved Local Plan Policies HSG3 and ENV13 together with the Adopted Householder Supplementary Guidance seek to restrict householder extensions and the size of replacement dwellings to no more than 30% of the volume of the original dwelling house. It is calculated here that the original house had a volume of 311m<sup>3</sup>. The layout of the original dwelling can be viewed in Appendix E. The Certificate of Lawfulness has confirmed that extensions to the existing dwelling by virtue of permitted development rights, could lead to a house of some 653m<sup>3</sup>. The volume of the proposed replacement house under this current application is approximately 615m<sup>3</sup>. The volume increase from the original to the proposed replacement dwelling would lead to volume increase of 97%.

As can be seen the volume increase in both cases – the permitted development route or the replacement route - is well in excess of the 30% guidance, and thus a potential refusal here could be expected. However, other material planning considerations have to be brought into the assessment, and these relate to the fall back position under permitted development rights, urban design and impact upon the Green Belt.

As members are aware, in 2008 the Town and Country Planning (General Permitted Development) Order 1995 was significantly amended, and this changed the criteria for extensions to dwelling houses. As a consequence the Certificate application was submitted to establish the maximum volume of extensions without the need to submit a planning application - Appendix F. As set out earlier the volume permitted under the 2011 certificate application is substantially greater than the existing, but only slightly larger than the proposed new dwelling. Additionally, the existing property benefits from class E outbuilding development rights – e.g. for stables; garages etc. The certificate application included a garage. This means that further sizeable outbuildings could be constructed without the need for the submission of planning applications. They would be subject to limitations such as height, size and siting, but in general terms, because of the siting of the existing house, these could be extensive.

It is therefore material that the fall back positions of extensions to the existing house constructed under permitted development rights could lead to a larger volume increase and increased footprint to that which is now proposed. This is wholly due to the site specific circumstances here and the wording of the new Order.

Members will see that the essence of this current application is that the applicant is offering to exchange the lawful extensions for a new dwelling.

### **b) A Legal Agreement**

The applicant as already mentioned, is offering this “exchange” through a Unilateral Undertaking under Section 106 of the 1990 Act. This effectively says that if permission is granted for the current proposal, the existing bungalow will be removed within three months of the first occupation of the proposed dwelling house, thus removing the potential of the extensions under the Certificate from being constructed. A copy of the draft is at Appendix G.

### **c) Replacement dwelling and Green Belt**

As the members are aware planning policy supports the replacement of dwellings within the Green Belt, provided the enlargement is no more than 30% of the volume of the dwelling as original. As covered earlier, the volume increase here is over the 30% limitation, however, the circumstances are that the proposed volume is similar to that which can be constructed under permitted development. It is the officer's opinion that the certificate of lawfulness application will be implemented.

The replacement dwelling has a smaller footprint than the existing bungalow, and therefore on balance is not considered to harm openness. In order to maintain control over the future development on the site, it is proposed to remove permitted development rights for extensions and outbuildings in respect of the new dwelling.

### **d) Design and scale**

There are a number of properties in the immediate vicinity which display a mixture of dwelling types. The neighbouring sites are substantially two storey dwellings and the dwelling presently located within the application site is a dormer bungalow, which occupies a larger footprint than the proposed dwelling. The existing bungalow is considered to be of a poor design. The nearest neighbouring dwelling is two storey and therefore a similar property would be in keeping with the area.

The height of the proposed dwelling will be substantially higher than the existing bungalow, however is considered to be acceptable. The overall design of the dwelling is contemporary and acceptable within the street scene, notwithstanding the fact the dwelling will be closer to Birmingham Road than the existing bungalow. The front gable feature breaks up the front elevation leading to a well designed front elevation to the public face of the building. The window designs and detailing are acceptable.

### **e) Neighbours**

The main impact is upon 42 Birmingham Road which is north east of the proposed dwelling. The separation distance is approximately 15.5 metres to the nearest part to No.42. The rear facing windows are not to habitable rooms. The ground floor has a side conservatory and side facing bedroom windows. It is considered that the outlook from the side windows of No.42 would not look directly towards the new dwelling, but are western facing. The front facing windows of the proposed dwelling are to a family room and living room to the ground floor and study and bedroom to the first floor and velux windows in the roof space. The building is to the south west of No.42 and on balance is not considered to result an unacceptable loss of sunlight. It is considered on balance that the new dwelling house would not lead to an unacceptable loss of privacy, amenity or light. A site plan showing the proposed dwelling house and the nearest can be viewed in Appendix B

The separation distances between fenestration arrangements are considered to be sufficient in order that neighbour properties would not suffer from a loss of amenity including loss of privacy. The proposed dwelling is approximately 50 metres away from the existing dwelling opposite on Birmingham Road and therefore would not lead to an unacceptable loss of privacy, amenity or light.

## **f) Flood Risk**

As part of the application submission, a flood risk assessment report was submitted. The site lies within flood zones 2 and 3 of the nearby River Tame. The settlement is protected by flood defences. The proposed dwelling will be constructed 300mm higher than the existing bungalow. The report considers the following;

*That the demolition of the existing bungalow and the construction of a two storey property 300mm above the existing flood risk level provide a significant reduction in the risk of flooding to the property and a place of safe refuge should the modelled 100 year return period storm event occur, even if the proposed defence improvement works are not undertaken by the Environment Agency’.*

Given the lack of objection, on balance it is considered that the proposed dwelling will not increase flood risk.

## **g) Other issues**

Along the main Birmingham Road to the front of the site there are a number of trees of protected by Orders. The separation distance from the proposed dwelling is approximately 35 metres, which is not considered to lead to harm.

The existing landscaping to the site will be retained. The removal of the existing dwelling will lead to a paved patio area and new lawn grassed area. The landscaping arrangements are considered acceptable.

When considering energy conservation the new dwelling will seek to install a heat recovery system which conforms to the building regulations, which will reduce power usage and energy losses are thus kept to a minimum. This is an improvement over the existing bungalow.

## **h) Conclusions**

It must be stressed from the outset that the consideration of this application is wholly site specific, reflecting the particular planning history of the premises, the wording of the current Development Order, and the change in that wording during recent years whilst the applicant has been considering his proposals. The essence of the matter is that, because of these specific factors, the applicant can presently benefit from permitted development rights to effectively double the size of his existing house with extension and construct substantial outbuildings without the need to submit planning applications. Development Plan policy is ineffective in such a circumstance.

There is a reasonable prospect of the applicant using existing permitted development rights to do so.

In order to bring some degree of certainty to this situation the current proposal and the Unilateral Undertaking have been put forward by the applicant. It would enable the existing bungalow to be demolished within 3 months of the first occupation of the new dwelling house.

Also it is proposed for the Authority to gain control over any future extensions and outbuildings through the removal of permitted development rights for that new building. Members will recognize that this approach has been agreed at other sites within the Borough. What is different here is the site geography; the scale involved and the

construction of an improved replacement house.

As set out above, the scale and design of the proposed dwelling house would lead to a planning gain, with a reduced footprint and an improvement within the street scene. However it clearly still does not accord with the 30% guidance. The issue therefore is whether all of the material considerations as set out in this report are of sufficient weight to override that guidance. On balance, it is considered that they are.

### **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 site location plan and elevations and layout plan received by the Local Planning Authority on 21 December 2011, the site level plan received by the Local Planning Authority on 15 February 2012 and the site plan / land section plan received by the Local Planning Authority on 22 March 2012.

### **REASON**

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

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

### **REASON**

In the interests of the amenities of the area.

4. No development whatsoever within Class A, B, C and E of Part 1, of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 1995, as amended.

### **REASON**

In the interests of the amenities of the area.

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

## REASON

To protect the privacy of the occupiers of adjoining properties.

6. Prior to the commencement of construction of the development a Phase I assessment should be prepared for the site in relation to the ground conditions at the site and how it may affect the development and the receptors concerned. The assessment must include a site visit to assess the likelihood of the presence of contamination. The site visit must be undertaken by an appropriately qualified person and should be followed up by risk assessment and proposals for the scope of a Phase II assessment should this be deemed necessary. The report should be submitted to and agreed with the Local Authority.

## REASON

To ensure that risks from land contamination to the future 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 in accordance with saved policy ENV6 of the adopted Local Plan 2006.

7. In the event that a Phase II site investigation is required based on the agreed outcome of condition 6 above, a site investigation shall be undertaken and the results and outcome of the investigation shall be reported and agreed with the local authority prior to commencement of construction of the development.

## REASON

To ensure that risks from land contamination to the future 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 in accordance with saved policy ENV6 of the adopted Local Plan 2006.

8. In the event that remediation of the site is necessary a report regarding the proposals for remediation of the site shall be agreed with the local authority prior to undertaking the remediation. The remediation shall be the subject of a validation plan which shall be agreed with the local authority. Once the remediation has been carried out a report must be prepared to demonstrate that the remediation was undertaken in accordance with the validation plan. This report should be submitted to and agreed with the Local Authority.

## REASON

To ensure that risks from land contamination to the future 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 in accordance with saved policy ENV6 of the adopted Local Plan 2006.

## 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):  
Core Policy 2 - Development Distribution; ENV2 - Green Belt; ENV11 - Neighbour Amenities; ENV12 - Urban Design; ENV13 - Building Design; ENV14 - Access Design; ENV10 - Energy generation and energy conservation; HSG2 - Affordable Housing; HSG4 - Densities; TPT3 - Access and sustainable travel and transport; TPT6 - Vehicle Parking; CP5 - Development in Town and Villages.

### Other Relevant Material Considerations

Government Advice: - National Planning Policy Framework 2012

Supplementary Planning Guidance: - The Council's SPG - A Guide for the Design of Householder Developments - Adopted September 2003

4. Given the site is close to protected trees to the front of the site, that The applicant is reminded that any works should be carried out in accordance with British Standard 3998 "Recommendations for Tree Work".

5. Given the fact that the replacement dwelling has been approved, and that it is larger than the bungalow it replaces, it is unlikely that further extensions are likely to be supported given the Green Belt Location.

## Justification

The proposal is for a replacement two storey dwellinghouse. The scale of the building is by virtue of its size and scale not to have an adverse impact upon the openness of the Green Belt in which the property is located, and will result in a reduced building footprint. The volume increase exceeds the guidance figure, however special circumstances outweigh policy, in that similar volume extensions and outbuildings can be constructed without the need for a planning application and therefore the permitted development fall back position is a material planning consideration in this case. The design is considered to reflect the character and appearance of the existing area and improve upon the existing bungalow. A legal agreement has been set out for the existing bungalow to be removed within three months of the first occupation of the proposed dwelling house. The proposal is not considered to result in a loss of amenity,

privacy or loss of light that would result in an unacceptable loss of amenity and privacy in the area. The proposal is considered to be in general accordance with ENV11, ENV12, ENV13, ENV14, ENV2, Core Policy 2 Core Policy 5, HSG2, HSG4, TPT3 and TPT6 of the saved policies from the North Warwickshire Local Plan 2006; to the adopted Householder SPG 2003, and 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: PAP/2011/0666

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	21/12/11
2	NWBC	Additional information	22/12/11
3	Agent	Additional information provided	15/2/12
4	Agent	Additional information provided	27/2/12
5	Case Officer	Letter to agent	7/3/12
6	Case Officer	Email to agent	8/3/12
7	NWBC Environmental Health	Consultation response	13/3/12
8	Severn Trent Water	Consultation response	16/3/12
9	Agent	Email to case officer	9/3/12
10	Agent	Email to case officer	12/3/12
11	Agent	Email to case officer	19/3/12
12	Case officer	Email to agent	19/3/12
13	Agent	Email to case officer	22/3/12
14	Cllr Simpson	Requesting copy of plan	27/3/12
15	Case officer	Email to Cllr Simpson	28/3/12
16	NWBC Solicitor to the Council	Consultation response	28/3/12
17	Case officer	Email to agent	2/4/12
18			
19			
20			

*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.*

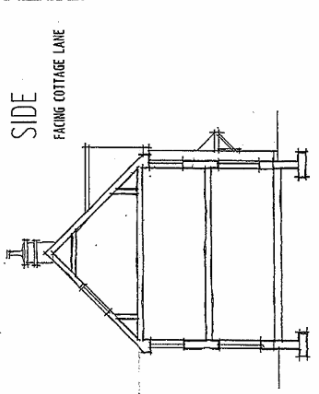
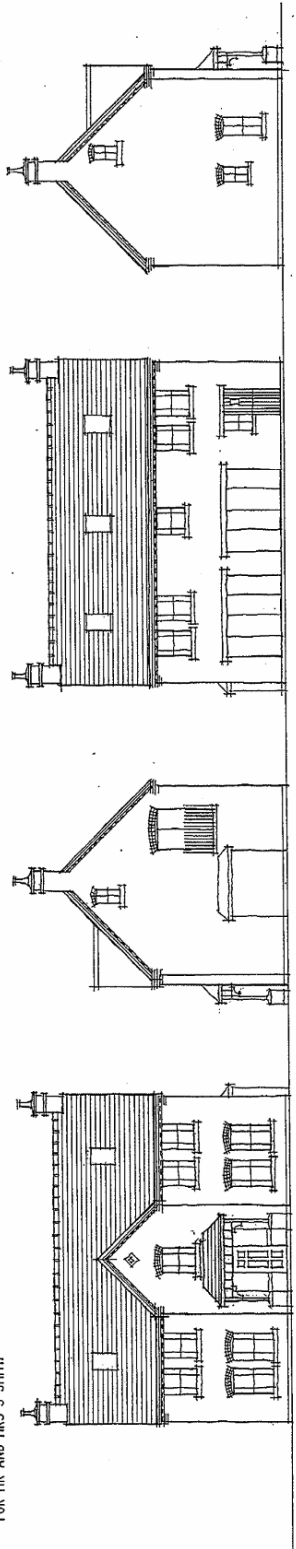




# Whitacre Heath

Appendix A – Proposed elevation and layout plan and new dwelling

PROPOSED REPLACEMENT DWELLING AT 8 COTTAGE LANE, NETHER WHITACRE  
 FOR MR. AND MRS. S. SMITH



REAR ELEVATION

SIDE ELEVATION

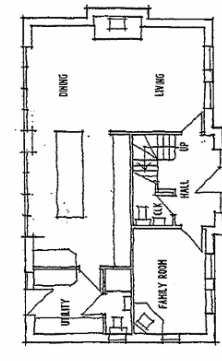
FRONT ELEVATION  
FACING BIRKENHEAD ROAD

SIDE ELEVATION  
FACING COTTAGE LANE

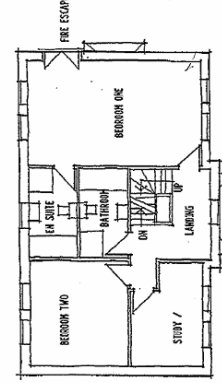
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Borough Council

SECTION

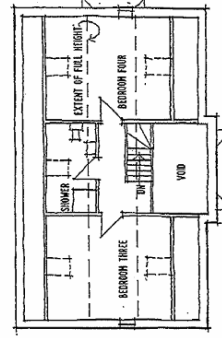
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GROUND FLOOR PLAN



FIRST FLOOR PLAN



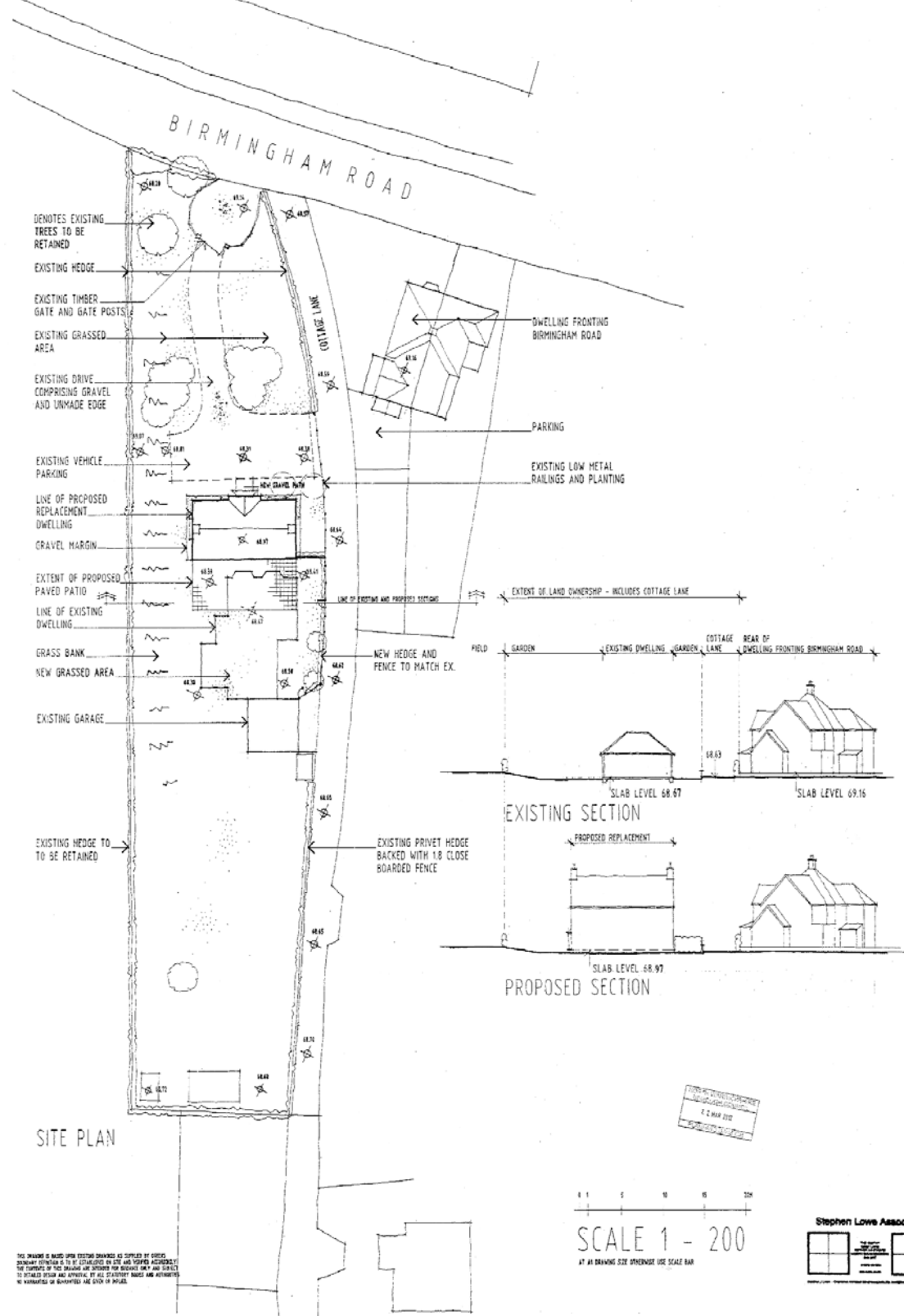
ATTIC  
SCALE 1-100  
A14 DRAWING SIZE OTHERWISE USE SCALBAR

Stephen Lowe Associates  
 ARCHITECTS  
 100, WILSON ROAD, SOUTHPORT, MERseyside, L35 9EF  
 TEL: 01752 844444  
 FAX: 01752 844444  
 EMAIL: info@stephenlowe.co.uk  
 WWW: www.stephenlowe.co.uk

Appendix B – Site plan

2011 / 0666

PROPOSED REPLACEMENT DWELLING AT 8 COTTAGE LANE, NETHER WHITACRE B46 2EL  
FOR MR AND MRS S SMITH



SITE PLAN

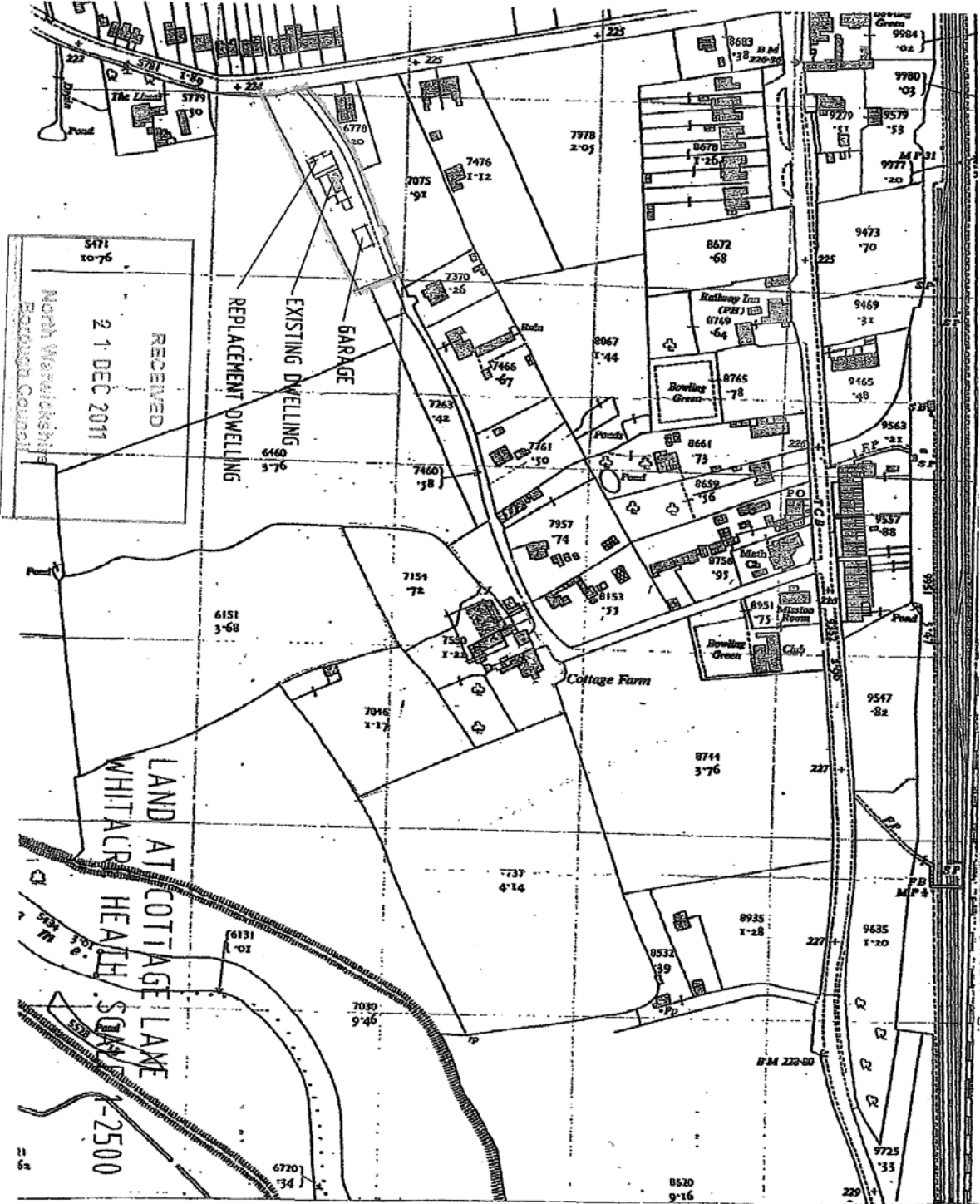
THIS DRAWING IS BASED UPON RECORDS PROVIDED AS SUPPLIED BY CLIENT. DRAWING CONTRACTOR IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY CLIENT. CONTRACTOR'S OBLIGATION IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE WORK SHOWN ON THIS DRAWING. CONTRACTOR IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY CLIENT. CONTRACTOR'S OBLIGATION IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE WORK SHOWN ON THIS DRAWING.

PROPOSED REPLACEMENT DWELLING AT 8 COTTAGE LANE, NETHER WHITACRE B46 2EL

SCALE 1 - 200  
AT A1 DRAWING SIZE OTHERWISE USE SCALE BAR

Stephen Lowe Associates

Appendix C – Site location plan and site plan



2011 / 0666

**Appendix D – Photographs of the site**



Application dwelling house on the left hand side



Side elevation of the existing bungalow



Rear elevation view of the existing bungalow



Front elevation of the existing bungalow



View of the existing bungalow with drive in the foreground



View of existing bungalow showing neighbours dwelling and side road, looking from Birmingham Road



Side elevation of the nearest neighbouring dwelling



View of neighbouring dwelling standing approximately in the location of the proposed dwelling house



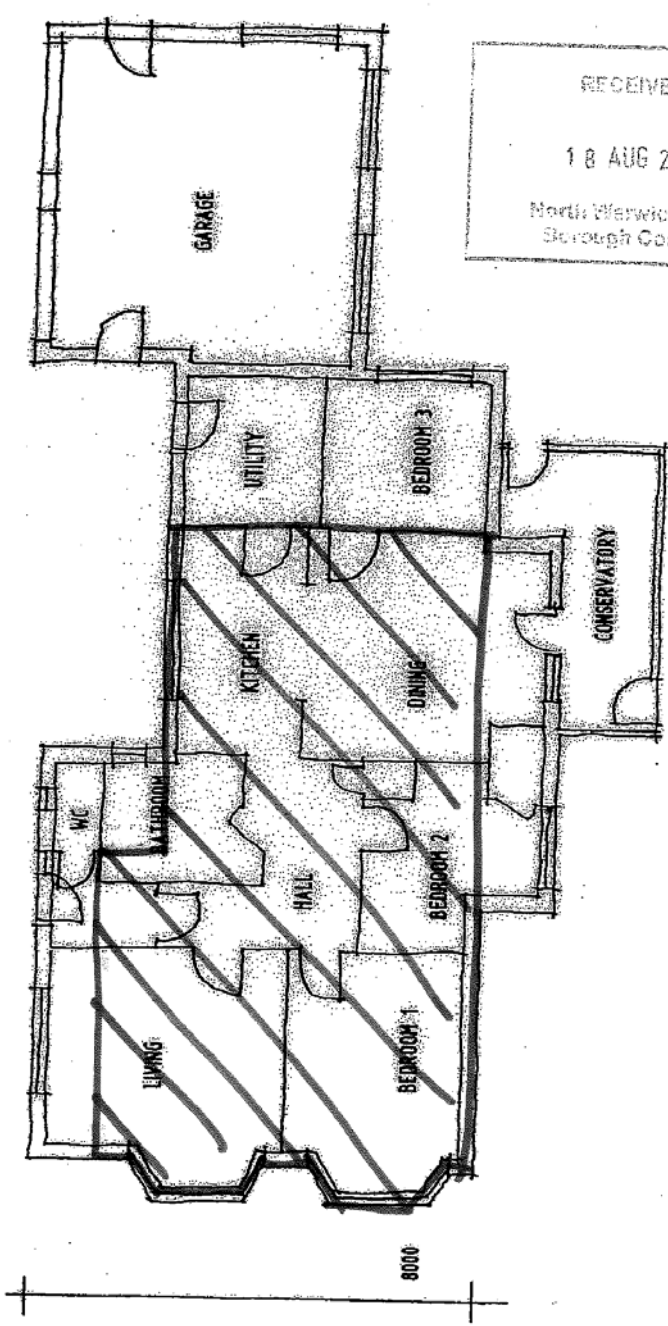
View of streetscene opposite on Birmingham Road

Appendix E – plan showing the original footprint of the existing bungalow dwelling house

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S borough Council

EXISTING GROUND FLOOR PLAN 1-100

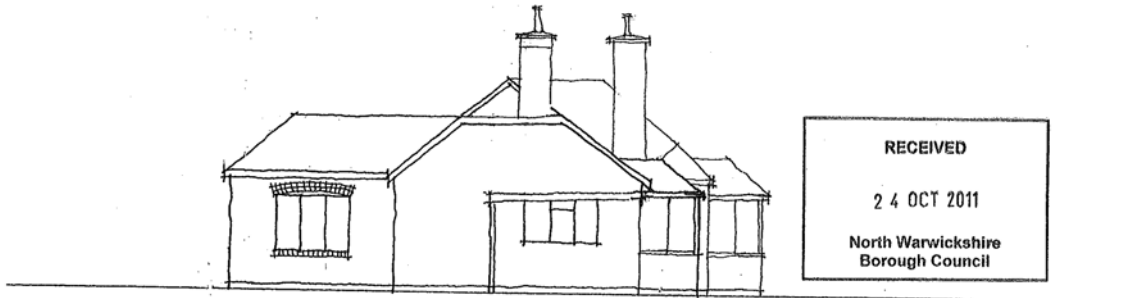
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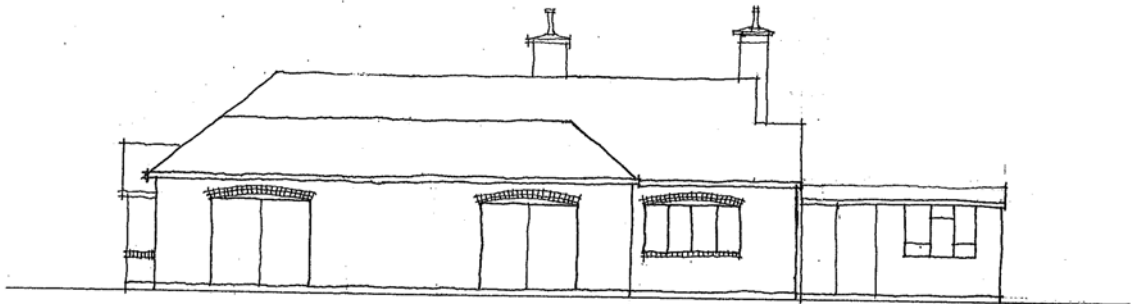
**Appendix F – Plans shows the approved Certificate of Lawfulness**

2011 / 0432

17D

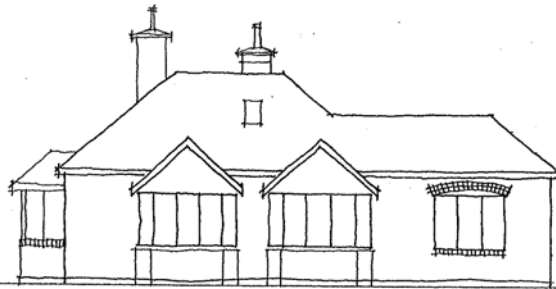


PROPOSED ELEVATION TO GARDEN



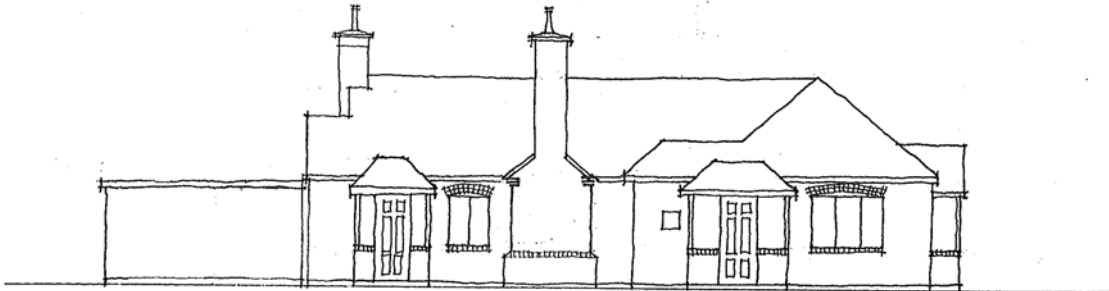
PROPOSED ELEVATION TO GARDEN AND FACING OPEN FIELD

*Jhu*  
25/10/11



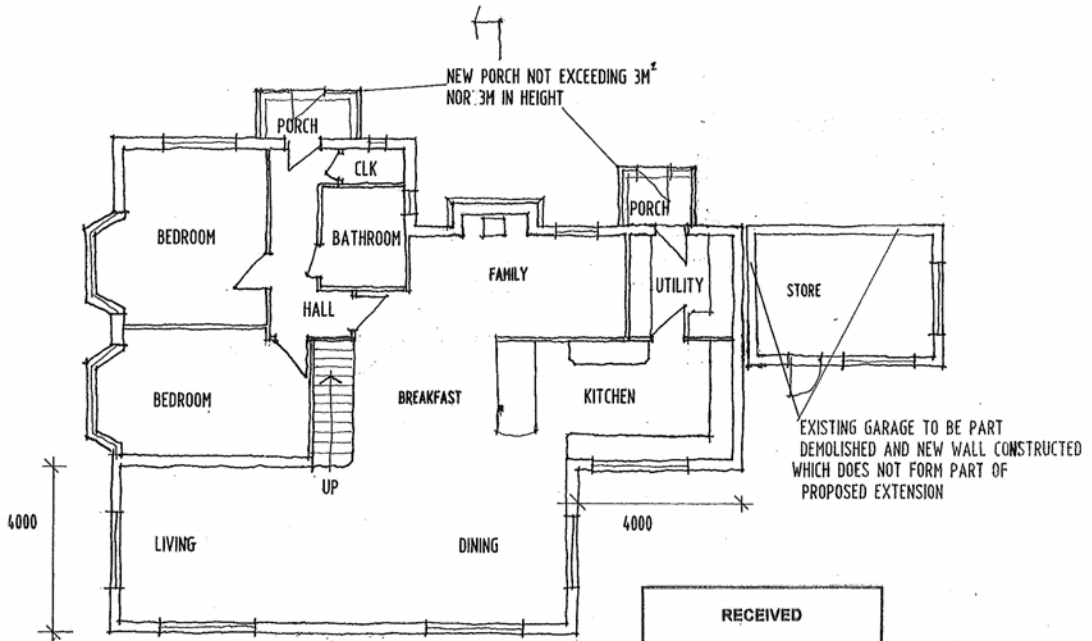
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Borough Council

PROPOSED ELEVATION FACING BIRMINGHAM ROAD



PROPOSED ELEVATION TO COTTAGE LANE

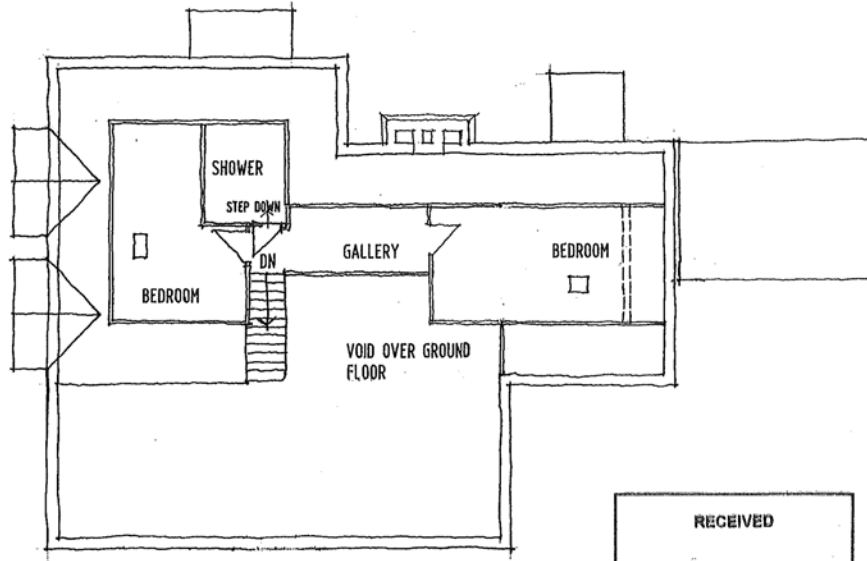
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PROPOSED GROUND FLOOR PLAN

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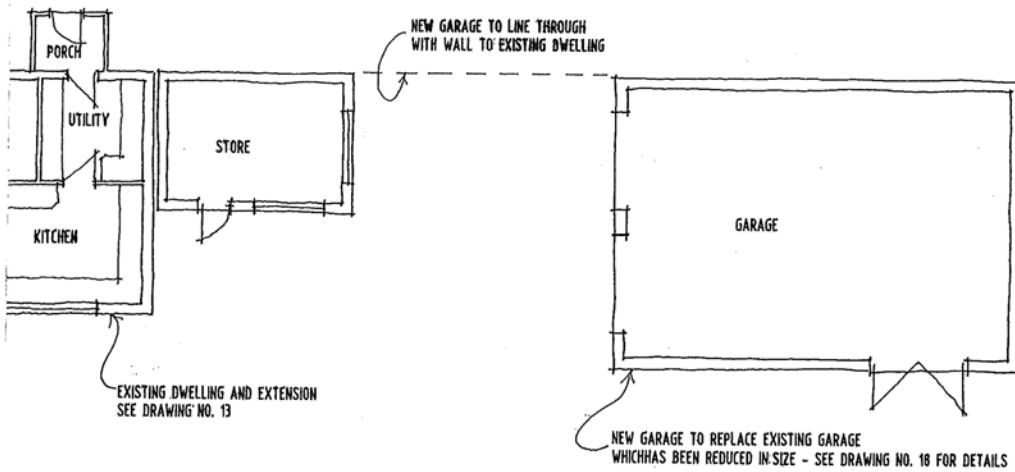
*Jen*  
25/10/11



PROPOSED FIRST FLOOR PLAN ↙ SECTION

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 Borough Council

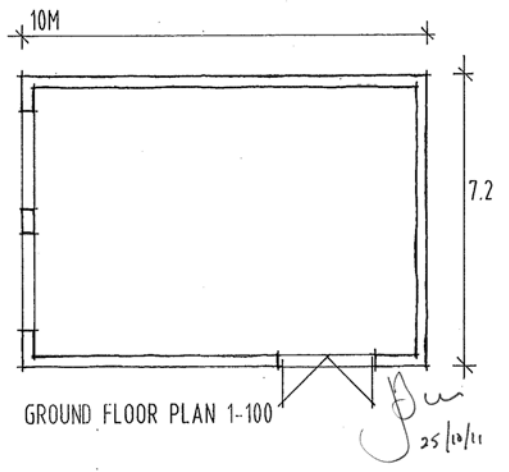
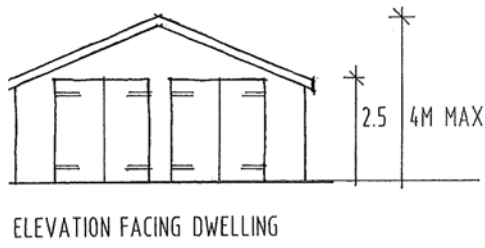
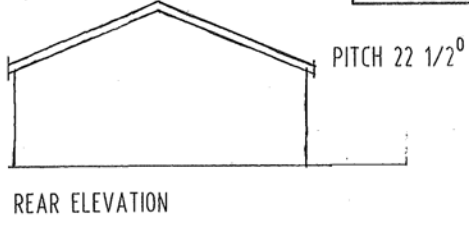
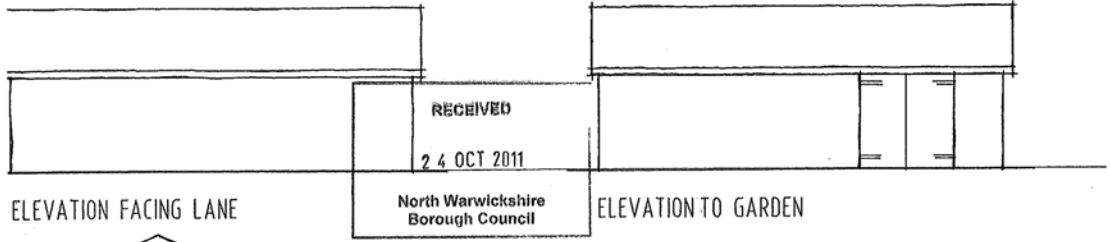
*John*  
 25/10/11



PART PROPOSED GROUND FLOOR PLAN 1 - 100

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 North Warwickshire  
 Borough Council

*John*  
 25/10/11



## Appendix G – Copy of Legal Agreement

### Agreed Terms

#### 1. Definitions and interpretation

1.1. For the purposes of this Deed (including its background) the following words and expressions shall have the meanings attributed to them:

<b>1990 Act</b>	the Town and Country Planning Act 1990;
<b>Application</b>	the application for full planning permission for the Development dated 21 <sup>st</sup> December 2011 submitted to the Council and allocated reference number PAP/2011/0666;
<b>Completion Date</b>	3 months from first occupation of the New Dwelling by the Owners;
<b>Development</b>	The demolition of the Existing Dwelling and the construction of the New Dwelling;
<b>Existing Dwelling</b>	the existing bungalow currently standing on the Site but, for the avoidance of doubt, does not include the garage currently standing on the Site and any other structure or building under construction but not yet complete;
<b>Materials</b>	the materials which constitute the Existing Dwelling;
<b>New Dwelling</b>	the new house to be erected on the Site the full details of which are set out in the Application;
<b>Parties</b>	The Owners and the Council; and
<b>Site</b>	the buildings and land at 8 Cottage Lane, Nether Whitacre, Birmingham B46 2EL and registered at HM Land Registry under title number WM387066.

1.2. Reference in this Deed to background or a clause is, unless the context otherwise requires, a reference to the background to and clause in this Deed.

1.3. Words importing the singular meaning include the plural meaning and vice versa where the context so admits.

- 1.4. Wherever an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually unless there is an express provision otherwise.
- 1.5. Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 1.6. References to any Party shall include the successors in title to that Party and any person deriving title through or under that Party and in the case of the Council the successors to their respective statutory functions.
- 1.7. Headings where they are included are for convenience only and are not intended to influence the interpretation of this Deed.

## **2. Legal basis**

- 2.1. This Deed is made pursuant to Section 106 of the 1990 Act.
- 2.2. The terms of this Deed create planning obligations binding on the Owners pursuant to Section 106 of the 1990 Act and are enforceable as such by the Council as the local planning authority.

## **3. Owners' Covenants**

The Owners covenant with the Council to:

- 3.1. complete the demolition of the Existing Dwelling; and
- 3.2. remove the Materials from the Site on or before the Completion Date.

## **4. Duration**

The obligations contained in this Deed shall not be binding upon or enforceable against the Owners if:

- 4.1. The Owners dispose of their interest in the Site in any way; or
- 4.2. The Application is withdrawn; or
- 4.3. The Council does not grant the Owners planning permission respect of the Application;  
or
- 4.4. The Council do grant the Owners planning permission in respect of the Application but this planning permission is subsequently quashed, revoked or otherwise withdrawn or, without the consent of the Owners, it is modified by any statutory procedure.

## **5. Force Majeure**

- 5.1. The Owners shall not be liable to the Council or deemed to be in breach of their obligations under this Deed for any failure or delay in performance due to circumstances beyond their reasonable control.
- 5.2. For the avoidance of doubt the circumstances set out in clause 5.1 shall include but not be limited to failure or delay in performance due to:
- 5.2.1. strikes, lockouts, combinations and scarcity of labour;
  - 5.2.2. shortage of and delay in obtaining materials;
  - 5.2.3. hostilities and acts of the Queen's enemies;
  - 5.2.4. force majeure, fire, explosion, flood, lightning or bad weather;
  - 5.2.5. procedures required for obtaining any necessary permissions for or appertaining to the erection of the New Dwelling and all necessary services;
  - 5.2.6. compliance with all legislation, statutory rules, orders, regulations or directions;
  - 5.2.7. accidents in the construction of the New Dwelling for which the Owners are not responsible; and
  - 5.2.8. any other causes beyond the reasonable control of the Owners.

## **6. Third Parties**

Nothing in this Deed shall create any rights in favour of any person pursuant to the Contracts (Rights of Third Parties) Act 1999.

## **7. Legal effect**

In so far as any clause of this Deed is found (for whatever reason) to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of the remaining provisions of this Deed.

## **8. Waiver**

No waiver (whether expressed or implied) by either Party of any breach or default in performing or observing any of the terms of this Deed shall constitute a continuing waiver and no such waiver shall prevent a Party from enforcing any of the relevant terms or from acting upon any subsequent breach or default.

**9. Variation**

No purported variation of the terms of this Deed shall be effective unless it is in writing and signed by or on behalf of each of the Parties.

**10. Entire Agreement**

This Deed sets out the entire agreement and understanding between the Parties in respect of its subject matter.



**(5) Application No: PAP/2012/0124**

**Land at Birmingham Road, Coleshill,**

**Works to trees in Conservation Area, for**

**Mrs Alethea Wilson - North Warwickshire Borough Council**

**Introduction**

The applicant is brought to the Board, given that North Warwickshire Borough Council is the applicant and the land owner.

**The Site**

The application group of trees is sited on land off Birmingham Road and to the rear of 1 – 3 Fairview Mews in Parkfield Road. The application site is surrounded by a mix of residential and commercial properties.

**The Proposal**

The works to the trees are to cut back a group of boundary trees to provide a 2 metre clearance from properties on Fairview Mews. The plan of the proposal can be view in Appendix A.

**Background**

The site falls within the Coleshill Conservation Area, and therefore consent is required for works to be undertaken. In 2012, the Planning and Development Board granted consent for works to a group of trees to the north east of the site.

**Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006: ENV11 (Neighbour Amenities), ENV15 (Conservation Area)

**Other Relevant Material Considerations**

Government Advice: Draft National Planning Policy Framework 2011  
Planning Policy Statement 5 (Planning for the Historic Environment)

**Representations**

No representations had been received at the time of preparing this report. The Board will be up-dated should any arrive.

**Observations**

*The application was submitted by Warwickshire County Council Forestry Section, in conjunction with the Borough Council.*

The trees are not covered by a Preservation Order but are within the Conservation Area. The Council's remit here is to decide whether the trees are worthy of an Order and should thus be retained without works being undertaken. The key issue in determining whether to place an Order on a tree is whether it is "in the interests of public amenity" to do so. In this case it is considered not.

Given that there are a substantial number of trees that are within the application site and further trees to the north east, the works are not considered to be of detriment to the character and appearance of the Conservation Area. Images of the trees can be viewed in Appendix B.

The works to the trees are not considered to have a harmful effect upon the character, appearance or setting of the Conservation Area as covered by Policy ENV15.

*The works are considered acceptable and will not lead to harm along the street scene. It is considered that the group of trees will continue to offer an important landscape feature even if the works are approved.*

When considering the amenity of the neighbouring properties that over look the trees within Fairview Mews, Parkfield Road, it is considered that the works would improve the residential amenity with the pruning, whilst retaining the trees to allow enjoyment for the residential properties and the surrounding area.

## **Recommendation**

That a **TPO is not required** for the reason set out in the justification below.

## **Notes**

1. Works to Trees - Works to trees should be carried out in accordance with British Standard BS 3998 "Recommendations for Tree work" and undertaken in accordance with arboricultural best practice. You are advised that when carrying out the works to the trees that nesting birds are protected and covered by the 1981 Wildlife and Countryside Act.

2. The Development Plan policies which are relevant to this Decision are as follows:  
North Warwickshire Local Plan 2006 (Saved Policies) : ENV11 - Neighbour Amenities  
ENV15 - Conservation Area

Other relevant material considerations:

Government Advice:

Draft National Planning Policy Framework 2011

Planning Policy Statement 5: Planning for the Historic Environment.

## **Justification**

The Local Planning Authority raises no objection to tip back a group of boundary trees to provide a 2 metre clearance from properties to the rear. The proposal is considered not to impact upon the character, setting and appearance of the Conservation Area. The works are not considered to affect the amenity of the area and therefore making them the subject of a Tree Preservation Order, which is not required. The trees are on land between Birmingham Road and Fairview Mews, Parkfield Road.

## BACKGROUND PAPERS

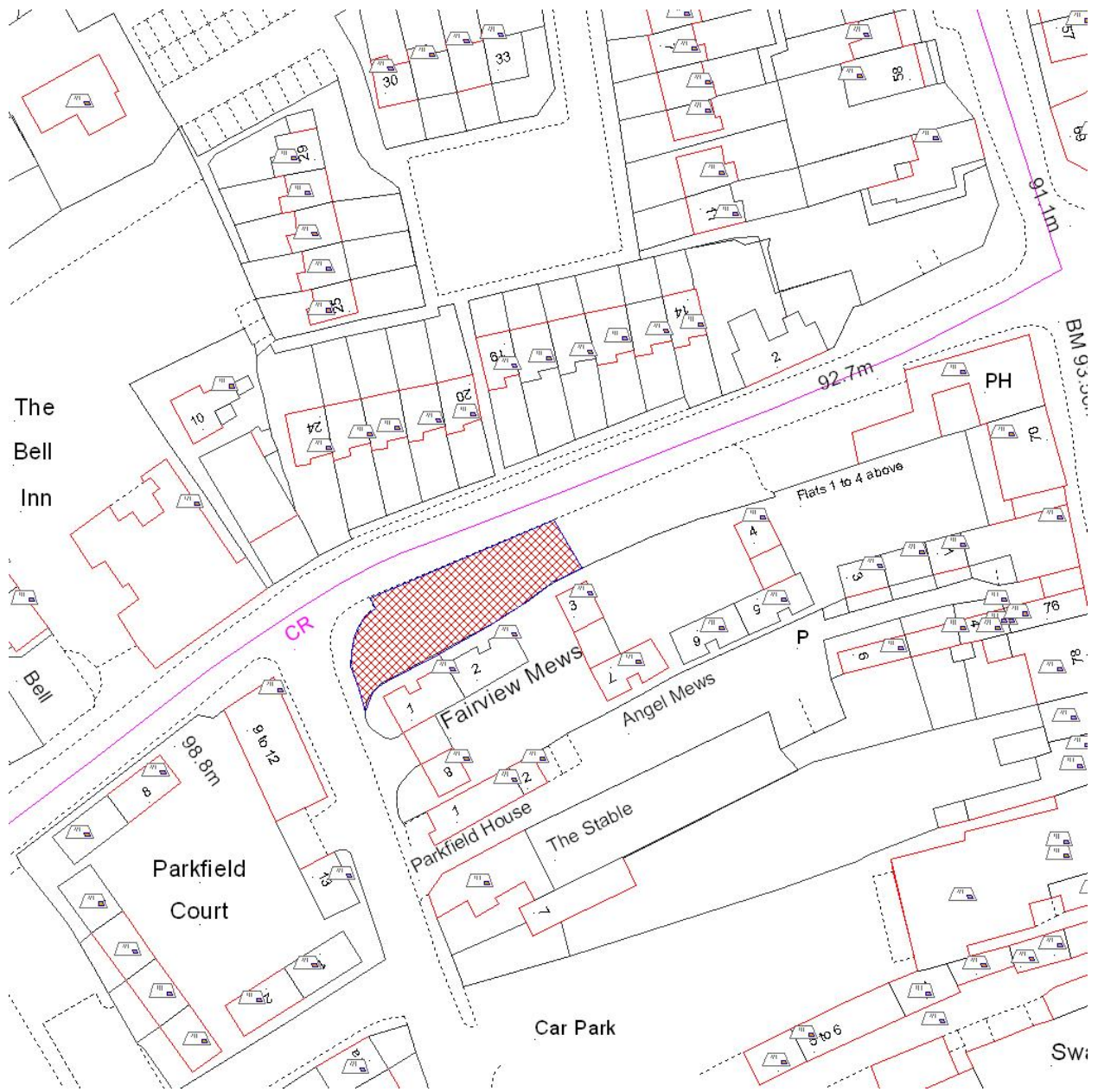
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

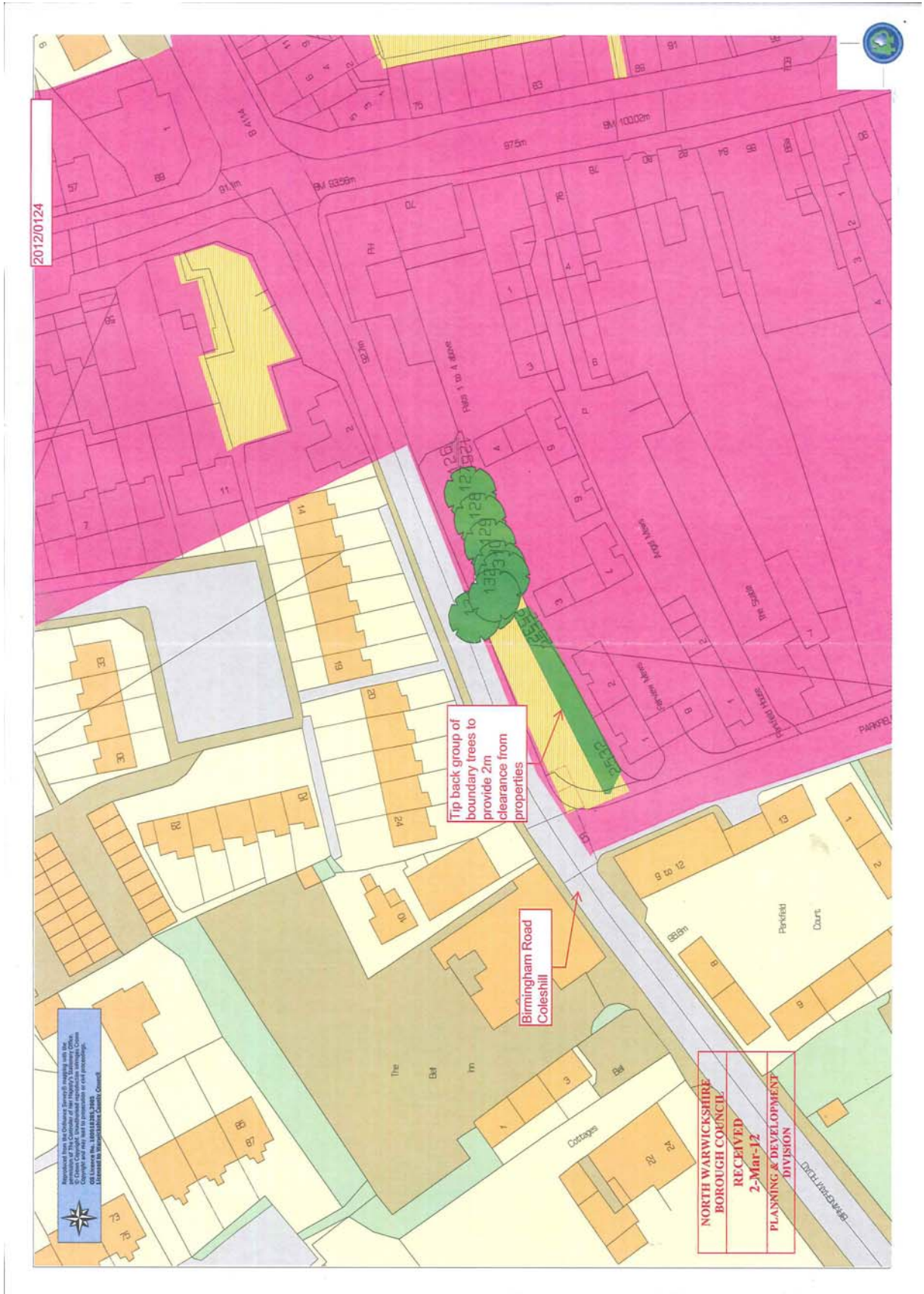
Planning Application No: PAP/2012/0124

<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)	2/3/12

*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 B – Photographs of the site



## **(6) General Development Applications**

**Application No: PAP/2012/0131**

**The Day Centre, Rowland Court, Arley**

**Change of use of the Community facility to include pharmacy provision as part of the building. Elevation changes and internal alterations for**

**North Warwickshire Borough Council**

### **Introduction**

This application is referred to the Board as the Council is both owner and applicant. The Council's Resources Board authorised the submission of the application – see Appendix A.

### **The Site**

This is a single storey building just off Bournebrook View at its junction with Rowland Court. It provides community and function rooms for the surrounding residential area.

### **The Proposal**

In essence this is to convert the front part of the premises to a small pharmacy in connection with the proposed medical centre to be constructed on the opposite side of the road. The remainder of the premises would be refurbished to continue to provide communal and function rooms but on a smaller scale. The external appearance will stay largely the same but there would be a small toilet extension provided at the rear.

Two covering letters are attached explaining the proposal – see Appendices B and C.

### **Background**

Planning permission has been granted for the new medical centre on land opposite the site and that will have a car park associated with it.

### **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policy 2 (Development Distribution) and policies ENV11 (Neighbour Amenities), ENV13 (Building Design), ENV14 (Access Design), COM 1 (New Community Facilities), COM2 (Existing Community Facilities) and TPT6 (Vehicle Parking)

### **Other Material Planning Considerations**

National Planning Policy Framework 2012 – Supporting a Prosperous Rural Economy and Promoting Healthy Communities.

### **Consultations**

Environmental Health Officer – No objections

## **Representations**

Two objections have been received concerned that cars visiting the pharmacy will park in the Rowland Court car parking area or on Bourne Brook View itself adding to congestion and frustrating residents in Rowland Court. It will cause unnecessary disruption.

A letter of support has been received which says that the Day Centre is under-used and the new facility will be a good service.

The Arley Tenants Community Panel supports the proposal as it has undertaken a survey which shows support. The alternative is inconvenient bus travel into Nuneaton.

## **Observations**

The site is within the development boundary for Old Arley, which is also identified as a Local Service Centre by the North Warwickshire Local Plan 2006. As a consequence it is entirely appropriate in principle to support a new pharmacy at this location given that it is an additional community facility. Moreover it will compliment the new Medical Centre over the road.

The main issues here are the potential impact on the existing Day Centre; the parking arrangements and any adverse impacts on the residential amenity of neighbouring occupiers. It is considered that the elevation changes are immaterial.

The Day Centre will continue to be used and continue to function as a community facility albeit on a smaller scale. It is material that the Resources Board received information that there would be little impact on the continuing function of the Day Centre, in that it would remain as a viable and valuable facility.

Car parking provision will be provided with the new medical centre – 35 spaces. This was considered to be adequate when the pharmacy was to be located in that Centre. It is accepted however that customers will now have to use a different site and that would involve a short walk, or if just attending the pharmacy to collect items, there would be the increased possibility of on-street parking or use of the Rowland Court's residential car parking area. However this would all be transitory and the overall benefit of retaining the pharmacy in Arley is considered to outweigh any potential dis-benefit from the parking situation. Additionally, there would be a pedestrian access created from the Centre's car park such that the short walk to the pharmacy could be made more convenient.

There would be some increased activity in the area as a consequence of people and cars using the pharmacy but this is not considered to represent a substantial increase in dis-amenity to local residents to warrant refusal.

Overall this application can be supported. It fully accords with the National Planning Policy Framework in securing and retaining local services within settlements where that are best needed and accessed.

## **Recommendation**

That planning permission be granted subject to the following conditions:



- i) Standard Three Year condition
- ii) Standard Plan Numbers – Location Plan and plan number 0548/02/D received on 5 March 2012, and plan number 0548/07/A received on 15 March 2012.

Notes:

i) The following Development Plan policies are relevant to this decision – Saved Policies of the North Warwickshire Local Plan 2006 – Core Policy 2, ENV11, ENV13, ENV14, COM1, COM2 and TPT6.

Justification:

This proposal is for an additional community facility in a sustainable location as identified by the Development Plan and will compliment the new Medical Centre on the adjoining land. The existing community facility will still be viable albeit at a smaller scale and there are no adverse impacts to warrant overriding this general support. The proposal accords with Saved Core Policy 2 of the North Warwickshire Local Plan 2006 as well as Saved Policies ENV11, ENV13, ENV14, COM1, COM2 and TPT6 of the same Plan together with the general principles of the National Planning Policy Framework in regard to supporting a prosperous rural economy.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0131

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	5/03/12
2	Environmental Health Officer	Consultation	7/03/12
3	J Birch	Objection	13/03/12
4	B Franklin	Support	12/03/12
5	V Robinson	Support	17/03/12
6	D Williams	Objection	29/03/12
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*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.*



2012 / 0131

NOT FOR PUBLICATION  
by virtue of paragraph 3  
of Part 1 of Schedule 12A to the  
Local Government Act 1972

Agenda Item No 20

RECEIVED

Resources Board

05 MAR 2012

28 March 2011

North Warwickshire  
Borough CouncilRequest to Use Rowland Court  
Communal Room as a Pharmacy

**Report of the  
Assistant Director (Housing)**

**1 Summary**

- 1.1 This report asks the Board to consider a request to the Council from the General Practitioner Surgery at New Arley to transfer their pharmacy to Rowland Court Communal Room when the new medical centre at Rectory Road is in place.

**Recommendation to the Board**

**That the proposal to use part of Rowland Court communal room as a pharmacy be agreed subject to planning permission being granted.**

**2 Consultation**

**2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members**

- 2.1.1 The Housing Portfolio Holder (Councillor Johnston) and Shadow Housing Portfolio Holder (Councillor Winter) and the Ward Members Councillors Fox, Zgraja and Bowden have been sent a copy of this report for their comments.

**3 Background**

- 3.1 The Council's land off Rectory Road Old Arley has been sold and is being redeveloped to provide elderly persons bungalows for rent, family homes for outright sale and a new medical centre.
- 3.2 The medical centre which is currently situated at Spring Hill New Arley will be closing and moving to the new medical centre when it is developed and completed in 2012.

**4 Pharmacy Provision**

- 4.1 Spring Hill Medical Centre has a pharmacy located at the front part of the building. When the medical centre moves the medical practice would like the pharmacy to move with it. They have requested the use of part of Rowland Court communal room to create a new pharmacy facility. The proposed pharmacy would provide all essential and enhanced pharmacy services to the community and would stock a full range of over the counter products.

20/1

2011/BR/003648

- 4.2 Rowland Court communal room is a large centre because it was created as part of a very sheltered supported housing provision. An initial feasibility exercise has been undertaken and there is scope to create a pharmacy at the front of the building whilst leaving enough room for the rest of the building to be used by tenants as an extension of their living room as usual.
- 4.3 The front of the building would need some conversion work to make way for the pharmacy. The cost of this would be financed by the pharmacy. They would also finance the work required to the rest of the building to improve facilities for the tenants – this would include creating a new entrance, toilets, guest bedroom and office facilities.
- 4.4 Some initial and informal consultation has been undertaken with the tenants of the sheltered scheme who use the room. They have indicated that they would be happy to share the facility with the pharmacy and can see that their own facilities would be enhanced. Some concerns have been raised about parking facilities however these would be accommodated by the car park which will be developed as part of the new medical centre.
- 4.5 If the proposal is agreed by the Resources Board it will require planning permission. Informally the Planning Section has advised that they would support the change as it would benefit the community.
- 4.6 The Council's Valuer has recommended that the lease for the pharmacy should be for a reasonable period of time and has suggested at least 10 year but possibly up to 25 years. The use would be restricted to a pharmacy only. The tenants would be responsible for all repairs and insurance.

## **5 Conclusion**

- 5.1 Initial discussions with the medical centre, their pharmacy and tenants indicate that the proposal to use the communal room at Rowland Court for a pharmacy would be viable and supported. However, if it is agreed by the Resources Board, the offer would need to be subject to further negotiations and planning permission.

## **6 Report Implications**

### **6.1 Finance and Value for Money Implications**

- 6.1.1 If it is agreed that the pharmacy could be part of Rowland Court communal room costs will be incurred to convert the building and there would be a lease agreement. With regard to the former all of the costs would be covered by the pharmacy and with regard to the latter the Council's Valuer has advised that the rental would be in the region of £5,000 per annum. This would be subject to upward only reviews at 5 year intervals.

### **6.2 Legal and Human Rights Implications**

6.2.1 The agreement with the pharmacy would be subject to a contract in the form of a lease.

**6.3 Risk Management Implications**

6.3.1 The most significant risk would be that the changes were made to enable the pharmacy to use the building and after some years it moved premises. However it is unlikely that this would happen in the short term because of the financial cost commitment of converting the building and the fact that the new medical centre is going to open across the road. The lease agreement could include clauses which would protect the Council from costs of refurbishing the building if the pharmacy moved.

**6.4 Environment and Sustainability Implications**

6.4.1 The proposal to provide the pharmacy within the Rowland Court communal room is consistent with the aims and objectives of the North Warwickshire Sustainable Community Strategy 2009 – 2026. In particular it will help sustain access to the pharmacy for local communities which is helping to deliver on the priorities of improving access to services and developing healthier communities.

The Contact Officer for this report is Angela Coates (719369).

**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

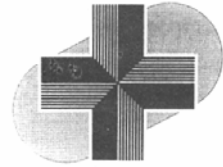
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APPENDIX B



# W. M. BROWN PHARMACY GROUP



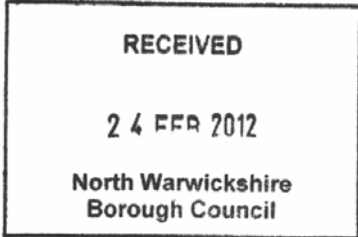
**W. M. BROWN (Kingshurst) Ltd.**

Directors: W. M. Brown, (MRPharm.S.), M. Brown, J. M. Brown, J. L. Brown.

Registered Office: 351 Warwick Road, Solihull, B91 1BQ.

Telephone: 0121 764 5505 Fax: 0121 764 4269 E-mail: wmbrown.ho@intraparm.com

Angela Coates,  
Assistant Director (Housing),  
The Council House,  
Atherstone,  
Warwickshire  
CV9 1DE  
18<sup>th</sup> February 2012



Dear Angela,

Arley Primary Care Services Ltd., has applied for planning permission for building works to and change of use of part of the Rowlands Court community centre. It is our intention to use part of the existing building for use as a pharmacy. The exterior of the building will be changed very little as part of this conversion. A small extension is proposed at the rear to allow the continuing use of the centre with all existing facilities for the local residents. A small and discrete shop front window will be added in addition to changes to improve access for those with disabilities.

The pharmacy will complement the new GP surgery at Rowlands Court and will provide the following services; dispensing of prescriptions, advice on medicines and wellbeing, sale of over the counter medicines, Local Enhanced Services commissioned by the local PCT e.g. Stop Smoking Service and the supply of disability aids.

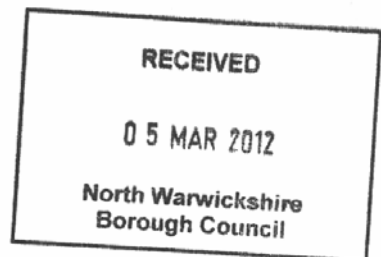
In addition, we intend to stock a small range of grocery lines as a resource for the local residents as there is no convenience store in this part of the village.

We believe that the establishment of the pharmacy in Rowlands Court will be of benefit to the local community and would hope that the Council would look favourably on our application.

Yours sincerely,

Mike O'Donnell

Managing Director



Branches at:- • Kingshurst B37 6BA • Kings Norton B38 8SD • Hawkesley B38 9TU • Nuneaton CV10 9NQ •  
• Hinckley LE10 1UA • Yardley Wood B14 4BW • Solihull B91 1BQ •

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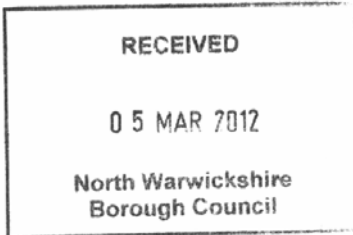
2012 / 0131

North Warwickshire  
Borough Council

Angela Coates BA Hons MCIH  
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Website : [www.northwarks.gov.uk](http://www.northwarks.gov.uk)  
This matter is being dealt with by : Angela Coates



Date : 5<sup>th</sup> March 2012

Dear Sirs,

Please find enclosed a planning application for the change of use of Rowland Court sheltered scheme communal room to incorporate a local pharmacy.

The request to accommodate the pharmacy was considered by the Council's Resources Board on 28<sup>th</sup> March 2011. The recommendation to proceed with the proposal was agreed. The pharmacy will be moving to be near the new medical centre being built on Rectory Road to continue being close to the GP surgery primarily to accommodate the need to dispense prescriptions. The new medical centre will have 35 parking spaces.

The Housing Division manages the sheltered scheme communal room on behalf of the Council. As a consequence I am submitting the application for change of use. The changes proposed will not be to the detriment of the tenants who use the room. They will continue to have the same facilities as they do now.

The pharmacy has employed an architect to undertake the building works if the change of use is approved. If you require any technical information please let me know and I will contact the architect to ensure it is provided.

Yours Sincerely

Assistant Director (Housing)

Deputy Chief Executive: Chris Brewer CPFA



**(7) Application No: PAP/2012/0158**

**Village Hall, The Green, Shustoke, B46 2AR**

**Change of use of village hall to hall plus communityshop/hub, for**

**Mrs Carol Fox - Shustoke Parish Hall**

**Introduction**

This application is referred to the Board as the applicant is a Member of the Council.

**The Site**

The village hall in Shustoke is a detached building located on the south side of Church Road, the main road through the village at its junction with The Green. There is residential property on three sides of the site. There is a vehicular access off Church Road with an associated car park.

**The Proposal**

It is proposed to use a small part of the Hall as a community shop and as a community “hub” in that IT equipment would be here to contact and make use of Council services. The proposal has the backing of Leader funding.

**Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policy 2 (Development Distribution); ENV13 (Building Design), ENV14 (Access Design), and COM1 (New Community Facilities)

**Other Material Planning Considerations**

National Planning Policy Framework – Supporting a Prosperous Rural Economy

**Consultations**

Any responses will be reported verbally to the meeting

**Representations**

One representation of support has been received.

A representation has been received supporting the principle of the shop but expressing concern about potential traffic and noise impacts on neighbour’s residential amenity. They say that when events happen at the Hall, there is on-street car parking.

**Observations**

This site is within the defined development boundary for Shustoke and thus the proposal accords with Development Plan policy. As the village presently has no local shop the addition of this facility is particularly welcome. It will also add as a “hub” for

local people to access and contact Council services. As such the application can be supported.

It is not considered that the use will add to traffic generation as many will access the site by foot. Additional traffic would be generated during the day rather than at night when most events take place, but the site has adequate access and parking for day time use.

There would be very little alteration to the external appearance of the building.

The proposal fully accords with the principles set out in the National Planning Policy Framework of supporting local services and facilities within settlements were they are best suited and accessed.

### **Recommendation**

That planning permission be granted subject to the following conditions:

- i) Standard Three year condition
- ii) Standard Plan numbers – location plan and proposed layout received on 20 March 2012.

Notes:

- i) The applicant is reminded that approval under the Building Regulations may be required.

Justification:

This proposal accords with Development Plan policy by re-introducing a community facility into the village for the benefit of the community as a whole and should increase accessibility to local services. There are likely to be no adverse impacts. The proposal thus accords with saved core policy 2 and saved policies ENV13, ENV14 and COM1 of the North Warwickshire Local Plan 2006 as well as the 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: PAP/2012/0158

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	20/03/12
2	Mr Hancocks	Representation	22/03/12
3	Mrs Evans	Representation	01/04/12
4			
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*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) Consultation by Warwickshire County Council**

**Radbrook Workshop, Highfield Lane, Corley Ash, Corley**

**Change of Use of land to a temporary gypsy and traveller site comprising two pitches for**

**Warwickshire County Council**

### **Introduction**

The applicant here is the County Council and it has submitted what is known as a Regulation 3 application to itself for determination. The application is made by its property “wing” as the application site is owned by the County Council. The County as Planning Authority will determine that application. Members will be aware that similar procedures apply to the Borough Council too when it owns land.

The Borough Council has been invited to submit representations as part of the consultation process. The County Council has notified the Parish Council and local residents who may respond directly to the County Council.

This report is brought to the Board at this time for information purposes only. A further report will be brought in due course with a recommended response.

### **The Site**

This is a plot of land about 0.3 hectares in size on the south side of Highfield Lane between that lane and the M6 Motorway to the south, about 400 metres west of the lane’s junction with Bennetts Road North and 800 metres east of its junction with the Coventry Road. There is a scatter of residential property fronting this lane including Radbrook Farm on the opposite side of the road. The site comprises a large domed corrugated steel Nissen building measuring some 350 square metres together with two mobile homes currently used by the traveller family, and an area of hard-standing. Access is directly onto the lane.

Appendix A illustrates the location of the site.

### **The Proposal**

It is proposed to retain the two pitches on this site as a gypsy and traveller site. The present residents are the Doherty family who moved from the County Council’s Griff traveller’s site.

Appendices B, C and D illustrate the layout; the mobile homes and the large building.

The application is accompanied by a Noise Assessment given the proximity of the M6 Motorway from the site – 30 metres from the closest home to the carriageway edge, and an Air Quality Assessment for the same reason. These assessments are attached at Appendices E and F.

The application is also accompanied by evidence relating to the medical condition of one of the children on the site. This explains the particular condition; the reasons why the Griff site in Bedworth is unsuitable, and that the condition together with the nature of the special nature of the treatment has been known about for a long period of time. The

medical evidence is attached at Appendix G.

## **Background**

The site was originally used for the storage of plant, machinery and materials associated with the construction of the M6 Motorway. In 2002 planning permission was granted for its use for storage purposes and this was taken up. However it then became vacant in the late 2000's. At a meeting of the County Council's Smallholdings Panel in 2009, it was agreed to use the site for a traveller family currently resident on the Griff site in Bedworth. The family had been seeking alternative accommodation for some time. The family moved onto the site shortly afterwards.

## **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policy 2 (Development Distribution) and policies ENV2 (Green Belt), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), HSG3 (Housing outside of Development Boundaries) and ECON9 (Re-use of Rural Buildings)

## **Other Material Planning Considerations**

Planning Policy for Traveller Sites – 2012

National Planning Policy Framework – 2012: Protecting Green Belt Land; Delivering a Wide Choice of High Quality Homes.

New Homes Bonus

## **Observations**

This development is inappropriate development within the Green Belt as confirmed by the recently published NPPF. As such there is a presumption that it will be refused planning permission. The County Council has to consider whether there are any material planning considerations of such weight that they either individually or cumulatively provide the “very special circumstances” necessary to override this presumption. This Board should also adopt the same approach in its consideration of the application.

There are a number of material considerations which need to be explored in this case. These are that the site currently has a lawful B8 use and is thus “brown-field” land. That use has visual, highway and environmental impacts. Not only therefore is there a potential “fall-back” position here, but these impacts will also themselves affect the openness of the Green Belt when comparing the existing and proposed uses. Secondly, there are the personal circumstances of the present family on the site, which revolve around the medical condition of one of the children. The submitted documentation explains this in detail together with outlining the consequential family background. Thirdly, the Board will need to understand the present position in respect of the provision of traveller and gypsy sites within the Borough and the requirements up to 2026 and beyond. Fourthly the Board will have to consider the fact that this application seeks a temporary permission and therefore will need to assess how this might weigh in light of its findings in respect of the above matters.

The Board will also need to consider advice on the technical matters that are relevant

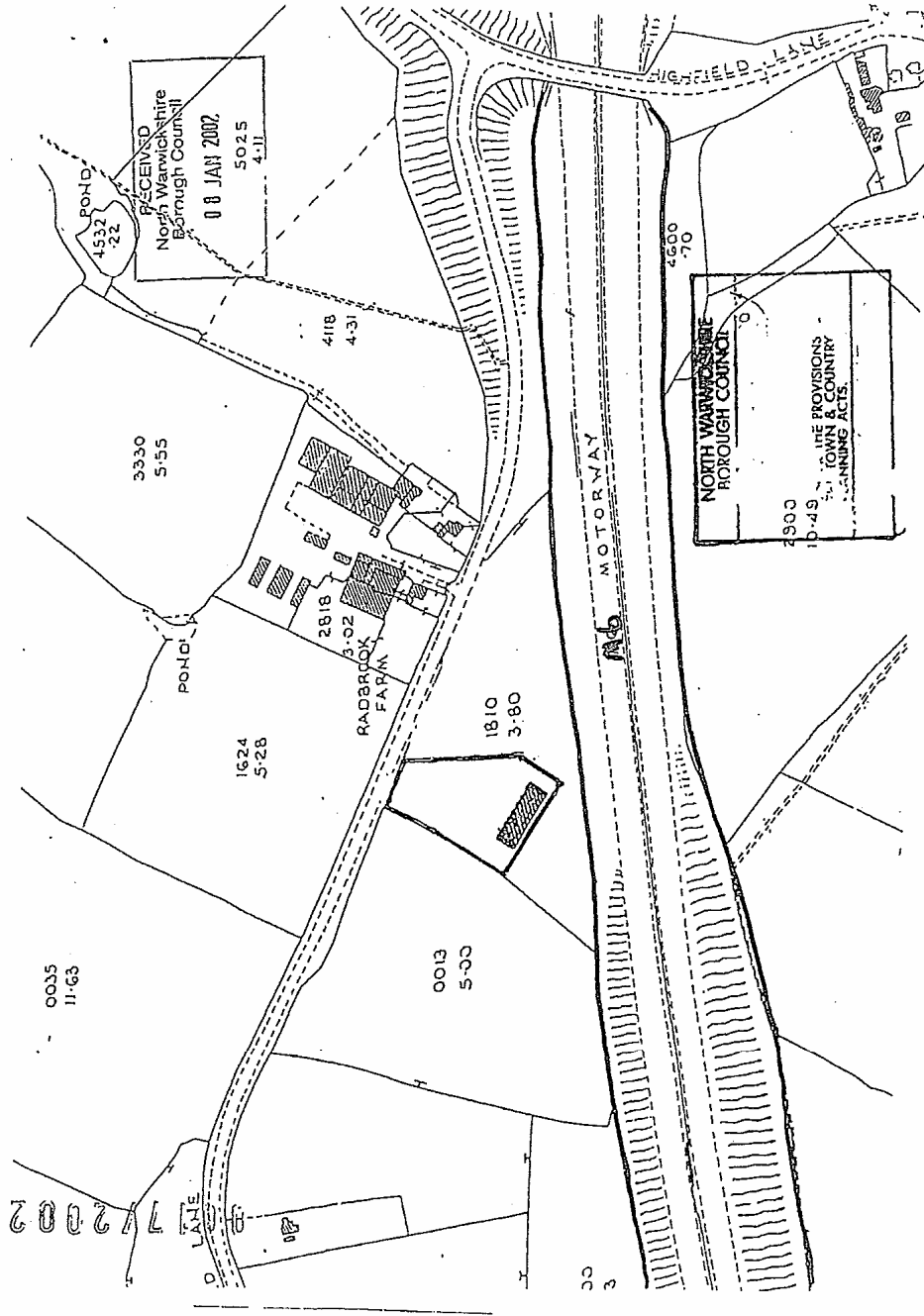
here – the noise and air quality factors in particular – but also those around access arrangements. It will also have to consider the usual matters of drainage, visual appearance and the impact of the proposal on neighbour's amenity. Any one of these considerations or indeed a combination of them could affect the overall conclusion of where the final balance lies in this case.

### **Recommendation**

That this report be noted at the present time

Background Papers

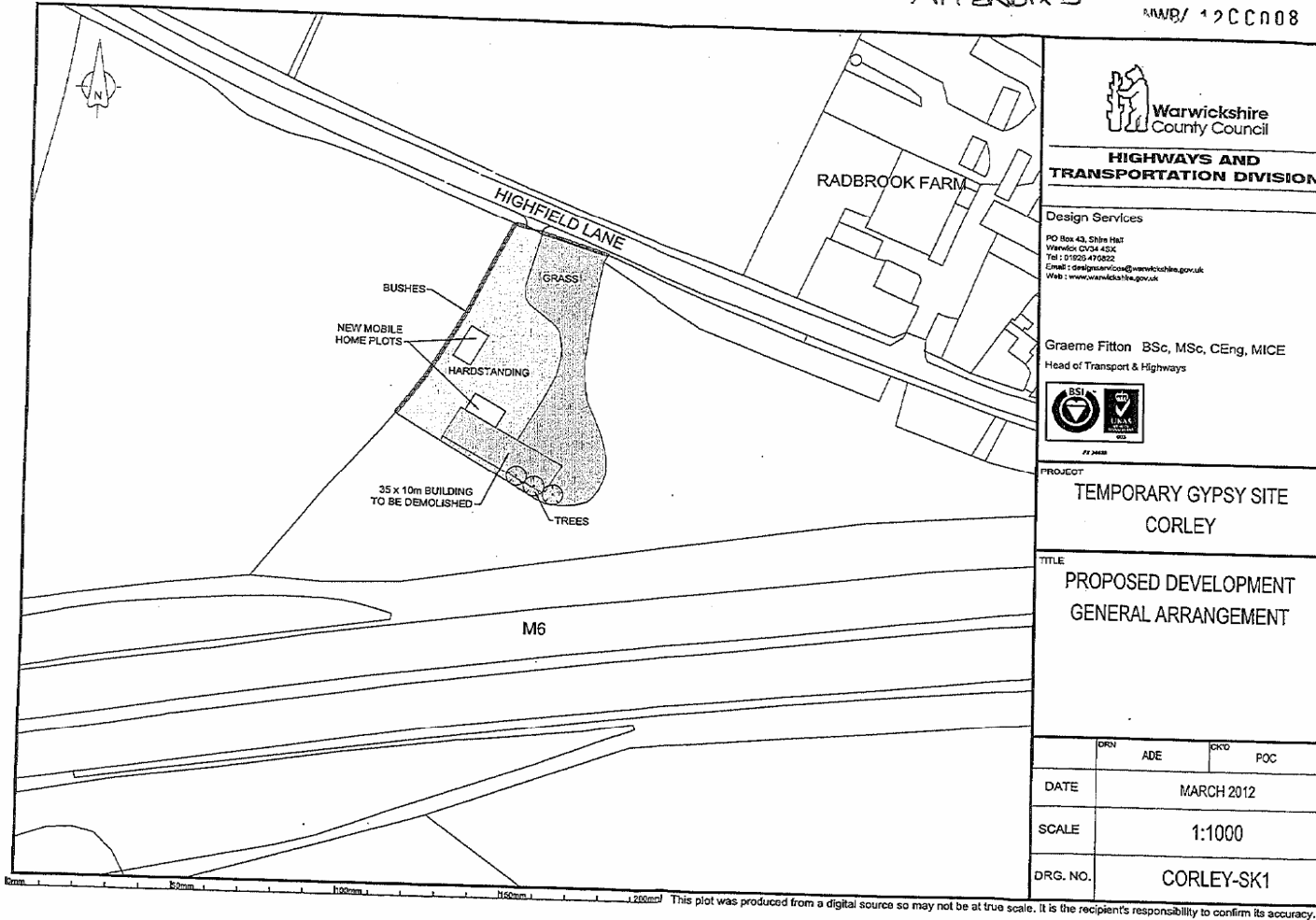
WCC Consultation 28/3/12





APPENDIX B

MWB/12CC08



**HIGHWAYS AND TRANSPORTATION DIVISION**

Design Services

PO Box 43, Shine Hat  
Warwick CV34 4SX  
Tel: 01925 476822  
Email: designservices@warwickshire.gov.uk  
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Graeme Fitton BSc, MSc, CEng, MICE  
Head of Transport & Highways



PROJECT

TEMPORARY GYPSY SITE  
CORLEY

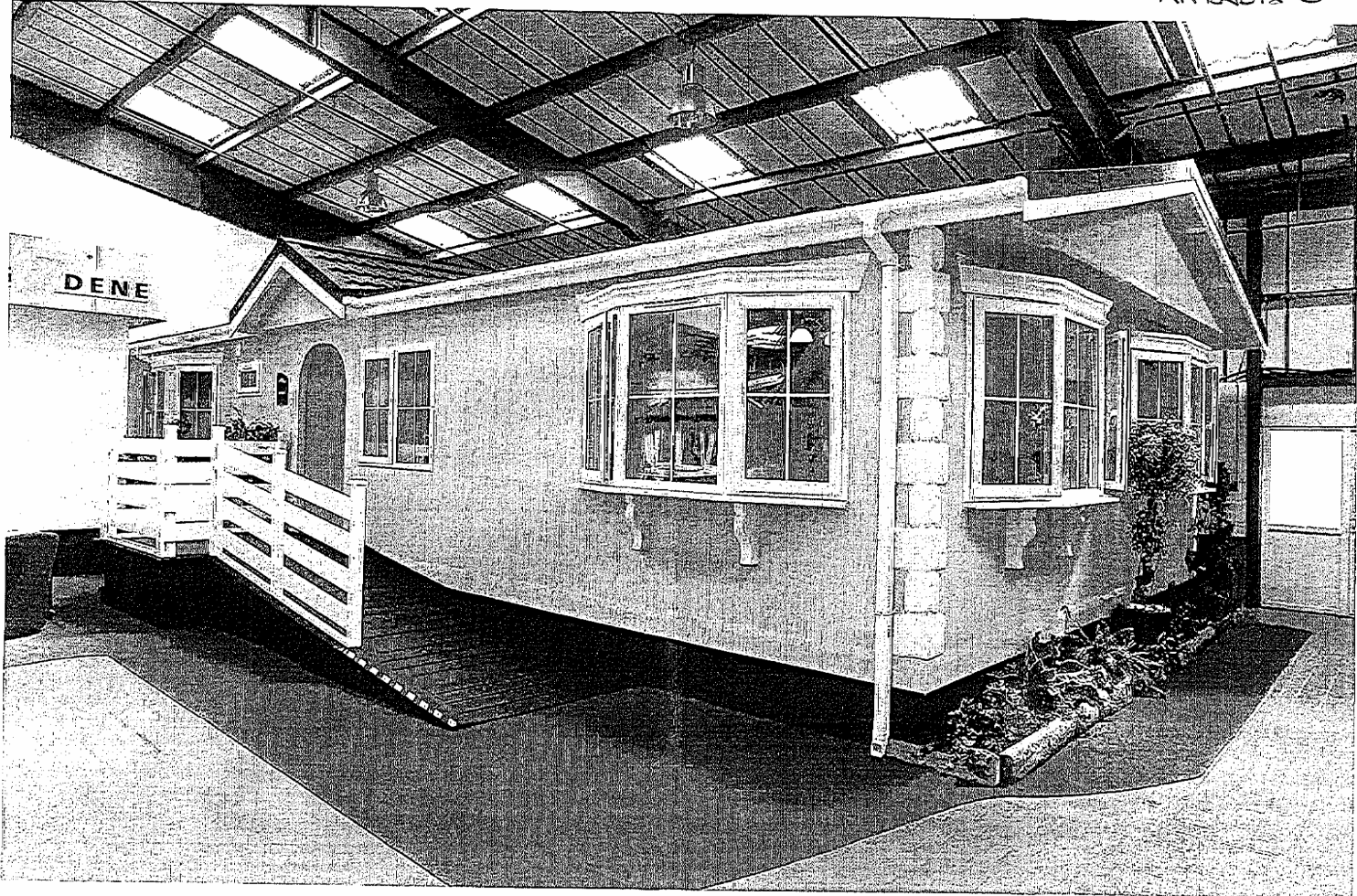
TITLE

PROPOSED DEVELOPMENT  
GENERAL ARRANGEMENT

	DRN	ADE	CKTD	POC
DATE	MARCH 2012			
SCALE	1:1000			
DRG. NO.	CORLEY-SK1			

This plot was produced from a digital source so may not be at true scale. It is the recipient's responsibility to confirm its accuracy.

APPENDIX C



APPENDIX D



## APPENDIX E

Noise Assessment  
Client: Rob Leahy, Gypsy & Traveller Service Officer.  
Warwickshire County Council.  
Address: Highfield Lane, Corley, Coventry, CV7 8VJ

APPENDIX I  
TO CORLEY PLANNING  
APPLICATION  
DATED 6 MAR 12  
**SBM**  
Safety Solutions Ltd

### NOISE ASSESSMENT

**Travellers Site – Highfield Lane,  
Corley, Coventry, CV7 8VJ**

Report by  
S.B. Mellor , MA, MIOA, CMIOSH  
SBM Safety Solutions Ltd.

Report Date: 4<sup>th</sup> November 2011  
Ref.: E897 PPG24 report  
Site Visited: 27<sup>th</sup> – 29<sup>th</sup> October 2011  
Site Visited By: S.B. Mellor

---

Ref E897, REV1 printed

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## 1.0 INTRODUCTION

At the request of Mr. R. Leahy of Warwickshire County Council, SBM Safety Solutions Ltd undertook an assessment of road noise at a Gypsy / Traveller site adjacent to the M6, Highfield Lane, Corley, CV7 8BJ. This report was commissioned in response to Warwickshire County Council's request for an assessment of transportation noise which could affect the residents of this development.

This report considers measurements made on site, the requirements of PPG24 "Planning and Noise" and other appropriate criteria, and makes recommendations as necessary. Acoustic terminology is explained at Appendix 1 of this report and the author's qualifications and experience are described in Appendix 2.

## 2.0 SITE DESCRIPTION

The development currently consists of 2 separate plots with one static home and one mobile home occupying each plot (see Figure 1). The site is in a rural location adjacent to the M6 motorway. At the time of the monitoring the main noise source was road noise from the M6. There was also occasional noise from vehicles using the road running parallel to the site – Highfield Lane.

The intervening ground surface between the M6 and the site is soft in nature (grassland). There is also an existing farm shed on the site, behind which one of the homes / mobile home plots sits. Passing cars cannot be seen from this

position but can from the other home / mobile home location, therefore this second plot was chosen for the monitoring position.

### 3.0 ASSESSMENT CRITERIA

#### 3.1 PPG24 "Planning and Noise"

When considering applications for new residential development adjacent to existing noise sources, the relevant document is PPG24 "Planning and Noise". Annex 1 of PPG24 specifies Noise Exposure Categories (NEC) in terms of the daytime (and night time)  $L_{Aeq, 16hr}$  (and  $L_{Aeq, 8hr}$ ) readings. These readings are rounded to the nearest whole number and compared with the NEC bands.

PPG24's recommendations as to how to assess mixed noise sources are complex. If no one source is dominant, then the "Mixed Source" Noise Exposure Categories can be used; these are numerically the same as the traffic noise categories above.

PPG24 defines "Mixed sources" as "*...any combination of road, rail air and industrial noise sources*". To check if any source is dominant, PPG24 states "*...the noise level from the individual sources should be determined and then combined by decibel addition... If the level of any one source then lies within 2 dB (A) of the calculated combined value, that source should be taken as the dominant one and the site assessed against the appropriate NEC for that source.*"

The relevant NEC's are detailed in Table 1.

NEC		Day (L <sub>Aeq</sub> , 16hr)	Night (L <sub>Aeq</sub> , 8hr)
"A"	Road	< 55	< 45
"B"	Road	55 – 63	45 – 57
"C"	Road	63 – 72	57 – 66
"D"	Road	> 72	> 66

**Table 1**

PPG24 provides guidance on the suitability of sites depending on the NEC as below-

- "A" For proposals in this category, noise would not normally be a controlling issue in granting planning consent.
- "B" For proposals in this category, authorities should increasingly take noise into account when determining planning applications, and require noise control measures.
- "C" For proposals in this category there is a strong presumption against granting planning permission. Where permission is given, because for example there are no alternative quieter sites available, conditions should be imposed to ensure an adequate level of insulation against external noise.
- "D" Consent should normally be refused.



### 3.2 Local Authority Noise Criteria

Local Authorities will often seek to achieve internal noise limits of 40 dB during the day and 30 dB during the night. For the purpose of the report reference will also be made to BS.8233 (see below).

#### BS 8233:1999

This standard is entitled "Sound insulation and noise reduction for buildings - Code of Practice"; at its section 7.6, it considers anonymous noise, such as that from road traffic, mechanical services or continuously running plant. An extract of Table 5 from Section 7.6 appears below:

Criterion	Typical Situation	Design Range [LAeq,T dB]	
		Good	Reasonable
Reasonable resting/sleeping conditions	Living Rooms	30	40
	Bedrooms	30	35

A footnote to this table states that "*For a reasonable standard in bedrooms at night, individual noise events (measured with F time-weighting) should not normally exceed 45 dB LAmax*".

#### 4.0 NOISE LEVEL INFORMATION

##### 4.1 Existing Noise Climate

###### Methodology

During the day and night of Thursday 27<sup>th</sup> October 2011 and extending to the morning of Saturday 29<sup>th</sup> October 2011 SBM installed noise monitoring instrumentation at the position shown in Figure 1 (approx 68m from the M6 motorway). The measurement position was at the location of the nearest mobile dwelling to the road with a clear line of sight (the other home was situated behind an existing shed) and approximated to free field conditions.

The weather conditions during the monitoring period were; light drizzle early on, then dry conditions for the remaining monitoring period with a slight breeze of no more than 2-3m/s, with cloud cover about 20-40%; the temperature was around 7-12 degrees Centigrade during the days and nights. It is not considered that the weather conditions would have influenced the results.

The sound level meter was a Cirrus type CR:821B (s/n C18361FE), and microphone system MK:438 (s/n 46637) mounted on a tripod and fitted with a windmuff. The meter calibrated correctly before and after the measurements using a Cirrus calibrator type CR:551E (s/n 039816); the instrumentation had been laboratory calibrated within the preceding 2 years.

4.2 Results and Calculations

Period measurements are shown below.

Monitoring Position Daytime

Date	Time	Run Time	Leq	Lmax	L1	L10	L50	L90	L95	Lmin
27/10/2011	19:00	01:00:00	61.5	78.9	65.5	63.7	60.9	57.5	56.4	50.3
27/10/2011	20:00	01:00:02	61.6	73.9	65.7	63.9	61.0	57.8	56.9	51.6
27/10/2011	21:00	01:00:05	61.3	74.5	65.7	63.7	60.4	57.3	56.4	53.0
27/10/2011	22:00	01:00:02	60.5	75.7	65.6	62.9	59.4	56.3	55.5	50.9
28/10/2011	07:00	01:00:05	66.3	74.4	69.6	68.0	66.1	63.7	62.9	59.1
28/10/2011	08:00	01:00:03	64.6	73.4	67.8	66.4	64.4	61.6	60.8	55.2
28/10/2011	09:00	01:00:09	61.8	73.8	66.3	64.0	61.2	58.1	57.2	53.5
28/10/2011	10:00	01:00:01	58.9	81.2	62.9	60.9	58.3	55.6	54.9	50.5
28/10/2011	11:00	01:00:02	59.8	76.4	64.7	62.2	58.9	56.1	55.3	51.9
28/10/2011	12:00	01:00:04	62.6	90.9	67.2	64.3	61.8	58.9	58.1	53.5
28/10/2011	13:00	01:00:01	63.1	84.1	67.8	64.8	62.5	59.7	58.9	54.8
28/10/2011	14:00	01:00:02	63.2	85.6	67.1	64.8	62.7	60.3	59.7	55.6
28/10/2011	15:00	01:00:03	64.4	83.6	69.7	65.6	63.6	61.3	60.6	57.0
28/10/2011	16:00	01:00:05	63.8	75.0	66.6	65.3	63.5	61.3	60.7	56.7
28/10/2011	17:00	01:00:04	64.2	77.9	66.9	65.7	64.0	61.9	61.2	57.0
28/10/2011	18:00	01:00:01	65.1	81.9	68.7	66.9	64.7	62.5	61.7	57.5
28/10/2011	19:00	01:00:02	64.0	77.0	67.2	65.6	63.6	61.5	60.9	55.8
28/10/2011	20:00	01:00:03	64.8	75.5	68.2	66.8	64.6	62.0	61.3	57.8
28/10/2011	21:00	01:00:03	62.6	77.2	66.3	64.6	62.1	59.8	59.1	54.8
28/10/2011	22:00	01:00:06	61.9	71.7	65.8	63.7	61.3	59.2	58.7	55.5
29/10/2011	07:00	01:00:02	62.5	77.3	67.7	64.6	61.6	58.7	57.9	52.4
29/10/2011	08:00	01:00:03	62.8	75.3	67.1	64.9	62.2	59.5	58.8	54.7
Total			Leq dB							
22:01:08			63.0							

Monitoring Position Night time

Date	Time	Run Time	Leq	Lmax	L1	L10	L50	L90	L95	Lmin
27/10/2011	23:00	01:00:01	58.9	74.7	64.1	61.6	57.8	54.6	53.8	48.8
28/10/2011	00:00	01:00:02	57.3	74.3	63.0	60.2	55.9	52.5	51.5	47.8
28/10/2011	01:00	01:00:04	56.7	67.9	62.9	59.6	55.3	51.4	50.4	46.6
28/10/2011	02:00	01:00:00	56.6	66.3	63.1	59.8	54.8	50.6	49.6	43.0
28/10/2011	03:00	01:00:02	57.5	67.6	63.9	60.8	55.8	51.3	50.4	45.5
28/10/2011	04:00	01:00:03	58.4	66.5	64.1	61.4	57.0	52.7	51.5	46.7
28/10/2011	05:00	01:00:02	61.3	69.1	66.2	63.9	60.3	56.1	54.9	49.9
28/10/2011	06:00	00:59:59	63.1	70.8	67.0	65.3	62.7	59.3	58.3	53.6
28/10/2011	23:00	01:00:02	61.6	69.3	65.9	63.7	61.1	58.1	57.2	52.0
29/10/2011	00:00	01:00:02	60.7	69.7	65.5	63.2	59.9	56.2	55.0	49.5
29/10/2011	01:00	01:00:02	60.3	69.1	65.9	63.1	59.1	55.3	54.2	49.5
29/10/2011	02:00	01:00:02	60.1	69.0	65.7	63.1	58.8	54.8	53.7	48.8
29/10/2011	03:00	01:00:05	59.1	67.5	64.5	61.9	58.1	54.3	53.5	48.3
29/10/2011	04:00	01:00:04	58.4	67.3	64.0	61.2	57.2	53.3	52.1	47.9
29/10/2011	05:00	01:00:03	58.4	68.2	63.8	61.0	57.3	53.5	52.5	47.3
29/10/2011	06:00	01:00:03	59.6	67.5	64.3	62.0	58.9	55.8	54.9	51.2
Total			Leq dB							
16:00:36			59.6							

A logarithmic average of the LAeq values measured during the sampling period has been used to derive the LAeq,16hr (day) value and LAeq,8hr (night). Levels to the nearest whole decibel.

Nearest affected position from noise source = **63 dB Day, 60 dB Night**

DAY: (07:00 - 23:00) L<sub>Aeq, 16hour</sub> = 63 dB  
NIGHT: (23:00 - 07:00) L<sub>Aeq, 8hour</sub> = 60 dB

**NEC Rating:**  
Rating Day = NEC 'B'  
Rating Night = NEC 'C'

In addition to the above, the maximum readings were recorded (see Figure 2) and it can be seen that typically the L<sub>Amax</sub> readings were typically around 65 dBA with occasional higher peaks. These occasional higher peaks may be caused by e.g. emergency vehicles.

## 5.0 ASSESSMENT AND DISCUSSION

The overall rating places the site into NEC 'B' and 'C' for day / night time.

The L<sub>Amax</sub> criterion of 82 dBA does not fall to be considered as it does not regularly occur during the night time period.

In Annex 2 of PPG24, the reasons for designating sites into various NEC's are explained. For daytime noise a site would be placed into NEC "C" because secondary glazing and mechanical ventilation would normally be installed into existing dwellings exposed to such noise levels.

PPG24 "Planning and Noise" Annex 6 (Table 1) explains that standard thermal glazing reduces road traffic noise by 33 dBA, and "retrofit" secondary acoustic glazing reduces this noise by 34 dBA; therefore, from PPG24, only slightly better glazing than standard thermal needs to be installed in a new property.

At the time of preparing PPG24 (September 1994) standard thermal glazing was a 12mm air gap with 4mm panes of glass; it is now 4/16/4, which will have slightly better acoustic properties due to the larger air gap, i.e. comparable with retrofit secondary glazing. It is not known if the static / mobile homes are fitted with single or double glazed windows or a combination so both typical levels of reduction are used as a comparison. It is also assumed that the glazing is the acoustical weak section of the homes. On this basis the estimated internal noise levels with windows closed would be:

Standard Thermal Glazing

Day	29 LAeq,16 hr [63 - 34]
Night	26 LAeq,16hr [60 - 34]
	31 LAmax [65 - 34]

Single Glazing

Day	35 LAeq,16 hr [63 - 28]
Night	32 LAeq,16hr [60 - 28]
	37 LAmax [65 - 28]

It can be seen that the above internal noise levels meet the "Good/Reasonable" standards from BS.8233.

## 6.0 CONCLUSIONS AND RECOMMENDATIONS

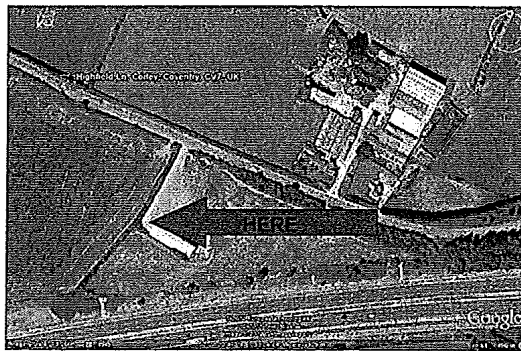
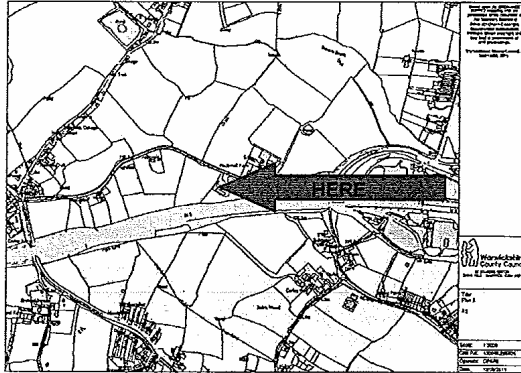
Existing road noise from the M6 motorway places the site into NEC C from PPG24. PPG24 does not offer guidance concerning mobile homes although two of the homes on site are static. Standard single glazing and appropriate ventilation can achieve the internal noise targets from BS.8233. The estimated internal noise levels with both single and double glazing would meet the "Good/Reasonable" standards from BS.8233.

The Highways Noise Payments and Movable Homes (England) Regulations 2000 (amended 2001) specify that an arithmetically averaged L10 (18-hour) of 68dB(A) would trigger a noise payment for an eligible movable home. From the results above, the  $L_{A10}$  (18 hour) level when arithmetically averaged over the monitoring period (06.00 – 24.00 hours) equate to 65dB (A). It could be concluded then that the government would not regard this level as being unreasonable.

One of the mobile home / static home plots is screened by an existing farm building. Additional screening is also an option for achieving further attenuation. Close boarded fencing of adequate length (possible courtyard layout - extended along the sides of the site), suitable height and density, located either side of the existing building may help to reduce noise levels. Generally the denser and therefore heavier the barrier, the more effective it will be at attenuating noise. Expected levels of attenuation from screens and barriers ( $10\text{kg m}^{-2}$ ) will typically be between 10 – 15 dBA. The road traffic would have to be out of the line of sight from the receptor positions and as close to the receptors as possible. If these additional noise reductions could be achieved then this would place the site into NEC A or B.

For mobile homes they may also be positioned so that bedrooms face away from the source of noise where possible where the home is suitably compartmented.

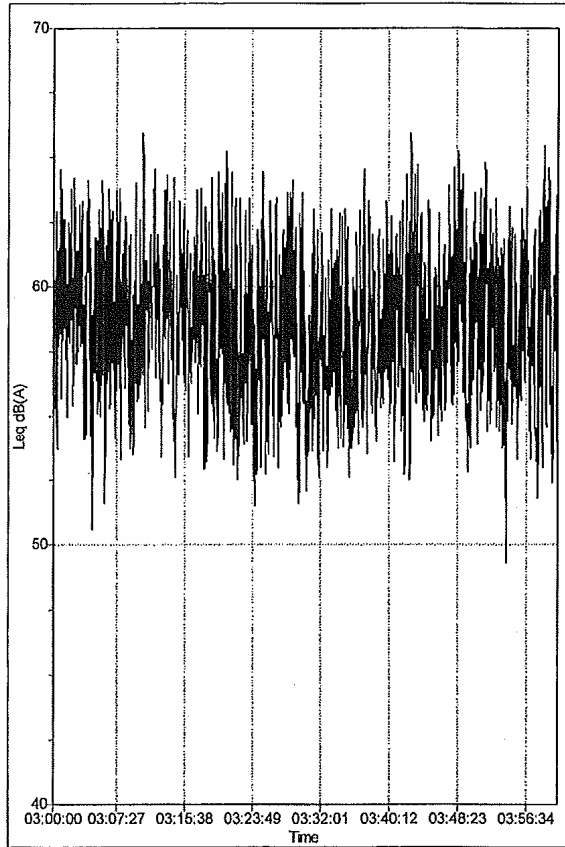
Figure 1: Site Location Plan, "from Warwickshire County Council" (Monitoring Position Highlighted)



Source – Google Earth



Figure 2: 1 hour dB Lmax



**APPENDIX 1  
EXPLANATION OF ACOUSTIC TERMS**

The dB or the decibel is the unit of noise. The number of decibels or the level, is measured using a sound level meter. It is common for the sound level meter to filter or 'weight' the incoming sound so as to mimic the frequency response of the human ear. Such measurements are designated dB(A).

A doubling of the sound is perceived, by most people, when the level has increased by 10 dB(A). The least discernible difference is 2 dB(A). Thus most people cannot distinguish between, say 30 and 31 dB(A).

If a noise varies over time then the **equivalent continuous level, or LAeq**, is the notional constant level of noise which would contain the same amount of acoustic energy as the time varying noise.

The following table gives an indication of the comparative loudness of various noises expressed in terms of the A weighted scale:

Source of noise	dB(A)	Nature of Noise
Inside Quiet bedroom at night	30	Very Quiet
Quiet office	40	
Rural background noise	45	
Normal conversational level	60	
Busy restaurant	65	
Typewriter @ 1m	73	
Inside suburban electric train	76	
Alarm clock ringing @ .5m	80	
Hand clap @ 1m	80	
HGV accelerating @ 6m	92	Very Loud

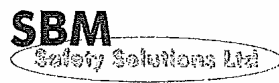
APPENDIX 2  
QUALIFICATIONS AND EXPERIENCE OF S.B.MELLOR

My full name is Steven Brian Mellor. I am the principal consultant at the firm of SBM Safety Solutions Ltd, a consultancy company that specialises in health, safety and environmental services including noise assessment and control.

I hold a Master's degree in Health, Safety and Environmental Law, British Occupational Health Society (BOHS) M104 certificate in Noise and Vibration and Institute of Acoustics Certificate of Competence in Environmental Noise Measurement (Derby University), plus Diploma in Acoustics and Noise Control (Bristol University). I am member of the professional body for noise and vibration specialists, the Institute of Acoustics, MIOA.

I have some 11 years experience of dealing with problems caused by noise and vibration, both regarding noise and vibration in the environment, the workplace and the home. The firm of SBM Safety Solutions Ltd. was formed 8 years ago. During that time we have advised many groups including employers, residents and developers about the problems of noise and vibration in the workplace and environment.

APPENDIX 3  
Site Photographs



**Highfield Lane, Corley:  
Air Quality Assessment**

Report Ref: AQ0239

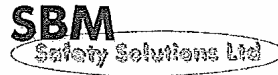
Date: November 2011

**Air Quality Assessment & Monitoring**

Highfield Lane, Corley

Air Quality Assessment

Report Ref: AQ0239



## DOCUMENT CONTROL & DISCLAIMER

**Title:**  
Highfield Lane, Corley:  
Air Quality Assessment

**Report Ref:**  
AQ0239

**Date Issued:**  
November 2011

### Disclaimer:

SBM Safety Solutions Ltd completed this Report on the basis of a defined programme of work and terms and conditions agreed with the Client. All reasonable skill and care has been used in producing this report, taking into account the project objectives, the agreed scope of work, prevailing site conditions and the degree of manpower and resources allocated to the project.

SBM Safety Solutions Ltd accepts no responsibility to any parties whatsoever, following the Issue of the Report, for any matters arising outside the agreed scope of the work.

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## 1 INTRODUCTION

### 1.1 Scope

SBM Safety Solutions Ltd were instructed to undertake an air quality assessment for Rob Leahy (Warwickshire County Council) based on the potential impacts of local traffic emissions on a proposed travellers site along Highfield Lane in Corley, West Midlands.

The assessment methodology used for this assessment is based on the Design Manual for Roads and Bridges (DMRB)<sup>1</sup> screening method. This methodology applies to the assessment of the impact on air quality from vehicle emissions.

In addition to this, the potential impact on local air quality from demolition and construction activities at the site has been assessed.

### 1.2 Site Description

The proposed traveller's site lies within North Warwickshire Borough Council. The Council has declared an Air Quality Management Area (AQMA) but the proposed development is 10 kilometres to the east of this designation.

The site is bordered to the east, south and west by open farmland, and to the north Highfield Lane. The M6 motorway also lies to the south of the development site.

### 1.3 Local Road Network

The potential impact of nitrogen dioxide (NO<sub>2</sub>) and particulate matter (PM<sub>10</sub>) emissions from traffic using M6 between junctions 3 and 3A will form the focus of this assessment. Roads with less than 10,000 Annual Average Daily Traffic (AADT) flows typically have a minimal impact on local air quality. As such, traffic flows along minor roads within 200 metres of the proposed development, such as Highfield Lane, have not been considered for these reasons.

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<sup>1</sup> Design Manual for Roads and Bridges, Volume 11, Section 3, Part 1 – HA207/07, Highways Agency, May 2007

## 2 POLLUTANTS & LEGISLATION

### 2.1 Pollutant Overview

In most urban areas of the UK, traffic generated pollutants have become the most common pollutants. These are nitrogen dioxide (NO<sub>2</sub>), fine particulates (PM<sub>10</sub>), carbon monoxide (CO), 1,3-butadiene and benzene, as well as carbon dioxide (CO<sub>2</sub>). This air quality assessment focuses on NO<sub>2</sub> and PM<sub>10</sub>, as these pollutants are least likely to meet their Air Quality Strategy objectives near roads. Table 1 provides an overview of NO<sub>2</sub> and PM<sub>10</sub>.

Table 1 – Overview of NO<sub>2</sub> and PM<sub>10</sub>

Pollutant	Properties	Anthropogenic Sources	Natural Sources	Potential Effects
Particles (PM <sub>10</sub> )	Tiny particulates of solid or liquid nature suspended in the air	Road transport; Power generation plants; Production processes e.g. windblown dust	Soil erosion; Volcanoes; Forest fires; Sea salt crystals	Asthma; Lung cancer; Cardiovascular problems
Nitrogen Dioxide (NO <sub>2</sub> )	Reddish-brown coloured gas with a distinct odour	Road transport; Power generation plants; Fossil fuels – extraction & distribution; Petroleum refining	No natural sources, although nitric oxide (NO) can form in soils	Pulmonary edema; Various environmental impacts e.g. acid rain

### 2.2 Air Quality Strategy

The UK Government and the devolved administrations published the latest Air Quality Strategy for England, Scotland, Wales and Northern Ireland on 17 July 2007<sup>2</sup>. The Strategy provides an over-arching strategic framework for air quality management in the UK by way of the following:

- setting out a way forward for work and planning on air quality issues;
- setting out the air quality standards and objectives to be achieved;
- introducing a new policy framework for tackling fine particles; and
- identifying potential new national policy measures which modelling indicates could give further health benefits and move closer towards meeting the Strategy's objectives.

<sup>2</sup> The Air Quality Strategy for England, Scotland, Wales and Northern Ireland, Department for Environment, Food and Rural Affairs in partnership with the Scottish Executive, Welsh Assembly Government and Department of the Environment Northern Ireland, July 2007

With regards to this assessment, the Air Quality Strategy contains national air quality standards and objectives established by the Government to protect human health. The objectives for nitrogen dioxide and particulates (PM<sub>10</sub> and PM<sub>2.5</sub>) have been set, along with seven other pollutants (benzene, 1,3-butadiene, carbon monoxide, lead, PAHs, sulphur dioxide and ozone). Those which are limit values required by EU Daughter Directives on Air Quality have been transposed into UK law through the Air Quality Standards Regulations 2007 which came into force on 15th February 2007. Table 2 provides the UK Air Quality Objectives for NO<sub>2</sub> and PM<sub>10</sub>.

Table 2 – UK Air Quality Objectives for Nitrogen Dioxide and Particulate Matter

Pollutant	Objective	Concentration measured as	Date to be achieved by and maintained thereafter
Particulates (PM <sub>10</sub> )	50µg/m <sup>3</sup> not to be exceeded more than 35 times a year	24 hour mean	31 December 2004
	40µg/m <sup>3</sup>	Annual mean	31 December 2004
Nitrogen Dioxide (NO <sub>2</sub> )	200µg/m <sup>3</sup> not to be exceeded more than 18 times a year	1 hour mean	31 December 2005
	40µg/m <sup>3</sup>	Annual mean	31 December 2005

Objectives for PM<sub>2.5</sub> have also been introduced by the UK Government and the Devolved Administrations, but these are not included in Regulations. As such, this assessment has not considered the impact on PM<sub>2.5</sub>.

### 2.3 Local Air Quality Management

Part IV of the Environment Act 1995 requires local authorities to review and assess existing air quality within their boundaries, as well as predict future air quality as part of an ongoing Review and Assessment process. The current timetable for Review and Assessment (rounds 4, 5 and 6) requires every local authority to report to Defra up to and including 2017, with the different elements repeated over a three year cycle. The elements required to be undertaken as part of the Review and Assessment process are as follows:

- **Updating and Screening Assessment (USA)** – the first step in the Review and Assessment process. The main objective of the USA is to identify those matters that have changed since the last Review and Assessment, which might lead to a risk of an air quality objective being exceeded. Using a checklist format, the USA covers assessment of new monitoring data, new objectives, new sources or significant

changes to existing sources (either locally or in neighbouring authorities) and other local changes that might affect air quality. All local authorities in the United Kingdom should have completed a USA by April 2009 with the next USA due by April 2012.

- **Detailed Assessment** – where the USA has identified a risk that an air quality objective will be exceeded at a location with relevant public exposure, the local authority will be required to undertake a Detailed Assessment. The main objective of the Detailed Assessment is to identify with reasonable certainty whether or not a likely exceedence will occur. Such conclusions should be sufficiently detailed to allow the designation or amendment of any necessary Air Quality Management Areas (AQMAs). Should a local authority be required to undertake a Detailed Assessment based on the outcome of their USA, it should be completed within 12 months of being initiated.
- **Progress Reports** – undertaken to maintain continuity from year to year, as part of the reporting process. As such, Progress Reports are required in those years when a USA is not being completed. The last deadline for the completion of a Progress Report was 30<sup>th</sup> April 2011.
- **Further Assessments** – supplement data provided in the Detailed Assessment. As such, it should aim to confirm the exceedence of the objectives as well as define what improvement in air quality and corresponding reduction in emissions is required to attain the objectives. In order to better assist in the development of an Air Quality Action Plan, the Further Assessment should also provide information on source contributions. A Further Assessment is required within 12 months of an AQMA being declared.

#### 2.4 North Warwickshire Borough Council

The Council completed a Progress Report in April 2010. The report concluded that there was no need to proceed to a Detailed Assessment for any pollutant. Based on updated monitoring data the report also concluded that there was no need for any altered or additional monitoring, nor was there a need to amend the AQMA in any way.

### 3 PLANNING POLICY & GUIDANCE

#### 3.1 National Planning Policy & Guidance

##### 3.1.1 Planning Policy Statements

On a national level, air quality can be a material consideration in planning decisions. Planning Policy Statement 23 (PPS23) *Planning and Pollution Control*<sup>3</sup> clearly defines the role of air quality and air quality assessment in the context of planning. It states that the *"existing, and likely future, air quality in the area, including any Air Quality Management Areas or other areas where air quality is likely to be poor"* should be considered in the preparation of development plan documents and may also be material in the consideration of individual planning applications where pollution considerations arise. Furthermore, PPS23 goes on to state that *"more weight will generally need to be given to air quality considerations, for example, where a development would have a significant impact on air quality inside, or adjacent to, an AQMA. But air quality considerations can also be important even where existing levels of air pollution are not sufficient to justify AQMA designation"*.

Air Quality Policy Guidance relating to Local Air Quality Management<sup>4</sup> states that the *"planning and air quality functions of local authorities should be carried out in close cooperation"*, referring particularly to PPS23 and its role of facilitating planning for good quality sustainable development that takes appropriate account of pollution control issues.

##### 3.1.2 Environmental Protection UK

In 2006, the National Society for Clean Air and Environmental Protection (NSCA) issued a guidance document with regards to assisting both developers and planning authorities on air quality issues<sup>5</sup>. In April 2010, this guidance was updated by Environmental Protection UK (formerly known as the National Society for Clean Air and Environmental Protection)<sup>6</sup>.

The updated guidance provides a set of criteria used to determine whether a development will have a significant impact on air quality. If the Proposed development results in a significant change in air quality or results in a change of relevant exposure to air quality then it is reasonable to expect an air quality assessment to be undertaken. The report describes

<sup>3</sup> Planning Policy Statement 23: Planning and Pollution Control, Office of the Deputy Prime Minister (ODPM), November 2004

<sup>4</sup> Part IV of the Environment Act 1995, Local Air Quality Management Policy Guidance (PG09), Defra, February 2009

<sup>5</sup> Development Control: Planning for Air Quality, An Updated guidance from NSCA on dealing with air quality concerns within the development control process, NSCA, 2006

<sup>6</sup> Development Control: Planning For Air Quality (2010 Update), Updated guidance from Environmental Protection UK on dealing with air quality concerns within the development control process, Environmental Protection UK, April 2010

how, in all cases, professional judgement is required when deciding if an air quality assessment is necessary, as it is not possible to apply an exact and precise set of criteria to all development proposal situations.

### 3.1.3 The Air Quality Expert Group

The Air Quality Expert Group (AQEG) is an advisory group that provides independent scientific advice on air quality. AQEG published *Air Quality and Climate Change: A UK Perspective*<sup>7</sup> in 2007. The report recognises the potential for both local and global air quality improvements. Local authorities will be looking towards reductions in both and developers should take this into account throughout the design, construction and operational phases of a development, bearing in mind any potential trade-offs between global and local air quality improvements.

## 3.2 Local Planning Policy

### 3.2.1 North Warwickshire Borough Council

The Planning and Compulsory Purchase Act 2004 introduced significant changes to the planning system. It provided details for replacing the Local Plan, Unitary Development Plan (UDP) and Structure Plan policies with a Local Development Framework (LDF). The LDF consists of a portfolio of local development documents (LDDs), made up from Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs).

As stated in the Councils Progress Report, air quality has been incorporated into North Warwickshire Borough Council's planning policy in the form of the Local Plan, most notably the saved policy "ENV9".

The Council is currently working towards the adoption of an LDF.

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<sup>7</sup> Air Quality Expert Group (AQEG) report – Air quality and climate change: a UK perspective, published for the Department for Environment, Food and Rural Affairs, Scottish Executive, Welsh Assembly Government and Department of the Environment in Northern Ireland, 2007

## 4 ASSESSMENT METHODOLOGY

### 4.1 Construction Phase

Dust is a major environmental concern associated with construction activities. Residents living in close proximity to such a site can potentially be affected by site dust up to 1 km from the source, although continual or severe concerns about dust sources are most likely to be experienced near to dust sources, generally within 100 metres. In general, large dust particles (greater than 30 µm) make up the greatest proportion of dust emitted from construction sites and will largely deposit within 100 m of sources. Intermediate sized particles (10-30 µm) are likely to travel up to 250-500 m. Smaller particles (less than 10 µm), which make up a small proportion of the dust emitted, can travel up to 1km from sources<sup>8</sup>.

To assess the impacts associated with dust and particulate matter releases during the construction phase of the development a qualitative and generic assessment has been undertaken, using guidance published by the Building Research Establishment (BRE)<sup>9</sup> and the Greater London Authority (GLA)<sup>10</sup>. Despite focusing on the Greater London area, the guidance published by the GLA represents best practice for the control of dust and emissions from construction and demolition activities and can therefore be applied across the UK.

The assessment will make reference to the site's location in relation to sensitive receptors, the planned process, site characteristics, material handling procedures and prevailing winds.

### 4.2 Operational Phase

#### 4.2.1 The Design Manual for Roads and Bridges (DMRB)

The Design Manual for Roads and Bridges (DMRB)<sup>1</sup> contains a methodology for undertaking local air quality assessments of the impact of vehicle emissions. In order to undertake the screening methodology, the following basic requirements are essential:

- Annual average daily traffic (AADT) flow data, including percentage HGVs;
- Average vehicle speeds; and
- Background concentrations for key pollutants.

<sup>8</sup> Minerals Policy Statement (MPS) 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England, Office of the Deputy Prime Minister, 2005

<sup>9</sup> Control of dust from construction and demolition activities, BRE, 2003

<sup>10</sup> The control of dust and emissions from construction and demolition – Best Practice Guidance, produced in partnership by London Councils and the Greater London Authority, November 2006

This methodology states that only sensitive receptors (e.g. residential properties, schools, hospitals etc) within 200m of the road(s) of concern need to be considered in an impact assessment.

The latest version of the DMRB model (July 2007) has been used for this assessment. As this is not an advanced model, local meteorological conditions or topography are not incorporated.

A future year has been chosen (2013) for the assessment, along with the baseline year (2010). The future year represents the assumed first full year of occupation following completion of the development. Two scenarios have been adopted as part of the assessment. These are as follows:

- Scenario 1 – existing levels of air quality / model verification (2010); and
- Scenario 2 – future impact of traffic emissions on the proposed development i.e. introduction of new exposure (2013).

Predicted concentrations will be compared to the Air Quality Strategy objectives.

Following recent evidence that shows the proportion of primary NO<sub>2</sub> in vehicle exhaust has increased<sup>11</sup>, the relationship between NO<sub>x</sub> and NO<sub>2</sub> at the roadside has changed from that currently used in the DMRB model. As such, a new NO<sub>x</sub> to NO<sub>2</sub> calculator has been devised<sup>12</sup>. This new calculator has been used to determine NO<sub>2</sub> concentrations for this assessment, based on predicted NO<sub>x</sub> concentrations using the DMRB model. Furthermore, DMRB model validation work carried out by the Highways Agency has indicated that the model may significantly under predict concentrations of NO<sub>2</sub> alongside urban city-centre roads classified as “street canyons”. A street canyon may be defined as a relatively narrow street with buildings on both sides, where the height of the buildings is generally greater than the width of the road. Street canyons have not been considered as part of this assessment as the development and modelled road network do not meet this criterion.

#### 4.2.2 Traffic Data

Baseline traffic flows along the M6 is available from the Department for Transport (DfT)<sup>13</sup>. The baseline data from the DfT (2010), including the percentage Heavy Duty Vehicles (HDVs) has been projected to 2013. Projection of traffic data has been undertaken using growth factors specific to Northampton, obtained from TEMPRO<sup>14</sup> and National Road Traffic Forecasts (NRTF)<sup>15</sup>. TEMPRO is a program that provides projections of growth over time for use in local and regional transport models. It presents projections of growth in planning

<sup>11</sup> Trends in Primary Nitrogen Dioxide in the UK, Air Quality Expert Group, 2007

<sup>12</sup> <http://www.airquality.co.uk/laqm/tools.php>

<sup>13</sup> <http://www.dft.gov.uk/matrix/>

<sup>14</sup> Temprom (Trip End Model Presentation Program) version 6, dataset v5.4 Department for Transport

<sup>15</sup> National Road Traffic Forecasts (Great Britain) 1997, Department for Transport



data and car ownership and the resultant growth in trip-making by different modes of transport.

#### 4.2.3 Emissions Data

Recent analyses of historical monitoring data have identified a disparity between the measured concentrations and the projected decline in concentrations associated with the emissions forecasts<sup>16</sup>. As such, there is little evidence of a consistent downward trend in either NO<sub>x</sub> or NO<sub>2</sub> concentrations that would be suggested by emission inventory estimates. As stated by Defra, *"the precise reason for this disparity is not fully understood, and is currently under investigation, but it is thought to be related to the actual on-road performance of diesel road vehicles when compared with calculations based on the Euro standards. Preliminary studies suggest the following:*

- *NO<sub>x</sub> emissions from petrol vehicles appear to be in line with current projections and have decreased by 96% since the introduction of the 3 way catalysts in 1993;*
- *NO<sub>x</sub> emissions from diesel cars, under urban driving conditions, do not appear to have declined substantially, up to and including Euro 5. There is limited evidence that the same pattern may occur for motorway driving conditions; and*
- *NO<sub>x</sub> emissions from HGV vehicles equipped with SCR reduction are much higher than expected when driving at low speeds.*

*On this basis, it might also be expected that the forecast reductions in background NO<sub>x</sub> and NO<sub>2</sub> concentrations associated with the road traffic component are optimistic".*

Since there is currently "no robust evidence upon which to base any revised road traffic emissions projections", the predicted impacts of vehicle emissions has utilised vehicle emission rates for 2010. The modelled future year will account for increases in traffic flows along the M6 but vehicle emissions for this year will be the same as those modelled in the baseline year (2010). In the event that future vehicle emissions do decrease, predicted concentrations reported within this assessment will be worst case.

#### 4.2.4 Background Concentrations

Background NO<sub>2</sub> and PM<sub>10</sub> concentrations have been obtained from the National Air Quality Archive UK Background Air Pollution Maps<sup>17</sup>. These 1 km x 1 km grid resolution maps are derived from a base year of 2008 (for NO<sub>x</sub>, NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> only), which are then projected to future years.

<sup>16</sup> Local Air Quality Management Helpdesk, September 2010, <http://laqm.defra.gov.uk/faqs/general.html>

<sup>17</sup> UK Air Quality Archive, <http://www.airquality.co.uk/laqm/tools.php?tool=background08>

#### 4.2.5 Model Verification

The Council undertakes diffusion tube monitoring (NO<sub>2</sub>) at a number of roadside locations across the Borough. However, there is no monitoring undertaken adjacent to the M6 in Corley. As such, it has not been possible to verify the modelled results.

#### 4.2.6 Receptor Location

The DMRB method calculates the pollutant concentrations due to local road traffic and adds the background concentrations to predict the total pollutant concentration at selected receptor locations. It has not been possible to model the exact location (or façades) of the individual units within the traveller's site. As such, in order to assess the potential impact of traffic emissions a transect has been drawn across the development site. The transect starts at a distance of 50 metres from the M6, representing the closest point where a unit may be located. Beyond this point, predicted concentrations have been modelled at intervals of 10 metres, up to a distance of 130 metres from the M6 i.e. the boundary with Highfield Lane.

The distance of the receptors to the modelled road is provided in Table 3. Distances are measured to the centre of the M6.

Table 3 – Receptor Locations Relative to Modelled Road Network

Receptor ID	Distance to the M6 (metres)
1	50
2	60
3	70
4	80
5	90
6	100
7	110
8	120
9	130

4.3 Significance Criteria

4.3.1 Construction Phase

The significance of the development during the construction phase has been determined using the guidance published by the GLA, which represents best practice for the control of dust and emissions from construction and demolition activities (see Section 4.1).

4.3.2 Operational Phase

The significance of the air quality assessment will be determined by comparing the predicted results to the Air Pollution Exposure Criteria (APEC) detailed in the *Air Quality and Planning Guidance* written by the London Air Pollution Planning and the Local Environment (APPLE) working group<sup>18</sup>. The Air Pollution Exposure Criteria is considered appropriate to describe the significance of the Impacts predicted, together with an Indication as to the level of mitigation required in order for the development to be approved. The APEC table is provided below.

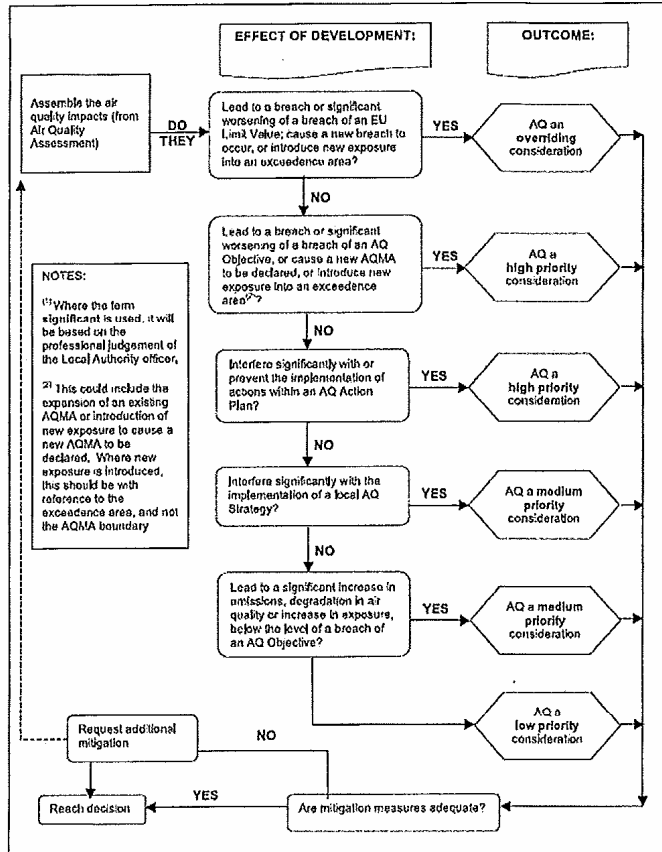
Table 4 – Air Pollution Exposure Criteria (APEC)

APEC Category	NO <sub>x</sub>	PM <sub>10</sub>	Recommendations
A	>5% below national annual mean objective	>5% below national annual mean objective >1-day less than national 24-hour objective	No air quality grounds for refusal; however mitigation of any emissions should be considered.
B	Between 5% below or above national annual mean objective	Between 5% above or below national annual mean objective Between 1-day above or below national 24-hour objective	May not be sufficient air quality grounds for refusal, however appropriate mitigation must be considered
C	>5% above national annual mean objective	>5% above national annual mean objective >1-day more than national 24-hour objective	Refusal on air quality grounds should be anticipated, unless the Local Authority has a specific policy enabling such land use and ensure best endeavours to reduce exposure are incorporated

<sup>18</sup> Air Quality and Planning Guidance, written by the London Air Pollution Planning and the Local Environment (APPLE) working group, January 2007

Furthermore, the guidance released by Environmental Protection UK also provides steps for a Local Authority to follow in order to assess the significance of air quality impacts of a development proposal. This procedure, shown in Figure 1, has also been applied to the modelled results.

Figure 1 – Assessing the Significance of Air Quality Impacts of a Development Proposal



## 5 INPUT DATA

### 5.1 Traffic Data

Annual Average Daily Traffic flows (AADT) for the M6 between junctions 3 and 3A from the DfT is provided in Table 5. The proportion HDV is also provided. The vehicle flow rates provided for 2010 have been projected forward for 2013 using the forecasts described in Section 4.2.2. These are also provided in Table 5. It was assumed that the proportion of HDV traffic in 2013 will remain unchanged.

Table 5 – Annual Average Daily Traffic Flows and Percentage HDV for Selected Roads

Road/Link	2010	2013
Toll End Road	AADT = 120,448 %HDV = 16.1%	AADT = 132,880 %HDV = 16.1%

The annual average modelled speed (70 mph / 113 kph) has been derived from the speed limit along the M6.

### 5.2 Background Concentrations and Monitoring Data

Background concentrations of NO<sub>2</sub> and PM<sub>10</sub>, derived from the National Air Quality Archive UK Background Air Pollution Maps from a baseline year of 2008, are provided in Table 6.

Table 6 – Background NO<sub>2</sub> and PM<sub>10</sub> Concentrations

Pollutant	2010	2013
NO <sub>2</sub>	22.7	19.0
PM <sub>10</sub>	18.5	17.9

## 6 AIR QUALITY ASSESSMENT

### 6.1 Impact from Construction Activities

Given the nature of the traveller's site, the likelihood of a dust nuisance occurring is considered low due to type of construction that is likely to take place at the site. However, the exact scope and layout of the site is not known at this stage. As such, a worst case approach has been adopted for the assessment of impacts from construction.

The key potential construction air quality emission sources from the proposed development are as follows:

- Construction vehicle movement: vehicles moving in and around the site emitting exhaust particulate and re-suspending loose material on the road;
- Excavation/demolition activities;
- Material transfer: spillage from transferring material around the site, wind picking up dust from material stock piles, particulate lifted from open container vehicles by the wind generated from the vehicle movement; and
- Passing vehicles: Material tracked out on the wheels of site traffic and re-suspended by passing traffic.

The closest residential receptor to the proposed development lies approximately 50 metres to the northeast. The predominant wind direction is south-westerly and therefore any dust is likely to be blown north eastwards. As such, given the proximity of the residential receptors to the northeast of the site some degree of dust impact is possible at this location if the dust is not properly mitigated.

## 6.2 Impact of Vehicle Emissions

### 6.2.1 Nitrogen Dioxide (2010 and 2013)

Predicted annual mean concentrations for NO<sub>2</sub> in 2010 and 2013 are provided in Table 7. As mentioned in Section 4.2.1, NO<sub>2</sub> concentrations have been calculated from the predicted NOx concentrations using the latest NOx-NO<sub>2</sub> conversion spreadsheet available from the Air Quality Archive.

Table 7 – Predicted NO<sub>2</sub> Concentrations, Annual Mean (µg/m<sup>3</sup>)

Receptor	NO <sub>2</sub> (2010)	NO <sub>2</sub> (2013)
1	36.9	34.9
2	34.1	31.7
3	31.8	29.2
4	30.0	27.1
5	28.5	25.4
6	27.2	24.0
7	26.2	22.9
8	25.5	22.1
9	24.9	21.5
Objective	40	

The predicted concentration of NO<sub>2</sub> in 2010 and 2013 do not exceed the annual mean objective at any of the modelled receptors. Using the Air Pollution Exposure Criteria (APEC) described in Table 4, the predicted concentrations fall within APEC Category A, meaning that there are “no air quality [NO<sub>2</sub>] grounds for the refusal of the development, however mitigation of emissions may still be considered”.

Nitrogen dioxide also has an hourly objective of 200 µg/m<sup>3</sup> not to be exceeded more than 18 times in one year. However, the hourly mean concentration is not calculated directly by the DMRB method. This is as a result of an evaluation of continuous monitoring data from across the UK that revealed that the relationship between the annual mean and hourly mean NO<sub>2</sub> concentrations was very weak. Nonetheless, research undertaken in 2003<sup>19</sup> has

<sup>19</sup> Analysis of Relationship between 1-Hour and Annual Mean Nitrogen Dioxide at UK Roadside and Kerbside Monitoring Sites, Laxen and Marner, 2003

indicated that the hourly NO<sub>2</sub> objective is unlikely to be exceeded at a roadside location where the annual mean NO<sub>2</sub> concentration is less than 60 µg/m<sup>3</sup>. Given that predicted NO<sub>2</sub> concentrations in 2009 and 2013 are well below 60 µg/m<sup>3</sup> at all the modelled receptors, the short term objective for NO<sub>2</sub> is unlikely to be exceeded.

Furthermore, using the flow chart presented in Figure 1, air quality (NO<sub>2</sub>) is a "low priority consideration" based on the predicted concentrations at the proposed development.

#### 6.2.2 Particulate Matter (2010 and 2013)

Predicted annual mean concentrations for PM<sub>10</sub> in 2010 and 2013 are provided in Table 8. The number of 24-hour exceedences is also provided.

Table 8 – Predicted PM<sub>10</sub> Concentrations (µg/m<sup>3</sup>)

Receptor	Annual Mean (2010)	24-hour Mean Exceedences (2010)	Annual Mean (2013)	24-hour Mean Exceedences (2013)
1	21.7	5.8	21.2	5.1
2	21.0	4.8	20.5	4.1
3	20.5	4.0	20.0	3.4
4	20.1	3.8	19.5	2.9
5	19.7	3.1	19.2	2.5
6	19.5	2.8	18.9	2.2
7	19.3	2.5	18.7	2.0
8	19.1	2.4	18.5	1.8
9	19.0	2.3	18.4	1.7
Objective	40	35 times a year	40	35 times a year

The DMRB predictions for annual mean PM<sub>10</sub> concentrations for 2010 and 2013 indicate that the annual mean objective (40 µg/m<sup>3</sup>) would be achieved at all the modelled receptor locations. For both years, the predicted results fall within APEC Category A, meaning there are "no air quality [PM<sub>10</sub>] grounds for the refusal of the development, however, mitigation of emissions may still be considered".

Furthermore, using the flow chart presented in Figure 1, air quality (PM<sub>10</sub>) is a "low priority consideration" based on the predicted concentrations at the proposed development.



## 7 CONCLUSIONS AND RECOMMENDATIONS

### 7.1 Impact from Construction Activities

A qualitative assessment of dust levels associated with the proposed development has been carried out. The qualitative assessment shows that although dust is likely to occur from site activities, this can be reduced through appropriate mitigation measures. Implementation of the following Best Practice Measures based on a low risk site will help reduce the impact of the construction activities to an acceptable level:

#### Site Planning:

- Erect solid barriers to site boundary;
- No bonfires; and
- Plan site layout – machinery and dust causing activities should be located away from sensitive receptors.

#### Construction Traffic:

- All vehicles to switch off engines – no idling vehicles;
- Effective vehicle cleaning and specific wheel-washing on leaving site;
- All loads entering and leaving site to be covered;
- No site runoff of water or mud; and
- All non road mobile machinery (NRMM) to use ultra low sulphur tax-exempt diesel (ULSD) where available.

#### Site Activities:

- Minimise dust generating activities;
- Use water as dust suppressant where applicable; and
- Enclose stockpiles or keep them securely sheeted.

With the above mitigation measures enforced, the likelihood of nuisance dust episodes occurring at nearby receptors are considered low. Notwithstanding this, the developer should take into account the potential impact of air quality and dust on occupational exposure standards (in order to minimise worker exposure) and breaches of air quality objectives that may occur outside the site boundary. Monitoring is not recommended at this stage, however, continuous visual assessment of the site should be undertaken and a complaints log maintained in order to determine the origin of a particular dust nuisance. Keeping an accurate and up to date complaints log will isolate particular site activities to a nuisance dust episode and help prevent it from reoccurring in the future.

## 7.2 Impact of Vehicle Emissions

Predicted concentrations of NO<sub>2</sub> at the proposed development site are below the annual mean air quality objective in the baseline year (2010) and the assumed first full year of occupation (2013) at all modelled receptors. Based on the Air Pollution Exposure Criteria (APEC) provided in Table 4, predicted concentrations for NO<sub>2</sub> in 2010 and 2013 at these receptors fall within APEC Category A, which states that there are "no air quality [NO<sub>2</sub>] grounds for refusal, however mitigation of any emissions should be considered".

Predicted concentrations of PM<sub>10</sub> do not exceed the relevant air quality objectives in 2010 or 2013 at any of the modelled locations. Based on the Air Pollution Exposure Criteria (APEC) provided in Table 4, predicted concentrations for PM<sub>10</sub> in 2010 and 2013 at these receptors fall within APEC Category A, which states that there are "no air quality [PM<sub>10</sub>] grounds for refusal, however mitigation of any emissions should be considered".

## 7.3 Overall Conclusion

Modelled NO<sub>2</sub> and PM<sub>10</sub> concentrations are not predicted to exceed the relevant air quality objectives at any of the proposed receptors in the baseline year (2010) or the assumed first full year of occupation (2013). As such, based on the results of this assessment, it is considered that the site is suitable for development.

APPENDIX 2  
TO CORLEY PLANNING  
APPLICATION  
DATED 6 MAR 12

#### Brief History

##### Griff Caravan Site

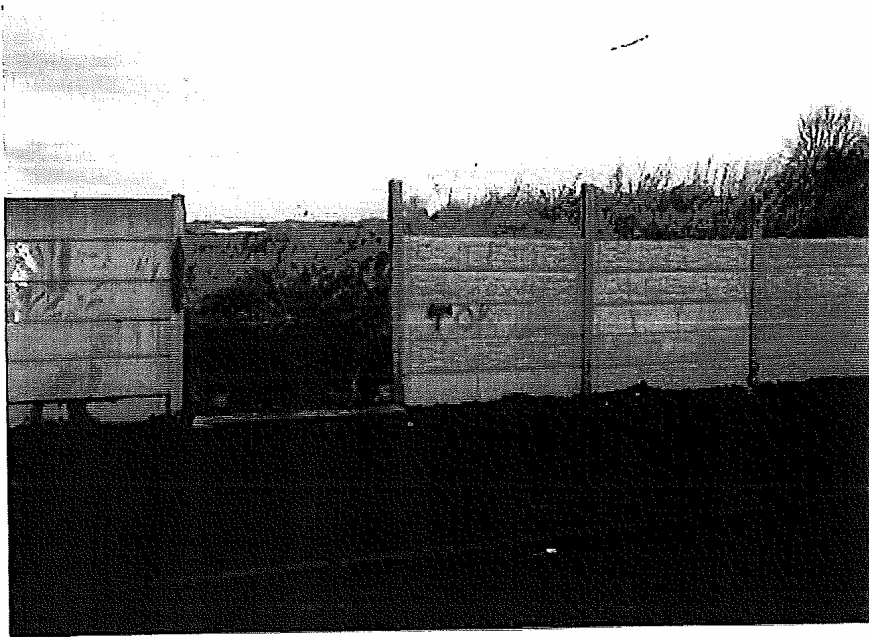
The site was established in August 1979 and was managed by Nuneaton and Bedworth Borough Council until April 2002. Twenty one amenity blocks were built connected to a foul drainage system. The access road from the B4113 was constructed and crude site road and pitches were formed.

The site had, prior to April 2002, been without a warden and as a result wanton damage and the dumping of rubbish had taken place, both on the site itself and adjoining land being a Landfill site owned by Messrs Onyx. There was damage to the concrete wall to the southern and western walls during January 2001.

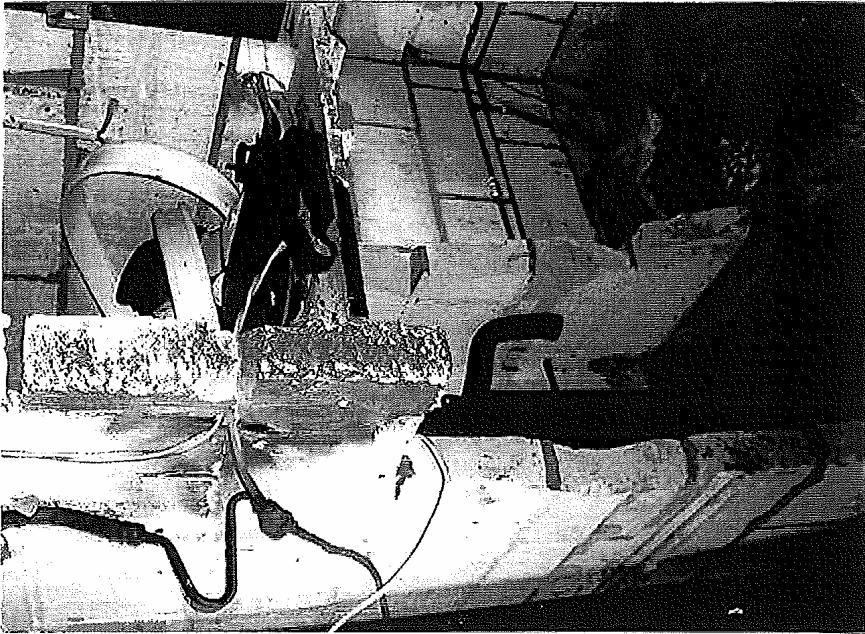
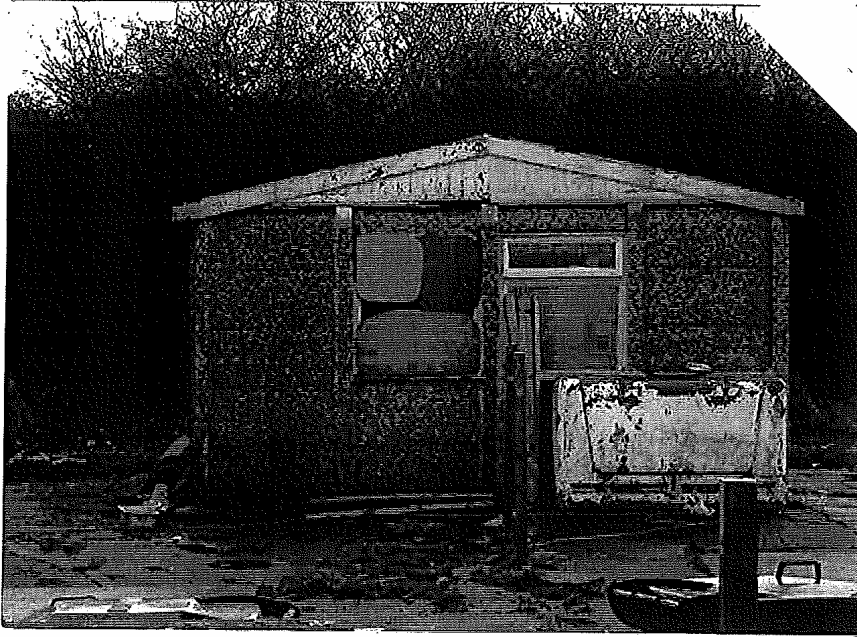
Management was carried out by the lease holder from February 2002 to February 2007 and during this time no maintenance had been carried out. If the residents had not been willing to carry out minor repairs and pay for sewage clearance the site would not be fit to place any type of caravan

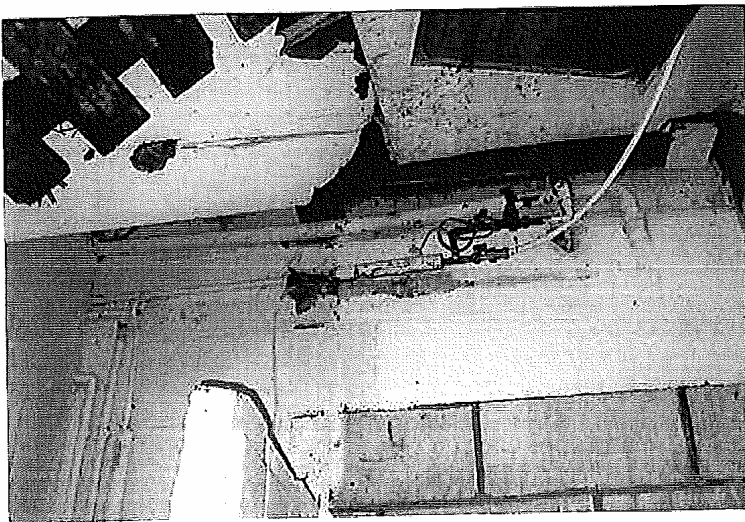
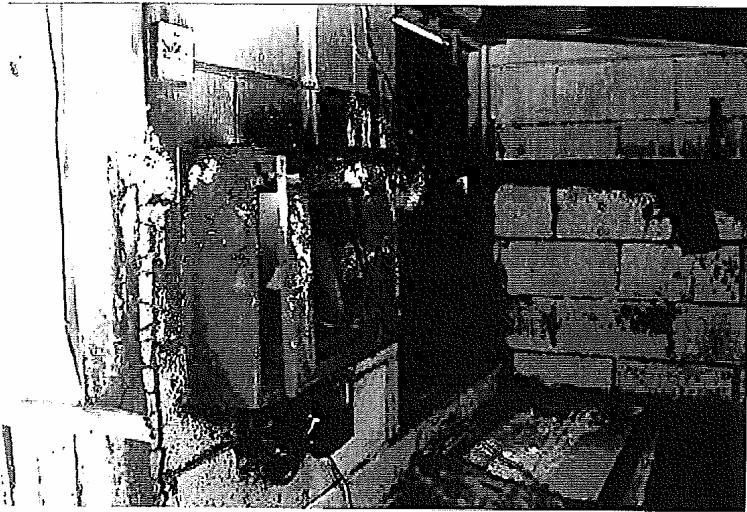
Warwickshire County Council took over management responsibility for the Griff Caravan Site in February 2007, due to the poor condition and the failure by the lease holder to pay the lease fee. Major Health and Safety issues (the site is currently unfit for human occupation) emerged in the early months of management that required the development of a significant programme of emergency maintenance works. 8 out of 22 site utility blocks have been closed on Health and Safety (Structural grounds). Temporary mobile homes were installed on the site to replace these blocks and ensure we complied with our statutory obligations as landlord. The remaining blocks required extensive works to bring them up to a satisfactory level for occupation (toilets, sinks, baths, electrical and water supplies). Significant electrical works were required to reach safety standards and vermin control to rid the site of a major rat infestation. **A near-death incident of the son of one of the resident families was being blamed in part by the family on the state of the site.** It was immediately obvious that the facilities were in a poor condition and that the only cost effective solution was complete redevelopment.

Having obtained funding from CLG and County Council a project was put in place to rebuild the site which was completed in November 2011.



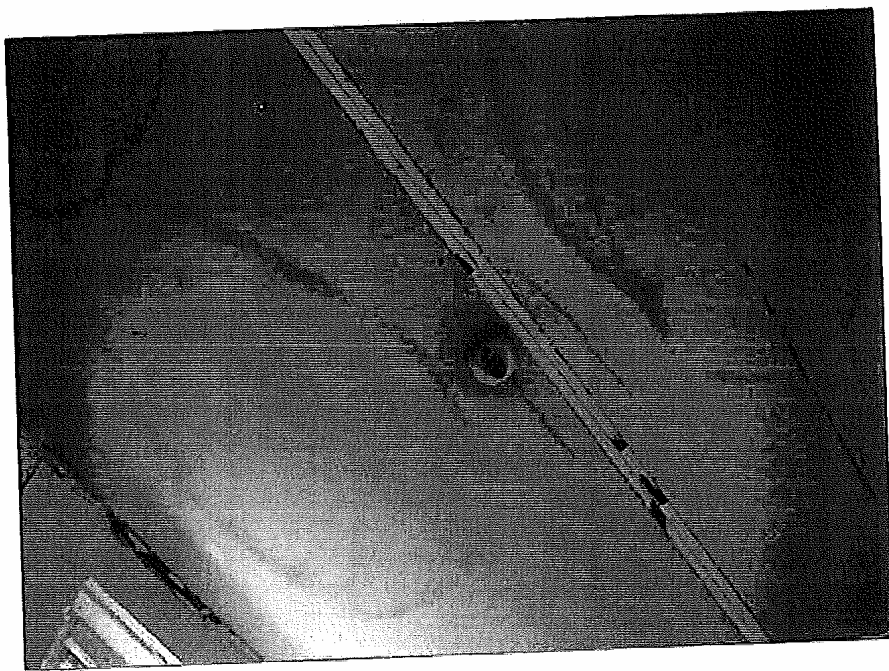
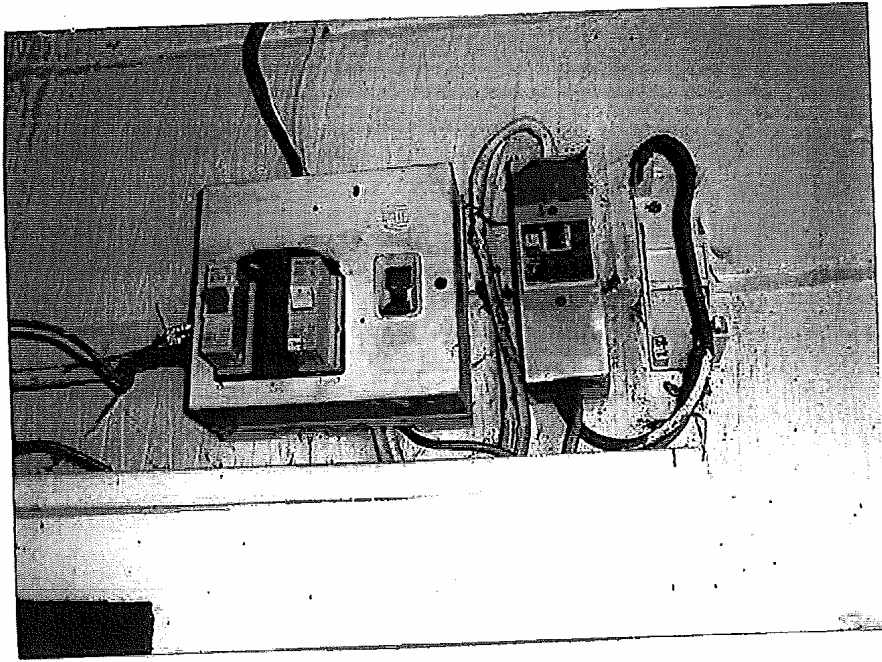


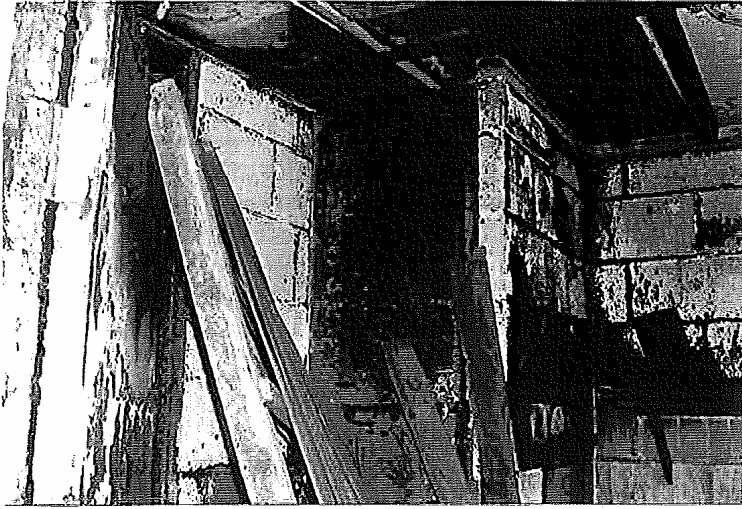












APPENDIX 3  
TO CORLEY PLANNING  
APPLICATION  
DATED 6 MAR 12



**Warwickshire**

Community Services

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To whom it may concern

Re: **Patrick Doherty. DoB 06.07.00. 21 Griff Caravan Site, Coventry Road. Nuneaton. Warwickshire. CV10 7PE.**

Patrick has a condition called Central Hypoventilation Syndrome. This syndrome sadly cannot be cured nor will Patrick grow out of the condition. The consequences of Central Hypoventilation Syndrome are that Patrick has no respiratory drive when asleep or unconscious.

Sleeping.

During sleep Patrick is ventilated with a home ventilator and is cared for 1:1 by a highly trained NHS worker. To deliver safe care including training and staff facilities the minimum space required is width 3600 mm x 3685 mm length plus storage area of 1500 mm x 2000 mm. Without 1:1 supervision and ventilation Patrick would die.

Unconsciousness.

During unconsciousness Patrick would not breathe and would die without ventilation. At school and on school transport, Patrick has a 1:1 carer trained in resuscitation and bag and mask ventilation.

The Griff Site.

The Griff site is an unsuitable place for Patrick to be safely cared for. The main risks come from:-

- Inadequate space to safely care for Patrick in his current home.
- Risks to staff travelling to the home at night.
- Difficulties around ambulances finding and entering the Griff Site safely.
- We have currently had to suspend training due to space issues without speedy resumption Patrick's care package will collapse.
- The Griff site has numerous opportunities for accidents leading to unconsciousness, as Patrick becomes older these risks increase and supervision gets harder. The building works proposed will significantly increase these risks during construction. Past experience of the Griff site suggests even after the build dumping on and damage to the site will soon increase the potential risks for accidents again.
- The site has a significant link with alcohol abuse. Drinking to excess would almost certainly lead to unconsciousness and if unspotted death for Patrick.

*'Your Health, Our Concern'*

Summary.

Patrick has a life threatening condition but due to the dedication of his family, NHS care team and school he has a great quality of life. The Griff site threatens the stability of his home situation and the NHS care team. The site has numerous risks associated with it which could damage residents health via an accident or developing health risking behaviour, for most children on the site this is a manageable risk for Patrick these risks are life threatening.

I would ask that these concerns are if at all possible acted upon by helping the family to locate to a safer pitch where they can bring Patrick up in a culturally appropriate way and maintain his safety.

Regards

Mr David Widdas  
Consultant Nurse  
Children with Complex Care Needs  
NHS Warwickshire

  
**Report into the Medical Housing Requirements of  
Patrick Doherty DoB:06/07/00.****Context.**

Patrick has a very rare medical condition called Central Hypoventilation Syndrome. This syndrome means he does not breathe when he is asleep or unconscious. The condition also means even minor chest infections can necessitate admission to a specialist children's unit.

To live, Patrick requires artificial ventilation via a ventilator when asleep or unconscious. To safely give life sustaining ventilation a highly trained carer needs to provide one to one supervision when Patrick is asleep or unconscious.

Patrick was discharged home into the care of his parents supported by a seven night N.H.S care package in 2002. He now attends mainstream school with a one to one care package supported by the N.H.S and the L.A.

**Accommodation.**

Patrick and his family are travellers and wish to maintain their culture and heritage. Early planning for discharge included investigation of housing options. The family worked with N.H.S occupational therapists to design their caravan. Within the constraints of the pitch size a caravan design was agreed, commissioned and purchased by the Doherty's. The room size was a significant compromise but due to Patrick still being in a cot the room was just about adequate. Storage of all medical supplies is done at a local N.H.S. clinic due to lack of space.

Since discharge Patrick has grown and now has a full size bed. Health and safety requirements now require overnight carers to be provided with specialist seating. Patrick when unwell has to be transferred by stretcher from his bed to the ambulance (this is to accommodate Patrick his ventilator and batteries.)

In 2006 a multi-agency review meeting took place where it was agreed that within 2 years the current accommodation would be unsuitable for Patrick's needs. John Hardman represented the Council. Patrick's father, John and colleagues from the council have worked together to identify a place for a bigger home. In June 2008 following up concerns from care staff, Patrick's room was risk assessed again and it was decided that the practice of doubling staff up for training was unsafe in the space available, as Patrick's needs could not be safely met with 2 staff in his room, training was discontinued. The care package will cease as and when current carers leave. When this happens Patrick's parents will be faced by an unmanageable 24 hour care burden. Patrick's safety and long term home placement will then be in jeopardy.

#### **Space required for home ventilation.**

Home ventilation is a complex medical procedure. There are significant risks in home ventilation, parents and staff need to be ready to respond to emergencies at all times. All staff and parents are trained in hand ventilation, resuscitation and emergency routines during equipment failure. All children require two ventilators with back up batteries to be set up and ready. There is a requirement for complex monitoring equipment with back up systems in place. Patrick also requires oxygen when he is unwell.

We recommend that beds are positioned so they are accessible at both sides with adequate space to enable effective resuscitation (this is no longer possible in Patrick's room). Since Patrick was discharged home, 3 other children have been discharged into Warwickshire requiring life sustaining overnight ventilation they have all had extensive extensions on their council homes to make them suitable for this type of care. A minimum safe space for care would be 3600mm x 3700mm clear space around the bed. This is taken from research undertaken for N.H.S Estates in 2005. Space for storage for the supplies Patrick requires would be approximately 1500mm x 2000m (this equipment is currently stored in a local N.H.S clinic requiring regular deliveries by staff.)

Overnight staff require specialist seating and a position where they can observe and care for Patrick directly. An occupied seat needs 1200mm (NHS Estates 2005). To enable training and updating of staff two occupied chairs need to be allowed for. Staff need access to a kettle, fridge as they cannot leave the child at any time. Toilet facilities are required nearby (preferably separate from family toilets and not next to a family bedroom so as to avoid disruption).

#### **Future needs.**

As Patrick becomes older carers within his bedroom will become inappropriate. The other children in Warwickshire who have had adaptations have had observation windows or glass doors added to the design to allow carers to observe from outside the room, this necessitates a vacant room next to the child's room with a clear line of site to the child. Patrick is now 8 years old and already becoming disturbed by the intrusion of carers in his room.

#### **Griff site.**

The Griff site has proved a significant challenge to delivering care. Nuneaton Police were consulted on staff safety prior to discharge and advised against staff being on the Griff site overnight. Staff have expressed reservations but the welcome of the Doherty family has enabled care to continue on the site. Letters concerning essential medical appointments rarely reach the Doherty's. N.H.S equipment destined for the Doherty's has been signed for by other Griff residents and never reappeared.

#### **Doherty family.**

Home ventilation and overnight care puts unimaginable stress on families and staff (Ludvigsen & Morrison 2003, Noyes & Lewis 2005, Noyes & Lewis et al 2005). Cramped care environments compound this stress. Staff turnover and high levels of conflict are common in this type of care package. It is of note that the Doherty family have won high praise from our care team and despite very difficult environmental problems there has never been conflict between the family and the care team

### **Proposal by Rob Leahy.**

I have reviewed Rob Leahy's proposal for a new van that would fit on the new pitch after refurbishment. Unfortunately the proposal offers little medical advantage over the current dwelling. The requirements outlined above are not met by this design, there is some increase in space but not the required dimensions outlined above. Stretcher access would not be possible making ambulance recovery difficult when on going ventilation and oxygen administration are required.

### **Conclusion.**

The current environment is unsustainable. The proposals put forward for the Griff site redevelopment do little to change this position. The success of the care package so far is testament to the Doherty family's ability to adapt and work with support staff. The inability of the N.H.S to train new staff in this environment will put unimaginable care burden on the family increasing the risks to Patrick and his long term ability to live at home with his family.

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### **References.**

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CHILDREN, YOUNG PEOPLE & FAMILIES

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To whom it may concern

10 February 2011

I am writing to raise your attention to a very difficult situation which I am hoping that you may be able to support us with.

I have been working with the Doherty family since January 2001 in relation to their youngest child Patrick (DOB 06/07/00) who was born with Congenital Central Hyperventilation Syndrome, also known as Ondine's Curse, which means that his life is dependent on BIPAP Ventilation when asleep. This meant that Patrick spent the first 18 months of his life in Birmingham Children's Hospital until he was discharged to the care of his family on 27/12/01 where he has effectively remained. The health support package with this family has been incredible and they have managed to secure a group of trained waking night carers to ensure that someone stays awake with Patrick at his home every night to monitor his ventilator which, if it slipped, would result in his death within just 2 minutes.

What has complicated this case has been the fact that the Doherty family are travellers who had moved to The Griff Site temporarily in 2000 and would have moved on had it not been for the fact that their son Patrick requires the essential localised health support to keep him alive. The family have come from Ireland and 2 brothers married 2 sisters from long standing gipsy families and have continued to travel and support each other and their children ever since. This has meant that the discharge package for Patrick meant that a family who would ordinarily have been used to their privacy has worked extensively with us initially in receiving training whilst Patrick was in hospital to ensure that they were adept at the medical competencies required to keep him alive, then in collaborating with health, Social Services and Occupational Therapy in planning a mobile home (which the family then



funded) to ensure that their home would house Patrick's specialist equipment and the waking night service necessary to discharge him back to their care. We did counter some prejudice at this time from unexpected quarters who believed that the only solution for this family would be to shun their heritage and live for the first time in a house.

The support package has continued to be successful. Patrick is now 8 and is thriving at home and attends the local Catholic School, along with his older brother Isaac. They have a baby sister Nicole. Patrick's Aunt, Uncle and cousins continue to live next door and the families help to support each other, including managing to take all of the children away on holiday this year without health support as the adults took it in turns staying awake to mind Patrick. Many of the original core group of waking night carers who were recruited 7 years ago remain on rota to support Patrick during the night despite the fact that this means accessing a site with many problems and an underlying current of menace and threat. The carers retain a professional and friendly relationship with the family despite the fact that with Patrick and his family growing, the room within the mobile home is becoming very limited. Health are finding it hard to recruit further health workers as they need to be trained in situ in Patrick's bedroom and there just simply isn't enough room. The council are now looking to redevelop the Griff Site which will mean further upheaval for the family in the interim.

It has always been the wish of the Doherty family to purchase their own land which would now need to be in easy distance of George Eliot Hospital and the school at which the boys have settled. This wish is now becoming even more crucial with the changes already described making a move a very desired and pressing ambition. Mr Doherty has been liaising extensively with both the town and county council in an attempt to locate some council land which he could purchase but to no avail as no land is readily available. He has repeatedly said that he does not want his family to squat on council land and wants to follow an appropriate and legal route to meet the needs of his family. Whenever Mr Doherty attempts to purchase land privately, the offers are always refused when the seller realises that they are selling to a gipsy family, such is the prejudice that this oppressed group face. This is unfortunate as if sellers were to meet the family they would realise that any myths or concerns based on the minority of travellers do not apply here. This family's home at the Griff site has been purchased by the family specifically to meet the needs of that family and has been maintained to an impeccable standard. The land around Mr Doherty and his brother's home has been developed and maintained at the cost of the families and stands out from the rest of the site due to the high standards attained. The mobile homes are actually very beautiful and look to all effects like bungalows as the wheels are covered. The family has worked cooperatively and sensitively with all agencies involved in keeping Patrick alive and well and the waking night carers have shared the family home with them over the past 6 years without problem.

The reason why I am writing to you, is that Mr Doherty would like the opportunity to buy (or lease on a long term contract) some currently vacant land at Corley adjoining

the motorway. He would like to purchase 2 mobile homes for his brother and his family and move onto the land long term. He would ensure that the land was well developed and maintained at his expense in consultation with your wishes and that no other travellers moved on. He has stated that he would have it written up in any contract that if the family's circumstances changed at any time and they decided to move on then they would sell the site directly back to the council that there could be a claw back clause in the terms and conditions if you needed access to the site for planning permission for building. This family just needs the opportunity to live within the vicinity and according to their heritage and that piece of land would offer that potential. Its location is ideal as it is within easy travelling distance of the hospital and both primary and secondary Catholic schools and could be easily accessed by waking night staff and emergency services when required.

I would be very pleased if you could consider this proposal. I have worked with this family for a number of years now and have found them to be pleasant, quiet people who keep themselves to themselves and are totally committed to the welfare of their children. They have had a difficult time as a result of Patrick's very unique disability and are finding it even more difficult to sort things out as a result of the discrimination they face due to their heritage. Please do not hesitate to contact me should you want to discuss any of these issues in more depth or if you have any suggestions which you feel would help.

Yours sincerely

.....  
*Gill White*  
Team Leader, Social Care  
Integrated Disability Services - North

Copy to:     Robert Leahy  
                  Isaac Doherty  
                  David Widdas

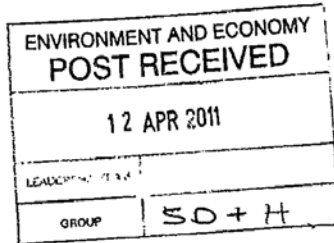


Children, Young People and Families

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5 April 2011

Dear Mr Leahy

In response to your referral to the Integrated Disability Service for this child, I am writing to confirm the IDS Social Care position.


This child and his family has been known to IDS for quite some time. Patrick has a very complex disability and he requires consistent, regular and intimate care. This department has previously assessed the parents and are fully satisfied that Mr and Mrs Doherty have very capable skills to meet the demands of their child's care. There is no evidence or concern that warrants any Social Care intervention. The IDS is completely satisfied that, alongside Warwickshire NHS support, Patrick's care provided by his parents at home is of a high and consistent quality. Mr and Mrs Doherty are extremely competent parents. Away from his parents, the Local Authority provides nursing support within the school setting.

I have discussed this case with Continuing Care Nursing Manager, David Widdas, and fully agree and support the nursing teams' view that any change of home address would not be in Patrick's best interest.

Patrick receives very intimate and life-supporting nursing care within the family home from both his parents and trained nursing staff. This allows parents to have a break from delivering this care themselves and an opportunity to focus on other family member needs.

I understand the current location of the family home is a separate location away from other families and homes. This is an ideal setting as it provides Patrick with a quiet, clean and safe environment that does not exacerbate his disability.

ids

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*Working for  
Warwickshire*

Considering any move to The Griff site (or any other more populated site) would be a poorer choice for this child to be expected to reside in. I understand this site has a variety of families living in close proximity. There is little control from outsiders entering the site and Continuing Care Nursing personal safety could be compromised.

An Integrated Disability Social Worker has visited the family recently and, again, confirms that the current living arrangements for this young man offers an environment that is stable, safe and compatible to providing a non-disruptive atmosphere where his very complex medical needs are met.

I advise Warwickshire County Council to support this family to remain in situ until Patrick's disability and care needs improves to such a degree that the current level of home-based medical care is reduced considerably or no longer required.

Yours sincerely

A black rectangular redaction box covering the signature of David DeMay.

David DeMay  
Service Development Manager – Social Care  
Integrated Disability Service

Copies to:

Mr and Mrs Doherty  
David Widdas – Continuing Care Nursing Manager  
SW File

The logo for Integrated Disability Service (idr), consisting of the lowercase letters 'idr' in a stylized, rounded font.