

Agenda Item No 5

Planning and Development Board

17 October 2011

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
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 14 November 2011 at 6.30pm in the Council Chamber at the Council House.

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
1	DOC/2010/0049	5	The Willows Hotel 145 Watling Street Grendon Atherstone Application to discharge conditions no. 3,5,7 and 8 of planning permission PAP/2008/0269 dated 9 April 2009 relating to surfacing materials, construction of the foul and surface water drainage systems, storage (prior to disposal) of refuse and details of separation of the access and landscaping.	General
2	PAP/2011/0202	14	Land Adj 204 Coventry Road Coleshill Variation of condition no:2 of planning permission PAP/2006/0724 relating to elevational, floor plans and roof height	General
3	PAP/2011/0286	31	Grendon Fields Farm Warton Lane Grendon Erection of 1 No. wind turbine and associated equipment	General
4	PAP/2011/0300	59	Nethersole Centre High Street Polesworth Tamworth Residential conversion to 4 units & creation of associated parking	General
5	PAP/2011/0371	86	Land Off (adj 44 Coleshill Road) Church Lane Curdworth Variation of condition no: 1 and conditions no: 7 & 8 of planning permission PAP/2007/0530 relating to conservatory and boundary treatments and landscaping.	General
6	PAP/2011/0381	95	62 Coleshill Road Water Orton Replace fencing and hedge.	General
7	PAP/2011/0384	104	Croft Barn Bentley Lane Maxstoke Erection of small wooden hut, with verandah to provide protection for anyone fishing at the lake	General
8	PAP/2011/0420	110	Caldecote Hall Industrial Estate Caldecote Hall Drive Caldecote NUNEATON Mixed use development to Caldecote Hall Estate Works, consisting of: 1. Extension &	General

			remodelling of existing offices, 2. Change of use from workshop to residential, 3. 3 no. new dwellings	
9	PAP/2011/0434	116	The White House Middleton Lane Middleton Tamworth Three pet enclosures together with additional parking area at the rear	General
10	PAP/2011/0460	130	Betteridge Barn Dingle Lane Nether Whitacre Change of use of existing barn from storage use to daytime educational training centre, for week day use, on the ground floor, with storage use only on the first floor	General
11	PAP/2011/0481	142	Beech House 19 Market Street Atherstone Change of use of land for residential use as car parking	General
12	PAP/2011/0492	156	120 Coventry Road Coleshill Removal of conifer tree in conservation area	General
13	PAP/2011/0187	163	Ivy House, Taverners Lane, Atherstone Demolition of factory units and a single dwelling and the erection of 14 new dwellings with associated car parking	General

General Development Applications

(1)

The Willows Hotel, 145 Watling Street, Grendon, Atherstone

Application No DOC/2010/0049

Application to discharge condition numbers 3, 5, 7 and 8 of planning permission PAP/2008/0269 dated 9 April 2009 relating to surfacing materials, construction of the foul and surface water drainage systems, storage (prior to disposal) of refuse and details of separation of the access and landscaping.

Application No PAP/2010/0422

Variation of condition numbers 1 and 4 of planning permission PAP/2008/0269 relating to approved plans and new screen walls or fences – revised submission.

both for Mr David Willars

Introduction

These applications are reported to the Board in light of the planning history of the site and the recommendation for enforcement action.

The Site

The site is an existing premises which formerly had planning permission for use as a 20 bedroom hotel/hostel for the homeless. In 2008 planning permission was granted for the change of use of the premises into eleven one and two bedroom apartments. The application was retrospective in part because the work to subdivide the property had commenced.

It is situated on the north side of the A5, half a kilometre west of the roundabout at the Boot Hill/Spon Lane junction, within a frontage of residential property.

Background and the Current Proposal

The 2008 planning permission was granted subject to a number of conditions including ones relating to the car park surfacing, drainage arrangements and landscaping. The applicant continued to work on the site without discharging these conditions.

In 2010 applications were made retrospectively to discharge a number of conditions and to vary the approved plans, but they were refused for the following reasons:

That the application to discharge Conditions 3 and 5 both be REFUSED for the following reason:

1. The proposed car park surfacing materials would result in an impermeable surface and the scheme omits any surface water drainage intervention. This would result in an unacceptable risk of flooding from surface waters on the adjacent highway. Furthermore, the extensive, uninterrupted array of a dark coloured tarmacadam surface on an elevated slope would create a harsh and domineering frontage to the site. The proposed car park surfacing and drainage arrangements would be detrimental to highway safety and to visual amenity and would be contrary to the provisions of Policies ENV8, ENV12 and ENV14 of the North Warwickshire Local Plan 2006 (Saved Policies).

That the application to discharge Condition 7 be REFUSED for the following reasons:

1. The arrangements for the disposal of refuse result in the provision of a visually intrusive and poor quality enclosure in a prominent position on the frontage of the property. This is to the detriment of the quality of the development and to the visual amenity of the area. The arrangements would be contrary to the provisions of Core Policy 11 and Policy ENV12 of the North Warwickshire Local Plan 2006 (Saved Policies).
2. The arrangements for the separation of the access route to 143 Watling Street result in the loss of space for car parking and involve the maintenance of a loose bound surface. These arrangements create conditions that could lead to on street car parking or to the spreading of loose bound material on the public highway carriageway and harm to highway safety. The surfacing of the route and its enclosure within close boarded fencing and gravel boards creates a poor quality visual appearance. The arrangements for the separation of the access route to 143 Watling Street are thus contrary to the provisions of Core Policy 11 and Policies 12 and 14 of the North Warwickshire Local Plan 2006 (Saved Policies).

That the application to discharge Condition 8 be REFUSED for the following reason:

1. The submitted landscaping scheme inadequately softens the appearance of the frontage of the site, such that the development has a harsh and dominating appearance in the street. The omission of planting shown on the approved site layout plan would be of detriment to the visual amenities of the area. The landscaping proposal is thus contrary to the provisions of Policy ENV12 of the North Warwickshire Local Plan 2006 (Saved Policies).

That the application for variation be REFUSED for the following reason:

1. The proposed revised site frontage with its single large sloping tarmac surface, lack of surface water drainage intervention, the limited landscaping opportunity, the use of visually prominent, low quality fenced enclosures and retaining structures and the overcrowded and unworkable car parking layout would present a poor quality visual appearance to the site frontage and would create conditions detrimental to highway safety. The variation of conditions 1 and 4 would thus be contrary to Core Policy CP11 and Policies ENV8, ENV12, ENV14 of the North Warwickshire Local Plan 2006 (Saved Policies).

A further recommendation to authorise the Solicitor to the Council to take enforcement action was accepted by members following consultation under the delegation procedure:

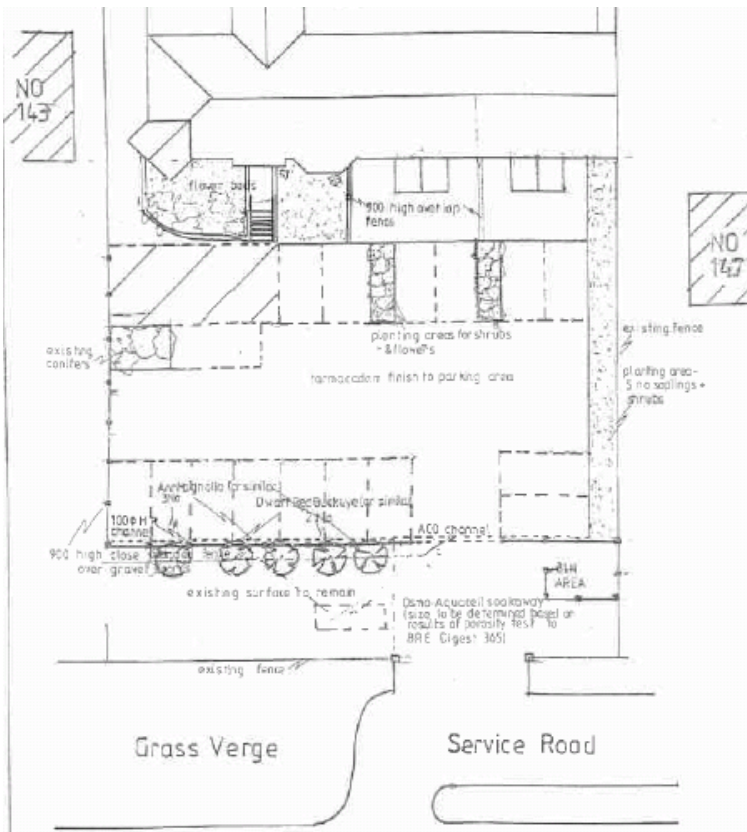
That the Solicitor to the Council be authorised to issue an Enforcement Notice requiring the removal of the tarmac surface, the retaining structure and the fenced refuse enclosure and undertake works to the site frontage such that it accords with the plan numbered 050601/4A approved on 9 April 2009 under reference 2008/0269. A compliance period of 3 months is recommended.

Following the issue of the decisions above and the notification of the Council's intention to pursue enforcement action, it became apparent that because of the inclusion of porches to the frontage of the building, the approved layout to the frontage could not now be fully achieved, such that the authorised enforcement action, namely, to require compliance with the plan numbered 050601/4A, could not reasonably be achieved.

As a result of further dialogue the applicant resubmitted new discharge of condition and variation of condition applications. These new (current) applications propose a revised car parking layout containing fewer parking spaces (16 spaces rather than the approved 20 spaces) and proposed the inclusion of drainage channels across the frontage of the hard surfaced car park, with waters directed to a soak-away positioned within the driveway to the adjacent property, and the introduction of some planting bays to 'break up' the car park and some additional frontage tree planting. It continues to propose the retention of the same design bin store on the road frontage.

It is believed that one or more of the flats within the building are now occupied.

The proposed site layout is shown on the plan below:



Development Plan

Saved Policies of the North Warwickshire Local Plan 2006: - Core Policy 2 (Development Distribution), Core Policy 11 (Quality of Development), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations in New Development) and TPT6 (Vehicle Parking)

Other Relevant Material Considerations

Government Advice: - Planning Policy Statement 1 (Delivering Sustainable Development) and Planning Policy Guidance Note Number 13 (Transport)

Representations

Grendon Parish Council is concerned that the drainage arrangements have not been corrected and that the storage arrangements for bins are unsatisfactory, with bins accumulating on the public footpath.

Consultations

Highways Agency – It raises concern about the reduced level of car parking and the potential for that resulting in on-street car parking. It considers that on street parking could be detrimental to highway safety.

It has no objection to the proposed bin store arrangements.

It also raises concern about the discharge of conditions 3 and 5. It indicates that it undertook a site visit and conducted tests which demonstrated that surface water will discharge in the direction of the A5. It requires confirmation from the applicant that the drainage solution can work, in the form of a porosity test and calculations in accordance with BRE digest 365 'Soak-away Design', demonstrating that the size of the soak-away has the required storage capacity and requests greater detail of the details of the drainage layout.

The Highways Agency is concerned about the separation arrangements between numbers 143 and 145 Watling Street and the consequence that the arrangements have on the layout and capacity of the frontage. It suggests that condition 7 should not be discharged but confirms that it has no objection to the discharge of condition 8.

Observations

The main considerations with both of these applications are that of the likely drainage and highway safety implications and the visual impact of the development.

Drainage

Despite repeated requests for the applicant to evidence that a soak-away can be designed and installed with effective capacity for the hard surfaced frontage, he has declined to do so. In these circumstances, though a soak-away could, in theory, provide an acceptable solution to the drainage issues here, the planning authority and the Highways Agency do not have sufficient information to conclude with any degree of certainty that it would. Given the tests undertaken by the Highways Agency, which showed that surface waters will discharge in the direction of the A5, the application to discharge the surface water condition can not be discharged. Given the failure to install adequate surface water drainage to date, and the consequent highway safety risks presented by the current arrangements, it must be proposed that enforcement action be taken to address the situation.

Visual Amenity, Access Arrangements and Car Parking

Numbers 143 and 145 Watling Street are now in separate ownership, though they share the same vehicular access point onto the A5. The applicant advises that he owns all of the land in front of 145 but that he has a contractual obligation to maintain a specified extent of land across the frontage for access to 143. It is within this specified land that he would propose to site the soak-away.

The image below shows the site before the changes were made to the car park surface and levels. It shows that the separate access to the bungalow at 143 Watling Street pre-dates the 2008 planning permission. It is not considered unreasonable to seek to maintain this separation. The question is whether the arrangements that have been put in place achieve this with a reasonable visual impact and with reasonable highway safety implications.



The introduction of a retaining wall defining the boundary between the communal car park and the access route undoubtedly introduces a harsh and visually prominent feature to the frontage of the site, however, the revisions to introduce a planting strip to the front of it have lessened its visual impact such that, with appropriate maintenance to ensure the planting takes hold, the retention of the fenced structure could be supported. This is notwithstanding the need to evidence that the drainage arrangements on the elevated land are satisfactory.

A tarmacadam expanse of car parking is not what was proposed when the application was first presented, and was refused when proposed in an earlier application to vary the approved plans. The applicant has since revised the proposed layout to reintroduce some planting bays immediately in front of the property itself. He indicates that the final site survey found the dimensions of the site to be less generous than first thought. He suggests that the revised site layout achieves an appropriate balance between maximising the number of spaces available for car parking and introducing some relief with additional planting. Whilst the frontage appearance is only marginally improved by the creation of additional planting bays, the applicant's argument about striking an effective balance between the appearance of the frontage and creating the maximum opportunity for off road parking is accepted. The Highways Agency has highlighted the importance of ensuring that on street parking does not occur in this locality. Though the revised layout results in 4 fewer car parking spaces than the original approved plan it can be accepted that this is a realistic maximum number of spaces that can be achieved given the implications of the construction of front porches; the maintenance of separate access to the neighbouring property and the realisation that the site is of smaller dimensions. It should also be noted that the development still achieved in excess of a parking space for each dwelling and that the property is on a main road which is also a bus route.

The proposals in respect of the bin storage arrangements and the means of separation of the access route to 143 Watling Street are no different to those proposed and refused in the previous applications, namely, a tall fenced frontage enclosure for the bin storage and the same existing un-surfaced route across the frontage to the adjacent bungalow. The applicant declined to reduce the height of the fenced enclosure to the bin store, arguing that it was his neighbour's preference that it remained tall to full hide the bins stored within it. The said neighbour has not written to confirm this or otherwise. Given that the proposal differs in no significant way, there is no justification for changing the recommendation previously made in respect of Condition 7 and it is again recommended that the application be refused because of detriment of the quality of the development; to the visual amenity of the area and because of the risk of spreading loose material on to the highway carriageway. Given the introduction of landscaping to soften the impact of the gravel boards and fencing, and the acceptance of a need to keep the route separate from the car park area, the reason for refusal is varied accordingly.

Recommendations

A. DOC/2011/0049

That the application to discharge Conditions 3 and 5 be REFUSED for the following reason:

1. The proposed car park surfacing materials would result in an impermeable surface. The scheme omits to evidence that effective surface water drainage intervention can be achieved. This would result in an unacceptable risk of flooding from surface waters on the adjacent highway. The proposed drainage arrangements would be detrimental to highway safety and would be contrary to the provisions of

Policies ENV8 and ENV14 of the North Warwickshire Local Plan 2006 (Saved Policies).

That the application to discharge Condition 7 be REFUSED for the following reasons:

1. The arrangements for the disposal of refuse result in the provision of a visually intrusive and poor quality enclosure in a prominent position on the frontage of the property. This is to the detriment of the quality of the development and to the visual amenity of the area. The arrangements would be contrary to the provisions of Core Policy 11 and Policy ENV12 of the North Warwickshire Local Plan 2006 (Saved Policies).

2. The arrangements for the separation of the access route to 143 Watling Street involve the maintenance of a loose bound surface. These arrangements create conditions that could lead to the spreading of loose material on the public highway carriageway and harm to highway safety. The surfacing of the route creates a poor quality visual appearance. The arrangements for the separation of the access route to 143 Watling Street are thus contrary to the provisions of Core Policy 11 and Policies 12 and 14 of the North Warwickshire Local Plan 2006 (Saved Policies).

That the application to discharge Condition 8 be GRANTED

B. PAP/2010/0422

That the application be REFUSED for the following reason:

1. The proposed revised site frontage with its large sloping tarmac surface, lack of surface water drainage intervention with evidenced effectiveness and the use of visually prominent, low quality fenced enclosures would present a poor quality visual appearance to the site frontage and would create conditions detrimental to highway safety. The variation of conditions 1 and 4 would thus be contrary to Core Policy CP11 and Policies ENV8, ENV12, ENV14 of the North Warwickshire Local Plan 2006 (Saved Policies).

C. That the Solicitor to the Council be authorised to issue Breach of Conditions Notices in respect of conditions 5 and 7 of planning permission 2008/0269 dated 9 April 2009 requiring:

i) in respect of Condition 5, that there shall be no further occupation of any dwelling beyond the current level of occupation without the submission, approval and implementation of a full surface water disposal scheme which evidences that a drainage solution can work, in the form of a porosity test and calculations in accordance with BRE digest 365 'Soakaway Design', demonstrating that the size of the soakaway has the required storage capacity and includes full detail of the drainage layout, and

ii) in respect of condition 7, that there shall be no further occupation of any dwelling beyond the current level of occupation without the submission, approval and implementation of agreed measures for the storage of refuse prior to disposal.

BACKGROUND PAPERS

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

Planning Application No: DOC/2010/0049

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	6/08/10
2	Case Officer	Letter to Agent	19/8/10
3	Agent	Letter	23/8/10
4	Highways Agency	Consultation Reply	23/8/10
5	Case Officer	Letter to Agent	23/8/10
6	Highways Agency	Consultation Reply	14/9/10
7	Case Officer	Letter to Agent	16/9/10
8	Agent	Letter	16/9/10
9	Case Officer	Letter	27/10/10
10	Case Officer	Letter	20/4/11
11	Agent	Letter	20/4/11
12	Grendon Parish Council	E mail	4/5/11

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

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

(2) Application No PAP/2011/0202

Land adjacent to 204 Coventry Road, Coleshill

Variation of condition 2 of planning permission PAP/2006/0724 relating to elevational, floor plans and roof height for

Mr Nigel Rose

Introduction

The application is brought before the Board at the request of a Local ward member in view of the potential for enforcement action.

The Site

The site lies within Coleshill towards the southern end of the town on the west side of the Coventry Road within a residential frontage. The site used to be the side garden to number 204. The side garden of number 206 is to its south and it is surrounded by other residential dwelling houses of varying styles, sizes and heights. Either side of the application site are two cottage style dwellings which abut the rear of the pavement. To the rear is the gable to number 1 Hall Walk.

Background

In 2006 a rear two storey extension was approved to number 204 and this was implemented. It can be seen on the plan at Appendix A, which also illustrates the general layout around the site.

In 2006, planning permission was granted for a detached house in the side garden to number 204. It would face the Coventry Road with a ridge running parallel to that road, as have the cottages on either side. It would however be set back from the road frontage by 6 metres. Work commenced and has continued up to eaves level, where construction has now stopped. Local neighbours were concerned that the building was not being constructed in line with the approved plans. This was established via site inspections and the owner has stopped work. He was invited to address a number of discrepancies. This current application seeks amendments to the approved plans as a consequence. Condition number 2 in the application description refers to the actual plan numbers approved in 2006.

The house is being constructed in the approved location, set back from the road and to the approved foot print dimensions. The main discrepancy is in the height of the house. It is therefore opportune at this point in the report just to outline the situation factually.

The 2006 permission shows a two storey house 7.8 metres to its ridge. The existing house at number 204 is 6.2 metres to its ridge. The plan as approved in 2006 is illustrated at Appendix B.

The owner commenced work on the 2006 permission. However he constructed a slab level 0.45 metres above natural ground level. As a consequence, if the 2006 approval was completed, the ridge would be 8.25 metres.

The owner has considered a number of alternative solutions in order to bring the new house more in line with the height as approved, and has submitted the current application to amend the approved scheme. His initial submission was to lower the pitch of the roof. This would result in an overall final ridge height of 7.4 metres (that is including the slab). Local residents were consulted on this plan. They objected because they considered that the house was still too high. This initial submission is illustrated at Appendix C.

In response to those objections, the owner considered a further submission in an attempt to reduce the “mass” of the roof. This resulted in the addition of a hipped roof as illustrated at Appendix D. The overall height to the ridge is 8 metres (that is including the slab). This plan has again been circulated amongst the local residents. The objections refer to the height and that the design is out of keeping with the street scene.

The remaining discrepancies relate to the provision of an external chimney stack rather than it being internal; minor fenestration detail (not location), a new side door and a minor change to the roof of the front canopy.

The Proposal

This case is a little unusual in that effectively alternative proposals have been put forward by the applicant as described above – the lower ridge (Appendix C) and the hipped roof (Appendix D). The minor discrepancies have also been included in both. These include:

- The side chimney to remain in the same position but to be external.
- The canopy above the front extension to be angled at both ends.
- The window next to the front door would be smaller and set further away.
- A new door from the hall area into the car port.
- A new door to the kitchen from the side elevation facing towards Number 204.
- A rear facing door from the kitchen is now proposed to be a window.
- The side canopy along the boundary to No.204 Coventry Road to be made longer by 1.5metres.
- The window designs are being changed such that the brick detailing above the windows and doors is now proposed to be a row of bricks as opposed to the approved arch.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006: Policies ENV4 (Trees and Hedgerows), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), HSG2 (Affordable Housing), HSG4 (Densities), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking)

Other Relevant Material Considerations

Government Advice: Planning Policy Statement 3 (Housing) and the Draft National Planning Policy Framework 2011

The Council's Supplementary Planning Guidance on Design of Householder Developments – September 2003

Representations

The representations below refer to both of the alternatives described above.

Coleshill Town Council – The scheme is out of keeping with the streetscape.

Six objections have been received from local residents. These cover the following points:

- The building as constructed does not comply with the heights from ground level shown on the approved plan.
- The requirement was to reduce the finished height.
- The revised roof design, with the maximum roof height has been increased and the visual impact has not been reduced. The design would increase the impact and is not acceptable.
- A semi dormer design would enable a reduction in the finished roof line without unduly affecting the internal disposition of the rooms at first floor level.
- The proposed construction will have an over bearing affect upon the street scene and surrounding properties.
- The proposal has diverted from a reduced level dig, which has given a cost betterment at the expense of the neighbouring properties, as this has resulted in the height being higher than needed.
- Retrospective alteration to compensate for the height have been hindered as they have not adhered to the foundations design (shown on section AA) the internal strip footing have been omitted and a slab constructed instead thus not offering any movement to reduce the height.
- The proposal does not comply with the original planning permission.
- The house is too tall and looks out of place in the area, and given the properties either side are period cottages.
- The road will be dominated by the height of the new dwelling.
- The plan does not appear to be to scale.
- The opposite side of the road has a mixture of bungalows and detached dwellings.
- The property has not been built on top of an excavated pad, but placed on top of the land, meaning it is higher than it should have been.
- It is considered that the original plans are implemented in full.
- The foundations were incorrectly raised and thus leading to a height different to the original approved plans.

Observations

a) The main issues

The principle of a dwelling on this site was agreed in 2006. That permission was taken up and is therefore extant. This is not in question, and thus the principle of a new house here is not to be considered. As the construction sits on the same foot print shown on the approved plans, the only substantive issues here are the appearance of the new house in the street scene and its overall height. These will be explored first, and then the other minor issues relating to design detail will need to be considered.

b) Appearance and Height

The 2006 approved plan shows a ridge running parallel with the street frontage so as to follow the pattern set with the two properties either side. It is therefore considered that the alternative illustrating such a ridge in the current application is to be much preferred – that is Appendix C. The objectors are right to say that the hipped roof alternative is out of keeping introducing a different style to the street.

If this is agreed then the substantive matter is the overall height of that ridge. As a matter of fact the 2006 approved ridge was to be 7.8 metres above ground level. If the current slab level is added then the overall height would be 8.25 metres. The alternative proposal with the complete ridge (Appendix C) would be 7.4 metres including the slab. The hipped roof alternative (Appendix D) would be 8 metres including the slab. As a consequence the alternative which has the overall lower ridge is Appendix C. Not only does this have the preferred appearance, it would also result in a house actually lower than that approved – even with the current slab. This is because the roof pitch would be substantially lowered.

Appendix C is the preferred solution. Whilst this is the case, Members should consider whether the change in roof pitch itself would become a feature unacceptable in the street scene. This is not considered to be fatal because the new house is well set back from the road frontage and is thus not readily visible to the public at large; there are a variety of different house types in the locality and it has the advantage of reducing the overall mass on the roof, thus increasing the amount of natural light into adjoining gardens. As a consequence it is considered that this alternative can be recommended for approval as an amendment to the 2006 permission.

c) Other Detail

As indicated above there are additional minor amendments. It is not considered that these are material given that the general appearance to the house as proposed for amendment is very similar to that approved. The move of the chimney stack externally has no amenity impact and the additional door in the side elevation facing 204 is unlikely to have any additional impact given that rear access to the new house was to be alongside this elevation. The minor elevation changes are indeed very minor.

d) Other Matters

There is concern that the house as permitted commenced without further reference to the Council given that the floor slab was being constructed above the natural ground level. It is understood from the owner that this was in order to protect a private sewer that crosses the site and the side garden of number 206. He was advised to construct a higher level due to the “soft” ground and allow for some settlement. Whilst this may have been the best technical and practical advice, it should nevertheless have resulted in a referral to the Council. As a consequence, the owner, once the breach of planning control was established, has sought a different solution to completing the house so as not to exceed the permitted height. As recommended above, the preferred option would in fact end up lower than that approved height, even with the new slab. As a consequence it is not considered that it would be expedient to commence enforcement proceedings.

Members should be aware that the Building Control aspects of this case were not dealt with by the Nuneaton and North Warwickshire Partnership. An Approved Inspector was used by the applicant and it is understood that it was his advice that was followed in respect of the construction of the slab.

Recommendation

That condition number 2 of planning permission 2006/0724 be **Varied** so as to accommodate the dimensions and appearance of the house as set out in Appendix C, and that any other conditions be varied accordingly as a consequence.

Justification:

The amendments actually result in a house that will be lower than that approved in 2006. It will be located in the site as approved and cover the same footprint. The difference will be in the roof pitch. This is not considered to be material given that the house is set well back from the roads and not readily visible; that there is a variety of house types in the area and that it will result in less loss of daylight in and around the area. The elevation changes are minor and non-material. The proposal complies with saved policies ENV11, 12 and 13 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

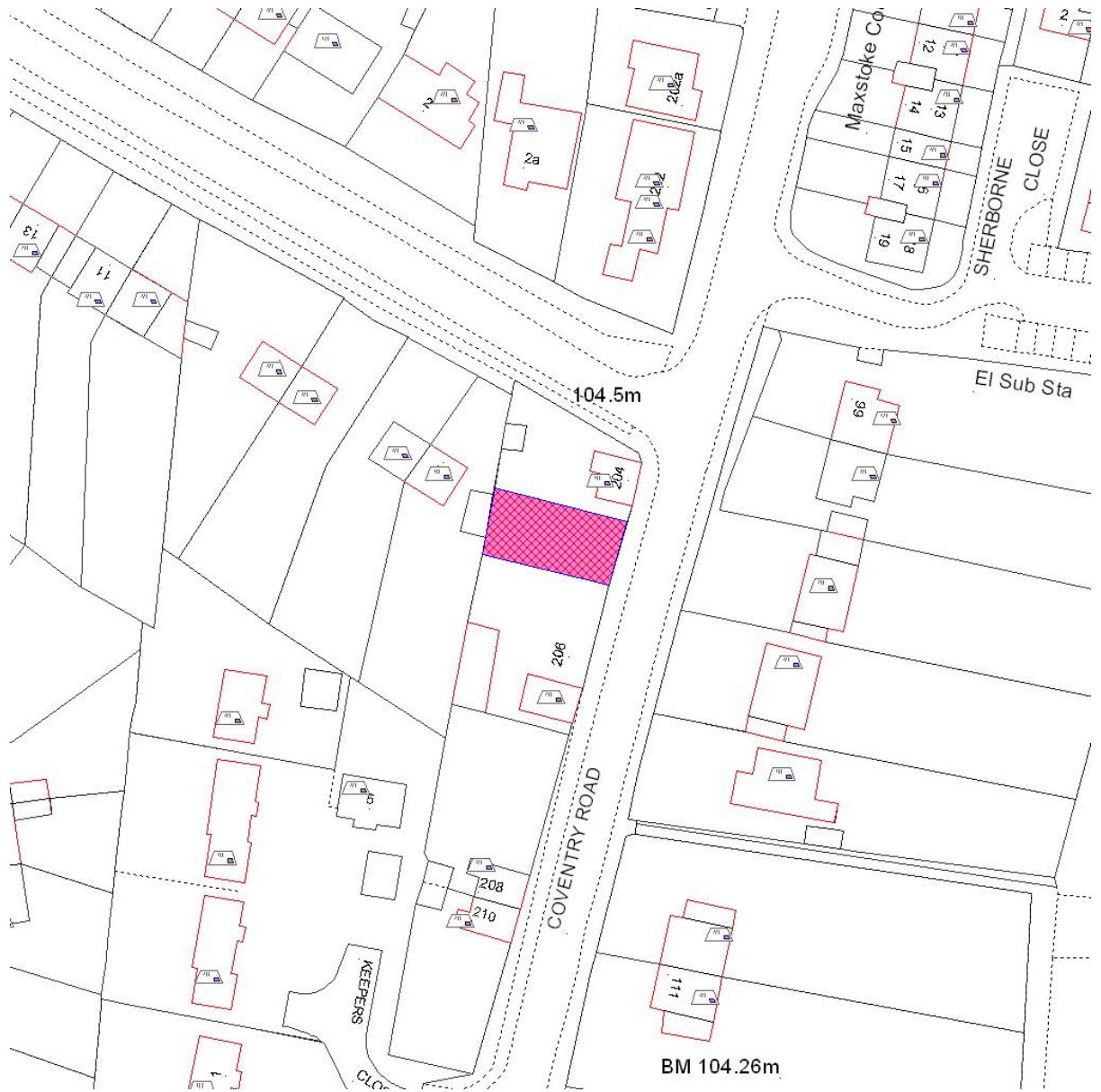
Planning Application No: PAP/2011/0202

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	13/4/2011
2	Case officer	Site visit	19/4/2011
3	Case officer	File note	10/5/2011
4	206 Coventry Road	Objection / comments	21/5/2011
5	Case officer	Email to 206 Coventry Road	21/5/2011
6	103 Coventry Road	Objection	22/5/2011
7	Case officer	Letter to agent	25/5/2011
8	Agent	Email / letter to case officer	31/5/2011
9	206 Coventry Road	Email to case officer	29/5/2011
10	Case officer	Email to 206 Coventry Road	1/6/2011
11	Agent	Email / letter to case officer	1/6/2011
12	206 Coventry Road	Email to case officer	1/6/2011
13	Case officer	Letter to 206 Coventry Road	2/6/2011
14	204 Coventry Road	Objection	3/6/2011
15	Case officer	File note after discussion with 206 Coventry Road	6/6/2011
16	Case officer	Email to agent	6/6/2011
17	Case officer	Email to 206 Coventry Road	6/6/2011
18	Case officer	Notes of site meeting with agent, neighbours and Cllr Sherratt	7/6/2011
19	Case officer	Email to agent	8/6/2011
20	Case officer	Email to agent	8/6/2011
21	Case officer	Email to Cllr Sherratt	8/6/2011
22	Case officer	Email to a206 Coventry Road	8/6/2011
23	Agent	Email to case officer	8/6/2011
24	Agent	Email to case officer	10/6/2011
25	Case officer	Email to agent	10/6/2011
26	204 Coventry Road	Telephone call to case officer	4/7/2011
27	Case officer	Email to agent	4/7/2011
28	Agent	Letter to case officer	21/6/2011
29	Case officer	Email to agent	8/7/2011
30	Agent	Email to case officer	8/7/2011
31	206 Coventry Road	Email to case officer	1/8/2011
32	Case officer	Email to 206 Coventry Road	8/8/2011
33	Agent	Revised plans	17/8/2011
34	Case officer	Email to agent	19/8/2011
35	Case officer	Reconsultation of plans	19/8/2011
36	101 Coventry Road	Objection	24/8/2011

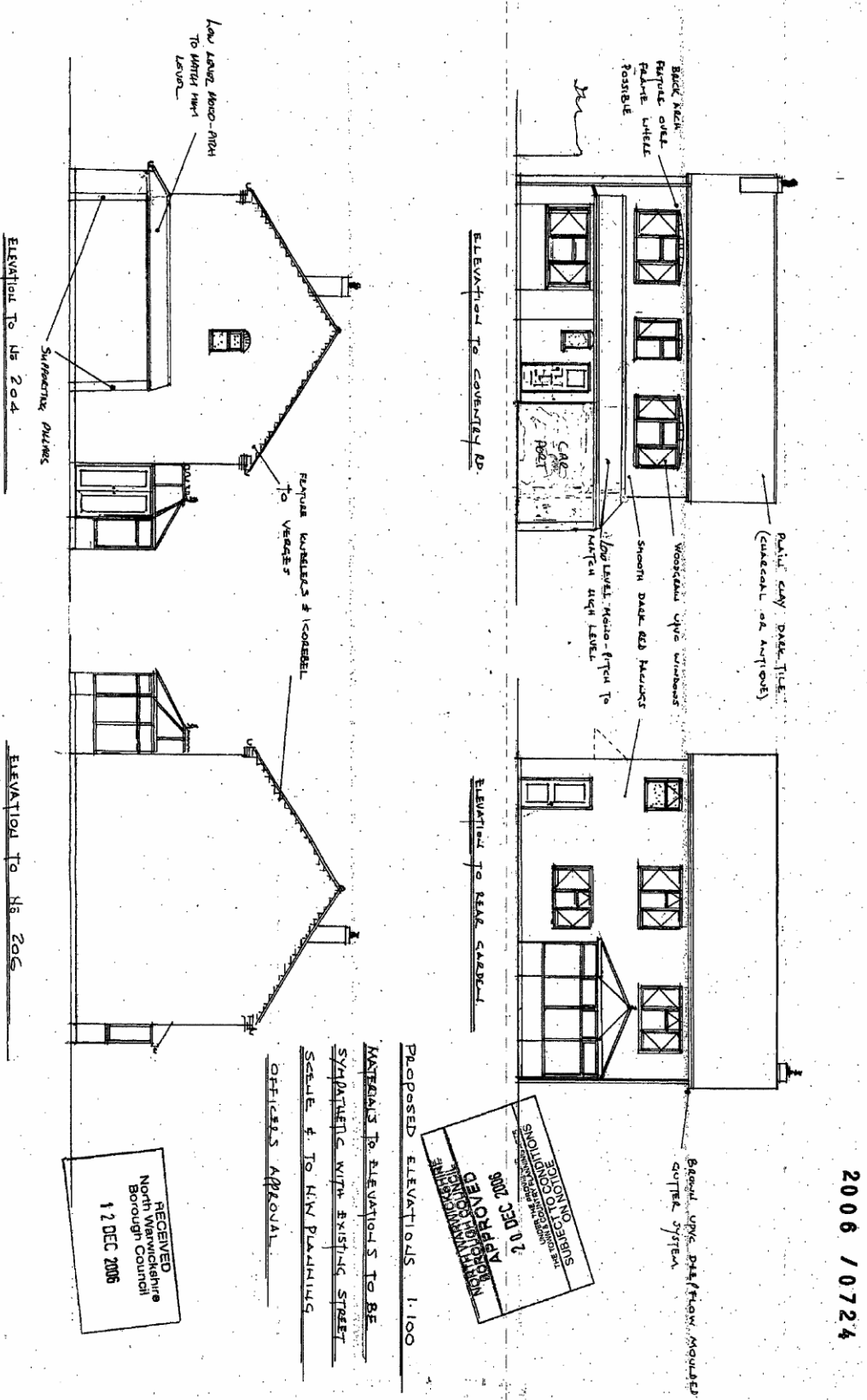
37	Case officer	Email to agent	24/8/2011
38	Agent	Email to case officer	24/8/2011
39	206 Coventry Road	Objection	24/8/2011
40	Case officer	Email to agent	25/8/2011
41	Coleshill Town Council	Objection	24/8/2011
42	204 Coventry Road	Objection	30/8/2011
43	103 Coventry Road	Objection	29/8/2011
44	99 Coventry Road	Objection	31/8/2011
45	105 Coventry Road	Objection	5/9/2011
46	Case officer	Email to agent	5/9/2011
47	206 Coventry Road	Email to case officer	11/9/2011

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.

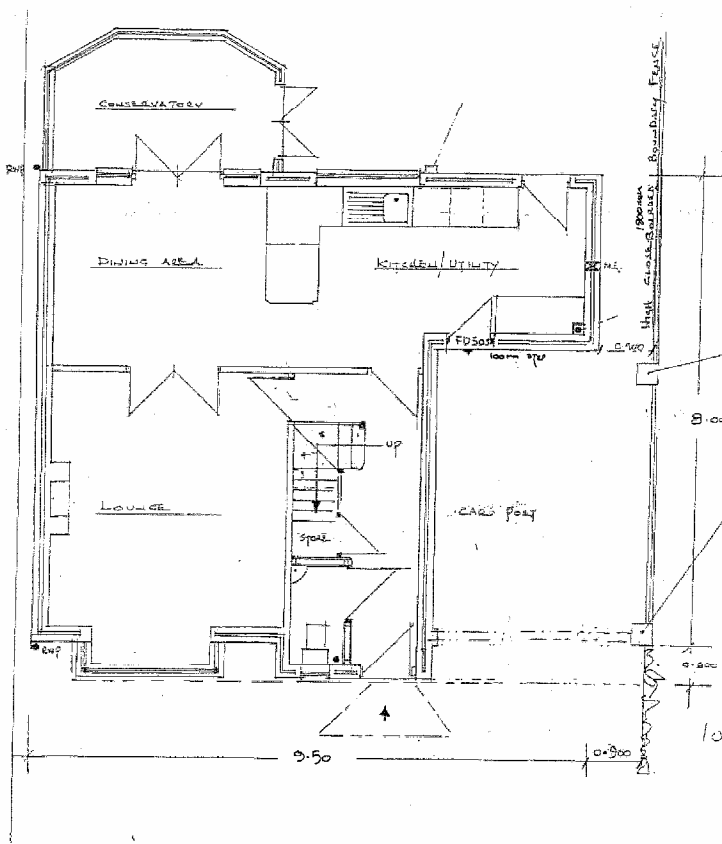
A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.



APPENDIX B – 2006 Approved plans al for the dwelling land adj to 204
Coventry Road



2006 / 0724



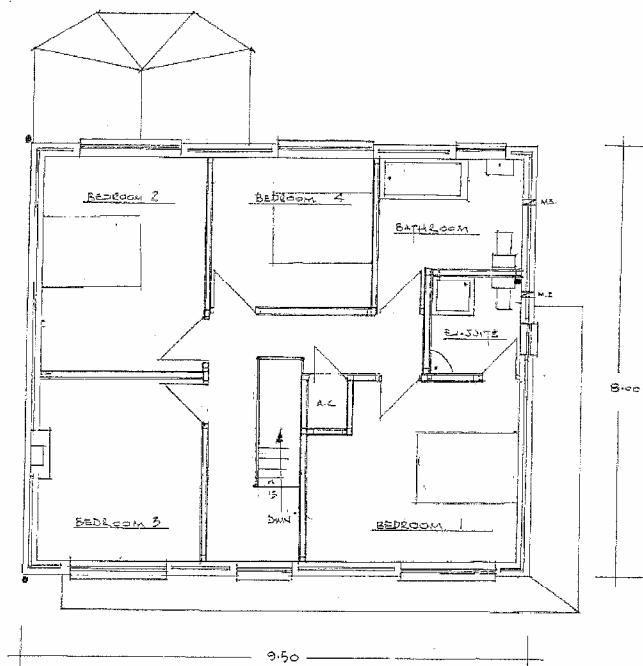
Spineless Plans

PROPOSED GROUND FLOOR PLAN (1:50)

E.A. 69m² (EXCLUDES CONSERVATORY)

RECEIVED
North Warwickshire
Borough Council
12 DEC 2008

2006 / 0724

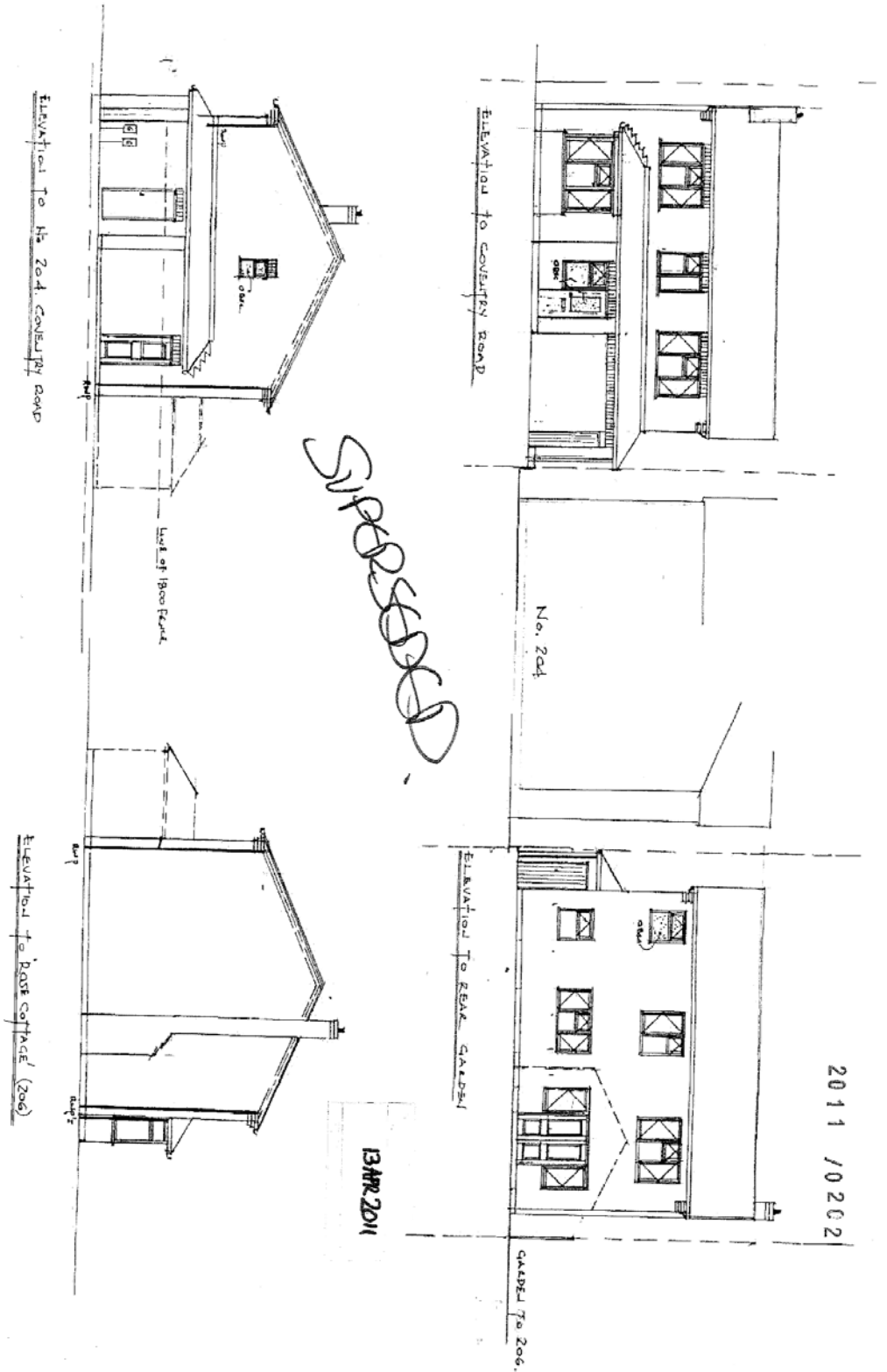


PROPOSED FIRST FLOOR (1:50)

E.A. 67.5m² (48sq)

RECEIVED
North Warwickshire
Borough Council
12 DEC 2008

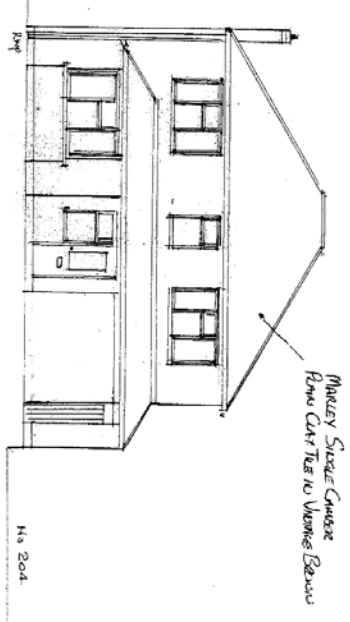
APPENDIX C – Initial submission to vary the 2006 approval



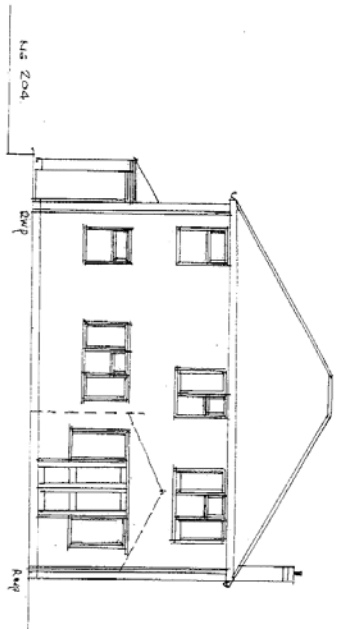
PROPOSED ELEVATIONS 1:100

APPENDIX D - Revised submission

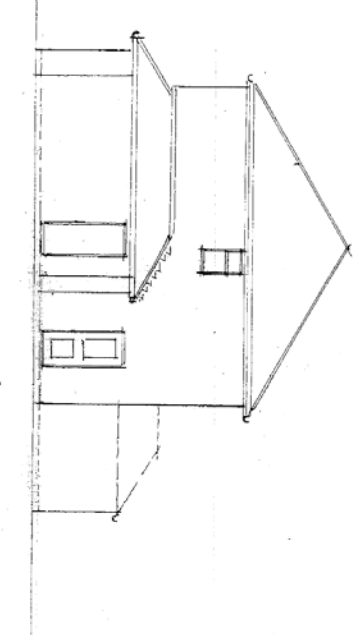
2011 / 0202



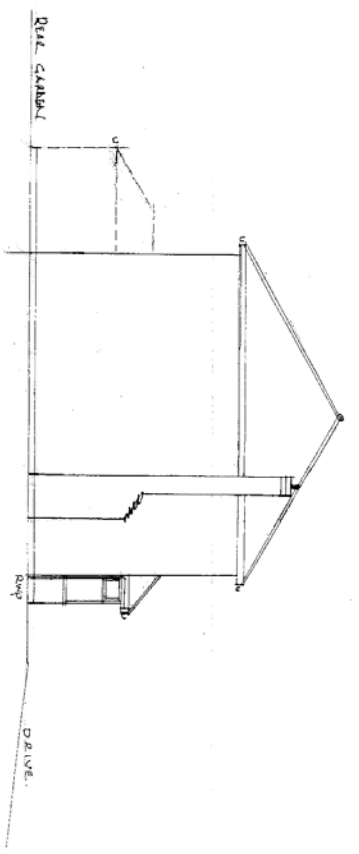
ELEVATION TO GAVENRY RD (1100)



ELEVATION TO REAR GARAGE (1100)



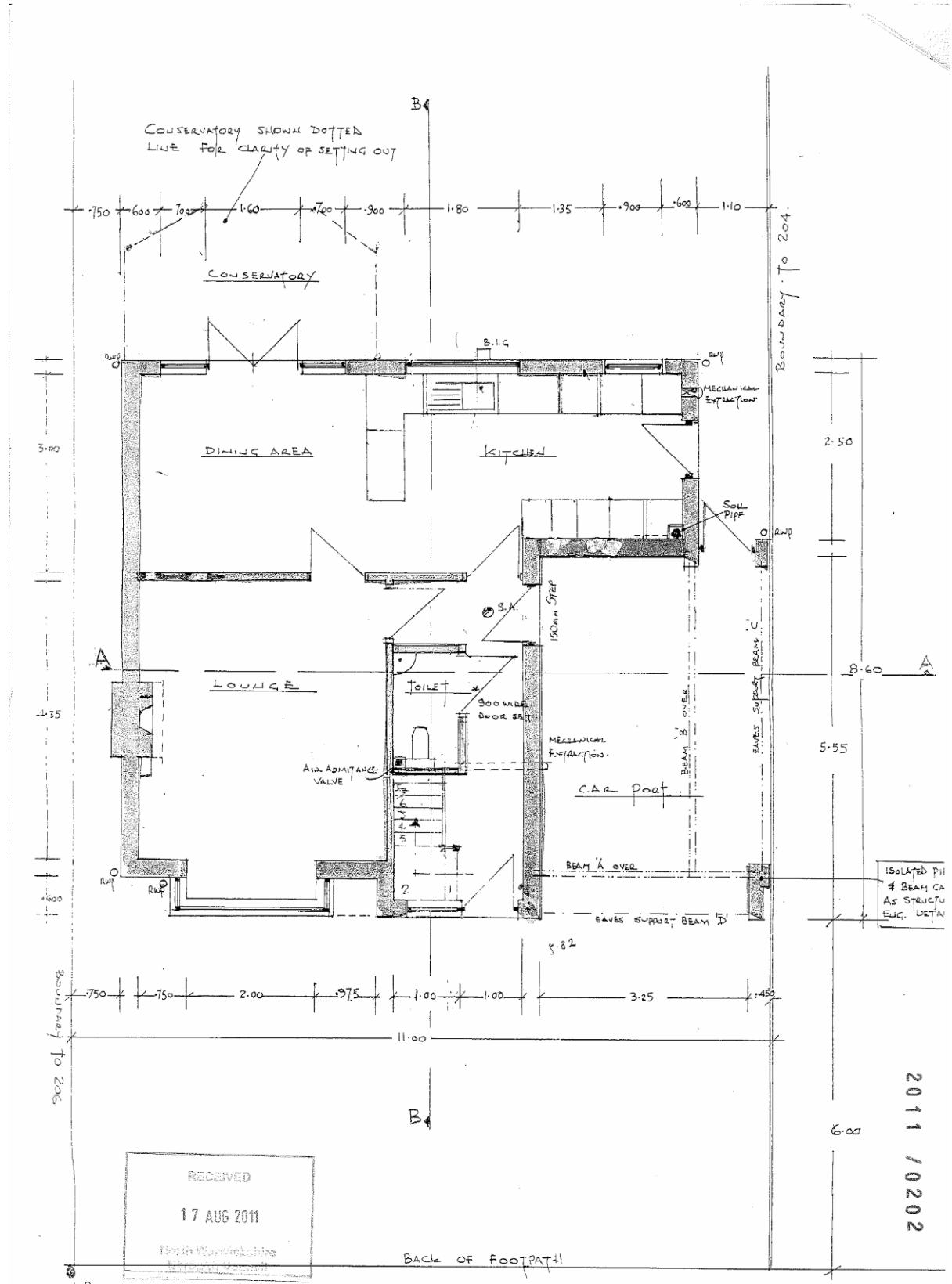
ELEVATION TO THE ZOD COURTYARD RD (1100)



ELEVATION TO 'LASE COURTYARD' (200) (1100)

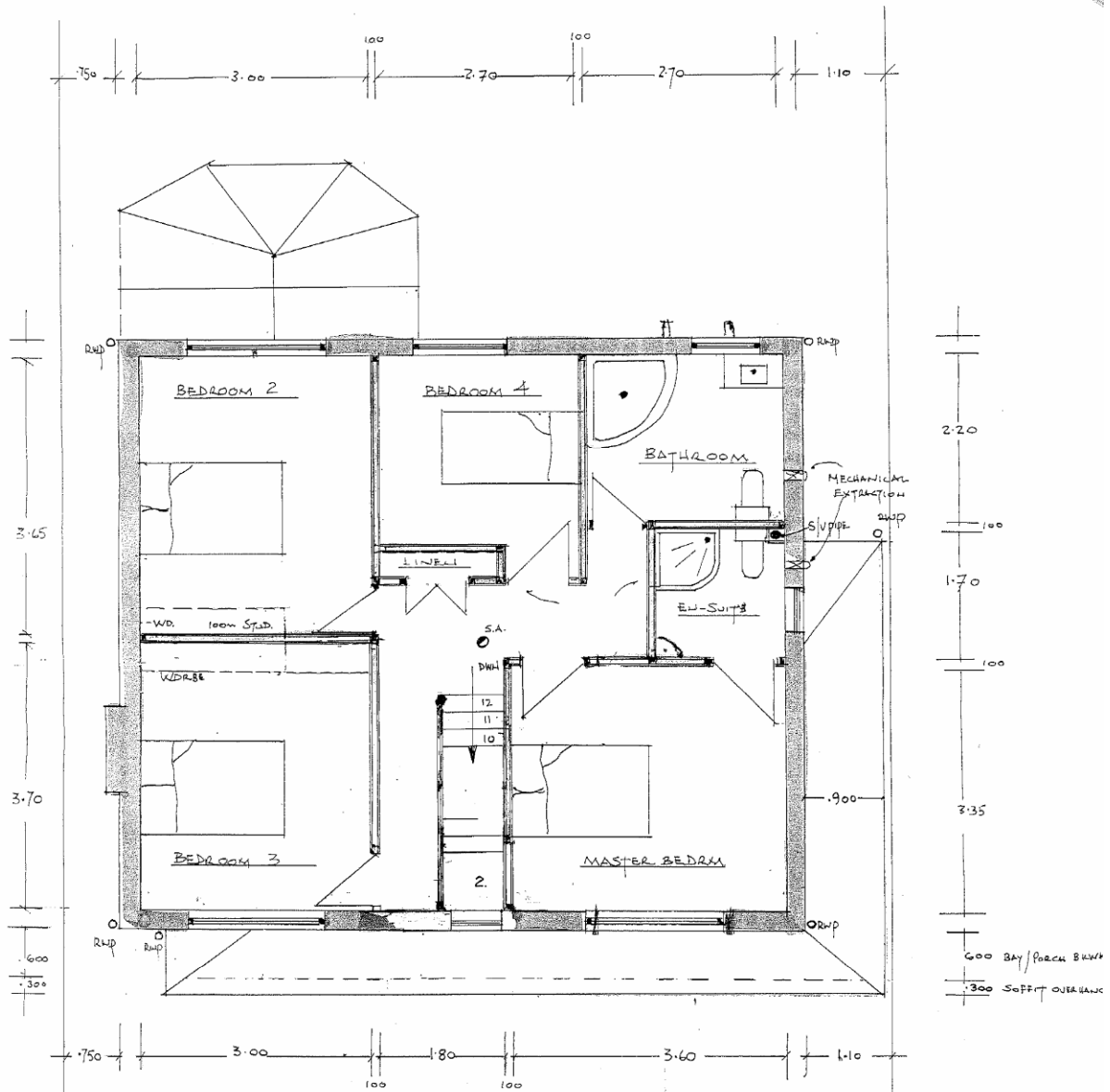
REVISED ELEVATIONS (HIPPED ROOF ALIGNMENT)

17 AUG 2011



RECEIVED
 17 AUG 2011
 North West Architects
 100-102 WINDYBUSH ROAD
 WINDYBUSH, DURBAN

PROPOSED GROUND FLOOR PLAN 1:50 REV A



RECEIVED
 17 AUG 2011
 North Warrumbidgee
 Shire Council

2011 / 0202

PROPOSED FIRST FLOOR PLAN 1:50

APPENDIX E – Photographs of the site





(3) Application No: PAP/2011/0286

Grendon Fields Farm, Warton Lane, Grendon

Erection of 1 No. wind turbine and associated equipment,

for Mr Timothy Thirlby

Introduction

This application is reported to Board given the sensitivity of the proposal and representations received to date. This report follows an interim report presented to Board in August (Appendix A) and subsequent tour of the area and site visit by Members.

The Site

The proposed siting is to the rear of the farm upon a slight rise from the valley bottom, which carries the River Anker. It is open to aspects in nearly all directions, with a small wooded area to the north-west obscuring views somewhat. The surrounding land is primarily in agricultural use, with arable fields and pasture along the valley although there are some urban influences within the area. The Coventry Canal also passes along the valley, with the West Coast Mainline and A5 beyond this. There are public footpaths and bridleways which offer aspects of the site, although these are either at some distance, or pass to the north through the farm itself.

The nearest clusters of residential properties off the farm are to the north-west, beyond the woodland, in the historic settlement of Grendon; and to the south-west in the more recent parts of Grendon (along the A5) and Baddesley Ensor – the latter of which offers elevated views across the valley towards the site. There are further isolated properties around the area, and dwellings to the north-west edge of Atherstone also have some aspects.

The Proposal

It is intended to erect one 46m to tip (36m to hub) wind turbine and associated monitoring/control equipment. The turbine will primarily provide for the needs of the farm holding, which has a high demand given the livestock buildings and equestrian business, before feeding surplus electricity into the national grid.

Background

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 1999. Whilst the proposal is classed as development under paragraph 3(i) of Schedule 2 to the Regulations it has been concluded that due to the lesser scale of this wind turbine (compared to full scale wind farms), the significant distance to residential receptors, a lack of statutory and local constraints

in respect of ecology, heritage, aviation and land designations, and the presence of adequate statements and information to address any residual environmental concerns; that the development is not considered to be EIA development such that the submission of an Environmental Statement is not required.

Development Plan

North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), Core Policy 3 (Natural and Historic Environment), Core Policy 11 (Quality of Development), ENV1 (Protection and Enhancement of Natural Landscape), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV9 (Air Quality), ENV10 (Energy Generation and Energy Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV16 (Listed Buildings, Non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance (including Scheduled Ancient Monuments) and TPT1 (Transport Considerations In New Development).

West Midlands Regional Spatial Strategy (Phase 1 Revisions January 2008): POLICY EN1 (Energy Generation).

Other Relevant Material Considerations

Government Advice: PPS1 (Delivering Sustainable Development), Planning and Climate Change: A Supplement to PPS1, PPS22 (Renewable Energy), Planning for Renewable Energy – A Companion Guide to PPS22, Overarching National Policy Statement for Energy (EN-1), National Policy Statement for Renewable Energy Infrastructure (EN-3), The Assessment and Rating of Noise from Wind Farms (ETSU-R-97: September 1996) and National Planning Policy Framework (Draft – July 2011).

Consultations

A number of statutory consultees and qualified bodies have been approached. These include Ministry of Defence, Birmingham Airport, Coventry Airport, East Midlands Airport, Campaign for the Protection of Rural England (CPRE), Warwickshire Wildlife Trust, RSPB, NWBC Environmental Health, the Highways Agency and Warwickshire County Council Highways Authority, Grendon Parish Council and Sheepy Parish Council.

A total of 1163 notification letters were sent to properties in the surrounding area and across the border into Hinckley and Bosworth following the Case Officer establishing from where views of the proposal could be possible.

A site notice was erected at the access to the farm on 20 June 2011, which expired on 11 July 2011.

Local members of the Baddesley and Grendon, Dordon, Polesworth East and Atherstone North Wards, along with the Chair and Vice Chair of the Planning Board were notified of the application on 20 June 2011.

Representations

All three airports consulted raise no objection to the proposal with the turbine sitting outside of their safeguarding zones and hidden from radar by topography. The Ministry of Defence also raise no objection, subject to condition.

Warwickshire Wildlife Trust initially raised a holding objection to the proposal, commenting that the ecological work was lacking in respect of bat surveys. Since then, the applicant has commissioned further activity surveys which now satisfy their concerns, subject to conditions. The RSPB has provided no comment.

CPRE object to the proposal considering it to be incongruous and adding to built form in the landscape, as well as raising concern as to the risk of bat collision, disturbance to horses, and that the benefits are not proven to be so great to outweigh harm created.

The Council's Environmental Health officer has considered the noise assessment submitted. He raises no objection to the proposal, but in line with guidance requests a condition to require the shutdown and rectification of the problem if noise levels from the turbine are found to exceed 5dbA above background levels.

Both Baddesley Ensor and Grendon Parish Councils object, with some common and some independent issues raised. These question the scale of the proposal against the needs of the farm; the adequacy of the ecological survey, wind speed analysis and noise assessment; the visual impact; and that it could set precedent.

Warwickshire County Council Museum has considered the archaeological impact. They note the turbine and associated works lie in an area of significant potential and request a condition for investigation prior to works commencing.

Warwickshire County Council Highways Authority raises no objection to the proposal having reviewed the siting, the proposed construction traffic routing and access proposal. The Highways Agency also raises no objection.

The initial consultation period drew a total of 23 neighbour/business representations from 19 separate addresses. Subsequent re-consultations in respect of additional bat survey work, visualisations, energy demands of the farm and construction phase details have led to these objectors reasserting their comments. Whilst this represents just 0.01% of those consulted, in the majority those making representations live closest to the site. Issues raised focus on landscape and visual impacts, noise and amenity impacts, ecological impacts and the potential for setting a precedent. Further issues raised relate to interference to TV and radio signals, the need and viability of the turbine, highway safety and validity of the wind speed analysis.

Legal Requirements under the Habitats Directive

All EU protected species are listed in Annex IV(a) of the EU Habitats Directive. Article 12 of the Directive states:

"Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV(a) their natural range, prohibiting (a) all forms of deliberate capture or killing of specimens of these species in the wild [and] (b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration...."

Regard is also had to Regulation 9(5) of the Conservation of Habitats and Species Regulations 2010 which states:

"...a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions."

Drawing on the Supreme Court ruling on *Vivienne Morge v Hampshire County Council [2010] EWCA*, the key consideration is whether the proposal would result in a deliberate action. Whilst this ruling focussed on Article 12(b), it logically follows from the wording of both 12(a) and 12(b) that the principles apply to Article 12(a). The ruling concludes that a "deliberate" act is an intentional act knowing that it will or may have a particular consequence. It follows from this meaning that where an activity is judged *unlikely* to lead to harm to a protected species, then if harm does unexpectedly occur it is unlikely that it will have occurred "deliberately".

An overall ecological appraisal of the land around the turbine site is provided. This recognises the presence of protected species. Suitable mitigation can be provided for most protected species such as badgers, but there remained uncertainty in respect of bats. An initial bat survey addresses most of the concerns here, with most bat species observed following linear features (such as hedgerows). By locating the turbine at least 50 metres from linear features, in accordance with technical guidance from Natural England, there is suitable mitigation that the turbine is, on the balance of probability, *unlikely* to lead to harm to those species.

However, Noctule bats tend not to follow linear features making them more likely than their counterparts to collide with isolated structures. A further survey found that this species accounted for just 1% of all activity. This is in line with the low numbers found on previous surveys. The Supreme Court ruling found that each case has to be judged on its own merits, and a species by species approach is required. It also found that consideration should be given to the rarity and conservation status of the species; the impact on the local population of a particular protected species; and that individuals of rare species are more important to a local population than individuals of a more abundant species. Natural England guidance states that the level of survey work should be proportionate to the level of application. In this case, it would be unreasonable for the applicant to survey all potential habitats in the local area to ascertain what the local population for that species is. According to the Bat Conservation Trust's fact sheet for Noctule bats, the species is declining but widespread, and this decline is due to loss of habitat. Hence, the data at hand is considered adequate to enable a decision as to whether there is likely to be harm to this protected species. In this case, given the low proportion of overall Noctule bat activity, their ability to avoid the fixed turbine column, the low surface area and passive characteristics of the swept path, the habitat on site not being ideal for this

species, and that it is not a rare species; it is, on the balance of probability, *unlikely* that there would be harm to this species.

All bat survey work was undertaken in general conformity with the Bat Conservation Trust's 'Surveying for Onshore Wind Turbines', taking account of seasonal activity patterns and using a variety of survey techniques proportionate for a single wind turbine. There is no reason to doubt the integrity of the studies.

In light of the above, it is considered that there would be no deliberate act occurring if a bat fatality occurred in respect of the turbine. It is considered that the Council has satisfied its legal duty under Regulation 9(5) of the Conservation of Species and Habitats Regulations 2010.

Observations

The nature of this application requires a number of technical assessments, surveys and reports to be undertaken to inform the determination. Many of the representations received provide specific comments which can be grouped under headings. As such, the report is set out in a manner to consider these grouped impacts in turn.

a. Ecology (bats, wildfowl and other birds, badgers, reptiles, amphibians and other fauna, and bird strike risk)

Matters pertaining to bats and badgers have largely discussed above. In further respect of bats, guidance from Natural England advocates a separation of 50 metres between proposed turbines and linear features such as hedgerows. This is the same separation requested directly by Natural England on a recent application for a wind monitoring mast recent at Lea Marston, and Warwickshire Wildlife Trust requests the same here. In actual fact, a distance of 76 metres is achieved under this proposal, and can be conditionally controlled to ensure micro-siting does not undermine the necessary separation.

Four badger setts were identified within the survey area. Some exhibited signs of recent use. The largest sett is some 50 metres west of the proposed turbine, and no setts were found within 30 metres of the proposed cabling route. As badger tunnels can extend to 20 metres, and the intervening land is routinely farmed for arable purposes, there is not considered to be a risk here. The proposed construction route does not alter this either, although a mitigation strategy and method statement is advanced by the applicant in order to minimise any residual opportunity for conflict. Warwickshire Wildlife Trust recommends this is conditioned.

A single pond was identified some 370 metres to the north-west, but the likelihood of a Great Crested Newt habitat is low. In addition, no evidence of reptiles was found in the area, although the law requires a 'reasonable effort' to be made to ensure animals are not harmed. As such, it is recommended that a condition ensures appropriate investigation immediately prior to works commencing.

No evidence of breeding by protected bird species was found. This includes swans and some wildfowl. Statutory requirement for further survey work is therefore not required. Some UK Biodiversity Action Plan (BAP) species were found, including game birds and buzzards, but subject to appropriate control over the construction phase, their field boundary habitats remain unaffected.

In terms of bird strike, the likelihood of collision from smaller, game and prey birds is low due to their manner or altitude of flight. Consideration turns to wildfowl which tend to fly in formation and take longer to turn away from hazards. The Tame Valley is considered to be a regionally important migratory bird route for water fowl and is connected to the area via the River Anker. However, the Tame Valley is situated more than 5km from the turbine site and whilst some migratory activity may occur along the Anker, there is no evidence to suggest it forms part of the important migratory bird route. Migration routes for waterfowl are likely to be strongly correlated with river corridors and wetland habitats. In the possibility that migratory birds may cross the site, it is unlikely that a single wind turbine would significantly increase the risk of bird strike in this area. It should also be noted that none were observed on site.

b. Noise and vibration (mechanical noise, aerodynamic noise, and vibration)

Vibration is not considered to be of issue here given sufficient distance to residential receptors. Noise associated with wind turbines is two-fold – (1) the noise from the hub and gearbox (mechanical noise), and (2) the passing of the blades through the air (aerodynamic noise), including the ‘blade swish’ or Amplitude Modulation (AM) effects increasingly referred to in high profile cases.

A noise assessment is provided with the application. This was done in accordance with technical guidance ETSU-R-97 as outlined in PPS22. It is noted that this assessment has been undertaken on the basis of a worst case scenario, assuming no physical obstructions and the optimum conditions for noise propagation. The assessment demonstrates that neighbouring properties would not be unduly impacted by noise from the turbine, with predicted noise levels falling well short of the absolute limit set by ETSU-R-97, even on the farm itself. In further mitigation, it must be noted that the prevailing wind direction carries any noise away from the nearest receptors. The potential for AM effects is negligible given it is only a single turbine of medium scale, the need for particular wind conditions, and the distance to receptors.

The Environmental Health officer has considered the noise assessment and agrees with the findings. It is recommended that a condition limiting noise levels at receptors to 5dbA above background levels is attached, with the turbine capable of being shut down to allow relevant monitoring in light of a complaint.

Objections question why actual noise data could not be obtained from existing installations of this particular turbine elsewhere in the UK. However, to do so would provide a very subjective result, with differing background noise levels depending on the location and topography. The assessment provided is in line with government guidance and there is no reason to approach it in a different manner.

c. Visual and landscape impact

A number of visualisations have been provided with the application, and some of these are attached at Appendix B. It is clear that the proposal will be visible in the near to medium distance and from a number of locations. It must be remembered that the greater the distance from the turbine, the more it 'disappears' into the surrounding landscape, especially given the slim nature of its design and obstructions within that line of sight. Conversely, whilst more visible when closer, the angle of viewing means that it will be mostly seen against the predominant grey, white and pale blue of the sky. The visualisations demonstrate just this, with viewpoint 4 highlighting that at just 2.3 km distant it is difficult to pick out the turbine from surrounding features and the sky; and viewpoint 3 showing the turbine blending into the sky.

Members previously questioned the potential for colouring the turbine green to blend with surrounding vegetation, or for just the base to be treated in this manner before fading to the off-white which is proposed. It is not recommended this is pursued given the above comments and that it would make the turbine much more prominent where the impacts are readily felt (i.e. in close proximity). It is also apparent that the manufactured colour is fixed such that any treatment would be applied on site and thus without the same long term resistance. The assessment therefore continues on the basis of the colour remaining as proposed.

Officers have visited a multitude of locations in all directions from the site, including settlements to the north and viewpoints not provided by the applicant. Members have also visited the majority of key viewpoints. Views of the turbine from the north are virtually impossible. The significant distance to settlements in this direction, intervening topography and features, and the siting of the turbine on the valley slope means that, at best, only glimpses of the hub and blades are possible above the horizon when within a kilometre or so. Views from the west (Dordon) are also obstructed by intervening terrain and features meaning that views are limited to the immediate to near vicinity (i.e. around Spon Lane). This leaves views from the south and east. Views from these aspects are less obstructed at distance and views in close proximity are generally unobstructed. The elevated nature of the Merevale Estate and Baddesley Ensor permit clear views across the A5 and Anker valley to the site, and northern properties along the A5 corridor often have clear views across the valley floor.

Turning to the effect on landscape character, regard is had to the assessment provided. A key merit of this site is a lack of statutory designations – it is not within Green Belt, it is not a National Park or an Area of Outstanding Natural

Beauty. It is not within or on the fringe of a designated estate or other protected amenity. This is significant in assessing the level of harm arising from the proposal. In terms of defining landscape character, the site falls within the 'Mease/Sence Lowlands' at a national level (Natural England Character Map of England), and the 'Anker Valley' at a local level (The North Warwickshire Character Assessment 2010). The descriptions of both are broadly similar identifying limited tree cover, extensive areas of arable cultivation, and isolated farmsteads, dwellings and villages within a rolling landform of rounded hills and valleys. It must be noted that the West Coast Mainline passes along the valley, the Aldi distribution centre sits to the east, there is a ribbon of development along the A5, and Atherstone, Grendon and Baddesley Ensor provide further urban influences on views from within and across this area; as do the modern agricultural buildings at the farm and in the wider area.

In drawing landscape character considerations together, the context of the site and the extent of this scheme are material factors. The turbine, as noted, will 'disappear' into the landscape when viewed at distance such that it will not appear oppressive and dominant in the wider picture. In addition, Members will be aware that this area of North Warwickshire, whilst predominantly rural, has the urban influences mentioned alongside other strategic development such as Birch Coppice. These urban features already impact on the rural setting here and it is not considered that this proposal would undermine or change this character, with the turbine appearing as a component of the landscape. Indeed, it is only its height which raises its prominence.

At closer proximity, the focus moves towards visual amenity impacts as opposed to landscape character. There will be a more 'local' degradation of views. Whilst this will only be limited in width of sight (i.e. the turbine does not obstruct the views beyond and either side of it), the impact will be significant such that it would not harmonise with the immediate setting. However the context of this site must again be noted. There are no regional footpath routes passing close by, and whilst the Coventry canal offers views, these are limited to a short stretch of the waterway to the south-east before only perpendicular views are possible through gaps in the hedgerow bordering it. Beyond this, only a handful of properties within 1 km would have views of the upper part of the structure, and just four within 1 km would have an unobstructed view of the entire structure.

PPS22 states that the wider environmental and economic benefits of renewable energy proposals should be given significant weight. The benefits of the proposal must therefore be balanced against the harm. The adverse visual impact here is considered to be limited and subjective. This is established through the assessment above, and by the number of and spread of objections received suggesting the wider opinion is that this proposal is not of significant visual harm. Regard is also had to the fact that the lifespan on this turbine is limited (as outlined under (d) below).

Objections raise issue with the wider environmental and economic benefits as they consider the scheme will be benefit the applicant and it goes beyond what is necessary for the farm, all at the cost of adverse visual impacts to others. The companion guide to PPS1 confirms that the Council should not require the applicant to demonstrate the overall need for renewable energy, nor question the energy justification for this particular proposal. The draft NPPF echoes this and recognises that “*even small scale projects can provide a valuable contribute to cutting greenhouse gas emissions*”. Notwithstanding this, the applicant has provided a summary of the energy demands of the farm and equestrian businesses and the generation capabilities of the turbine and already approved solar photovoltaic array on one building.

The agricultural enterprise is focussed around goats milk. The milking process and hot water clean down occurs three times daily. The milk also needs to be refrigerated until collection, and there are other energy needs. The equestrian enterprise requires lighting and heating in the stables and covered riding area – more so during the winter. The 3 years prior to June 2011 showed a consumption of 147,600kWh per annum. The turbine model proposed will generate anywhere between 40,000kWh and 270,000kWh per annum depending on average wind speed. The Council’s Renewable and Low Carbon Energy Resource Assessment 2010 demonstrates this location has an average wind speed of less than 6 metres per second. This places *maximum* energy generation per annum at under 168,000kWh – with the actual figure most likely to be around the 135,000kWh projected by the applicant. The solar photovoltaic array generates only 40,000kWh per annum. Hence, either solution alone would not meet current energy needs at the site. The combined solution would not only address this but have a wider benefit of producing green energy for at least a further 5 to 6 homes in North Warwickshire and reducing the carbon footprint for the Borough. It also means that the farm has a zero demand on the National Grid, enhancing the benefits to the wider environment. The farm would also be able to offset its running costs and keep prices low to remain competitive.

It is clear that there are wider environmental and economic benefits resulting from this proposal, and it is considered these are sufficient to outweigh the visual harm caused in immediate vicinity.

d. Construction/decommissioning impacts (highway routing, cabling, temporary works and archaeology)

The turbine is manufactured abroad and will be shipped to Liverpool Freeport. The route will then cover the M58 and M6, before joining the A5 at junction 12 of the M6. The route will leave the A5 at the B4116 (Holly Lane) before passing along the B5000 to the site. Three articulated lorries will be required, providing the hub, blades and tower respectively. Further trips are envisaged for construction staff and delivery of concrete for the foundations, although these will be limited and in line with general highway traffic in the area.

The blades will be the longest part to be delivered, being 10 metres in length each. This will mean that all components will be carried within the sweep of

the turning lorries such that there is no requirement for modifications to the access or highway along the above route. In addition, no weight restrictions have been identified, including the listed Fieldon Bridge. Once on the farm, the vehicles will pass around the northern and eastern edges along existing tracks, with temporary sheeting used if the ground conditions are soft. The Highways Agency and Highway Authority raise no objections to the proposed routing plan.

The construction phase will be a maximum of eight weeks, half of which will likely be downtime due to the setting of the concrete foundation. The erection of the turbine will take around 3 days. Temporary compounds can be appropriately sited either on the farmyard or in a suitable position, and the cable routing will run along an existing track before cutting across fields to an existing transformer at the farm. Both of these elements are not considered to pose a risk to badger setts identified in the ecological report, will not sterilise agricultural land, and subject to appropriate investigation will not cause harm to archaeological interests.

The projected lifespan for this turbine is around 30 years. This is an important reminder that the development is only temporary and there will be decommissioning impacts. As it is not possible to project what ecological, highway and physical changes may occur around the site in that period, a condition to ensure prior submission of decommissioning detail is also necessary. A temporary permission is appropriate to ensure that any replacement, if at all, is considered appropriately.

e. Safety impacts (equestrian impacts, icing, highway safety, blade shatter and shadow flicker)

The British Horse Society suggests a 200 metre exclusion zone around bridle paths to avoid wind turbines frightening horses. It must be noted that this is not a statutory requirement. The nearest bridle path is around 800 metres distant, to the south-west. The nearest paddock is just 90 metres to the north, but any horses here are free to move at least a further 100 metres away if upset by the turbine's movement. The ménage and stables of the equestrian centre are between 240 and 300 metres distant. Despite comments from CPRE, there is not considered to be an adverse impact in this respect.

The Highway Authority has considered the impact of the turbine on highway safety. The turbine does not lie in a direct sight line from nearby highway, and is sufficiently distant from the B5000. It is also noted that turbines are no longer an unfamiliar sight. In addition, the risk of ice being cast from the blades towards the highway is unlikely and in any case there is sufficient separation here. The safe falling distance expected is the height of the turbine plus 10%, and this is easily achieved.

Consideration is also given to potential for shadow flicker to residential properties (created by passing of the blades across direct sunlight). However, there are a number of significant variations in determining the likelihood of

this occurring, and in the absence of a dwelling within 10 rotor diameters (200 metres) an assessment is not required.

f. Heritage

The site is unconstrained by heritage features such as listed buildings or ancient monuments. Archaeological concerns are addressed by condition. Objections do question the impact on the setting of the Grendon Bridge, Church of All Saints and Croft House. It may be possible to obtain glimpses of the turbine from these locations, but they will sit between 0.7 and 1.3km distant, at a lower level and beyond mature tree screening in the immediate vicinity of those interests. The Pinwall Moat to the north-east is subjected to similar aspects. The setting of these interests is not considered to be harmed.

g. Civil and military aviation

The Ministry of Defence, along with Coventry, Birmingham and East Midlands Airports, have been consulted. All raise no objection with the turbine sitting outside of safeguarded areas and outside of radar coverage given existing topography, although the MoD request conditions to inform them of construction dates and heights of construction equipment.

h. Electromagnetic interference (television, radio and communications)

The Midlands has recently transferred from analogue to digital transmission of television programming. Digital signals are not affected by electromagnetic interference. Radio signals are also less susceptible to interference, and in any case there is a move towards digital here anyway. It is also understood there are no direct communications links crossing the site.

In summary, it is considered there are no adverse impacts in respect of noise, ecology, highway safety, aviation and visual amenity, with the wider benefits to the environment and economy considered to outweigh any harm which cannot be mitigated.

Precedent

There is some concern from objectors that this proposal could set a precedent for others to submit similar applications, with one objection suggesting this would occur in the immediate locality. However, the Council is unaware of any such proposals and in any case PPS22 directs that planning authorities should have regard to the cumulative effect of wind turbines when determining applications.

Human Rights Implications

One objection cites the proposal would contravene their human rights in respect of Article 1 of Part II (Protection of Property). Whilst this states that they are entitled to the peaceful enjoyment of their property, it also states that they may be deprived of those possessions in the public interest. Here the occupant would not be deprived of their property per se, but they claim they would lose their peaceful enjoyment of it.

However, the above assessment clearly outlines the wider benefits of the proposal and this is considered to be in the wider public interest by way of reducing carbon dioxide emissions. It is not considered that this proposal would contravene human rights.

Wind Turbines (Minimum Distances from Residential Premises) Bill

Objections make reference to this Bill. It is noted that its contents would preclude this proposal from going ahead given it is within 1000 metres of a residential premises. It is also noted that it has taken 11 months to achieve its second reading in the House of Lords, is yet to go before committee before its third reading, and is yet to be passed through the House of Commons. There is no certainty that the Bill will become legislation without amendment, if at all. Even then, at the current time it is not legislation and a refusal on this basis would be unsound leaving the decision open to judicial review.

Recommendation

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

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

REASON

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

2. The turbine hereby approved shall be removed on or before 30 years from the date which the turbine is first used for electricity generation purposes or it ceases to be used for electricity generation purposes, whichever is sooner; with the blades, hub, tower, foundations and associated equipment removed and the ground restored to its former condition unless otherwise agreed in writing by the Local Planning Authority. The date which the turbine is first used for electricity generation purposes shall be confirmed in writing to the Local Planning Authority within 2 weeks of that date.

REASON

In recognition of the limited life expectancy of the development hereby approved, and to ensure that the use does not become permanently established on the site.

3. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered T45.1-102, R028-11-08 Rev B, EWP50_F_001 Rev D and EWP50_F_002 Rev C received by the Local Planning Authority on 1 June 2011; the Badger Mitigation Strategy and Method Statement detailed in Appendix 3 of the Ecological Appraisal by Scarborough Nixon Associates received by the Local Planning Authority on 1 June 2011; and the routing and access schedule outlined at para 1.13 of the Additional Supporting Statement, and supporting routing and cabling plan numbered T45.1-104 both received by the Local Planning Authority on 10 August 2011. The turbine shall be an Endurance E3120 50kW model in RAL9003 (signal white) and RAL9016 (traffic white), with hub height of 36.4m and maximum blade height of 46.0m, and permanently maintained in accordance with these approved details and plans.

REASON

To ensure that the development is carried out strictly in accordance with the approved plans; to ensure that the ecological, noise and visual impacts of the turbine do not vary during the lifetime of the turbine; to ensure that there is no detrimental impact to highway safety; and to accord with the provisions of the Protection of Badgers Act 1992.

4. Prior to the decommissioning of the turbine, details of the routing and access, manner of dismantling and disposal of materials (accounting for ecological, highway, safety and amenity impacts relevant to the date of decommissioning) shall be submitted to and approved in writing by the Local Planning Authority. Decommissioning shall then be carried out in accordance with these approved details.

REASON

To ensure the highway, ecological, noise and aviation safety impacts can be properly assessed in the context of the area at the time of decommissioning.

5. The proposed turbine should be sited at least 50 metres away from the nearest linear feature used by bats, such as the hedgerows. In accordance with Natural England's Technical Information Note (TIN) 051, the 50 metres distance should be measured from the nearest tip of the turbine blade.

REASON

To avoid impacts on key foraging routes of a European Protected Species.

6. Any noise generated by the wind turbine should be no more than 5dBA above background noise levels (LA90, 10 min) when measured within the residential curtilage of any residential receptors. During any measurements taken by the Local Planning Authority the operator will be required to manually shutdown the wind turbine so that the operating and background noise levels can be compared. If the noise from the wind turbine is found to be greater than 5dBA above background noise levels at one or more affected properties, the turbine shall be shutdown immediately and remain shutdown until the issue is resolved. The written approval of any corrective or mitigatory measures shall be necessary from the Local Planning Authority, and such measures shall be installed/implemented prior to the turbine being brought back into use and thereafter permanently maintained as approved.

REASON

To protect the amenities of nearby residential property.

7. Prior to commencement of development, the applicant shall notify the Ministry of Defence Safeguarding Team of the date of commencement of works, the intended duration of works, the maximum height of construction equipment, and the exact latitude and longitude of the turbine. This notification shall also be copied to the Local Planning Authority.

REASON

In the interests of air traffic safety and civil defence.

8. Prior to the commencement of development, a destructive search for reptiles of the site and surrounding areas used for construction and access shall be undertaken by a qualified ecologist.

REASON

In order to minimise the risk of harm to reptiles.

9. No development shall take place within the area indicated on the approved plan until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority.

REASON

To ensure the recording of any items of archaeological interest.

Notes

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies) - Core Policy 2

(Development Distribution), Core Policy 3 (Natural and Historic Environment), Core Policy 11 (Quality of Development), ENV1 (Protection and Enhancement of Natural Landscape), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV9 (Air Quality), ENV10 (Energy Generation and Energy Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV16 (Listed Buildings, Non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance (including Scheduled Ancient Monuments) and TPT1 (Transport Considerations In New Development); West Midlands Regional Spatial Strategy (Phase 1 Revisions January 2008): POLICY EN1 (Energy Generation).

2. Public footpath number AE31 passes close to the site. Care should be taken, particularly during construction works, to ensure that this route is kept open at all times.

Justification

The proposal conflicts with saved policy ENV12 of the North Warwickshire Local Plan 2006. However, the wider environmental and economic benefits arising from the development are considered sufficient to outweigh the visual harm caused in immediate vicinity. Otherwise the proposal is not considered to bring harm to landscape character, with the turbine forming a component of the existing landscape and sits within the context of a rural landscape interrupted by some urban influences. Risk to protected and other species is either negligible or suitably controlled by condition such that, on the balance of probability, harm is not considered to be likely; highway safety impacts are considered satisfactory or suitably controlled by way of condition; construction and decommissioning impacts are considered acceptable subject to conditions; and noise concerns are not considered to be of issue given the qualified assessment of likely impacts and ability to limit the use of the turbine if noise is found to exceed recommended levels. Matters relating to the impact on the setting of heritage assets, aviation and safety implications, and interference with electromagnetic signals are all considered acceptable. The proposal is therefore in accordance with saved policies Core Policy 2, Core Policy 3, Core Policy 11, ENV1, ENV3, ENV4, ENV6, ENV8, ENV9, ENV10, ENV11, ENV16 and TPT1 of the North Warwickshire Local Plan 2006; the West Midlands Regional Spatial Strategy (Phase 1 Revisions January 2008): POLICY EN1; National Planning Policy Guidance: PPS1, Planning and Climate Change: A Supplement to PPS1, PPS22, Planning for Renewable Energy - A Companion Guide to PPS22, the Overarching National Policy Statement for Energy (EN-1), the National Policy Statement for Renewable Energy Infrastructure (EN-3) and draft National Planning Policy Framework (July 2011); and Technical Guidance: The Assessment and Rating of Noise from Wind Farms (ETSU-R-97: September 1996). There are no other material considerations that indicate against the proposal; and there is not considered to be conflict with Article 12 of the EU Habitats Directive, nor Article 1 of Part II of the Human Rights Act 1998.

BACKGROUND PAPERS

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

Planning Application No: PAP/2011/0286

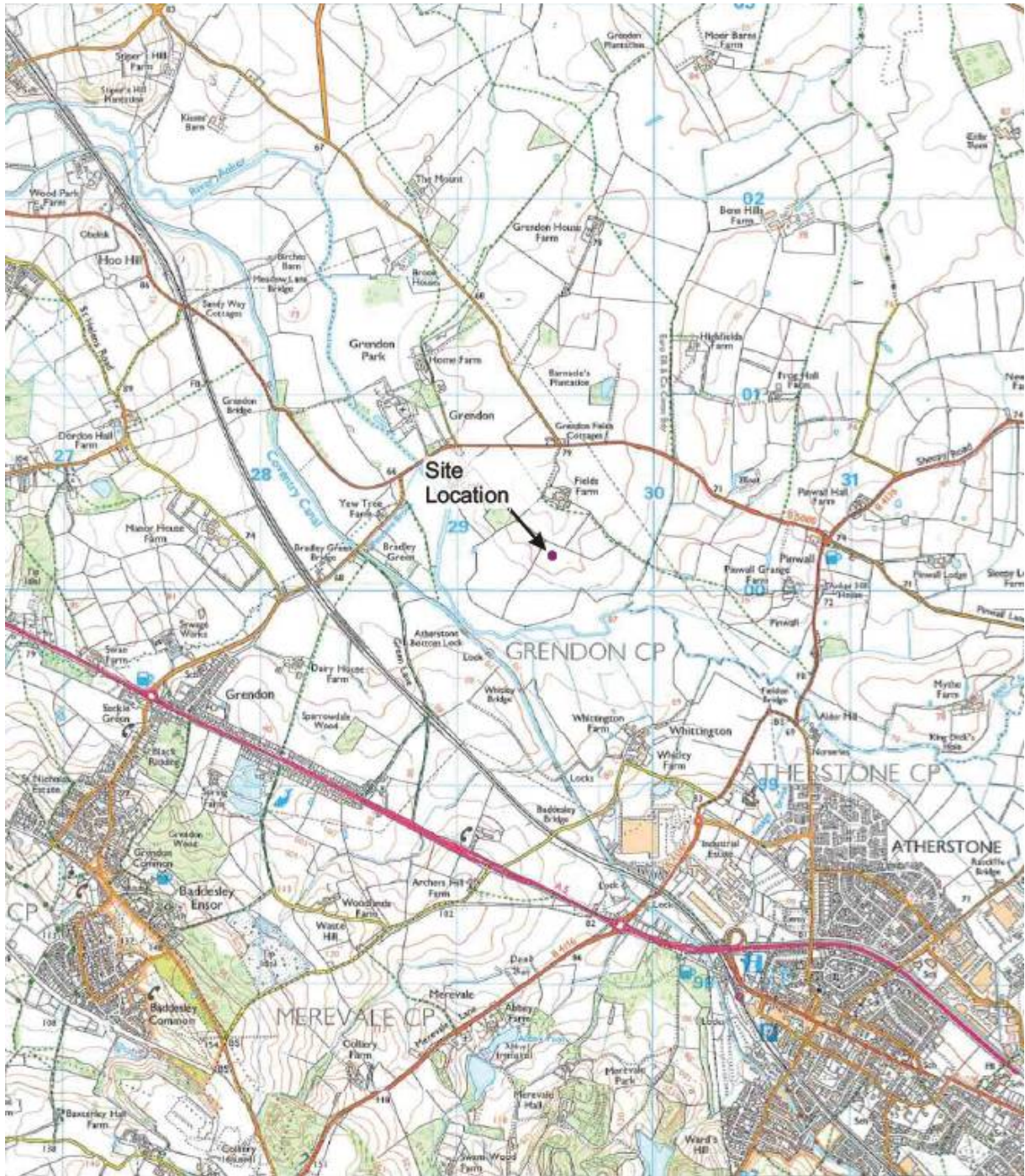
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Supporting Documentation and Reports, Plans and Visualisations	1, 8 and 16 Jun, 8, 19 and 21 Jul, 10 Aug 2011
2	Coventry Airport	Consultation reply	8 Jun 2011
3	257 Watling Street	Representation	15 Jun 2011
4	East Midlands Airport	Consultation reply	17 Jun 2011
5	Bradley Green Cottage	Representation	18 Jun, 11 Jul and 17 Sep 2011
6	The Foalyard	Representation (x4)	20 Jun and 24 Jul 2011, 30 Sep 2011, 1 Oct 2011
7	Case Officer	Notification to Members	20 Jun 2011
8	Croft House	Representation	20 Jun 2011
9	Yew Tree Farm Cottage	Representation	21 Jun, 17 Aug and 27 Sep 2011
10	Case Officer	Email to Agent (x2)	21 Jun 2011
11	Agent	Email to Case Officer	21 Jun 2011
12	Bradley Green House	Representation (x2)	23 Jun, 8 Jul, 13 and 24 Aug 2011
13	Brindley Twist Tafft & James Solicitors	Representation	23 Jun, 23 and 25 Aug 2011
14	CPRE	Consultation reply	23 Jun 2011
15	Case Officer	Letter to Agent	24 Jun 2011
16	Warwickshire Wildlife Trust	Consultation reply	24 Jun, 19 Aug and 21 Sep 2011, 3 Oct 2011
17	Birmingham Airport	Consultation reply	27 Jun 2011
18	Case Officer	Email to Agent (x2)	27 Jun 2011
19	Agent	Email to Case Officer	27 Jun 2011
20	Head of Development Control	Formal EIA Screening Opinion	27 Jun 2011
21	Alder Mill House	Notification of intended Representation	27 Jun 2011

22	Robert Jennings (PO Box 1, Atherstone)	Representation	28 Jun 2011
23	Case Officer	Email to Robert Jennings	28 Jun 2011
24	Agent	Email to Case Officer	28 Jun 2011
25	28 Manor Close	Representation	28 Jun 2011
26	35 Main Street, Orton	Representation	28 Jun 2011
27	Applicant's Ecologist	Email to Warwickshire Wildlife Trust	28 Jun 2011
28	Warwickshire Wildlife Trust	Email to Applicant's Ecologist	29 Jun 2011
29	107 Watling Street	Email to Case Officer (x3)	29 and 30 Jun 2011
30	Alder Mill House/Alder Mill Business Park	Representation	30 Jun 2011
31	Glebe House	Representation	1 Jul 2011
32	Cllr Sweet	Email to Case Officer	4 Jul 2011
33	NWBC Environmental Health Officer	Email to Case Officer (x6)	4, 8 and 11 Jul 2011
34	Case Officer	Email to NWBC Environmental Health Officer (x3)	4, 8 and 11 Jul 2011
35	Agent	Email to Case Officer	6 Jul 2011
36	150 Watling Street	Representation	6 Jul and 22 Aug 2011
37	Dukes Meadow	Representation	8 and 11 Jul, and 25 Aug 2011
38	1 Farm Lane	Representation	9 Jul 2011
39	The Orchards	Representation	11 Jul and 24 Aug 2011
40	Baddesley Ensor Parish Council	Consultation reply	11 Jul 2011
41	Grendon Parish Council	Consultation reply	24 Jul 2011
42	Ministry of Defence	Consultation reply	25 Jul and 15 Aug 2011
43	249a Watling Street	Representation (x2)	25 Jul 2011
44	5 Green Lane	Representation	25 Jul 2011
45	Case Officer	Email to Agent	28 Jul 2011
46	161 Watling Street	Representation	11 Aug 2011
47	The Smithy	Representation	11 Aug 2011
48	Agent	Email to Case Officer	12 Aug 2011
49	Warwickshire Museum	Consultation reply	12 Aug 2011
50	Warwickshire County Council Highways Authority	Consultation reply	17 Aug 2011
51	Agent	Email to Case Officer	17 Aug 2011
52	The Old Rectory	Representation	18 Aug 2011
53	Highways Agency	Consultation reply	24 Aug and 5

			Sep 2011
54	Agent	Email to Highways Agency (x2)	25 Aug 2011
55	Head of Development Control	Summary of Members site visit	6 Sep 2011
56	Agent	E-mail to Case Officer	39 Sep 2011

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.

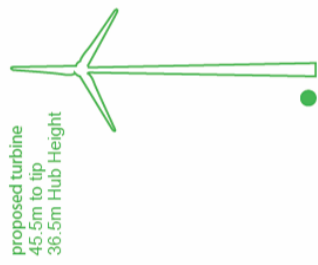
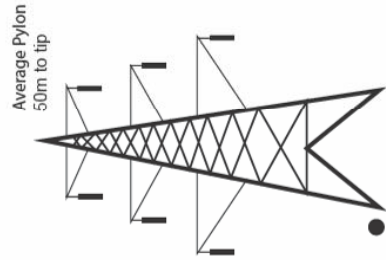
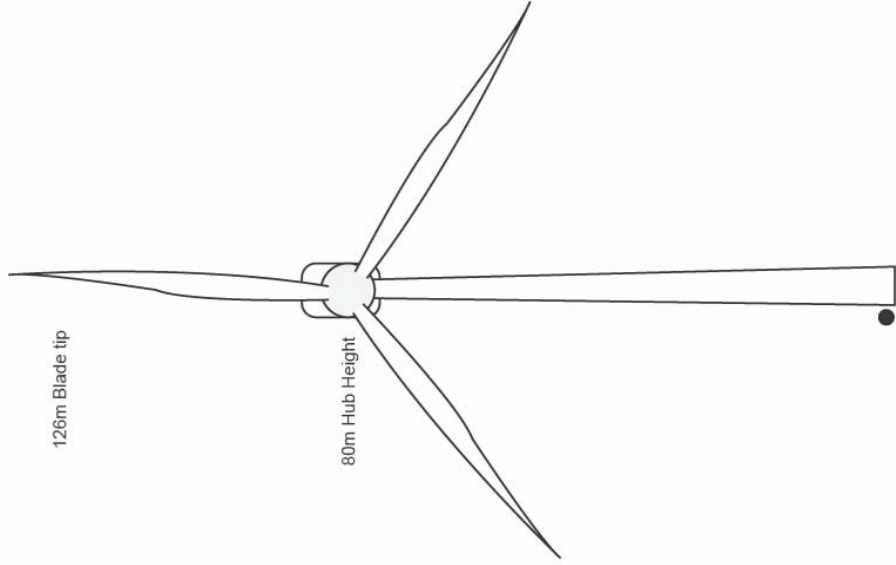
A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

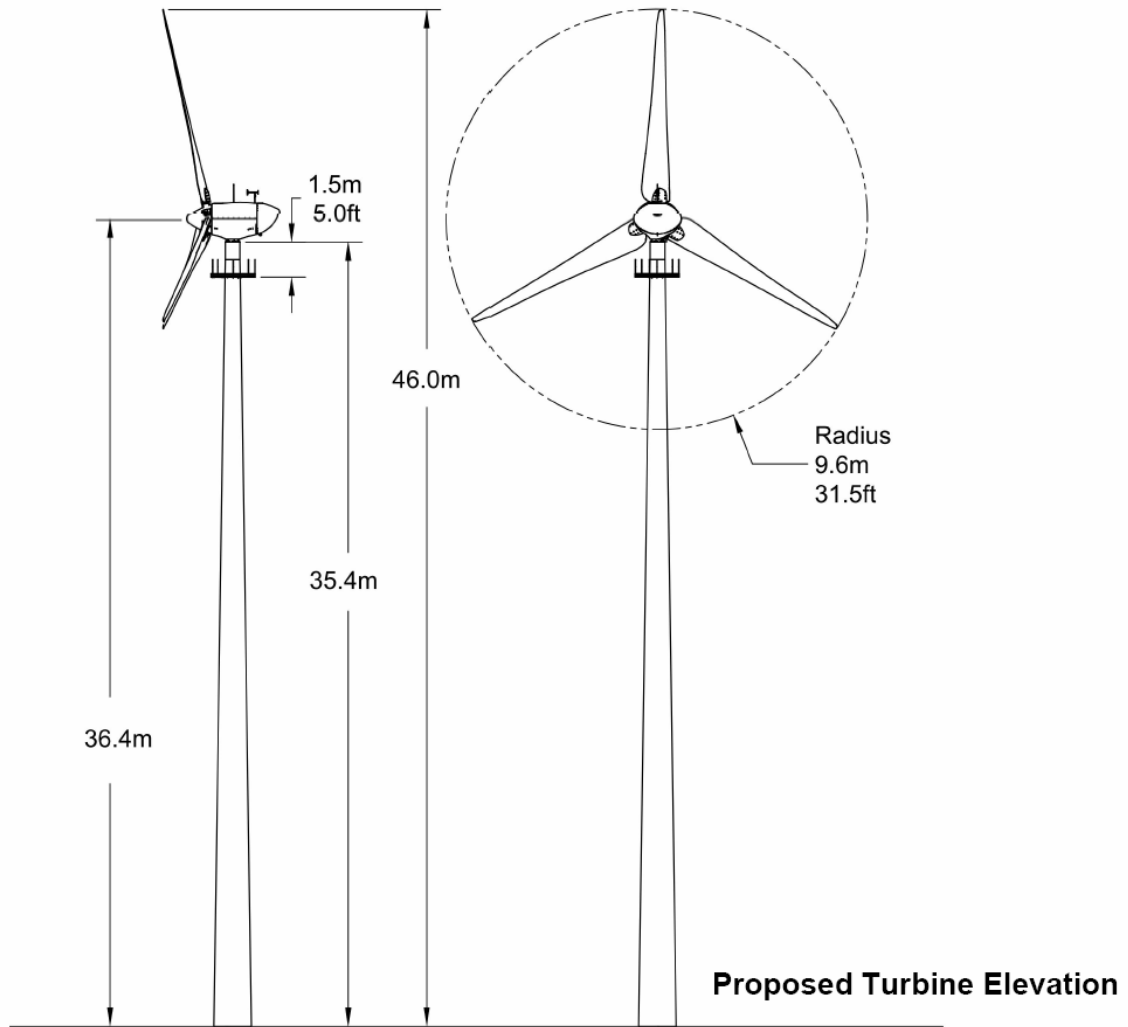


2011/0286



NORTH WARWICKSHIRE BOROUGH COUNCIL
RECEIVED 21-Jun-11
PLANNING & DEVELOPMENT DIVISION





General Development Applications

(5) Application No: PAP/2011/0286

Grendon Fields Farm, Warton Lane, Grendon

Erection of 1 No. wind turbine and associated equipment,

for Mr Timothy Thirlby

Introduction

This application is reported to Board given the sensitivity of the proposal and representations received to date. This report is intended as an interim report only, as the consultation period is presently continuing and a formal assessment of the proposal underway.

The Site

The proposed siting is to the rear of the farm upon a slight rise from the valley bottom, which carries the River Anker. It is open to aspects in nearly all directions, with a small wooded area to the north-west obscuring views somewhat. The surrounding land is primarily in agricultural use, with arable fields and pasture along the valley. The Coventry Canal also passes along the valley, with the West Coast Mainline and A5 beyond this. There are public footpaths and bridleways which offer aspects of the site, although these are either at some distance, or pass to the north through the farm itself.

The nearest clusters of residential properties off the farm are to the north-west, beyond the woodland, in the historic settlement of Grendon; and to the south-west in the more recent parts of Grendon (along the A5) and Baddesley Ensor – the latter of which offers elevated views across the valley towards the site. There are further isolated properties around the area, and dwellings to the north-west edge of Atherstone also have some aspects.

The Proposal

It is intended to erect one 46m to tip (36m to hub) wind turbine and associated monitoring/control equipment. The turbine will primarily provide for the needs of the farm holding, which has a high demand given the livestock buildings and equestrian business, before feeding surplus electricity into the national grid.

Background

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 1999. Whilst the proposal is classed as development under paragraph 3(i) of Schedule 2 to the Regulations, it has been concluded that due to the lesser scale of this wind turbine (compared to full scale wind farms); the significant distance to residential receptors; a lack of statutory and local constraints in respect of ecology, heritage, aviation and land designations; and the presence of

adequate statements and information to address any residual environmental concerns, that the development is not considered to be EIA development such that the submission of an Environmental Statement is not required.

Development Plan

North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), Core Policy 3 (Natural and Historic Environment), Core Policy 11 (Quality of Development), ENV1 (Protection and Enhancement of Natural Landscape), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV9 (Air Quality), ENV10 (Energy Generation and Energy Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV16 (Listed Buildings, Non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance (including Scheduled Ancient Monuments) and TPT1 (Transport Considerations In New Development).

West Midlands Regional Spatial Strategy (Phase 1 Revisions January 2008): POLICY EN1 (Energy Generation)

Other Relevant Material Considerations

Government Advice: PPS22 (Renewable Energy), Planning for Renewable Energy – A Companion Guide to PPS22, Overarching National Policy Statement for Energy (EN-1), National Policy Statement for Renewable Energy Infrastructure (EN-3), The Assessment and Rating of Noise from Wind Farms (ETSU-R-97: September 1996).

Consultations

A number of statutory consultees and qualified bodies have been approached. These include Ministry of Defence, Birmingham Airport, Coventry Airport, East Midlands Airport, Campaign for the Protection of Rural England (CPRE), Warwickshire Wildlife Trust, RSPB, NWBC Environmental Health, Grendon Parish Council and Sheepy Parish Council.

A total of 1163 notification letters were sent to properties in the surrounding area and across the border into Hinckley and Bosworth following the Case Officer establishing from where views of the proposal could be possible.

A site notice was erected at the access to the farm on 20 June 2011, which expired on 11 July 2011.

Local members of the Baddesley and Grendon, Dordon, Polesworth East and Atherstone North Wards, along with the Chair and Vice Chair of the Planning Board were notified of the application on 20 June 2011.

Representations

All three airports consulted raise no objection to the proposal with the turbine sitting outside of their safeguarding zones and hidden from radar by topography. The Ministry of Defence also raise no objection, subject to condition and informatives.

Warwickshire Wildlife Trust has raised a holding objection to the proposal, commenting that the ecological work was lacking in respect of bat surveys. Since then, the applicant has commissioned further activity surveys and at the time of writing this detail is with the Trust for consideration. RSPB have provided no comment.

CPRE object to the proposal considering it to be incongruous and adding to built form in the landscape, as well as raising concern as to the risk of bat collision, disturbance to horses, and that the benefits are not proven to be so great to outweigh harm created.

The Council's Environmental Health officer has considered the noise assessment submitted. He raises no objection to the proposal, but in line with guidance requests a condition to require the shutdown and rectification of the problem if noise levels from the turbine are found to exceed 5dbA above background levels.

Both Baddesley Ensor and Grendon Parish Councils object, with common and independent issues raised. These question the scale of the proposal against the needs of the farm; the adequacy of the ecological survey, wind speed analysis and noise assessment; the visual impact; and that it could set precedent;

At the time of writing, the main consultation period has ended and a total of 21 neighbour/business representations have been received from 16 separate addresses. Whilst this represents just 0.01% of those consulted, in the majority those making representations live closest to the site. Issues raised focus on landscape and visual impacts, noise and amenity impacts, ecological impacts and the potential for setting a precedent. Further issues raised relate to interference to TV and radio signals, the need and viability of the turbine, highway safety and validity of the wind speed analysis.

Observations

It is not intended to discuss the policy implications and merits of the application at this stage given the continuing work to overcome outstanding matters raised either by Warwickshire Wildlife Trust, the Case Officer or by the neighbour representations. Formal assessment of the application against Development Plan policy and material guidance, along with reference to representations made, is intended in time for presentation at the September Planning Board.

Notwithstanding this, the visual and landscape impacts can be considered at an early stage and without reference to technical reports or qualified opinion. Members should be aware of the visualisations and comparisons produced by the applicant, which are attached at Appendix A. The Board is therefore asked to consider whether a tour of the locale, visiting key vantage points, would be necessary and beneficial.

Recommendation

That the above report is noted, and the Board undertake a site visit prior to determination of this application.



View point 1: View of turbine from the junction of Waste Lane and Folly Lane, to the east of Baddesley Ensor



View point 3: View of turbine from Spon Lane, to the north of Bradley Green.



View point 4: View of turbine from junction of Sandy Way Lane and St Helena Road, to the north of Dordon Hall Farm



View point 5: View from The Common, Baddesley Ensor



View point 6: View from Merevale Lane, to the south of Colliery Farm



View point 8: View from Whittington Lane, adjacent to the bridge over the train line

(4) Application No's PAP/2011/0300 and PAP/2011/0313

Nethersole Centre, High Street, Polesworth, Tamworth

Residential conversion to four units and the creation of associated parking along with Listed Building Consent for the works

for Mr T Smith (Sibson Mill Properties)

Introduction

These applications are reported to the Planning and Development Board in light of the significance of the heritage asset and the approach to be taken.

The Site

The site consists of the main building on the corner of Station Street and High Street, Polesworth. The principle elevation faces onto High Street with further land to the east providing access and parking. The main building is known as the Nethersole Centre - a former early 19th Century school and Grade II listed building, the significance of which is explained later in this report. To the rear are further former school buildings facing onto a central courtyard, although these buildings and courtyard are now in residential use and under separate ownership. There is a pedestrian access splitting that ownership from the rear of the listed building. There is further land leading north from the parking and access, where the Scout Hut lies. This part of the site is excluded from this application. All land is within the Polesworth Conservation Area.

The Nethersole Centre was last used as a community facility particularly by the Parish Council. It has however been vacant for several years prior to the applicant purchasing it some twelve months ago.

The Proposal

It is intended to convert the building to provide four units of single bed room residential accommodation – two either side of a central entrance atrium which effectively divides the building into two spaces – one either side. The atrium originally extended up to the roof where there is a pronounced atrium and central cupola tower. The atrium however has been divided with the addition of a ground floor kitchen and a ceiling which extends over its full length. The proposals would open up this complete space through the removal of the modern kitchen insertion and the ceiling. The four units would be provided by subdividing each of the two spaces referred to above. The existing doors into these two spaces from the atrium would be used to gain access into two entrance lobbies. These would then give access to the four new units. These are created by a new wall running east to west along the central axis. Mezzanine floors would then “hang” from this central wall connecting to the gable ends. These floors would provide the bedroom and bathroom and be provided with a “modesty” wall. A stair would descend from the mezzanine to the ground floor close to the new entrance lobby. A suspended

concealed ceiling would be added in both sections. The new “hanging” floors would leave gaps between them and the front and rear elevations in order to retain the double height windows. The existing parking and access would be reconfigured and improved, with further works to boundary treatments and restoration of external features to the building.

These proposals are illustrated at Appendices A and B.

Background

Planning and Listed Building applications for largely the same proposals were received in August 2010. These were not validated as it was considered that they were incomplete. The applicant however lodged an appeal with the Planning Inspectorate on the grounds of non-determination. This was accepted by the Inspectorate and a decision letter issued in November 2010. The appeal was dismissed refusing both planning and listed building consent largely on the grounds that the proposals would harm the heritage asset – namely the status of the building as a Listed Building. Notwithstanding this refusal, the applicant has continued to liaise with the Council with a view to seeking amendments that might overcome the Inspectorate’s reasons for refusal. These applications are the outcome.

The Inspector’s decision letter is attached at Appendix C.

The applications are accompanied by supporting documentation in the form of a Schedule of Repairs; a Heritage Impact Assessment, a Historic Building Report, a Design and Access Statement, a Damp Report, a Financial Viability Report and Information on marketing the premises.

Development Plan

North Warwickshire Local Plan 2006 (Saved Policies): ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage Conservation, Enhancement, and Interpretation), ENV16 (Listed Buildings, Non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance), COM2 (Protection of Land and Buildings used for Existing Community Facilities in the Main Towns and Market Towns), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

Other Relevant Material Considerations

Government Advice: Planning Policy Statement 1 – Delivering Sustainable Development (PPS1), Planning Policy Statement 3 – Housing (PPS3), Planning Policy Statement 5 – Planning for the Historic Environment (PPS5), Planning Policy Statement 25 – Development and Flood Risk (PPS25) and the draft National Planning Policy Framework (NPPF).

Consultations

The Council's Heritage and Conservation officer strongly objects to the proposal. The main focus of the objection centres on the subdivision of the substantial open and unobstructed space within the building made up of the two classrooms flanking the central atrium. He considers that regard has not been sufficiently taken in respect of Government Policy in PPS5 which gives advice on what efforts the applicant should undergo in order to demonstrate the harm is outweighed. He considers that the information provided is not adequate to achieve this and that the case for significant intervention in the manner proposed has not been proven. These matters will be taken up in more detail on the observations section of this report.

The Council's Valuation officer has considered the Viability Report and agrees that alternative proposals to use the building for office space or for two units of residential accommodation would not be viable. Again, these matters will be taken up in more detail in the later sections of this report.

The Council's Environmental Health officer raises no concerns in respect of noise or ground contamination.

Warwickshire County Council Highway Authority comment that the proposal represents an overall improvement in terms of highway safety, with improved visibility to the access and a less intensive use requiring less parking provision. There are still some residual concerns, but they feel these can be addressed by way of condition.

Warwickshire County Council Museum comments that the site lies in an area of significant archaeological potential and requests a programme of investigation to be undertaken.

Severn Trent Water Ltd raises no objection subject to condition.

The Coal Authority raises no objection, although it requests an informative to be added to the grant of any permission.

Warwickshire Wildlife Trust, Polesworth Parish Council and the Polesworth Society were also consulted, but no replies have been received from these parties at this time.

Representations

A site notice was posted on 25 July 2011 and a press notice expired on 4 August 2011. Initial neighbour letters were sent on 28 June 2011. A total of four representations from three addresses have been received. Two of these raised objection on the grounds of security as it unclear as to what would happen with the existing locked gate preventing access to their property, and privacy in respect of aspects from the proposed first floor. One of these objections has been replaced with a neutral representation commenting on the same matters. A letter of support has also been received noting that the proposal will secure the long term future and value of the building.

Observations

a) Introduction

There is no objection to new residential development at this location in principle given the status of Polesworth in the Borough's settlement hierarchy defined by the Local Plan. The two key issues are therefore firstly, the potential loss of a community facility and secondly, the impact of the proposals on the significance of the heritage asset. These are interlinked to some degree, but they will be considered separately from the outset. Other planning considerations in respect of highway safety, amenity, design, ecology, flood risk and sustainability are also relevant.

A key consideration that will be returned to throughout the remainder of this report is the Appeal decision letter at Appendix C. This is a material consideration of some weight. The proposals considered by the Inspector at that time were in general terms the same as those now before the Board – namely the subdivision of the open space into four separate spaces. Some of the detailing has now been changed with the current submission and significantly, far more supporting documentation is submitted with the proposals. The present applications will therefore need to be “tested” against the content of that decision letter too.

As a consequence it is proposed to look in detail at both of the key issues through Development Plan policy as well as the “eyes” of the appeal decision. It will be seen that the recommendation below runs counter to the advice that is being given to the Board by the Conservation and Heritage Officer. This is unusual, and will need to be explained. Moreover it does illustrate the fact that the assessment between different approaches to these proposals is finely balanced, and that as a consequence Members may resolve that the balance points to a different outcome.

b) Loss of a Community Facility

The Nethersole Centre currently has a lawful use for assembly and leisure. It has mainly been used for Parish Council events and meetings in recent years. However the difference between the costs of maintaining the premises and the income that was being generated, led its management committee to place it on the market in 2010. It was then purchased by the current applicants, who did not intend to use it for community purposes.

The Local Plan – saved policy COM2 - seeks to retain community facilities within the Borough's main towns and local service centres unless they are unsuitable in terms of their location, design, layout or construction for continued use and there is no realistic alternative community use to which they can be put. It is important to note that this policy requires both parts to be satisfied in order to support the loss of the facility. The principle of the loss of this community facility has already been considered through the recent appeal (Appendix C). It was concluded here (see paragraphs 17 to 20) that it was likely that some potential community groups would have difficulty in financing repairs and maintenance; and that although it was not clear on what precise terms the building was offered for potential community uses, it was unlikely that a suitable group would come forward, especially when the Parish Council and Polesworth Society were consulted and did not object to the principle of

conversion. The proposal was thus not considered to undermine the aims of local policy.

These matters have not materially altered since the appeal decision – there has been no objection from the Parish Council, the Polesworth Society, from other community groups or the public at large. The general community view is that alternative venues are available for meetings and small events - nearby schools, the library and the Abbey. The present building does not offer any special or specialised facility or feature that could not readily be provided at alternative venues within a short distance and still within the settlement. Letters have now also been submitted with the current application from property agents which demonstrate a lack of community and commercial interest; one in particular supports the opinion that commercial interest in the premises is unlikely to occur given the available commercial accommodation elsewhere in the vicinity, particularly in Tamworth. On the basis of all of this evidence it is considered reasonable to conclude that community groups are unlikely to take on the premises due to the financial constraints. It is thus agreed that there is no realistic alternative community use to which the building could be put. The Heritage Officer considers that the building's asset is its open space and that further efforts should be made to see if any tenants could be found – for small sports clubs or interest groups. This might be attractive, but no interest has so far been expressed since the time of the first application, and it is considered that such small scale use would be difficult to sustain over time and certainly not produce the income to keep the building in good repair. This latter point will be referred to again below.

c) Impact on the listed building

The Heritage Officer describes the significance of the building as being as a more or less intact early 19th Century School building of “stately” appearance, with the majority of its original features remaining in-situ with its simple plan form unaltered. In greater detail, externally the building exhibits a stone cupola with a leaded roof; a Tudor arched doorway with studded double leaf doors, a central gable with a stone clock face flanked by obelisks, and chamfered stone mullioned and transomed full height windows. Internally, the space is of simple plan form with two large full height classrooms symmetrically flanking a central atrium with just one exception where an enclosed staircase leads up to the atrium at one end of a classroom. The roof space is enclosed above both of the rooms by way of a traditional ceiling, and the end gable walls and windows are not obstructed in any fashion. The building's historic and architectural significance is increased by the rarity value in that it is almost certainly is a relatively unspoilt early 19th Century school building.

The Heritage Officer considers that any proposal to sub-divide the internal open spaces would be substantially harmful to the significance of the building in both architectural and historic terms.

He does accept that the special interest of the exterior of the building is not an issue in this application. These works are largely ones of repair with the intention to reinstate the central doorway to the rear of the atrium; repair stonework, doors, chimneys, the parapet and roof, the lowering of ground levels at the rear to overcome damp issues, removal of outbuildings and the provision of a new parking

area and boundary treatments. These are all considered to be appropriate so as to preserve the fabric of the listed building and its setting. Additionally there have been some more recent works to the property, which have not been in keeping (e.g. the kitchen), and the proposals will rectify these issues.

It is however the proposed internal alterations which result in his strong objection. He considers that even although the proposals have been designed so as to be “reversible” in that the central walls, ceiling and mezzanines could all be removed at a later date, this would be unlikely and sets a very uncomfortable precedent. The current scheme in his view would still not overcome the criticisms made by the Inspector in respect of the previous proposals – see paragraph 11 of that letter at Appendix C which states *“The scheme would obscure the original stately form of the classrooms, adding enclosed first floor bathrooms, lobby partitions, internal staircases and balustrades. It would also reduce the natural lighting of the interior by separating the front and rear windows. It is also likely that such a significant change in the character of the building would be perceived from street level, at least when the interior is illuminated at night, with views of the mezzanine floors, partition walls and domestic paraphernalia”*. He draws attention to the Inspector’s comments that, *“such conversion arrangements would make it difficult to read the original airy and spacious plan form of the original building, and that as a result, the historic and architectural interest of the building would be harmed”*. Whilst he comments that the current submission has made changes to allow more full height space within the units (as opposed to the previous proposal to provide a mezzanine throughout), it is not considered that these changes suitably mitigate the harm to the interior caused by the degree and nature of subdivision and other proposed works. He remains of the view that the harm remains substantial because of the level of intervention into the internal space which is the very essence of the significance of the building’s form and purpose.

Government Planning Policy in PPS5 makes it clear that granting consent for works causing substantial harm to a listed building should be exceptional. It continues that it would need to be convincingly demonstrated that the circumstances of the building are also exceptional, such as it being in very poor condition so that the costs of repair exceeded its market value after repair, and/or that the nature of the building severely limits its potential for reuse. Neither is considered to apply here. In respect of the first then the Inspector notes that the building is sound (paragraph 9 of the decision letter). A full Schedule of repairs has been submitted with the current application, and it is not considered that that Schedule identifies any works that are all together unusual or unexpected. There is clearly a cost associated with the repairs alone (irrespective of providing a new use) - around £180k - and that now needs to be explored more thoroughly. PPS5 sets out that the public benefit of the proposal (e.g. that it helps secure the optimum viable use of the heritage asset in the interests of its long term conservation), should be weighed against the harm, and greater justification will be needed when the heritage asset carries more significance.

There are two opposing views on how to go about assessing this balance. Because the proposals in the view of the Heritage Officer cause substantial harm as defined above, he considers that far more rigorous market testing is necessary and that appropriate marketing and greater endeavours are made to find charitable bodies to

take on the heritage asset with a market value at or close to zero given the findings of the viability study submitted with the application. The applicant favours a different approach. Instead a viability study has been undertaken, setting out the costs of conversion and repair to bring forward (1) office accommodation with no subdivision; (2) residential accommodation in the form of two units with a part mezzanine, and (3) the proposed scheme. He has added in an analysis of available commercial floor space in the vicinity and supporting letters from property agents.

The viability study, together with its assumptions – such as limited land value and the lack of availability of public grant aid or funding - has been considered by the Council's Valuation Officer. In normal circumstances he says that a developer would expect a return of at least 12% for a scheme of this nature to be considered viable. He says that it is clear that none of the three proposals would return a viable result, with a 6.4% profit margin being the best. He is of the view that the office accommodation option is highly unlikely to make a decent return given the surplus of available floor space in the local area. He concludes that the most financially attractive proposal of the three put forward is the development for four units as proposed. The Valuation Officer has also been unable to identify any other possible use that the property could be put to that may produce a higher return.

From the above it is suggested that a further period of marketing, even at zero land value and even focussed on Charitable Trusts, Voluntary Organisations or Community organisations, is highly unlikely to bring forward an interested party for commercial purposes. Indeed, there was little interest shown within the community by any community group in the vacant property and a Preservation Trust is unlikely to be found quickly given the squeeze on public finances, the withdrawal of grant funding and the costs of simply repairing and restoring the building to its original character (both internally and externally) without there being a reasonable prospect of a tenant or new owner. As such, it is not considered reasonable to ask the applicant to pursue further investigatory research.

It is perhaps appropriate at this point to revert to the Appeal decision letter as this provides a base line on which to assess the key issue of the current application. As a reminder that is whether the level of intervention into the heritage significance of this building is so severe that the proposal should not be considered in principle. It has to be accepted that that intervention is harmful because it changes the character and appearance of the special architectural and historic merit of this Listed Building. This was accepted by the Inspector when dealing with the earlier case. However her letter does not refer to that harm as being 'substantial' – see her conclusion at the end of paragraph 11. Indeed in paragraph 15 she outlines the benefits of the proposal in providing a *“long term use that would enhance the prospects of the building's survival”*. However she then goes on to look at the public benefit argument. She criticises the applicant's evidence base. It is considered that it is this element that is absolutely central to the dismissal. The key sentences in paragraph 16 say, *“There is insufficient evidence to conclude that the positive impacts outweigh its negative effects. This is because it has not been demonstrated satisfactorily that there is no alternative viable use that would cause less harm to the building in terms of the interior alterations that would be required”*. The question therefore is whether that omission has now been filled.

It is considered that it has. The internal proposals have been revised such that they are reversible (however unlikely that might be); there is far more open space within each of the four segments, a substantial amount of cost information and market analysis has been provided to add weight to the viability argument, the Council's Valuation Officer supports the general approach to the property. Moreover there is not a community objection to the loss of a community facility. In all of these circumstances and taking a balanced view on all of the advice received, it is considered that this latest proposal should be supported.

The Heritage Officer's view is well understood and respected. It is accepted that there will be loss to the significance of this building through these proposals. However his advice to the Board has to be balanced against wider planning objectives and to the content of that earlier appeal decision which has been highly influential in the handling of this second application.

d) Highway safety, amenity, design and sustainability

The Nethersole Centre is located close to the centre of Polesworth. It has excellent access to local services and facilities, as well as to public transport. As such, a residential scheme is wholly appropriate in this context. There are no concerns in respect of ground stability or land contamination, nor drainage, flood risk and ecology. The improvements to vehicular and pedestrian access are supported, albeit with some need to address particular issues by way of condition. The new parking layout and boundary treatments would enhance the appearance of the Conservation Area.

Representations raise concern in respect of security and overlooking. The current arrangement means that access to the rear of the building is restricted by a locked gate. This is important to occupants of The Old School House and School House as their amenity space can be easily accessed from the rear passage to the Nethersole Centre. The applicant addresses this by proposing a similar solution. The overlooking concern arises from the full height windows to the rear of the building. The insertion of a mezzanine potentially allows overlooking where it is currently not possible – from the eastern and western most windows. However, both of these windows face the end gables of the above properties and as the mezzanine sits around 1.1 metres from the glazing, aspects would be virtually impossible. Views through the other rear windows would only be passing as occupants used the stairs.

Recommendation

That Planning Permission and Listed Building Consent be **GRANTED** subject to the following schedules of conditions:

Planning Permission (PAP/2011/0300)

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 plans numbered 7102.05A, 7102.06A, 7102.07A, 7102.08A, 7102.09A, 7102.10A and 7102.11A, and the Schedule of Works (by Roach Hunt, August 2011) all received by the Local Planning Authority on 8 September 2011; and the plans numbered 1212-01-P1, 1212-02-P1, 1212-03-P1, 1212-04-P1 and 1212-05-P1 received by the Local Planning Authority on 22 September 2011.

REASON

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

3. No development shall be commenced before the following is submitted to and approved by the Local Planning Authority in writing:
 - details and samples of any replacement facing bricks to be used;
 - details and samples of any replacement roofing tiles to be used;
 - details and samples of any replacement stone to be used;
 - details and samples of the lime mortar (dried sample) to be used;
 - details of the external joinery details, including replacements where necessary (with elevations at 1:10 and sections at 1:2);
 - details of air bricks, flues and vents to be used;
 - details of the external rumbled block and cobble pavements to be used.

The approved materials shall then be used.

REASON

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

4. No external vents or flues not approved under condition 3 shall be installed until details of them have first been submitted to and approved in writing by the Local Planning Authority.

REASON

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

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls/fences to be erected. The approved screen walls/fences shall be erected before the use hereby approved is commenced and shall subsequently be maintained.

REASON

In the interests of the amenities of the area and the appearance of the Conservation Area.

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

REASON

In the interests of safety on the public highway.

7. The development shall not be occupied until visibility splays have been provided to the vehicular access to the site, passing through the limits of the site fronting the public highway, with a 'x' distance of 2.4 metres and 'y' distance of 65.0 metres looking left (East) and 40.0 metres looking right (West) to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

REASON

In the interests of safety on the public highway.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the date of planting die, are removed or become

seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON

In the interests of the amenities of the area.

Notes

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved policies): ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage Conservation, Enhancement, And Interpretation), ENV16 (Listed Buildings, Non-Listed Buildings Of Local Historic Value And Sites Of Archaeological Importance), COM2 (Protection Of Land And Buildings Used For Existing Community Facilities In The Main Towns And Market Towns), TPT3 (Access And Sustainable Travel And Transport) and TPT6 (Vehicle Parking).
2. The applicant is reminded that this approval is not a listed building consent. It must be read in conjunction with application Ref. No. PAP/2011/0313.
3. There may be bats present at the property that would be disturbed by the proposed development. You are advised that bats are deemed to be European Protected species. Should bats be found during the carrying out of the approved works, you should stop work immediately and seek further advice from the Ecology Section of Museum Field Services, The Butts, Warwick, CV34 4SS (Contact Ecological Services on 01926 418060).
4. The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. It should also be noted that this site may lie within an area where a current licence exists for underground coal mining. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com.
5. Section 163 of the Highways Act 1980 requires that water will not be permitted to fall from the roof or any other part of premises adjoining the public highway upon persons using the highway, or surface water to flow - so far as is reasonably practicable - from premises onto or over the highway footway. The developer should, therefore, take all steps as may be reasonable to prevent water so falling or flowing.
6. Section 152 of the Highways Act 1980 restricts the fixing to, or placing against premises, any window, shutter, porch, step, cellar-opening etc. which would

project over the public highway in such a manner that it would obstruct safe and convenient passage along the street; and Section 153 restricts the erection of doors, gates and bars on premises and buildings in such a manner that they would open out over the public highway. The applicant/developer must, therefore, ensure that no such projection, door, gates or bars are so fixed or erected.

Justification

It is considered unlikely that continued use of the building for community facilities would be viable or possible given a lack of interest from existing community groups and the public. Indeed, any community group would have difficulty in financing necessary repairs and maintenance. As such, the principle of the loss of this community facility is acceptable, especially when other community facilities remain available within the settlement.

Whilst the proposal would bring about harm to the significance of the listed building by way of the internal subdivision of its simple open plan form; there are material considerations which are relevant. The viability of alternative uses which bring lesser harm on the internal spaces of the building means that such uses are not likely to occur, especially when a community use would be financially restrictive and the commercial property market in the local area is well provided for. The internal works to the main open spaces are also designed in order to minimise the visual and contextual impacts as far as practicable whilst also being reversible in principle, and is less intrusive to a previously refused scheme which, upon appeal, was not held to cause substantial harm. The proposed end use also facilitates a higher gross profit level enabling external repairs and improvements to occur, as well as the removal of less desirable additions to the building which in themselves are harmful to its architectural and historical significance. Overall, the benefits of the proposal provide a long term viable use that would enhance the prospects of the long term conservation of this listed building, and the resulting public benefit is considered to outweigh the harm caused to it.

The site is sustainably located for a residential end use, and external improvements would enhance the appearance of the Conservation Area. There are no concerns in respect of ground stability or land contamination, nor drainage, flood risk and ecology. The effect on neighbouring amenity and property is considered to be acceptable, and there are material improvements to vehicular and pedestrian access.

In light of all the above, the proposal is considered to be in accordance with saved policies ENV3, ENV4, ENV6, ENV8, ENV11, ENV12, ENV13, ENV14, ENV15, ENV16, COM2, TPT3 and TPT6 of the North Warwickshire Local Plan 2006, as well as national guidance set out in Planning Policy Statement 1, Planning Policy Statement 3, Planning Policy Statement 5, Planning Policy Statement 25 and the draft National Planning Policy Framework (NPPF).

Listed Building Consent (PAP/2011/0313)

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 plans numbered 7102.05A, 7102.06A, 7102.07A, 7102.08A, 7102.09A, 7102.10A and 7102.11A, and the Schedule of Works (by Roach Hunt, August 2011) all received by the Local Planning Authority on 8 September 2011; and the plans numbered 1212-01-P1, 1212-02-P1, 1212-03-P1, 1212-04-P1 and 1212-05-P1 received by the Local Planning Authority on 22 September 2011.

REASON

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

3. No development shall be commenced before the following is submitted to and approved by the Local Planning Authority in writing:

- details and samples of any replacement facing bricks to be used;
- details and samples of any replacement roofing tiles to be used;
- details and samples of any replacement stone to be used;
- details and samples of the lime mortar (dried sample) to be used;
- details of the external joinery details, including replacements where necessary (with elevations at 1:10 and sections at 1:2);
- details of air bricks, flues and vents to be used;
- details of the external rumbled block and cobble pavements to be used.

The approved materials shall then be used.

REASON

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

4. No external vents or flues not approved under condition 3 shall be installed until details of them have first been submitted to and approved in writing by the Local Planning Authority.

REASON

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

Notes

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved policies): ENV13 (Building Design) and ENV16 (Listed Buildings, Non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance).
2. The applicant is reminded that this approval is not a planning permission. It must be read in conjunction with application Ref. No. PAP/2011/0300.

Justification

Whilst the proposal would bring about harm to the significance of the listed building by way of the internal subdivision of its simple open plan form; there are material considerations which are relevant. The viability of alternative uses which bring lesser harm on the internal spaces of the building means that such uses are not likely to occur, especially when a community use would be financially restrictive and the commercial property market in the local area is well provided for. The internal works to the main open spaces are also designed in order to minimise the visual and contextual impacts as far as practicable whilst also being reversible in principle, and is less intrusive to a previously refused scheme which, upon appeal, was not held to cause substantial harm. The proposed end use also facilitates a higher gross profit level enabling external repairs and improvements to occur, as well as the removal of less desirable additions to the building which in themselves are harmful to its architectural and historical significance. Overall, the benefits of the proposal provide a long term viable use that would enhance the prospects of the long term conservation of this listed building, and the resulting public benefit is considered to outweigh the harm caused to it.

As such, the proposal is therefore considered to be in accordance with saved policies ENV13 and ENV16 of the North Warwickshire Local Plan 2006, as well as national guidance set out in Planning Policy Statement 5 and the draft National Planning Policy Framework (NPPF).

BACKGROUND PAPERS

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

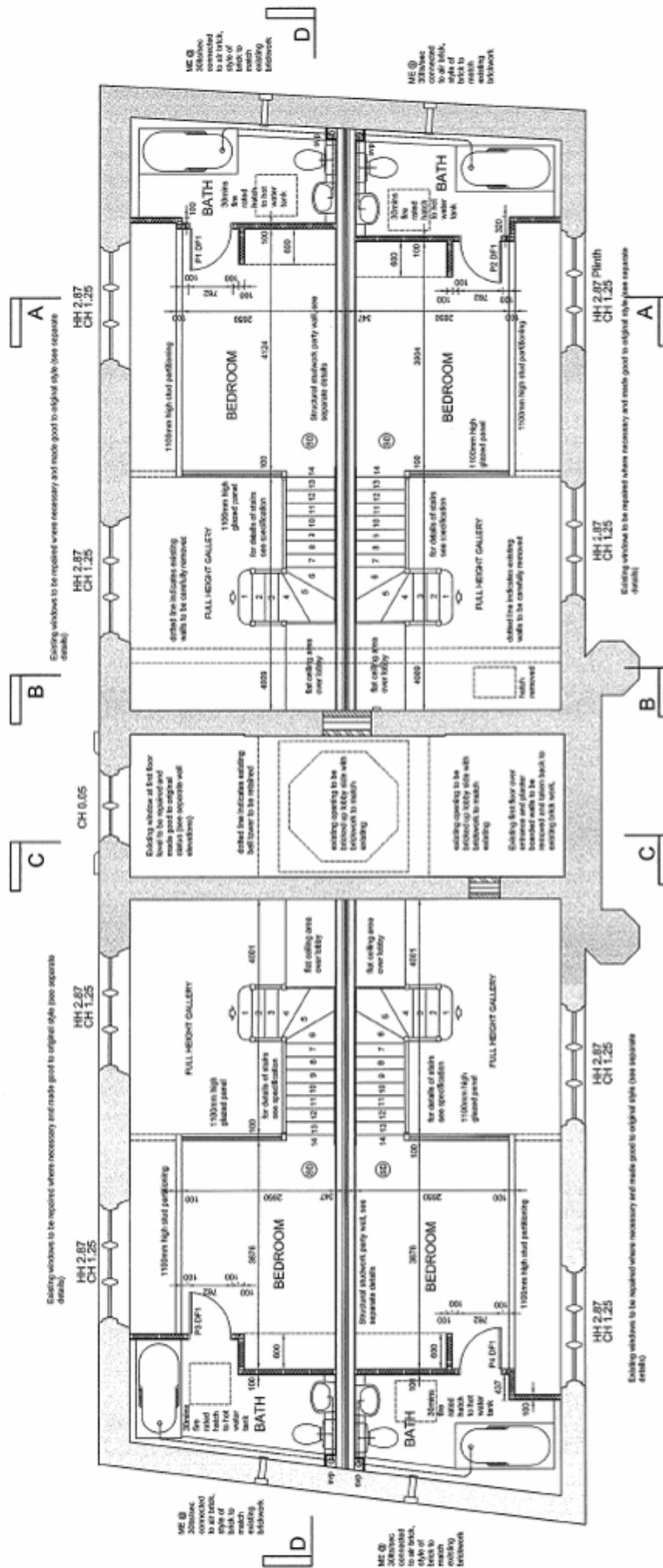
Planning Application No's: PAP/2011/0300 and PAP/2011/313

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	10/06/2011, 13/06/2011, 08/09/2011 & 22/09/2011
2	Warwickshire County Council Highway Authority	Consultation reply	29/06/2011
3	Valuation Officer	Consultation reply	07/07/2011
4	Coal Authority	Consultation reply	12/07/2011
5	Severn Trent Water	Consultation reply	13/07/2011
6	Case Officer	Email to Agent	14/07/2011
7	The Old School House, 3 High Street	Representation – objection	17/07/2011
8	School House, 1 High Street	Representation – objection	18/07/2011
9	Heritage and Conservation Officer	Consultation reply and email to Case Officer	21/07/2011
10	Heritage and Conservation Officer	Email to Valuation Officer	22/07/2011
11	Case Officer	Email to Heritage and Conservation Officer	25/07/2011
12	Agent	Email to Head of Development Control	25/07/2011
13	Case Officer	Letter to Agent	25/07/2011
14	Severn Trent Water	Consultation reply	26/07/2011
15	Agent and Applicant	Summary of points raised in meeting of 29/07/2011	29/07/2011
16	Mr Reynolds	Representation – support	30/07/2011
17	Valuation Officer	Emails to Heritage and Conservation Officer	11/08/2011
18	Emails to Heritage and Conservation Officer	Valuation Officer	11/08/2011
19	Warwickshire County Council Museum	Consultation reply	12/08/2011
20	Agent	Email to neighbour	19/08/2011
21	Agent	Letter to Case Officer	08/09/2011
22	Warwickshire County Council Highway Authority	Consultation reply (amended plans)	14/09/2011

23	Valuation Officer	Consultation reply (amended plans)	22/09/2011
24	School House, 1 High Street	Representation (amended plans) – comments	24/09/2011
25	Severn Trent Water	Consultation reply (amended plans)	26/09/2011
26	Coal Authority	Consultation reply (amended plans)	26/09/2011
27	Case Officer	Email to Agent	03/10/2011
28	Agent	Email to Case Officer	03/10/2011

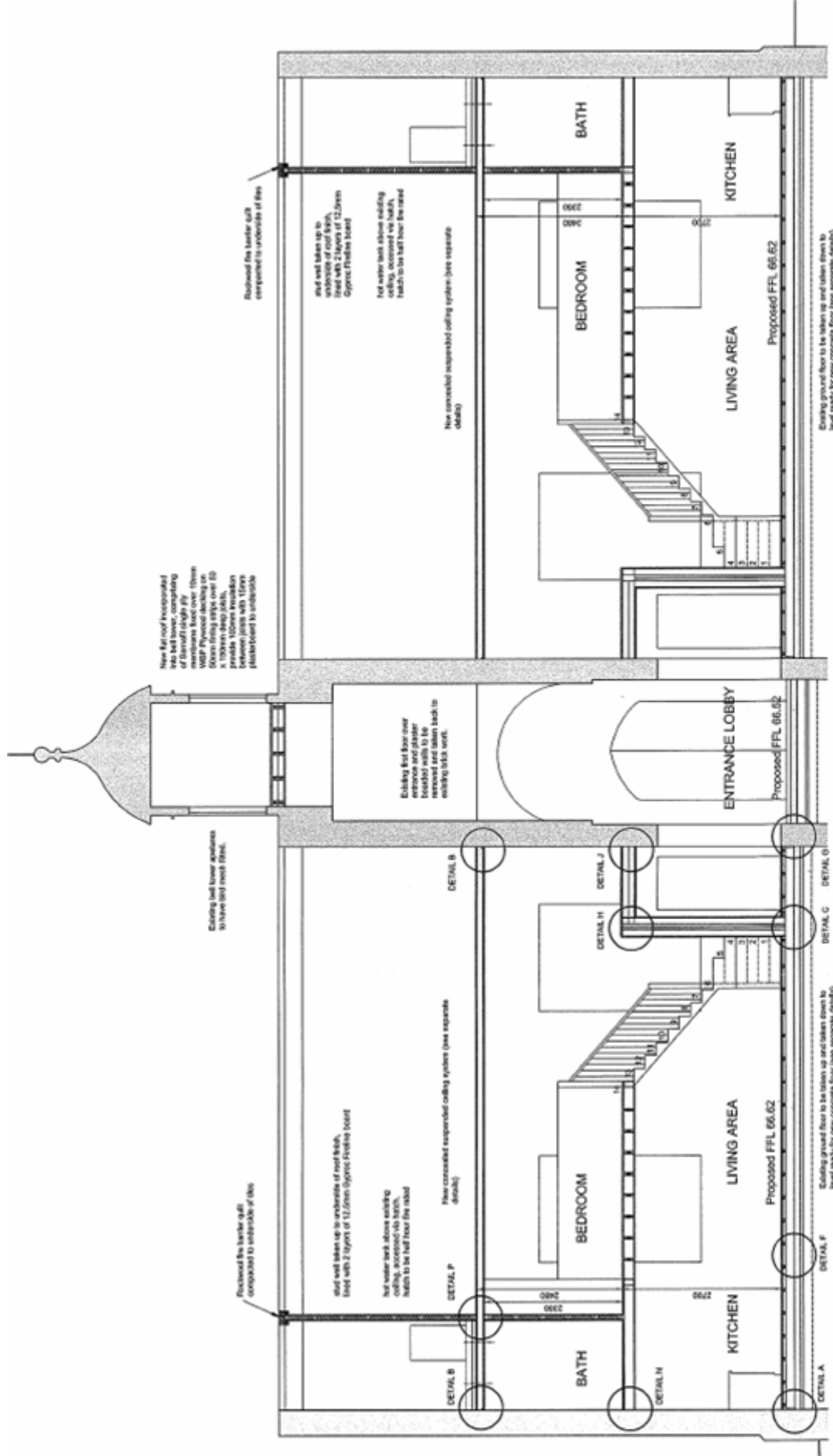
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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.

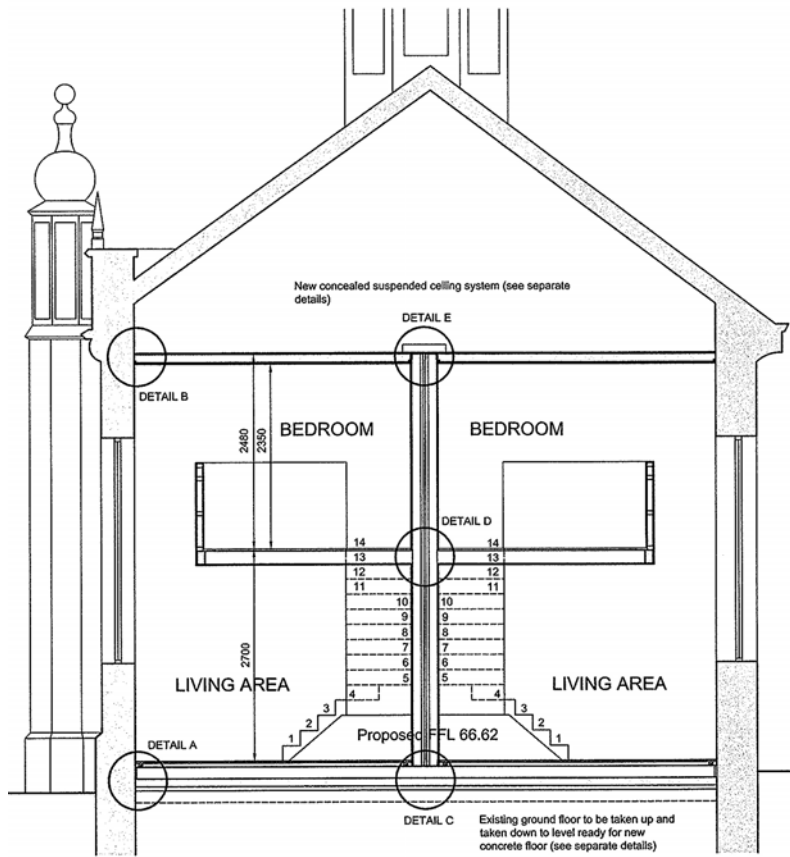


PROPOSED FIRST FLOOR LAYOUT. Scale 1/50.

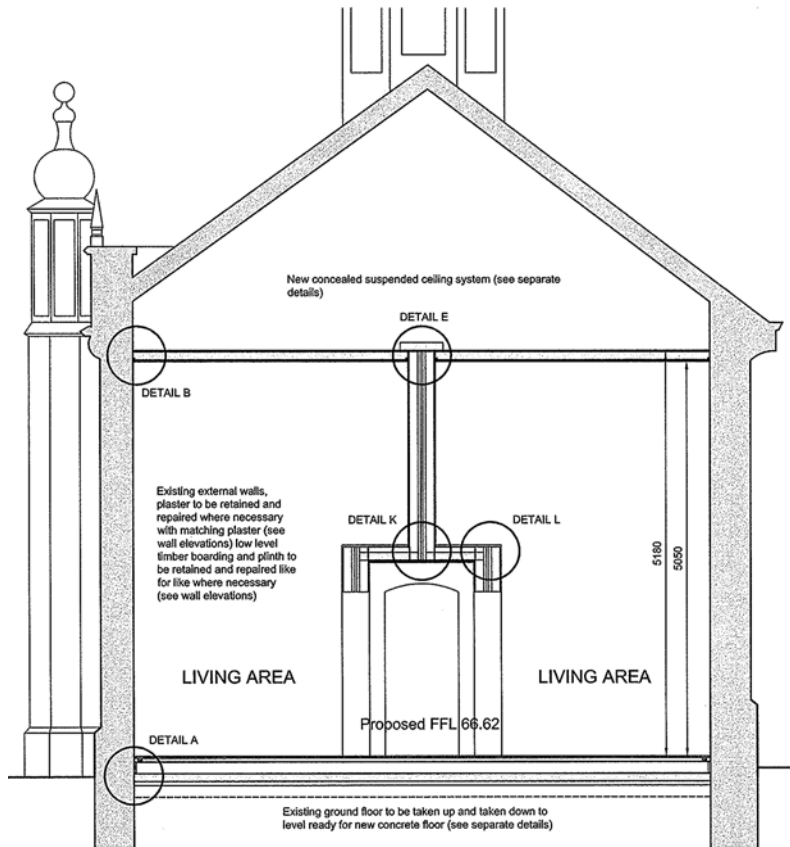
APPENDIX B (Sections)



SECTION THROUGH D-D. Scale 1/50.



SECTION THROUGH A-A. Scale 1/50.



SECTION THROUGH B-B. Scale 1/50.

APPENDIX C (Appeal Decision)



Appeal Decision

Site visit made on 5 January 2011

by Mary Travers BA (Hons) Dip TP MRTPI

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

Decision date: 2 March 2011

Appeal Ref: APP/R3705/A/10/2138997

2 High Street, Polesworth, Tamworth, Warwickshire B78 1DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Sibson Mill Properties against North Warwickshire Borough Council.
 - The application ref PAP/2010/0448 was dated 24 August 2010.
 - The development proposed is residential conversion and creation of associated parking.
-

Preliminary Matters

1. This appeal concerns the Nethersole Centre, which was formerly a school and is a Grade II listed building within Polesworth Conservation Area. The planning application was originally submitted to the Council on 24 August 2010 together with an application for listed building consent. By letter dated 27 August 2010 the Council replied that the planning application was incomplete in respect of certain essential information and should not be registered. In particular, information was sought on the steps that had been taken to find an alternative community use for the building and on the marketing exercise for commercial and non-residential uses which would have a lesser impact on the listed building.. On this basis the Council said that the letter should be treated as a Direction under Regulation 4 of the 1988 Applications Regulations and that the application would not be treated as valid and thus would not be registered until all of the required information had been supplied.
2. This planning appeal against non-determination of the application was lodged in October 2010. Exchanges of correspondence with the Council and the Appellant followed, dealing principally with the Council's contention that there was no valid right to appeal, having regard to the High Court ruling in the case of Newcastle upon Tyne City Council against the Secretary of State (2009). Having taken all the relevant matters into account, including the evidence supplied by the Appellant in regard to the Council's information requirements, the Planning Inspectorate set out its view by letter dated 29 November 2010. This concluded that it was the adequacy of the information that had been supplied that was at issue and that this matter could be tested on appeal. I have determined the appeal on this basis.
3. While an application for listed building consent was made to the Council as detailed above, an appeal against its non-determination has not been lodged and this matter is not before me.

4. Applications for the award of costs against the other party were made by both the Appellant and the Council. These are the subject of separate decisions.

Decision

5. I dismiss the appeal.

Issues

6. There are two main issues in this case. The first is whether, having regard to saved Policy ENV16 of the North Warwickshire Local Plan 2006 (LP) and the advice in Planning Policy Statement 5, *Planning for the Historic Environment*, (PPSS), the proposal would preserve the special architectural and historic interest of the listed building and its setting. The second issue is whether, in the light of saved Policy COM2 of the LP and all the other material considerations, the proposed loss of a community facility would be harmful.

Reasons

Listed Building

7. The Nethersole Centre is an early 19th century school house in a prominent position on the corner of High Street and Bridge Street/Station Road in the centre of Polesworth. It is said that Nikolaus Pevsner described it as "remarkably stately". The listing description makes reference to its many architectural features including the large octagonal stone cupola with a leaded roof, Tudor arched doorway with studded double leaf doors, central gable flanked by obelisks and with a stone clock face, and the chamfered stone mullioned and transomed windows. The interior was not inspected for listing purposes but as I saw, the large open volume of the two classrooms, the aesthetic contribution of the opposing windows on the north and south walls, and the simple formality of its plan layout contribute to its special historic and architectural interest.
8. As the Council describes, the otherwise perfect symmetry of the plan form of the interior is compromised by a wall that encloses a staircase to a mezzanine floor above one of the classrooms. There is some dispute between the Appellant and the Council as to the dating of this structure and its significance. Also a modern window to a kitchen enclosure has replaced the original door at the rear of the central hallway. But overall, the original building has survived largely unaltered and I agree with the Council that its historic and architectural significance is increased by the rarity value that it almost certainly has as a relatively unspoilt, early 19th century school building.
9. It appears that the centre has been vacant for a few years. Its general condition and the appearance of the curtilage could undoubtedly be improved, not least since its windows are boarded up, and there are signs of disrepair and neglect that are in need of attention. However much of the fabric is essentially sound and there is no indication, for example a schedule of necessary repairs, that the costs of returning the building to a good overall state of repair are prohibitive. Taking all the specialist evidence into account, it would appear that the building is not currently at any significant risk of dereliction.
10. The appeal scheme is for conversion of the building to four apartments, entailing a number of alterations to its interior but no exterior changes, although car parking and new access arrangements would be provided. Each of the two classrooms would be subdivided into two apartments, with ground

- floor and first floor levels. This would entail new partition walls up to the ceiling height, new mezzanine floors and the formation of entrance hallways and bathroom enclosures to each apartment. The mezzanine floors would be set back by 600-700mm from the external walls and windows at the front and rear.
11. It is proposed to carry out the internal partitioning works in a way that allows them to be reversed at a later date and, for the most part, has minimal impact on the historic fabric. However there is no indication that reversion to two large spaces is likely to occur. The scheme would obscure the original stately form of the classrooms, adding clutter such as bathroom and lobby partitions, internal staircases and balustrades, and it would reduce the natural lighting of the interior by dividing the building along its length, separating the front and rear windows. It is also likely that the significant change in the character of the building would be perceived from street level, at least when the interior is illuminated at night, with views of the mezzanine floors, partition walls and domestic paraphernalia. Contrary to the Appellant's view, I consider that the conversion arrangements would make it difficult to read the original airy and spacious plan form of the original building. As a result, the historic and architectural interest of the building would be harmed in this respect.
 12. In these circumstances it is important to weigh the public benefit of the proposal, including whether it would help to secure the optimum viable use of the building in the interests of its long-term conservation, against the harm that would be caused to its special interest. As PPS5 Policy HE9 sets out, evidence is needed that other potential owners or users of the site have been sought through appropriate marketing, and that reasonable endeavours have been made to seek grant funding for the heritage asset's conservation, and to find charitable or public authorities willing to take on the asset.
 13. The evidence suggests that the appeal property was on the market for about one year in 2008-2009, during which time only one offer, apart from the Appellant, was received but not progressed. However the information does not disclose the sales particulars or basis on which it was offered for sale or rent, nor is there enough evidence of the scope of the marketing exercise. The building has potential appeal to a niche market, but the evidence does not show that it has been marketed with this in mind.
 14. The potential for use as offices or a studio has been acknowledged, but there is insufficient evidence to support why this potential should be dismissed as unrealistic. It is not enough to refer to the current low levels of demand without any supporting details of a sustained marketing campaign. Given the advice in PPS5 on the timing of marketing campaigns, it has not been demonstrated that sufficient time has been devoted to the search for other suitable, commercially viable uses that would have a less harmful impact on the listed building, before allowing residential conversion as proposed. Also, information on the cost of restoring the premises to a state of repair that is suitable for letting has not been provided.
 15. On the positive side, and notwithstanding the Council's opinion about the significance of this element, the proposal would enable restoration of the original entrance hall and open up a view of the cupola. This would be an important enhancement. The conversion scheme would also provide for sympathetic re-instatement, refurbishment and repairs to the fabric of the building. Its setting, including that of the residential properties to the rear,

- would be improved by the removal of low-grade outbuildings on the site and suitable landscaping of the perimeter areas and the new car park. Overall, it appears that significant restoration of the exterior of the building could be secured, also benefiting the conservation area, and the proposal would clearly provide a longer-term use that would enhance the prospects for the building's survival. This would be achieved in the absence of public funding or grant aid, which appears unlikely to be available in this case.
16. However, taking account of the detailed evidence submitted, the building is not in immediate danger, and it is important that opportunities for safeguarding and restoring its interior character as well as its built fabric are pursued. On balance, given all the details of the scheme and the policy considerations, there is insufficient evidence to conclude that the positive impacts of the proposal on this heritage asset outweigh its negative effects. This is because it has not been demonstrated satisfactorily that there is no alternative viable use that would cause less harm to the building, in terms of the interior alterations that would be required. For this reason, it is concluded that the proposal would not preserve the special architectural and historic interest of the listed building and would conflict with the statutory requirements in this regard, and with national and local policies to protect heritage assets.

Community Use

17. It appears that the Nethersole Centre was used for community purposes up to about 2009 and has a Class D2 assembly/leisure use. LP Policy COM2 seeks to protect community use of buildings in Polesworth unless they are unsuitable for continued use and there is no realistic alternative community use to which they can be put.
18. In terms of suitability, with investment in improved access and facilities for the disabled, the building could be made suitable for continued use for community purposes in the long-term. However, it is likely that some potential community users of the building would have difficulty in financing these works and providing for repairs and maintenance. It seems that these factors probably influenced the sale of the building.
19. Having regard to alternative community uses, it appears that the Nethersole management committee felt that there was little demand from users and community groups when the decision was made to sell the property. Also, the Parish Council and the Polesworth Society have been consulted about the proposal and have not objected to the principle of residential conversion. Generally this lends support to the Appellant's case about the lack of demand for community use of the building, albeit that the Polesworth Society's response to the appeal appears to reserve the right to comment from first principles on future proposals for the site. So far as the level of information on alternative community uses is concerned, I share the Appellant's view that the scale and detail of the assessment undertaken for much more significant proposals such as the redevelopment of Atherstone Police Station and Magistrates Courts would not be justified in this case.
20. Further to the references to marketing above, it is not clear on what precise terms the building was offered for potential community uses, although sale or rental options were explored. But on the balance of the evidence, including the Appellant's willingness to refurbish and secure the availability of the scout hall on the adjoining land on a rent-free basis for the scouts and other community groups, it is unlikely that the proposal would undermine achievement of the

objectives of LP Policy COM2. On this basis, the proposed loss of a community facility would not be harmful.

Other Matters and Overall Conclusion

21. I have taken the effect of the proposal on the conservation area into account and am satisfied that its character and appearance would be preserved and in some respects enhanced by the appeal scheme. Also, the proposal would help to meet the need for smaller dwellings in the borough. However, neither these nor any of the other matters raised outweigh the main considerations in this case. Notwithstanding my conclusion in respect of the second issue, the effect of the proposal on the listed building is unacceptable and is sufficient to warrant dismissal of the appeal.

Mary Travers

INSPECTOR

(5) Application No PAP/2011/0371

Land Off (adj 44 Coleshill Road) Church Lane, Curdworth

Variation of condition no: 1 and conditions no: 7 & 8 of planning permission PAP/2007/0530 relating to conservatory and boundary treatments and landscaping., for Mrs Jane Jarvis

Introduction

The application is referred to the Planning and Development Board at the request of one of the Local Members due to concerns about the visual impact of the proposals.

The Site

The site is a detached bungalow which is a new build and is sited to the west of Coleshill Road off Church Lane. The site is on a sloping topography, with the dwelling constructed on the existing land levels and set lower than the neighbouring dwellings to the rear of the site along Breeden Drive. The land was once vacant and overgrown with a former hedgerow bordering Church Lane. The dwelling is presently almost completed, but not occupied.

The Proposal

A reserved matters planning permission stipulated that certain conditions had to be met following the grant of an outline planning permission here for the new dwelling. The current application seeks to vary condition number 1 and condition numbers 7 and 8 of this reserved matters permission. They relate to the erection of a new conservatory and proposed boundary treatments and landscaping.

The variation of condition 1 would enable the retention of a new conservatory which has been built.

Condition 8 required the retention of the existing boundary hedge. However as reported above, this has been removed. The application seeks alternative planting in mitigation.

Condition 7 stipulated the implementation of an approved landscaping scheme. This has had to be altered as the approved scheme involved the retention of the hedge and a willow tree, which has also been removed. To rectify this, an amended landscaping scheme is submitted.

Development Plan

North Warwickshire Local Plan 2006 (Saved Policies) – ENV11 (Neighbours Amenities), ENV12 (Urban Design) and ENV13 (Building Design).

Other Relevant Material Considerations

The Council's Supplementary Planning Guidance (A Guide for the Design of Householder Development) September 2003.

Consultations

Warwickshire County council as Highway Authority – No objections.

Representations

Representations have been made from occupiers of two neighbouring houses as follows:

- Noise – the development has caused months of noise nuisance and restriction of access to Church Lane.
- Loss of amenity – Loss of amenity due to the removal of a mature willow tree on the boundary of the site.
- Non-compliance of conditions – I am interested to know whether this application relates to any non-compliance in relation to the removal of this tree. It was a condition that the landscaping of the site boundary was to be maintained, in other words the mature hedge and willow tree. I am concerned that the property owner has not complied with conditions attached to the original permission. I am concerned that the property owners have ridden rough shod over the conditions attached to their original planning permission.
- Design to the boundary treatment – the concrete/wood boundary up Church Lane and along the footway across to Breeden Drive is extremely unsightly and out of keeping with the appearance of the area. The current application states that there is a third of a metre between the new fence and Church Lane for planting which I believe is a gross overestimate and in any case the planting will be vulnerable to damage from passing traffic.
- Retrospective works – The current application seeks to build a conservatory, which had already been built.
- Loss of privacy – The previous owner applied retrospectively for permission to add a dormer window looking across the gardens in Breeden Drive which back onto Church Lane.

Curdworth Parish Council refers to the following matters:

- Boundary – It was unclear whether the boundary structures were encroaching onto the highway and clarification was sought as to whether the planting that is being proposed will be inside or outside the present line of fence being erected, will it be outside the fencing on the side of Church Lane?
- Loss of landscaping – councillors were concerned that the present scheme has reduce the amount of greenery in the street scene and that church Lane is the last rural land remaining in the village. Councillors were keen to see greenery on the street scene.
- Please could you clarify the plans to establish greenery, and what, where this will be located? Councillors are disappointed at the loss of a hedge and the visual impact on the last rural lane in the village and the effect it has had on

the street scene. Councillors understand that a planting scheme will be considered and would like to see a selection of indigenous plants such as hawthorn, privet, blackthorn, hazel, beech and holly on the perimeter outside the edge of the fence.

There is a further representation from another resident:

- Whilst I know nothing of boundary treatments, that land has been ignored by the landlord for 5 years or more, the problems were endless, weeds growing through a very unkempt hedge, use having to pay money to cut hedges and clear weeds, children climbing the many trees and bushes on the land in constant worry because of the danger. Not to mention the dumping of rubbish and bottles on the land, it was a real eyesore. Dens started to spring up and teenagers using it for drinking and drug taking.

Observations

The proposal seeks to vary three conditions that were included on the permission for reserved matters. These are addressed in turn along with commenting on the representations.

The proposal for a rear conservatory is to retain this structure as it was not included on the original approved plan. It measures 4 metres in projection; 4.1 metres in width and is 2.5 metres in height to its flat roof. It is designed with a wall to the side elevation and this measures 1.9 metres in height with top lights above the wall. The rear and adjacent side elevations are clear glazed and there is a low brick dwarf wall measuring not more than 0.7 of a metre in height.

The siting of the conservatory leaves a gap of approximately 1 metre to the neighbouring boundary shared with 44 Coleshill Road. The conservatory sits well with the main dwelling and is not oversized. Its design is simple and relatively standard. Overall, it is considered that it is not of a scale, design or location which impact on the surroundings or neighbours amenity.

It is seen in the attached photographs.



The original landscaping scheme was approved in the reserved matters permission. However a mature willow tree has been removed along with a boundary hedge, both of which were shown on that scheme. The removal of the willow tree is understood to have been due to drainage problems, because the roots of the tree were affecting underground pipes and causing cracks in the pavement to the rear of the site where a public footpath accesses onto Breeden Drive. The willow tree was not protected by a Preservation Order and therefore its removal could not be controlled. The amended landscaping scheme would seek to re-plant a tree within the rear garden. The species has not yet been agreed but it is considered that a small tree, with a height of not more that 6-8 metres at maturity would be acceptable. A native tree would be preferred, but the applicant has advised a preference for a flowering tree. A boundary fence was previously approved on the plan and is now in situ. This is a timber boundary fence with a trellis and concrete gravel boards and concrete posts as illustrated below.



Condition 8 of the permission can no longer be complied with due the hedgerow having been removed. It was conditioned to be retained as it offered screening to the site following the erection of the new house. It also formed part of the existing landscaping.

Instead, the amended scheme would include the planting of a pyracantha hedge along the exterior of the boundary fence where it fronts Church Lane. There is a planting strip of approximately 0.3 of a metre and this would screen both the fence and the house. This species of hedge is fast growing, easy to maintain and would climb the height of the fence. It is also evergreen thus offering a screen to the boundary fence all year round and benefits from coloured berries. Although a native species of hedgerow would have been preferred, it is considered that the proposal provides the best option for the above reasons and because it is already seen in the locality.

For the avoidance of doubt, the hedgerow planting would not extend as far as the lower boundary treatment near to the vehicular access of the site, whereby a low brick wall and picket fence arrangement is proposed at a height of not more than 6 metres. The proposed hedgerow will only screen the fence and retaining wall elements along the boundary.

In respect of other matters than a neighbour has indicated that the rear dormer window (seen in the photograph) affects the privacy to her rear garden. This dormer is approved.

In respect of noise disruption, then an element of noise is always to be expected during construction works. In respect of any restricted access to Church Lane then is also a short term arrangement during construction phase.

Recommendation

That the application be **GRANTED** Subject to the following conditions

1. The development hereby approved shall not be carried out otherwise than in accordance with the revised plan number 01 and the 1:1250 site location plan received by the Local Planning Authority on 15 July 2011 and the revised landscaping plans received plan received by the Local Planning Authority on 21 September, 2011.

REASON

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

2. No additional opening shall be made other than shown on the plan hereby approved, nor any approved opening altered or modified in any manner, unless details have first been submitted to, and approved in writing by, the Local Planning Authority.

REASON

In order to prevent over intensive development of the site

3. The access to the site for vehicles shall not be used in connection with the development until it has been surfaced with a bound material for a distance of at least 7.5 metres as measured from the near edge of the public highway carriageway.

REASON

In the interests of safety on the public highway.

4. The development shall not be occupied until an access for vehicles has been provided to the site of an optimum width of 3.5 metres.

REASON

In the interests of safety on the public highway.

5. No structure, tree or shrub shall be erected, planted or retained for a distance of 5 metres either side of the access exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

REASON

In the interests of safety on the public highway.

6. The landscaping and planting scheme hereby approved to the rear garden and to the boundary shall be implemented within on completion of the development and in the event of any tree or plant or hedge failing to become established within five years thereafter, each individual tree or plant or hedge shall be replaced within the next available planting season, to the satisfaction of the Local Planning Authority.

REASON

In the interests of the amenities of the area.

7. Notwithstanding the requirements of Condition 7, the proposed planting of a pyracantha hedge along the exterior line of the boundary fence shall be left to grow to a height that screens the boundary fence from Church Road and shall be maintained at all times.

REASON

In the interests of the amenities of the area.

Notes

7. The applicant is reminded that this application seeks to vary Conditions No. 1, 7 and 8 of the reserved matters application reference PAP/2007/0530. It must also be read in conjunction with planning permission ref: PAP/0087/2005, of which it forms part, the terms and conditions of which continue to apply.
8. Public sewers are adjacent to the site. No building shall be erected or trees planted within 2.5 metres of the 225mm public surface water sewer. The applicant may wish to apply to Severn Trent Water to divert the sewer in accordance with Section 185 of the Water Industry Act 1991.
9. The Development Plan policies which are relevant to this Decision are as follows:

North Warwickshire Local Plan 2006 (Saved Policies):

ENV11 - Neighbours Amenities, ENV12 - Urban Design, ENV13 - Building Design, SPG: A Guide for the Design of Householder Development, September, 2003.

Justification

The variation of condition 1 in order to permit a conservatory extension is considered to be acceptable, given that the design and scale of the conservatory is proportionate to the main dwelling and in its location does not cause an amenity impact on neighbouring occupiers. The landscaping scheme as required in Condition 7 and as required to be implemented by condition 8 has been altered as per a revised landscaping plan and it is considered that condition 7 will still be necessary on a decision to ensure the new planting scheme is implemented. Condition 8 retained to the retention of the existing hedgerow. The proposal will seek for a replacement one and condition 8 is altered to ensure a new hedge is maintained along the boundary. The variation of conditions is considered to be acceptable and although the existing landscaping in terms of the tree and the hedgerow is lost the proposal would provide remedial measures to ensure the amenity of the area is improved in this location. The variation of conditions is not therefore considered to be contrary to the saved Development Plan Policies ENV11, ENV12 or ENV13 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/2011/0371

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	15/7/2011
2	Case Officer to Agent	Correspondence requesting more information	8/8/2011
3	Curdworth Parish Council	E-mail of representation	10/8/2011
4	Case Officer to Parish Council	Reply to representation	10/8/2011
5	Ms Cooper	E-mail of representation	14/8/2011
6	WCC Highways Authority	Letter of representation	15/8/2011
7	Mr & Mrs Collins	Letter of representation	17/8/2011
8	Curdworth Parish Council	E-mail of representation	26/8/2011
9	Ms Cooper	Letter of representation	30/8/2011
10	Case Officer to applicant	Correspondence requesting a landscaping plan	6/9/2011
11	Applicant to Case Officer	E-mail for information	12/9/2011
12	Case Officer to Applicant	Correspondence requesting a landscape plan	13/9/2011
13	Applicant to Case Officer	Submission of landscape plans	21/9/2011
14	Case Officer to Members, the chairman and Vice chairman of the Planning and Development Board	Officers observations	27/9/2011
15	Councillor Simpson	Response	27/9/2011
16	Neighbour – 4 Church Lane	Representation	27/9/2011
17	Councillor Lea	Response	27/9/2011
18	Case Officer to Members	Response to Members queries	28/9/2011
19	Councillor Simpson	Response to queries, request to take application to Board	1/10/2011

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.



(6) Application No PAP/2011/0381

62 Coleshill Road, Water Orton

Erection of new fence to front and side boundaries to replace existing fencing and hedge for

Mr Allan Holland

Introduction

The application is reported to the Board as the applicant is a Member of the Council.

The Site

This is a detached dwelling house situated at the junction of Coleshill Road and St Peters Close within Water Orton in a wholly residential area.

The Proposal

A new fence has been erected along the garden boundary with St Peters Close. This has replaced an existing fence and hedge. A planning application is required as the fence exceeds the height that is permitted by the general planning permission granted by the Town and Country Planning General Permitted Development Order 1995, as amended.

The fence is illustrated on the photographs attached to this report.

Background

The fence has already been erected. Planning permission is now being sought retrospectively to regularise the unauthorised development.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006: ENV12 (Urban Design) and TPT3 (Access and Sustainable Travel and Transport)

Other Relevant Material Considerations

Supplementary Planning Guidance – The Council's Design Guide for Householder Developments

Consultations

Warwickshire County Council as Highway Authority - No objection.

Observations

An Ordnance Survey (OS) based site plan and block plan are submitted, the latter indicates the position of the fence erected. Unusually no drawings of the fence have been provided. Photographs of the new fence annotated with height dimensions are submitted however, and these are considered, in this instance, to provide sufficient detail to accurately identify the development for which planning permission is sought. It should be noted that this may not always be the case.

The new fence comprises two styles of timber fence panels both mounted on concrete gravel boards. These are identified as type A and type B and the position of each type is indicated on the block plan submitted. Type A has been erected along boundary to the front of the dwellinghouse; this is a wave style fence comprising of a concrete gravel board at the base, with a horizontal timber panel with open lattice top, this is 1.48 metres high. Type B has been erected along the boundary to the side and rear of the dwellinghouse; this is a vertical close boarded timber fence mounted on a concrete gravel board and is 1.92metres high.

Recommendation

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

1. The development hereby approved shall not be carried out otherwise than in accordance with site plan and the annotated photographs showing the erected fence received by the Local Planning Authority on 16/8/2011.

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

Justification

The fence by virtue of its design materials and height, presents an appearance that is well related to its immediate setting and harmonises with the street scene in this residential location. It will not have any detrimental impact on safety on the public highway. The development is thus in accord with saved policies ENV12 and TPT3 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/2011/0381

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	16/8/2011
2	WCC Highways	Consultation	6/9/2011

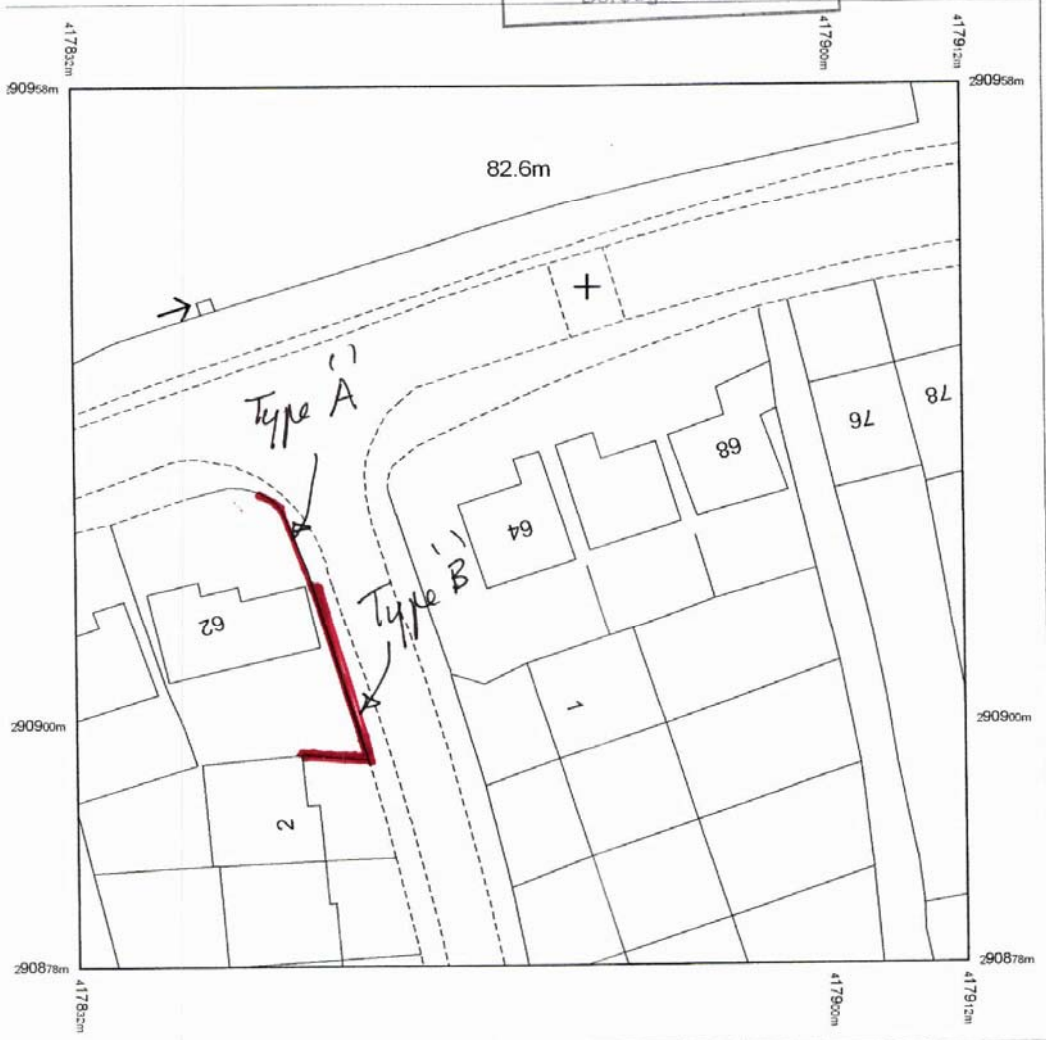
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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.



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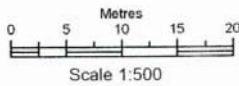
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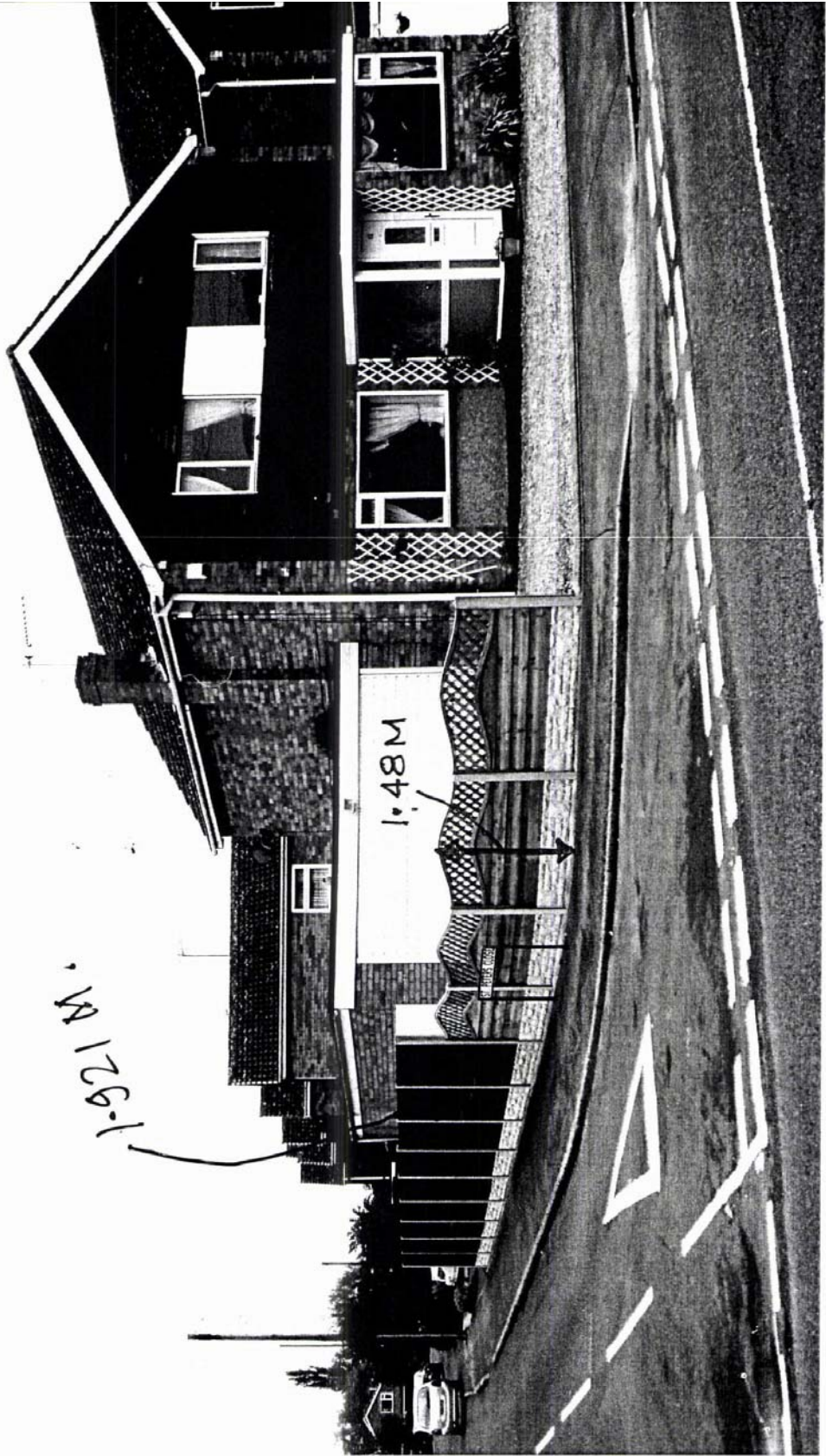


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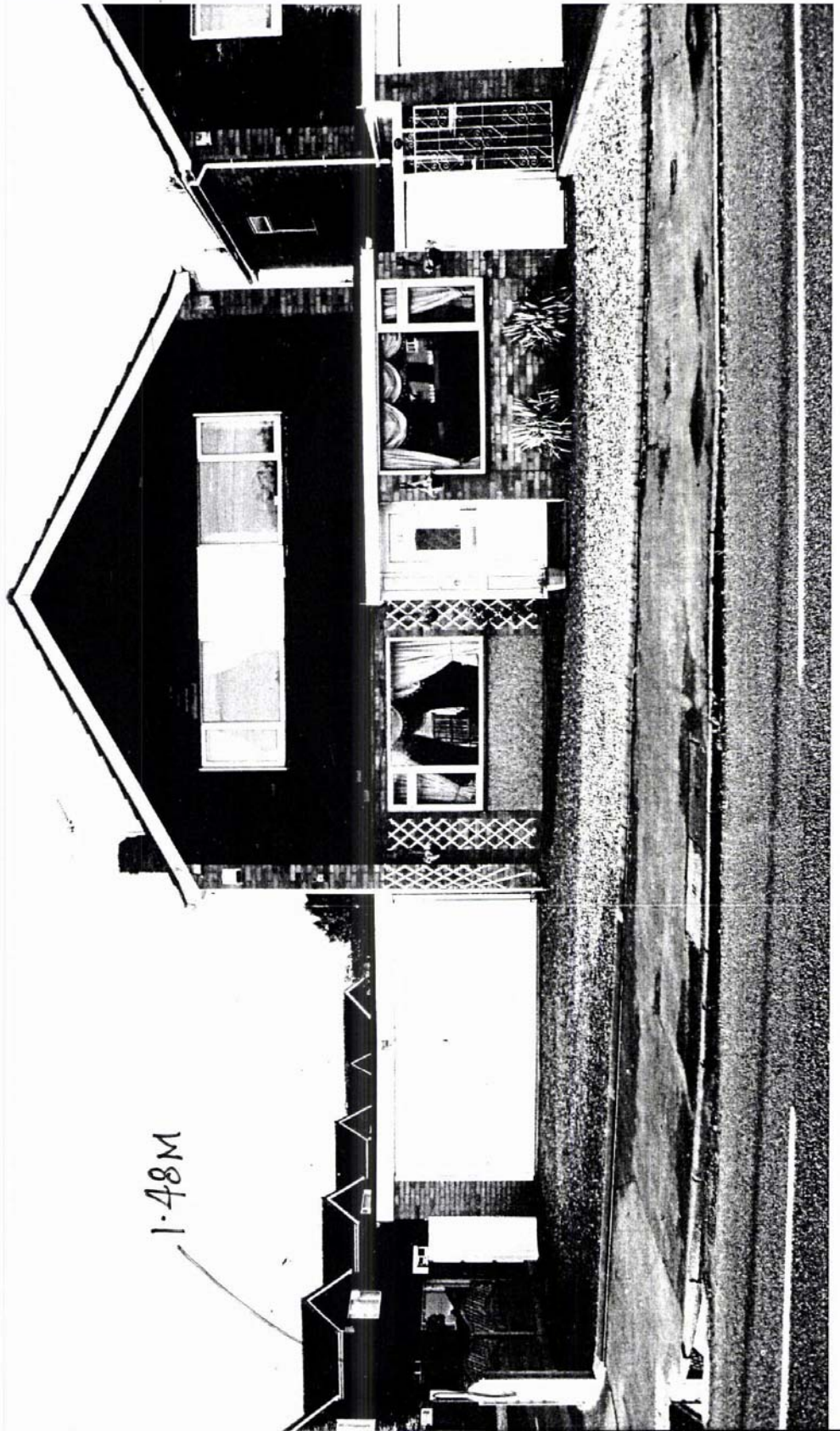
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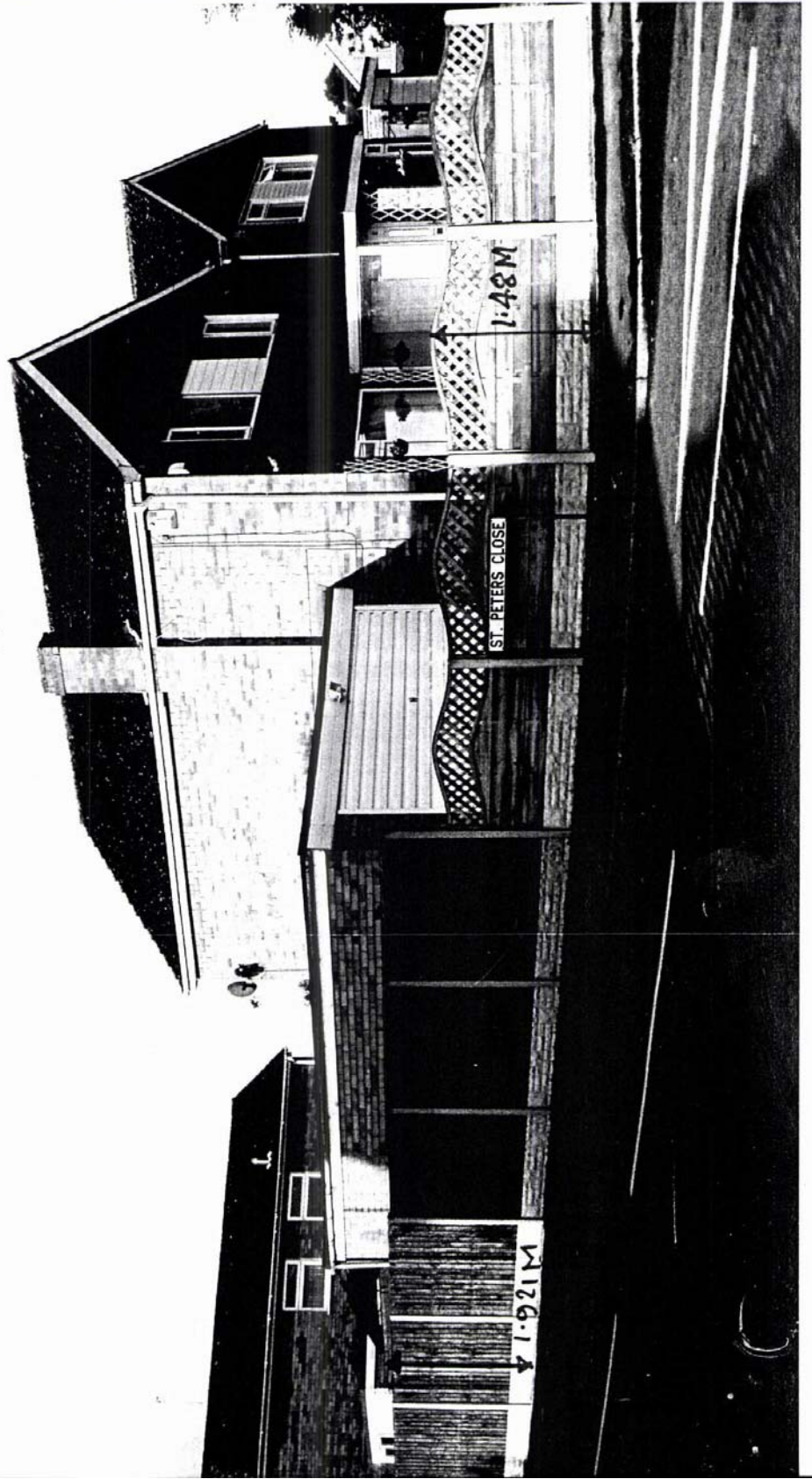
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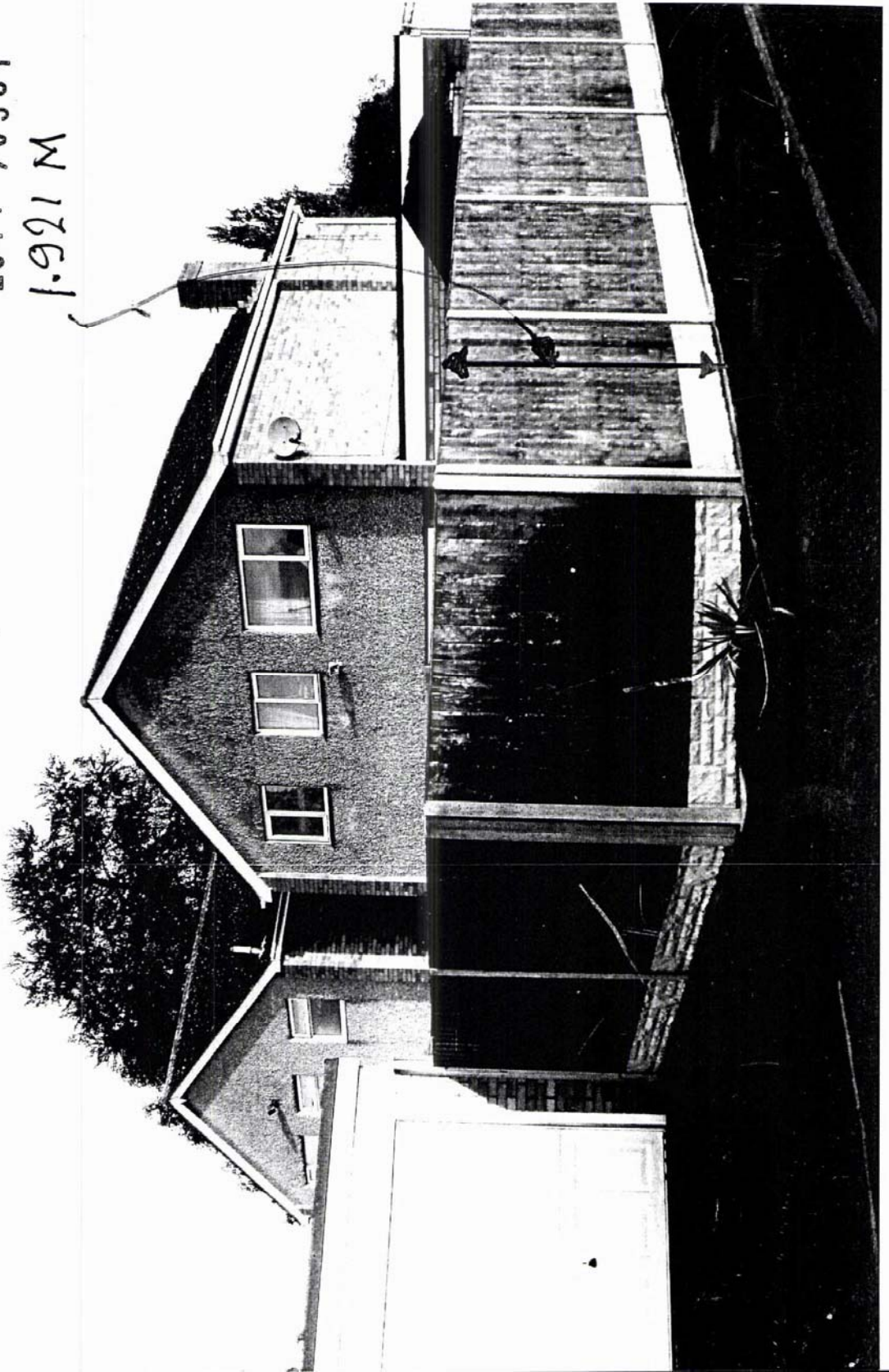
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(7) Application No: PAP/2011/0384

Croft Barn, Bentley Lane, Maxstoke

Erection of small wooden hut, with verandah to provide protection for anyone fishing at the lake,

for Mr Stuart Green

Introduction

This application is reported to Planning and Development Board at the request of the vice chair highlighting concerns with the proposal.

The Site

The site lies in open countryside washed over by the West Midlands Green Belt. The wooden hut is already erected and sits on the north edge of a fishing lake. There is fragmented hedgerow to the rear of the hut, and young to semi-mature tree planting in the vicinity. Views of the hut are limited, but there is one clear vantage point from Bentley Lane, south of the copse to the east of the lake. The hut is of a timber construction and appears as a summer house akin to that available from DIY and garden outlets. It is painted a grey/green colour, although the window and door frames are cream. Photos are attached at Appendix A.

The Proposal

It is intended to retain the wooden hut to provide protection from the weather for anyone fishing at the lake.

Background

This application arises from an enforcement complaint relating to the use of the nearby agricultural building. Whilst investigating that complaint, it was noted that the wooden hut had been erected without the benefit of planning permission.

Development Plan

North Warwickshire Local Plan 2006 (Saved Policies): CORE POLICY 2 (Development Distribution), ENV2 (Green Belt), ENV12 (Urban Design) and ENV13 (Building Design).

Other Relevant Material Considerations

Government Advice: Planning Policy Guidance Note 2 (Green Belts) (PPG2) and the draft National Planning Policy Framework (NPPF).

Consultations and Representations

Shustoke and Maxstoke Parish Council were consulted but no response was received.

Neighbour letters were sent and a site notice erected, but no representations were received.

Observations

The purpose of this hut is to serve for shelter to anglers at the lake. It therefore follows that this proposal requires this rural location. However, as it lies within the Green Belt the need for this building must be considered.

PPG2 allows for buildings providing “...essential facilities for outdoor sport and outdoor recreation...” going on to clarify that “...essential facilities should be genuinely required...”. The guidance cites examples of essential facilities which include small changing rooms or unobtrusive spectator accommodation for outdoor sport. The proposal here would only provide shelter for anglers – not changing rooms or spectator accommodation. It must also be recognised that PPG2 hangs emphasis on the facilities being *essential*. Shelter for anglers is not considered essential – it is considered preferential. Indeed, most anglers pitch a small tent or carry umbrellas to protect them from the rain; and significantly inclement conditions are likely to result in them not fishing in the first place. Hence, the hut is not considered to be essential to enable angling at the lake – particularly as it has occurred without this hut for at least 15 years.

Regard is also had to the 1994 planning consent for the lake. A condition required the details of the portaloo, recognising that WC facilities can be viewed as essential. Such details were approved so it is lawful to site a portaloo here. Whilst no longer present, this is a material fall back for the applicant which fulfils any essential need which might arise from the use of the lake.

It therefore follows that the siting of the hut is inappropriate development within the Green Belt, harmful to the openness of it. No special circumstances have been advanced which outweigh this harm, and thus the application should fail on this ground.

There is some concern as to the residential garden appearance of the structure. However, it is appreciated that the viability of an alternative may preclude that option. It is not the scale and form of the building which is of concern here, but the emphasis to the openings and the building as a whole brought about by the treatment colours used. Hence, a condition to require a more natural green to the entire structure could overcome these concerns, notwithstanding the Green Belt issue already outlined above.

Recommendation:

1. That the application be **REFUSED** for the following reason:

The proposal is not considered to be an essential facility in securing the long term use of the lake for angling purposes, with WC facilities already lawful under the original planning consent for the lake. The provision of shelter from the weather for anglers is a preferential one, as opposed to an essential need, and in any case is unlikely to be used in the majority by way of weather conditions causing a natural deterrent from use of the site, or anglers catering for their own needs at the waterside. The proposal is therefore inappropriate development within the Green Belt harmful to the openness of it, and with no very special circumstances demonstrated which outweigh this harm; and is thus contrary to saved policy ENV2 of the North Warwickshire Local Plan 2006 and national guidance contained within Planning Policy Guidance Note 2.

2. That the Board grant authority for formal enforcement action for the removal of the wooden hut and reinstatement of the land accordingly.

BACKGROUND PAPERS

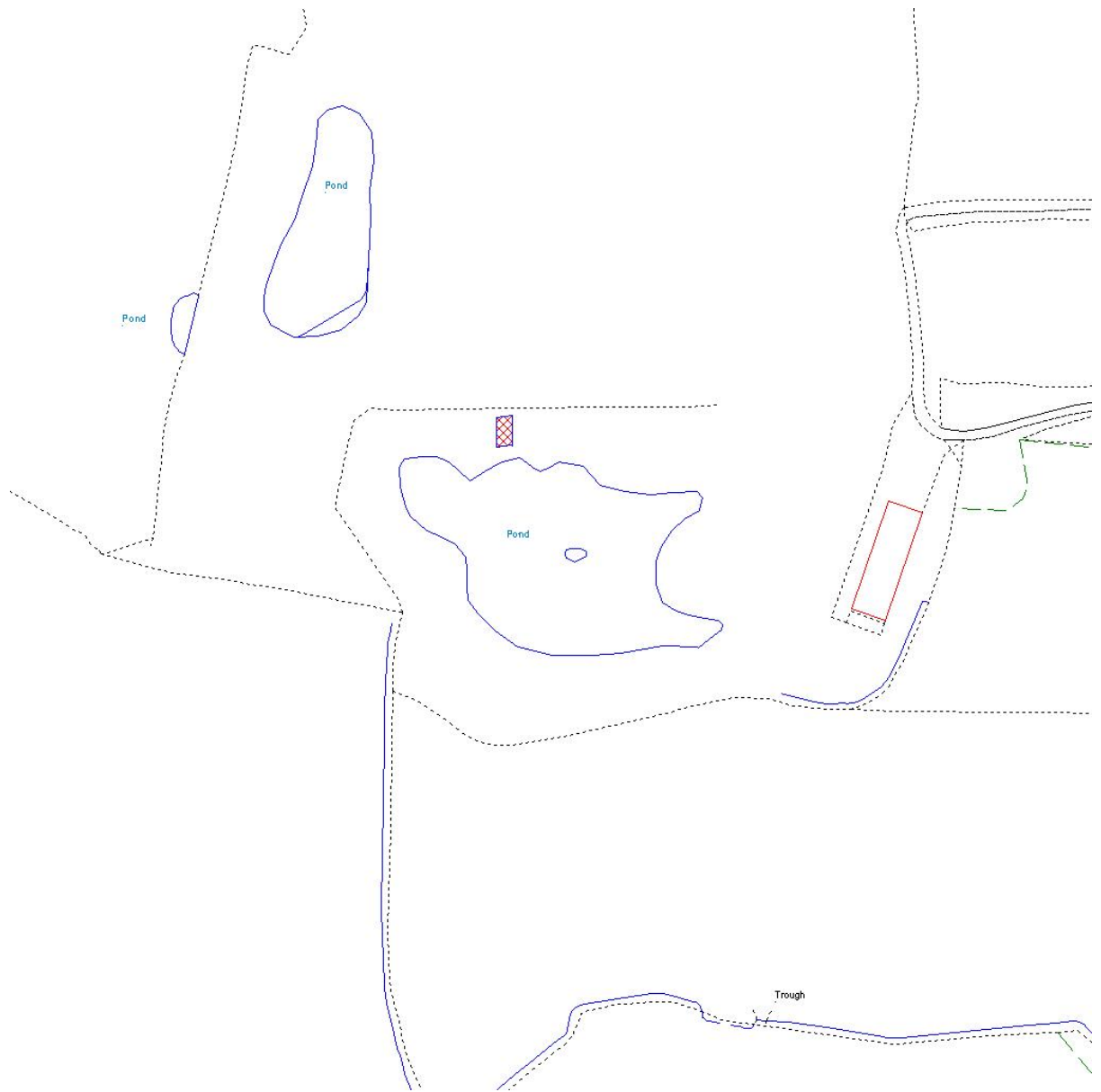
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2011/0384

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	11 Aug 2011
2	Case Officer	Draft recommendation and email to Councillors	20 Sep 2011
3	Councillors	Emails to Case Officer	20 and 21 Sep 2011

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

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



APPENDIX A



(8) Application No PAP/2011/0420

Caldecote Hall Industrial Estate, Caldecote

Mixed Use development to Caldecote Hall Estate Works, consisting of extension and remodelling of existing offices; change of use of workshop to dwelling and three new dwellings for

Caldecote Court Ltd

Introduction

This application is reported to the Board in view of Member's past interest in new developments here and because of the innovative and wholly contemporary design of two of the new dwellings. A Section 106 Agreement could also potentially be involved.

At this stage, the report is for information only, noting the receipt of the application. A determination report will follow shortly.

The Site

The Caldecote Estate Works are located immediately adjacent to Caldecote Village, accessed via a private track from Caldecote Road which itself runs east towards Weddington Lane, the A444, about 500 metres away. The buildings form a cohesive group of mainly two storey ranges with the majority positioned around a central courtyard. They each carry different characteristics with varying heights and mass, but are all constructed from traditional and modern materials.

Around the northern edges of the site and adjacent to the access is a group of significant trees along with substantial vegetation. There is a collection of terraced properties to the south with further detached residences some 35 metres to the south west.

The buildings presently are used for a variety of light and general industrial, storage and distribution, and sui generis uses across the site. These are established and not regulated by any overall planning consent.

Background

Members visited this group of buildings in 2009, prior to considering a redevelopment proposal. These had originally been the workshops and general storage outbuildings for the Caldecote Estate when it was much larger and managed as a landed Estate. Subsequently, since around the late 1960's onwards, the buildings have become used for a variety of small business uses as described above. They have been repaired and "patched", but basically remain in their original form.

In 2009 planning permission was granted for the redevelopment of this whole complex of buildings for B1 light industrial and office uses. The approved scheme involved retention and renovation of many of the buildings, some demolition and also some new build. Overall the floor space of the existing buildings was increased by 25%. The new build was very largely connected to and designed to integrate with the existing in a series of inter-connected ranges. Car parking provision and general access arrangements were also much improved. There was little if any disturbance to the surrounding tree belt.

Since then, because of the prevailing economic conditions, the owners have said that there has been no demand for the type of floor space permitted and subsequently there has been little in the way of developer or funding interest in progressing the proposal. The owners have therefore revised their approach and have submitted this application which effectively exchanges some of the business floor space for residential use.

The Proposals

a) Overall Description

A mixed use development is now proposed. In general terms, the existing buildings to be retained for B1 office use are the ranges close to the detached houses on the south west of the site. There would be demolition here too in order to enable car parking provision. One half of the existing ranges on the east side of the central drive would be retained and converted to a residential use, and the second half would be demolished and replaced by a new house following the same built form and line. That part of the site at the northern end, where parking was to be provided for the 2009 scheme would now accommodate two new houses. There would be some encroachment into the wooded area, but trees identified for removal are all self-set sycamores. Appendix A illustrates the existing layout, and Appendix B that now proposed. In total the floor space now proposed would be double that of the existing floor space, and be 75% more than that permitted in 2009.

The office space would be provided in eight units as a result of the conversion and extension of the existing ranges, and be accommodated through a variety of single and two storey developments, retaining many of the existing openings. These would look inwards towards a new central court to be used for car parking – 17 spaces are shown here. A general impression of the appearance of these units is at Appendix C.

The first residential unit is a conversion of a retained building on the east side of the central drive. This is to be converted and extended into a four bed room house. The extension is necessary in order to achieve a reasonable amount of accommodation given the overall small floor area, the low roof height and the unusually high window cills. As a consequence in order to retain the traditional appearance as a workshop, the front elevation is largely retained with the extension being to the rear and via a new front gable to match the gables seen on the existing ranges on the other side of the drive. The rear elevation however has a wholly modern appearance. This is illustrated at Appendix D.

The second unit is a new two storey four bedroom unit on the site of a demolished building but on the same building line and footprint as the original. It is modern in appearance taking on a number of rectangular features and re-expressing the gable feature – see Appendix E.

The final two units are wholly contemporary in appearance and in built form, one taking on a split rectangular form and the second picking up on the curved estate wall to its rear by introducing curved elevations. These are illustrated at Appendix F and G.

In order to appreciate the cumulative impact of these various elements, the applicant has provided a set of computer generated schematics and these are attached at Appendix H.

b) The Rationale behind the Proposals

The application is accompanied by a Design and Access Statement, a Tree Report and a Planning Statement.

In essence the applicant is saying that notwithstanding the 2009 permission, the prevailing market conditions and the unwillingness of the financial institutions to lend, has meant that that scheme has no reasonable prospect of being implemented. An alternative proposal has been prepared, and one that introduces “higher value” through the proposed residential use. It is argued that the continuation of the current uses is not generating sufficient income to maintain the buildings and because of their nature, there is very little scope for increasing income. As a consequence, if the buildings are to be retained and viable uses found, then new investment will be needed that generates a financial return. The applicant argues that the introduction of residential uses generates the value to provide that return.

c) The Section 106 Agreement

For some time, and consequent upon a number of recent planning applications in Caldecote, Members have been expressing their support for the improvements and enhancements being made to the Estate as a whole. In particular attention has been focussed on the renovation of the Hall, the former stable block and the estate workshops, all set within their parkland setting. Care has been taken when supporting proposals here, to retain the character and appearance of this locality. It is considered that this could be taken a step forward, and it has been suggested to the applicant, that there is scope here for the designation of a Conservation Area.

This opportunity could perhaps be taken forward through a Section 106 Agreement whereby the applicant agrees to finance the commission a Conservation Appraisal of the estate with a view to a potential designation report. This has been put to the applicant and his response is awaited.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policies 1 (Social and Economic Regeneration); 2 (Development Distribution), 3 (Natural and Historic

Environment), 11 (Quality of Development) and policies ENV1 (Protection and enhancement of the natural landscape), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV7 (Development of Existing Employment Land), ENV10 (Energy Generation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ECON9 (Re-use of Rural Buildings), TPT 1 (Transport Considerations), TPT6 (Vehicle Parking).

Other Material Planning Considerations

Government Planning Policy – PPS1 (Delivering Sustainable Development), PPS4 (Planning for Sustainable Economic Development), PPS9 (Bio-diversity and Geological Conservation) and PPG13 (Transport)

Ministerial Statement of March 2011 – The Presumption in favour of Sustainable Development.

Draft National Planning Policy Framework – August 2011

Observations

Members will appreciate that Caldecote is not defined as a Local Service Centre by the North Warwickshire Local Plan 2006, and is thus not a settlement where new housing would normally be supported. All new housing here should be “affordable” housing, matching local housing needs. The current proposal is thus a departure from Development Policy. The key issue with the application is thus to identify whether there are material planning considerations of such weight as to warrant overriding the approach towards new residential development as set out in the Development Plan. The determination report will consider this issue with the benefit of representations and consultation responses to the application from the local community and the technical agencies involved.

Recommendation

That the receipt of the application be noted at the present time.

BACKGROUND PAPERS

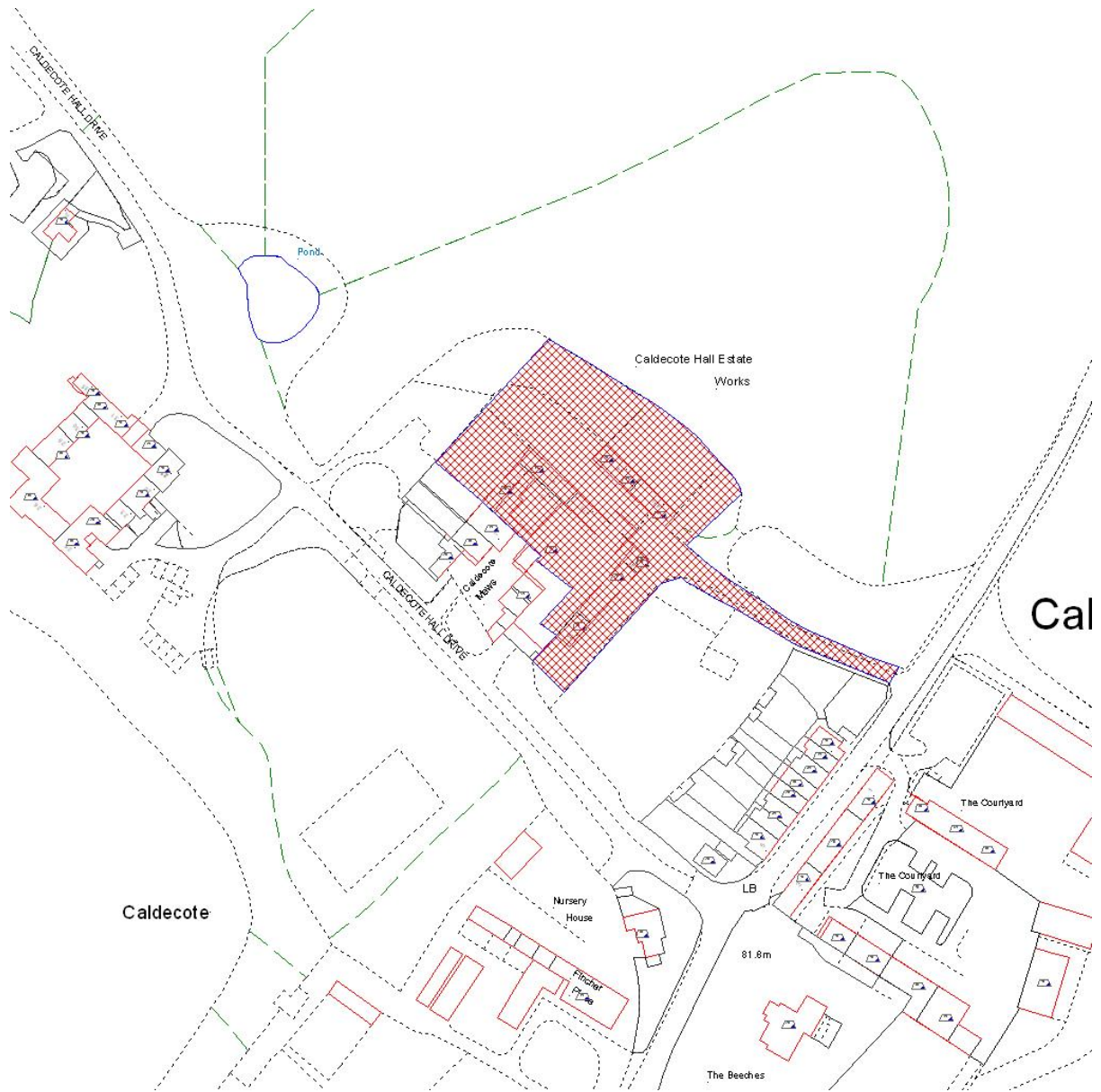
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2011/0420

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	12/8/11

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.



(9) The White House, Middleton Lane, Middleton, Tamworth

Application No PAP/2011/0434

Three pet enclosures together with additional parking area at the rear,

Application PAP/2011/0440

Construction of Basement Swimming Pool

Both for Mr Liam McGilloway

Introduction

These applications are reported to the Board following the local Member's concern, given the history of development at the site and in light of the recommendation for enforcement action.

The Site

The site is a partly constructed replacement dwelling situated on the south side of Middleton Lane at a position opposite the haulage yard known as Whalley's Yard. The dwelling replaces a cottage of the same name which formerly occupied the site. This is a rural area with a number of dispersed houses and farmsteads in the locality.

The Proposals

a) PAP/2011/0434

This application is partly retrospective as the pet enclosure structures are mostly constructed and the area to the rear of the property has already been surfaced with a concrete pad and bordered with the foundation for a low brick wall. The three pet enclosures take the form of three half hexagonal blue brick enclosures to match the house, surrounding external doors on each end elevation and on the rear elevation. Each enclosure is to be fitted with chain link wire fencing and a chain link door. The enclosures will surround entrance doors to the dwelling.

A concrete hard surfaced and enclosed yard is proposed to the rear of the property. A new 500mm high brick wall would enclose the periphery of the yard. It is stated that this is sought to accommodate additional parking.

b) PAP/2011/0440

This application is also partly retrospective because the applicant has begun to excavate the land at the position of the proposed swimming pool. A cross section plan suggests that the roof of the pool would be at the same height as the ground floor of the main dwelling. The coverage of the roof is unspecified. Finished levels plans have been sought but not yet supplied. Details of the elevation at right angles to the garage entrance have been sought but have not yet been received. The pool structure would measure 7.8m wide by 15.8m long, having a maximum depth of 4.5m.

Background

Planning permission for a replacement house here was refused in June 2004 because the proposed replacement dwelling was materially larger than the dwelling it sought to replace and because of concerns about the proposed design of the new dwelling (in that it was very 'urban' in design and would not reflect or harmonise with the immediate setting or the wider surroundings, such that it would be harmful to the rural character and appearance of the area). Planning permission was subsequently granted for the erection of a replacement dwelling at this site in October 2004 and a minor amendment was approved in August 2006. The approved replacement dwelling overcame the previous concerns through a reduction in the overall ridge height and through revisions to the design to better reflect the rural setting. The approved minor amendment facilitated the use of the roof space by incorporating six roof lights evenly grouped in twos on the rear roof plane and incorporated a basement, no part of which was visible from above ground. Though the use of the roof space and the formation of a basement increased the useable space within the dwelling, it did not necessitate any revision to the 'visible' volume of the approved dwelling and therefore had no negative impact on the openness of the area and was supported accordingly.

Notwithstanding the approved details, and the endeavours to agree a dwelling with a design more fitting to its rural setting, the replacement dwelling that was subsequently constructed did not accord with the approved design, either in terms of size or appearance. When this was drawn to the applicant's attention, and he was advised of the likelihood of enforcement action being pursued, he sought and obtained permission for, and made revisions to, the structure (though it should be noted that all revisions have not been fully implemented. This will be discussed in the Observations below). A permission which added, and then later amended, a proposal for an underground garage has also proceeded in a manner which does not accord with the approved plan.

The house remains under construction and is not yet occupied.

The Development Plan

North Warwickshire Local Plan 2006 (Saved Policies)

Core Policy 2 – Development Distribution

ENV2 - Green Belt

ENV11 – Neighbour Amenities

ENV13 – Building Design

ENV14 – Access Design

HSG3 – Housing Outside Development Boundaries

Other Relevant Material Considerations

Government Advice:

Planning Policy Guidance Note Number 2 - Green Belts and its draft National Planning Policy Framework.

Representations

Middleton Parish Council has queried the purpose of the pet enclosures but at the time of drafting the report it has forwarded no further comment.

Observations

The site lies in the Green Belt. The proposals here need to be considered having regard to Green Belt and local plan policies relating to replacement dwellings.

The Pet Enclosures

These take the form of three extensions to the dwelling. The applicant suggests that the enclosures are designed to house guard dogs. No explanation has been offered as to why the pet accommodation could not be provided within existing buildings at the site or in freestanding structures. No explanation has been offered as to why as many as three large enclosures are required for pets kept by a single household.

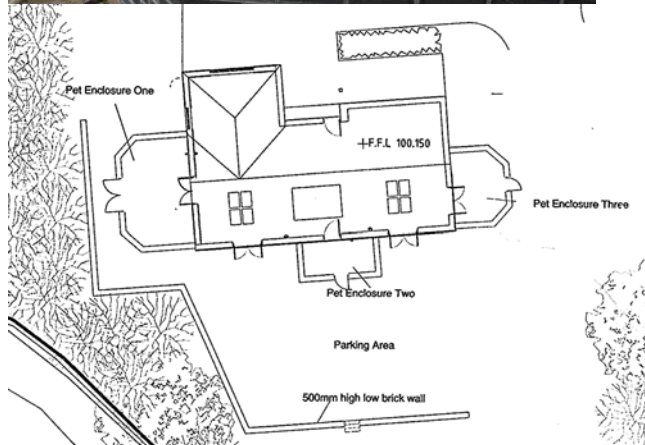
The partly constructed pet enclosures are shown in the photographs below, together with plans showing the proposed final design of the structures.



Proposed pet enclosure (partly constructed) West Side Elevation



Proposed pet enclosure (partly Rear Elevation



Proposed pet enclosure (partly constructed)
East Side Elevation

Plan showing the footprint of the enclosures



Proposed Rear Elevation showing all three Pet enclosures

When planning permission was first granted, permitted development rights were removed in respect of later additions to the property, as a means of controlling the size of the replacement dwelling and to reflecting the siting of the property in the Green Belt. Furthermore, permitted development rights were removed for the erection of gates, walls and fences. Green Belt policy indicates that replacement dwellings will be supported providing they are not disproportionately larger than the dwellings that they replace. The size of the approved replacement dwelling, together with later approved revisions, have significantly increased the size of the property,

such that the dwelling is now already more than 30% larger than the original cottage. It is not considered that there is sufficient justification for the further extension of the property with the proposed pet enclosures. Whilst they would not be fully enclosed structures, they would nevertheless enlarge the footprint of property and add to the overall impression of its volume such that it would be disproportionately larger than the original cottage and the replacement dwelling would harm the openness of this part of the Green Belt. The retention and completion of the pet enclosures can not be supported.

Though not forming a reason for refusal in its own right, it is noteworthy that the elements of the pet enclosures which are already constructed are of very permanent construction and look remarkably akin to the design and quality of the base elements of conservatory/porch extensions, whereas the upper part of the structures would have more of a temporary appearance. There appears a reasonable prospect that there would be pressure at a future date to reuse the base elements as part of extensions forming more substantial habitable accommodation.

Furthermore, the proposed open topped, wire mesh structures would detract from the appearance and character of the dwelling house.

The Rear Parking Court



Photograph showing part of the rear surfaced yard.

This area of land lies within the residential curtilage of the dwelling. The hard surfaced area is to the rear of the property. Permitted development rights have not been removed in respect of the creation of hard surfaces for purposes incidental to the enjoyment of the dwelling house. Assuming that the hard surface is for purposes incidental to the enjoyment of the dwellinghouse, it is the erection of an enclosing structure 500mm high wall which gives rise to the need for planning permission (given the removal of permitted development rights for the erection of new walls). Though the large concrete pad detracts from the rural character of the plot and adds to the overall scale of the built form, the applicant could reasonably lay a large patio to the rear of the property without any need for planning permission and the surface is akin to a patio. The proposed enclosing wall is of a low height and to the side and rear of the property. The low height wall is unlikely to detract significantly from the openness of the locality.

The approved building houses a double basement garage which has open parking spaces above it, to the front of the property, together with two associated access drives and turning area. This appears to be ample parking opportunity for a single dwelling house. It is unclear why a large hard surfaced and fenced area is required to the rear of the property for further parking at this dwelling house and raises a question about whether yet further parking would be incidental to the enjoyment of the dwelling house. This can only be established once the surface is brought into use for the purpose of parking. If it is later found that the area is used for parking for non-domestic purposes that would not be 'incidental to the enjoyment of the dwelling' and would need to be addressed as a separate enforcement matter. Given the applicant's ability to construct hard surfaces to the rear of the property and the limited impact of the low boundary wall, this element of the application could not be resisted on the grounds of speculation that the use for parking would be something other than incidental.

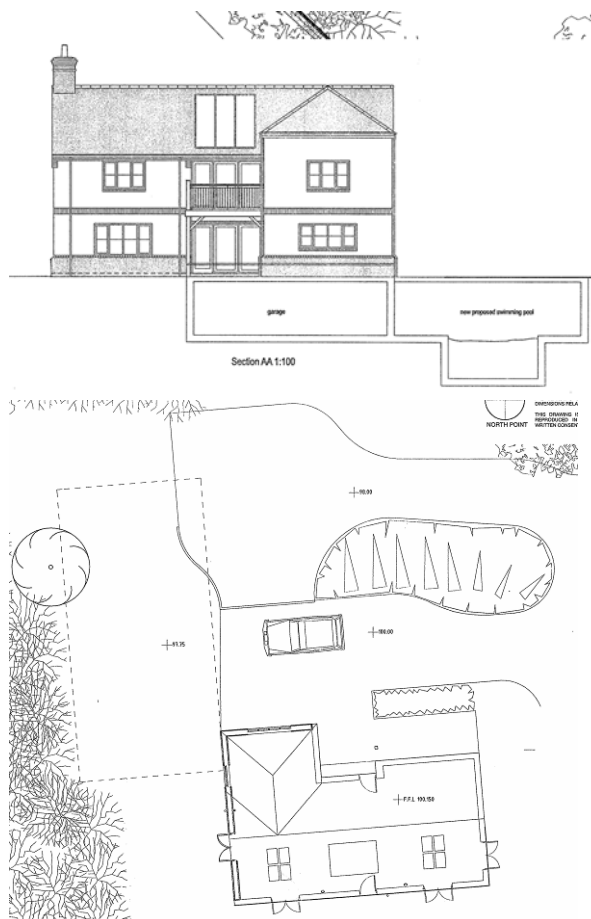
The Proposed Swimming Pool and the Basement Garage



Basement Garage under construction
pool
in May 2011
2011



Basement Garage and swimming
pool
under construction in September
2011



In discussing the merits of the planning application for the proposed swimming pool structure it is necessary to consider how the pool structure would fit with the already approved basement garage.

It became apparent at the most recent site visit that, like the house itself, the basement garage has not been built in accordance with the approved plans. The approved plans show a retaining structure with a steeply graduated, curved line, whereas the retaining wall under construction is taking a taller form, with a shallower grading, and forms a continuous straight line from the garage door. This causes the built form of the garage to be more visually prominent.

It is noteworthy that the basement garage was only supported on the basis that it would have limited visibility and that it would not significantly add to the visible volume of the dwelling. The approved plans made provision for a landscaped bank to disguise the garage entrance from view. The current line of the retaining structure does not afford the same disguise to the garage entrance. The changes cause the garage element to have increased visibility and add to the scale and appearance of the dwelling as a whole. Whilst the applicant has been invited to offer an explanation for the proposed change, no explanation has been received to date. This change cannot be supported because the revised design increases the appearance of the overall volume of the dwelling and causes greater harm to the openness of the area.

The plans proposing the swimming pool are unclear in several respects. The intended finished ground levels, particularly in respect of the difference in ground levels between the access route to the garage and the area above the proposed basement pool are unclear. Existing and proposed levels plans and an elevation drawing to show the finished land form and any retaining structures looking towards the swimming pool, across the front of the dwelling (the western facing elevation) have been sought, but to date they have not been received. Furthermore, confirmation of what plant/machinery/ventilation/extraction equipment etc will be required in relation to the swimming pool have been sought but not received.

Notwithstanding the uncertainty about the exact implications of the pool construction, because of the need to maintain vehicular access to the front of the garage, it is highly likely to require retaining structures which will be visible, and which will add to the volume and scale of the dwelling, despite the fact that the swimming pool would be below the ground level of the dwelling house. In these circumstances, the development would be contrary to planning which resists the erection of replacement dwellings which are disproportionately larger than the original.

Alterations to the property which deviate from the approved plans and Recommended Enforcement Action

The applicant has consistently constructed the dwelling in a manner which varies from the approved plans. His piecemeal efforts to regularise, revise or 'correct' the unauthorised works have had the cumulative effect of altering the character, scale and appearance of the property. The proposed additions and the latest variations from the approved plans would further enlarge the size and scale of the dwelling and further detract from the cottage style appearance of the approved replacement dwelling.

It is therefore recommended that formal enforcement action would be appropriate to remedy the current breaches of planning control, which can be summarised as

follows:

1. The erection of three unauthorised additions to the property (the brick built pet enclosures with a requirement to remove them within two months).
2. The construction of the basement garage in a manner which does not accord with the approved plans, with a requirement that it is constructed in accordance with the approved plan within two months.
3. The engineering operation comprising the excavation of land (in the vicinity of the proposed swimming pool) with a requirement to fill in the excavation and return it to the original ground level in three months.
4. The installation of a door and glazing in the centre section of the front elevation of the dwelling house which does not accord with the approved plans, with a requirement to construct it in accordance with the approved plans within two months.
5. The retention of blue brick cills at the positions where former unauthorised windows have been blocked and rendered, in a manner which does not accord with the approved plans. The requirement would be completion in accordance with the approved plan within two months.
6. The omission of a blue brick arched head to the first floor window on the front elevation projecting wing, in a manner which does not accord with the approved plans. The requirement would be to complete in accordance with the approved plan within two months.



Illustrates the window cills left in situ at first and second floors



Illustrates the use of incorrect door and glazing in the centre section of the building.

For the avoidance of doubt the up to date approved plan referred to is that shown below:



Though the applicant indicated, through his agent, in July that he would commission and install the six large glazing panels which conform to the approved plans, and has indicated that their manufacture could take several weeks, the applicant has offered similar assurances in the past. It is considered expedient to obtain authority for enforcement action in this respect, to cover the eventuality that the applicant does not follow the course of action that he indicated.

Recommendation

A. PAP/2011/0434

That the application be **REFUSED** for the following reasons:

The site lies within the Green Belt and outside any development boundary as identified within the North Warwickshire Local Plan 2006 (Saved Policies). The proposed pet enclosure extensions are considered to be disproportionate additions to the original dwelling house, which is a replacement dwelling. The extensions increase the footprint of built development on three sides of the property and are of a design which detracts from appearance of the dwelling. The proposal thus represents inappropriate development in the Green Belt and affects the rural character and openness of the Green Belt in which it lies, leading to harm. The proposal is thus contrary to Green Belt Policy in Planning Policy Guidance Note Number 2 - Green Belts and the saved Policies ENV2, ENV13 and HSG 3 of the North Warwickshire Local Plan 2006 (Saved Policies). The proposal is also not in accordance with advice in paragraphs 2.34 in the Council's Guide for the Design of Householder Developments adopted in September 2003.

B. PAP/2011/0440

That the application be **REFUSED** for the following reasons:

The site lies within the Green Belt and outside any development boundary as identified within the North Warwickshire Local Plan 2006 (Saved Policies). The proposed swimming extension is considered to be a disproportionate addition to the original dwelling house, which is a replacement dwelling. The extension, though situated below the ground floor level of the existing property, will add to the visible volume of the dwelling house and will increase the scale of built development to a level which is substantially greater than the original dwelling house. The proposal thus represents inappropriate development in the Green Belt and affects the rural character and openness of the Green Belt in which it lies, leading to harm. The proposal is thus contrary to Green Belt Policy in Planning Policy Guidance Note Number 2 - Green Belts and the saved Policies ENV2, ENV13 and HSG 3 of the North Warwickshire Local Plan 2006 (Saved Policies). The proposal is also not in accordance with advice in paragraphs 2.34 in the Council's Guide for the Design of Householder Developments adopted in September 2003.

C. That the Solicitor to the Council be authorised to issue Enforcement Notice(s) in the terms set out above.

BACKGROUND PAPERS

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

Planning Application No: PAP/2011/0434

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	19 8 11
2	Case Officer	E mail	26 9 11
3	Councillor Lea	E mail	26 8 11
4	Case Officer	E mail	5 10 11
5	Agent	E mail	6 10 11
6	Middleton Parish Council	E mail	23 9 11
7			

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.



(10) Application No PAP/2011/0460

Betteridge Barn, Dingle Lane, Nether Whitacre

Change of use of existing barn from storage use to daytime educational training centre, for week day use on the ground floor, with storage use only on the first floor,

for Ms Becki Coombe Learn 2 Group

Introduction

This application is presented to the Board in view of the history of the site, particularly a recent refusal for a similar use.

The Site

The site lies in an isolated Green Belt location and beyond any Development Boundary. Access to the site is made via single track country lanes with no immediate public transport provision. The building is a two storey brick built barn of traditional characteristics benefiting from a Certificate of Lawfulness as an agricultural building. Notwithstanding this description, it is constructed with an insulated cavity wall, with block work to the inner side. There is a generous space to the front before a mature hedgerow, which is largely overgrown, adjacent to Dingle Lane. To the rear is extensive semi-mature tree planting with pasture land beyond.

The Proposal

It is intended to change the use the ground floor to provide an educational training centre consisting of a classroom, kitchen and dining area, WCs and an office. The land to the front will serve as amenity land and as parking, with very little in the way of external alterations necessary.

Background

The building in question was completed in 2002 as an agricultural building. However due to land ownership at the time it was commenced, a Certificate of Lawfulness was necessary to establish the agricultural use. This was granted in 2007. A subsequent application for conversion to a live work unit was withdrawn, whilst an application for conversion to a dwelling was refused in July 2009.

A similar application to this proposal was refused in August this year although this involved the first floor and provided overnight accommodation, as well as seeking to provide additional training courses. These intentions have been abandoned. It is noted that the building has been marketed for potential live/work purposes uses since late 2007.

Development Plan

North Warwickshire Local Plan 2006 (Saved Policies): ECON9 (Re-use of Rural Buildings), ENV2 (Green Belt), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations in New Development) and TPT6 (Vehicle Parking).

Other Relevant Material Considerations

Government Advice: Planning Policy Guidance 2 (PPG2) (Green Belts), Planning Policy Statement 7 (PPS7) (Sustainable Development in Rural Areas), Planning Policy Statement (PPS23) (Planning and Pollution Control) and the draft National Planning Policy Framework (NPPF)

Consultations

Warwickshire County Council Highways note that a speed survey demonstrates a reduced visibility splay is appropriate and achievable, and the proposed shuttle bus arrangement and parking minimises the potential for parking on the public highway.

Warwickshire Wildlife Trust has made no comment by the time of writing. However, its response to the previous similar application accompanied by the same bat report raised no objection subject to a pre-commencement condition to ensure the satisfactory protection of bats and continued monitoring of the mitigation measures proposed.

No response has been received from the Environmental Health Officer, Nether Whitacre Parish Council, nor Coleshill and District Civic Society.

Representations

At the time of writing, two objections have been received. These question the sustainability of the site stating that it could be provided within a town and does not require a rural location, with one noting the narrow lanes, distance from main roads and lack of public transport. There is also concern that the building can and should be used for agricultural purposes. Further comments cite that the applicant's intention to route traffic in one direction to the site cannot be enforced; that the improved access would have an urbanising effect contrary to Green Belt policy; that horses would have to contend with the bus along the lanes; and that drainage should be discharged to a septic tank – not a treatment plant.

Another representation has also been received from a local resident concerned about increased traffic; the inappropriateness of the location for a training centre and that the building should be used for its lawful use.

Any further representations received will be reported to the Board verbally.

Observations

The main issues centre on the re-use of the building in principle, before considering other impacts in respect of ecology, highway safety, neighbouring amenity and visual amenity.

Whilst the site is in the Green Belt, it is important to recognise that the re-use of an existing building is not necessarily inappropriate development. Current Government policy in its PPG2 and its draft policy as set out in the NPPF makes this explicit. The key criterion is in essence, whether the implementation of a new use would have a greater loss on the openness of the Green Belt than if a lawful use continued. This will be explored below. Additionally, Local Plan policy ECON9 does enable the re-use of buildings in the countryside provided that pre-conditions can be met. If they are, then economic uses are preferred. Current Government guidance in its draft NPPF is also supportive in principle of new uses for existing buildings. Given this background, the applicant argues that the current proposal should be supported.

a) Re-use of the building

The building is capable of conversion without demolition and rebuilding, and its overall form and design are in keeping with the surroundings. The proposed external changes relate to existing openings and are not felt to detract from the character of the building. The main issues therefore fall on the sustainability of the site, and the likely impact on openness.

The nearest rural distributor road is some 0.9 km distant such that all vehicular traffic would have to travel on minor roads to reach the site. Public transport access is poor, with the nearest irregular service 1.0 km away, whilst the nearest regular service is some 1.3km distant. The nearest shop is also some 1.3km distant, and it is noted this is not protected by policy such that its future may be limited. All nearby services and bus stops have to be accessed along roads that are unsuitable for pedestrians. The site is therefore not sustainable in respect of both private and public transport methods. As such one of the pre-conditions of Policy ECON9 would not be met, and thus a refusal should follow. In light of this conclusion, consideration turns to whether there are any material considerations within the proposal itself which would mitigate against such a refusal. There are material considerations here which need to be taken into account.

The focus of this training facility is on the education of 15-19 year olds who have difficulty in integrating with the mainstream learning process and are in danger of becoming NEET's (Not in Education, Employment or Training). It is noted that NEET rates in North Warwickshire are higher than the rest of the County, and that the applicant states there are no relevant provisions within North Warwickshire outside of existing school and college premises. It is also noted that an isolated location offers reduced distractions to the pupils, such as shops, traffic and other persons. This shortcoming in local service provision provides weight to support to the application.

Four full time employees will be required and pupils will be collected by minibus from several schools before arriving at the site around 0830. They will be dropped back to those schools at the end of the day (1530 onwards). Those pupils attending will be different each day of the week and the allocated classroom allows for 12 pupils. It is clear that there is an effort to mitigate the transport impacts by use of a shuttle bus service at the premises. This is generally appropriate for disaffected learners as the vast majority will have no other transport option – many are unable to drive, and many more will not have parents or friends who would be able to transport them to the premises. It is thus considered that the sustainability conflict is materially reduced in light of the provision of this shuttle service. However, there is still a residual risk that some of the older pupils will have access to their own vehicles, but it is not possible to prevent this choice where it is available. Staff will still use their own private vehicles.

The use is likely to attract ancillary traffic movements, such as refuse/recycling/sewerage wagons, goods deliveries and contractors/cleaners. Refuse and recycling collections will be in line with those existing to nearby residences, thus not changing the status quo here. Consumables will be delivered just once a week via online ordering, and cleaning requirements are likely to draw a similar extent of activity. These are again similar to those linked to existing residences in the area and there is unlikely to be a material increase in associated vehicle movements.

In summary, whilst there are concerns with the sustainability of this site, the limited scale of the proposal, and the mitigation arrangements proposed to offset the use of private vehicle are material considerations of some weight. It is highly likely that these arrangements would reduce the adverse impacts of the sustainability concern. Members may therefore wish to consider a personal temporary period of consent to ensure that the use can be monitored and cease, if impacts are found to be unacceptable. A condition requiring that the proposed mitigation is formalised into a Travel Plan is also considered essential so that the effectiveness of the shuttle service, and execution and publicity of it can all be monitored.

In terms of re-use objectives, it is advanced that the building is not suitable for farm diversification given there is no agricultural holding here of sufficient size to warrant this approach. It is known that the landowner owns agricultural land to the rear, such that there may be a need for associated storage. Indeed a Certificate for the building granted in 2006 established an agricultural use. However, a use does not have to remain unchanged, and there is presently no active farm business here. The retention of the first floor allows for the ability to store less cumbersome items; and as the control of the building remains with the landowner, if further storage needs arise he is able to terminate the lease. The personal consent can also ensure it returns to agricultural use if the applicant ends the tenancy.

Turning to the likely impact on openness, then this re-use would not likely have a materially greater impact on openness of the Green Belt as the building is already present. The proposed changes to existing openings are minimal, and would not detract from the character of the building. Consideration is given to the effect of a widened access and parking area, which brings about harm to openness. However an area of informal hard standing already exists, and if the building were used for

agricultural and equestrian purposes there would be outside storage and parking of vehicles as well as use of the access. Whilst there would be some minor loss of hedgerow, subject to suitable boundary treatments and new native planting reinforcing these, there is not considered to be an overriding refusal reason here.

b) Ecology

It is noted that there is a bat roost in the roof space. However, Warwickshire Wildlife Trust is satisfied that the provisions of the method statement are sufficient to avoid any likely negative effects during construction works. In this respect it seeks a condition to secure this, as well as further monitoring and scope for contingency measures post construction.

c) Neighbouring amenity

Whilst raising no comment here, Environmental Health noted under a previous application that previous uses and potential for contamination were not assessed. However, this was focussed around there being an accommodation element which is no longer part of this proposal. No further investigation is considered necessary. There is also not considered to be an adverse affect on neighbouring amenity from noise breakout and associated vehicle movements.

d) Highway impacts

A speed survey and transport assessment has evidenced that a reduced visibility splay is appropriate, achievable and can be maintained. However whilst the Highway Authority remains concerned about the location, there is support for the use of a minibuss, recognition that service vehicles will be very infrequent visitors and that cars once at the site will remain all day.

e) Conclusion

It is noted that the barn has been marketed continually for the last 3 years without a suitable alternative use coming forward. The building therefore would likely remain redundant if permission were not granted here. This is not in itself a reason to allow the application to succeed. However, there are a series of material considerations which lend themselves to support of this proposal. Firstly Government policy supports the re-use of existing buildings in general terms; it supports economic development in overall terms and this is reflected in the Council's own Development Plan, the scale of this proposal has been materially reduced from the previous one and mitigation measures can be introduced to reduce the level of and impact of private car use, there is limited impact on openness, and there is a shortage of provision of this type of facility in the Borough. Additionally, the possibility of a personal and temporary consent needs to be taken into account. Normally this type of condition is unreasonable if costs are involved. There would be conversion costs here, but, electrics and basic plumbing are already in place, and the construction of the building as described above already includes cavity wall insulation. The conversion costs would therefore generally be very much more limited than usual.

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 use hereby approved shall enure solely for the benefit of Ms Becki Coombe and for no other person whomsoever, and specifically not for the benefit of the building known as Betteridge Barn, Dingle Lane, Nether Whitacre, B46 2EG, and shall be discontinued on or before 31 December 2014 or the vacation of the property by Ms Becki Coombe, whichever date is the earlier, unless approved in writing by the Local Planning Authority.

REASON

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

3. The development hereby approved shall not be carried out and maintained permanently as such otherwise than in accordance with the plans numbered 03A and 1062-10/04, and the Bat Report and Method Statement all received by the Local Planning Authority on 1 September 2011; and the plan numbered 01B received by the Local Planning Authority on 23 September 2011.

REASON

To ensure that the development is carried out strictly in accordance with the approved plans, and to ensure that the facilities are maintained accordingly.

4. The training facility hereby approved shall not be used for any purpose, including any other purpose in Class D1 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any statutory instrument revoking and re-enacting that Order with or without modification other than for the education of disaffected learners aged 15-19 years. The training facility shall not operate without at least 2 employees present at any one time.

REASON

To prevent unauthorised use of the property, to control and limit the use of the

property to enable the monitoring of impacts, and to prevent intensification of the use.

5. There shall be no sub-contracting of the training facility to third parties.

REASON

To ensure the impacts of the use hereby approved remains under the control of the applicant.

6. No development shall be commenced before a formal Travel Plan is submitted to and approved in writing by the Local Planning Authority. This shall set out the methods of transport to and from the site, including pick up points and times for this shuttle service; the publicity of the service to attendees, and the daily recording of attendees' methods of transport to the site. Once agreed the provisions of the Plan shall remain in force during the life of this permission.

REASON

In recognition of the circumstances of the case, so as to minimise the reliance of private vehicle to reach the site.

7. No development whatsoever within Classes A and B of Part 6 of Schedule 2 of the Town and Country General Permitted Development Order 1995 (as amended), shall commence on site and further land owned (defined upon the site location plan by a blue line) without details first having been submitted to, and approved in writing by, the Local Planning Authority.

REASON

In order to prevent the re-use hereby permitted leading to the erection of further agricultural buildings.

8. Access for vehicles to the site from the public highway (Dingle Lane D439) shall not be made other than at the position identified on the approved drawing number, 1062-01 Rev B.

REASON

In the interests of safety on the public highway.

9. The vehicular access serving the development hereby permitted shall be constructed in accordance with the approved drawing, 1062-01 Rev B, providing a bound surface for the length of the access, an access width of no less than 5.0 metres for a distance of 7.5 metres (as measured from the near edge of the public highway carriageway) and gates hung so as not to open within 8.0 metres of the public highway carriageway. The vehicular access to the site shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto

the public highway.

REASON

In the interests of safety on the public highway.

10. The development shall not be commenced until visibility splays have been provided to the vehicular access to the site, passing through the limits of the site fronting the public highway, with a 'x' distance of 2.4 metres and 'y' distances of 40.6 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.9 metres above the level of the public highway carriageway.

REASON

In the interests of safety on the public highway.

11. The building shall not be occupied until the car parking areas have been laid out and are available for use in accordance with plan 01A, and such areas shall be permanently retained for the parking and manoeuvring of vehicles.

REASON

In the interests of safety on the public highway.

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

REASON

In the interests of safety on the public highway.

13. The development shall not be commenced until a turning area has been provided within the site so as to enable general site traffic and construction vehicles to leave and re-enter the public highway in a forward gear.

REASON

In the interests of safety on the public highway.

14. The development hereby permitted shall not commence or continue unless measures are in place to prevent/minimise the spread of extraneous material onto the public highway by the wheels of vehicles using the site and to clean the public highway of such material.

REASON

In the interests of safety on the public highway.

15. Notwithstanding condition 3, prior to any works commencing on site the Bat Report and Method Statement shall be updated to commit to further monitoring of the roost after conversion of the barn in order to ensure that works have not inadvertently affected the integrity of the site as a maternity roost. The method and frequency of monitoring, together with a contingency for mitigation, shall form part of the amended detail.

REASON

To ensure suitable protection for a European Protected species.

16. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of walls/fences/hedges to be erected. The approved walls/fences shall be erected before the use hereby approved is commenced and shall subsequently be maintained. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON

In the interests of the amenities of the area.

Notes

10. Section 163 of the Highways Act 1980 requires that water will not be permitted to fall from the roof or any other part of premises adjoining the public highway upon persons using the highway, or surface water to flow – so far as is reasonably practicable – from premises onto or over the highway footway. The developer should, therefore, take all steps as may be reasonable to prevent water so falling or flowing.
11. Conditions number 10, 11 and 14 require works to be carried out within the limits of the public highway. Before commencing such works the applicant must serve at least 28 days notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team. This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of the works will be recoverable from the applicant. The Area Team at Coleshill may be contacted by telephone: (01926) 412515.

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

13. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies): ECON9 (Reuse of Rural Buildings), ENV2 (Green Belt), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations in New Development) and TPT6 (Vehicle Parking).

Justification

The proposal conflicts with saved policy ECON9 of the North Warwickshire Local Plan 2006 in that the site is not sustainably located, with all employees, pupils and delegates having to rely on private vehicle to attend the premises. However, the mitigation proposed by the applicant as well as control over the extent and nature of the use ensure that appropriate methods of transport are maximised as far as practicably possible. These are material considerations and are sufficient to be in favour of the proposal and to outweigh the policies referred to above.

The proposal is not considered to bring about material harm to neighbouring amenity from noise and vehicle movements, nor bring harm to the openness of the Green Belt or visual amenity. Highway safety is also appropriately maintained under the proposal and adoption of a Travel Plan, such that the proposal is in accordance with saved policies ENV2, ENV4, ENV6, ENV11, ENV12, ENV13, ENV14, TPT1 and TPT6 of the North Warwickshire Local Plan 2006, and national policies as set out in Planning Policy Guidance Note 2 and Planning Policy Statement 23.

BACKGROUND PAPERS

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

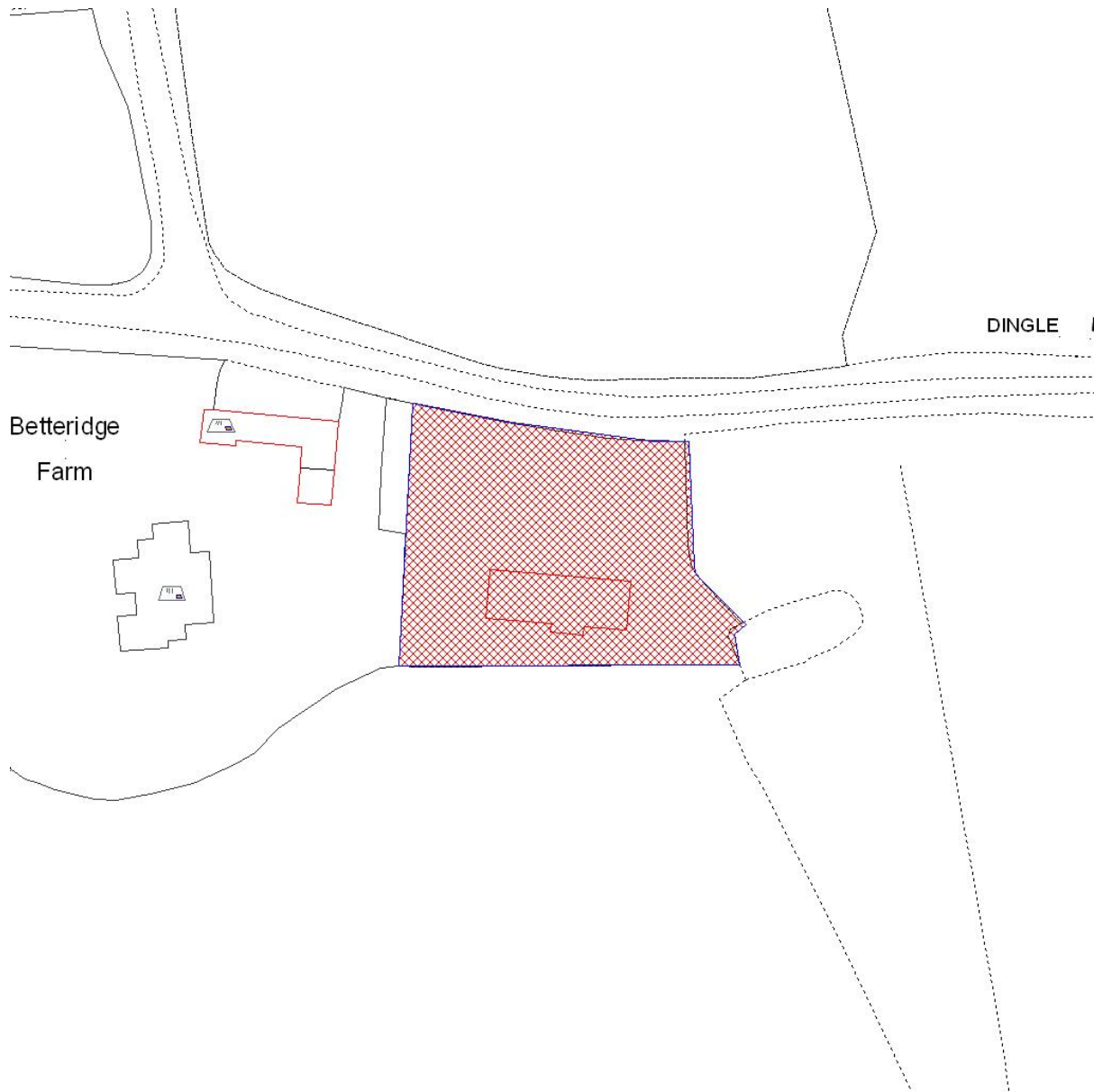
Planning Application No: PAP/2011/0460

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	01/09/2011 & 23/09/2011
2	WCC Highways Authority	Consultation reply	19/09/2011
3	Agent	Email to Case Officer	19/09/2011

4	Case Officer	Email to Agent	20/09/2011
5	Debra Starkey	Representation – objection	30/09/2011
6	(Mr, Mrs or Miss) Buckle	Representation – comments	04/10/2011
7	Case Officer	Email to Councillors	05/10/2011
8	Ann Masters	Representation – objection	07/10/2011

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.



(11) Application No PAP/2011/0481, 0504 and 0505

Beech House, 19 Market Street, Atherstone

Planning Application, Listed Building Application and Conservation Area Consent Application for the creation of a car parking area and associated engineering operations at the rear of Beech House involving the part demolition of a garden wall, the erection of new gates, fence and a new vehicular access to North Street, all for

Arragon Properties

Introduction

These proposals have just been received and are reported for information only at this time. In view of the significance of Beech House and Member's previous interest in the site, these applications will be referred to the Board for determination in due course. Whilst there are three applications, they all relate to one proposal as described above, and for convenience this will be described as such in these reports. However each will have to be decided separately and on its own terms at the time of determination.

The Site

Beech House is at number 19 Market Street facing the Market Square. It is a Grade 2 star Listed Building being a three storey town house constructed in 1708. It has a basement and walled rear garden but no vehicular access. It lies within a frontage of similarly proportioned buildings facing the square. These accommodate a variety of uses – restaurants, public houses, shops and offices, some with residential accommodation at the upper storeys. There is a substantial Copper Beech Tree within the walled garden which is protected by a Tree Preservation Order. The premises, previously in residential use, have been vacant for several years.

The site is wholly within the Atherstone Conservation Area. Other Listed Buildings within the Market Square are at numbers 9, 11, 13, 15 and 17 together with the adjoining public house at 21. All these are Grade 2 Listed Buildings.

The rear garden is walled and at a slightly higher level than the house. It backs onto a presently vacant building – the former telephone exchange. Immediately next to this is a new residential building. To its north between it and North Street is some presently disused land. There is a further rear garden to the south.

The Proposals

It is proposed to provide a car parking area in the rear half of the garden to Beech House. This would provide two spaces together with a turning area. It would be gravel surfaced with timber "curbs" and a with a permeable fabric underlay beneath the gravel. The very rear existing garden wall would be demolished over 6 metres of its length at the northern end. New gates would be added to close the gap from the

existing corner here to the rear of the former exchange building. These would be constructed in vertical oak panels. A new dropped curb would be provided onto North Street in order to gain vehicular access. This short drive would immediately abut the side of the new house here and its other side would be marked by a new timber fence.

These matters are illustrated on the plans at Appendix A.

The application is accompanied by an Arboricultural Statement assessing the impact of the introduction of the car park and its construction on the protected Copper Beech tree, together with a Conservation Area Statement. The former is attached at Appendix B and the latter at Appendix C.

It can be seen from Appendix C that the applicant is saying that the property has been vacant for many years. Notwithstanding marketing, it is said that there has been no “serious enquiries from potential purchasers”. It is considered that the lack of any private vehicular access and car parking area “militates” against its sale. Hence the current proposals are submitted to seek these works with a view to re-advertising the property with their benefit. It is said that the works would have no or little impact of the significance of the heritage assets involved.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006 – ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Conservation), ENV16 (Listed Buildings) and TPT6 (Vehicle Parking)

Other Material Planning Considerations

Government Policy – PPS5 (Planning for the Historic Environment) and the draft National Planning Policy Framework (NPPF) August 2011.

Observations

The key issues in dealing with these applications will follow a particular sequence. Firstly it will be necessary to establish the significance of the heritage assets with which the proposals are dealing with – namely the character and appearance of this part of the town’s Conservation Area, and the particular historic and architectural characteristics and attributes of the Grade 2 star Listed Building. Secondly, it will be necessary to assess what harm if any, there might be to this significance if these proposals went ahead. Thirdly, it will be necessary to outline what benefits and advantages there might be in supporting the proposals, perhaps with the addition of measures which could mitigate against any harm that might be identified. Finally there is a need to balance the dis-benefit of any harm, against any public benefit or advantage that might accrue from the proposals. It is this final balancing exercise that is crucial. Another way of looking at this is to assess whether the proposals are a reasonable and proportionate approach to the reasons that have given rise to the submission of the proposals.

Recommendation

That the applications be noted at the present time.

BACKGROUND PAPERS

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

Planning Application No: PAP/2011/0481

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	29/9/11

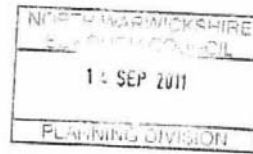
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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

2011 / 0481



**ARBORICULTURAL
METHOD STATEMENT**

**PROPOSED PARKING PROVISION
TO THE REAR OF BEECH HOUSE
19 MARKET STREET
ATHERSTONE**

Prepared for:

**Arragon Properties
16a Market Place
Atherstone
Warwickshire
CV9 1EX**

Prepared by
M J Boddy F Arbor A FICFor CEnv

5th September 2011

1.0 Introduction

- 1.1 This method statement relates to the proposal to create a new access into the rear garden of Beech House and construct parking bays for two vehicles, with an associated turning head. Its purpose is to minimise any potential adverse impact of the proposals on the large Copper beech tree growing within the garden.
- 1.2 The recommendations contained in this document relate to the proposal illustrated on the drawings 001 - 'Access to Garden for Parking Area' and 002 - 'Vehicle Access Details', prepared by the project architect, Mr P Bowley of Hilton Architectural.
- 1.3 The proposal involves the removal of a 5.5 metre length of the existing boundary wall to create a new entrance into the north-eastern corner of the rear garden. The parking bays will be set back from this, adjacent to the north-eastern boundary, with a 3 metre wide turning head between, projecting towards the tree. Vehicular access will be provided by a new driveway to be constructed off the south-western side of North Street.

2.0 The Tree

- 2.1 The Copper beech is approximately 16 metres tall and has a broad, spreading crown extending 11 metres to the north, 10 metres to the south, 10.5 metres to the west and approximately 10 metres to the east. The trunk diameter at 1.5 metres is 1040 millimetres and the root protection area for a tree of this size, derived from Table 2 of British Standard 5837:2005 - Trees in Relation to Construction, is 490 square metres, which equates to a circle with a radius of 12.5 metres.
- 2.2 In addition to being situated within the Atherstone Conservation Area, the Copper beech is specifically protected by the North Warwickshire Borough Council Tree Preservation Order ref: 713.004/7.

3.0 Preparatory Arboricultural Works

- 3.1 Prior to the construction works commencing, minor pruning will be required to increase the clearance beneath the canopy to approximately 3 metres, to provide access for both pedestrians and vehicles. This pruning should be restricted to the selective removal of secondary and tertiary growth.
- 3.2 The pruning works should be undertaken by an appropriately qualified and experience tree surgeon, working in accordance with the British Standard BS3998 (2010) Tree work - Recommendations and other relevant current arboricultural best practice guidance.

3.3 Whilst it is anticipated that these pruning works will form part of the planning application, it should be confirmed with the Borough Council that a separate TPO consent application is not required.

4.0 Driveway Construction Specification

4.1 The proposed access and parking bays encroach into the root protection area of the protected Copper beech, with the turning head extending to within 6 metres of the centre of the tree's trunk. Accordingly, the use of conventional construction techniques would be inappropriate and a specialist 'no-dig' specification is proposed within the garden area, utilising 100mm depth *CellWeb* three dimensional cellular confinement system, as illustrated at 5.6 overleaf.

4.2 The *CellWeb* is formed of welded polyethylene strips, which together create a three dimensional network of interconnecting cells. A high degree of interaction is developed between the infill and the cell walls, increasing the stiffness of the system. The use of the cellular confinement system reduces the bearing pressure on the underlying soil by stabilising aggregate surfaces against rutting under wheel loads. Layers of geotextile fabric laid both above and below the *CellWeb* separate the infill from the existing ground surface and the gravel topping.

5.0 Installation Procedure

5.1 Prior to construction commencing, the existing ground vegetation and associated humus layer should be manually removed, and the young beech and Goat willow trees growing adjacent to the north-eastern boundary wall carefully grubbed out with a low ground pressure tracked excavator working from outside the radial root protection area.

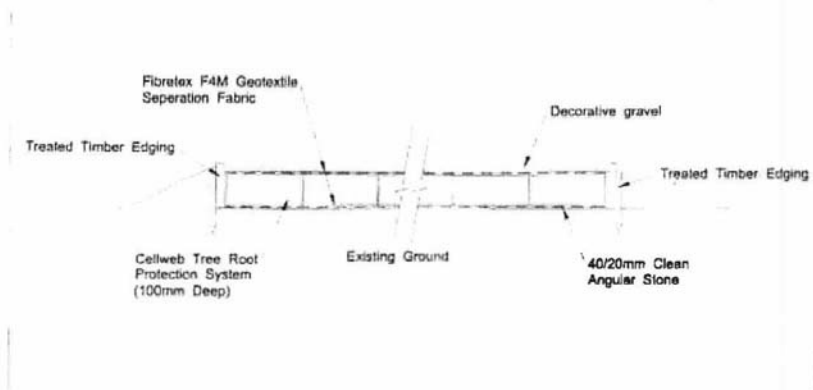
5.2 Any significant hollows should be filled with sharp sand and a non-woven geotextile separation/filtration layer (Treetex T300) then be laid over the prepared ground, with the dry joints overlapped by 300mm.

5.3 The *CellWeb* should then be expanded and anchored open, prior to being infilled with the no fines 40/20mm angular stone. A treated timber edging secured with wooden pegs will be required on either side to confine the *CellWeb* and gravel surface.

5.4 The cells should be filled working forwards, initially from outside the area of special construction. A second geotextile separation/filtration layer should be placed over the infilled *CellWeb* sections prior to the final gravel surface being spread to the required depth.

5.5 If required, the new construction can be integrated into the adjacent landform by battering friable soil parallel to the edging boards, as shown in the *CellWeb* section drawing at 5.6 overleaf, although this should be restricted to the minimum width feasible.

5.6 Cellweb Section Drawing



Geosynthetics Ltd Farming Road, Hemmington, Warwickshire Warwick, CV35 9EF Tel: 01926 717178 Fax: 01926 717179 www.geosynthetics.co.uk	Cellweb Section - Tree Root Protection c/w Gravel Surface	ISSUED BY: JCB ISSUED AT: 1/10 SCALE: 3/200 DRAWN BY: JCB CHECKED BY: JCB
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6.0 Tree Protection Measures

- 6.1 Following completion of the preparatory pruning but prior to the construction works commencing, protective fencing should be erected to exclude access from the unaffected area beneath the tree's canopy. The fencing should comprise 2 metre tall welded mesh panels, mounted on rubber or concrete feet and connected using anti-tamper couplers. The panels should be wired to securely driven stakes or lamp irons, to provide extra support and prevent the fence being easily moved.

M J Boddy F Arbor A FICFor CEnv

5th September 2011

2011 / 0481

APPENDIX C

HILTON 
ARCHITECTURAL

14 September 2011

North Warwickshire Borough Council
Planning Department
Council House
South Street
Atherstone

Hilton House
Long Street
Atherstone
CV9 1AH
Tel/Fax: 01827 718140
Mobile: 07860 662592
E-mail: Hiltonarchitect@aol.com

DESIGN AND ACCESS STATEMENT
Beech House – Vehicle Access
19 Market Street Atherstone CV9 1ET

History

Beech House has never had a vehicle parking area. Considering that it is the most prominent house in Atherstone the lack of parking hinders the future use of this property.

Proposal

It is proposed to form a new vehicle access into the rear garden area.

The present Arragon owned properties to North Street have a piece of land adjacent to them large enough to give access to the rear garden of Beech House all roughly on the same level. The access will be gated at the Beech House boundary wall position.

Design

The proposed access will be tarmac finished with a 2.00mt high close boarded fence to the boundary.

New timber gates will provide security to the rear garden.

Parking Area

Once inside the garden area, all surfaces will be water permeable with no requirement for controlled drainage, all in accordance with the details shown.

Lighting

A suitable street lamp already gives this area adequate levels of lighting.

Paul Bowley

2011 / 0481

RECEIVED

28 SEP 2011

North Warwickshire
Borough Council

Beech House , Vehicle Access

Conservation Area and Listed Building Statements

Background to the application (planning history)

Beech House was acquired by Arragon Properties in 2004. Throughout the past 6 years a number of schemes have been put forward to secure a future for this important historic building. During that time 2 applications for planning permission have been refused, and in a planning inquiry the Inspectorate supported the objections of the local authority to the scheme then proposed. Throughout this time the building has been on the market, and to date there have been no serious enquiries from potential purchasers.

The property market is generally slack, and numerous buildings elsewhere in the town are awaiting commercial tenants. The sometimes noisy market-place location of Beech House, next to a public house. The absence of on-site parking is a major factor which militate against the premises being taken up . On-site parking would be a pre-requisite for any viable scheme, and access to the rear of the premises remains essential, having the further advantage that this would relieve pressure on parking in and around the market place. This is a particular issue on Market days when convenient street parking would not be available to occupiers of Beech House.

. An agreed solution to secure a viable future for this building is required in order to ensure that it can be brought back into use as soon as possible. It is the applicant's firm belief that the submitted scheme will have virtually no impact upon the setting of this or adjoining listed buildings.

The significance of the heritage assets affected

In compliance with Planning Policy Statement 5, Policy HE6.1, this application is accompanied by a Conservation Area Assessment

Conservation Area Statement: the significance of the east side of Market Street

Archaeology

The east side of Market Street owes its character to the application made to Henry III by the Norman Bec Abbey in 1246 to hold a market and fair at Atherstone. Tenement plots were then established around the market place, setting the pattern for all of the properties in the general vicinity. The surviving plots around Beech House reflect a pattern of land-holdings that has persisted with little change since the 13th century. Subdivisions and alterations of tenements have not removed the essential grain of the urban plots. Thus the site occupied by Beech House, particularly as it remains defined by the brick walls on each side of the back garden, has not substantially changed since timber-framed buildings of medieval or early post-medieval date occupied its street frontage.

Rear access for vehicles

The vehicular rear access that is proposed, will not alter the size or plan-form of the plot of ground on which Beech House stands. The removal of the section of wall to achieve this access will not be visible but from inside the garden . The materials used will be natural products, and

the tree planting proposed will give a soft screening to the standing vehicles. The sense of enclosure of the garden will be retained, including the overall proportions of the medieval tenement plot. The small alteration to the character of this garden is deemed to be justified on the grounds that it will make access to the premises more viable for occupancy, as appropriate to the use.

Standing buildings

Beech House is in the best of a group of buildings on the east side of the market place, at the heart of the Conservation Area and crucial to its general character. The buildings stand cheek by jowl, forming a continuous street elevation that now includes a wide variety of architectural styles. The special character of the buildings along this side of the market place has already been described at length by Bob Meeson in his *Gazetteer* (jointly with Mr M Trye).¹ This, the most authoritative account of the buildings in the immediate vicinity of Beech House, is abstracted here with the consent of the author.

Standing between Swan House and Beech House, 21 Market Street - Market Tavern – now has a Georgian 3-bay brick frontage, but this is a rebuilt façade hiding a much-altered timber-framed building that was originally jettied to the street. It is unclear on the visible evidence whether 15 and 17 Market Street, to the south of Beech House, were originally one property or two. The two halves, both originally timber-framed, are divided by a pair of substantial brick back-to-back chimneys, both of which are probably 17th-century. However, in number 15 (Howkins and Harrison), the evidence survives for another jettied front elevation. Yet again, the handsome 3-bay, 3-storey brick façade of 11-13 Market Street also hides evidence of a former jetty. The oldest of these formerly jettied properties may potentially be late 15th- or 16th-century, whilst the plausibly double-jettied and close-studded Nos 11-13 might have been one of the later timber-framed buildings to be constructed overlooking the market square. These building can best be characterized as retaining fabric of numerous periods resulting from numerous piecemeal alterations.

Beech House, described in more detail, was constructed in 1708. It marks a break from the norm represented by the buildings described above in so far that rather than adapting an existing building to a new use, the client instructed his builder to demolish that what stood on the plot and rebuild from scratch. Its placement, set back behind iron railings, and the elevation of its ground floor over a part-basement, mark it out as a significant departure from Atherstone's late medieval norm, reflecting both a new age of architecture and the perceived status of its owner. This might have been the start of a trend, represented by 23/25 Market Street (Swan House), originally a later 18th-century inn, subsequently altered in the Georgian and Victorian/Edwardian periods. The front elevation of Swan House now includes three stuccoed bays to the right of an enormous arch, cut through the building to form North Street in 1795-7.

Assessment of the impact of the proposed works

The significant contribution of the front elevation of the statutorily listed grade II* Beech House to the historic and architectural character of the market place at the core of the conservation area is fully appreciated by Arragon Properties and their agents. The property is of pivotal visual

¹ R Meeson and M Trye, 'Gazetteer' in N Alcock and M Hughes *Atherstone: a pleasantly placed town* (2008), 196 ff.

significance to the group of listed buildings on the east side of Market Street, being flanked on both sides by a range of other listed historic properties of various dates and styles.

The proposals set out in the accompanying design , will not have a deleterious impact upon either the street elevation of Beech House or upon the setting of the adjoining buildings.

.....

2011 / 0481

HILTON 
ARCHITECTURAL

14 September 2011

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LISTED BUILDING & CONSERVATION AREA STATEMENT

Beech House – Vehicle Access
19 Market Street Atherstone CV9 1ET
Vehicle Access to Rear Garden

History

Beech House is a Grade II* Domestic property and possibly the most important one in Atherstone yet does not have any car parking or garage facility and has to rely on street parking.

Proposal

It is proposed to form a vehicle access from North Street to the rear of the garden area. This will require the demolition of part of the rear garden wall, some 6.00mts in length, about a third of its overall length. The rear of the garden is, at present, overgrown and this part of the wall can only be viewed from inside the garden.

The removal of the wall will give valuable vehicle access via a gated driveway to North Street.

The formation of the parking area will be using soft landscaping with loose stone surfaces to allow for land drainage and using timber kerbing to lawn and planted areas.

The introduction of additional tree planting will screen the vehicles from the house view.

Impact

The ability to provide off street car parking to this important property will make it more available and attractive to its future users and will trigger off the refurbishment of the dwelling and grounds. Therefore, these works can only improve the dwelling and its future occupants.

Conclusion

Car parking has been identified as a key issue in this property remaining vacant – this provision is private and secure, not visible to anyone but the occupant and will provide the required parking for two vehicles. The open space of the garden will remain and the Beech Tree will be unaffected.

Paul Bowley

(12) Application No PAP/2011/0492

120 Coventry Road, Coleshill

Removal of conifer tree in conservation area for

Mr Gordon J T Sherratt

Introduction

The application is reported to the Planning and Development Board as the applicant is Member of the Council.

The Site

The dwelling is a detached house situated on the junction of Coventry Road and Springfields within a residential area.

The Proposal

It is proposed to remove a conifer tree. Consent is required because it is located in the Conservation Area.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006: ENV11 (Neighbour Amenities) and ENV15 (Heritage Conservation, Enhancement and Interpretation)

Other Relevant Material Considerations

Government Advice - Draft National Planning Policy Framework 2011

Consultations

Warwickshire Country Council Forestry Officer – The tree is not considered worthy of a Tree Preservation Order and would advise that consent is given for its removal.

Observations

The conifer tree is sited to the front of the application dwelling, and images can be seen in Appendix 1. It is one of a number of trees within the front garden. It is thus very visible within the street scene.

The tree is not covered by a Preservation Order but it is in the Conservation Area. In view of the proposal being to fell the tree, the Council's remit here is to decide whether it is worthy of an Order and should thus be retained. 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. The County Forestry Officer considers that consent is given for its removal. The tree is a conifer that has grown very tall. Its loss would open up the area generally and thus in fact, its loss would be considered to be an improvement. Given that there are a substantial number of trees in the locality generally, the loss of this single tree is not considered to be of detriment to the character and appearance of the Conservation Area. Moreover it is not at all normal for Orders to be placed on conifer trees. Whilst the tree does have an amenity value in this residential area it is not considered to be so material as to warrant its retention.

Recommendation

It is not considered that an Order should be made in this instance and thus the tree can be removed.

Notes

1. The applicant is advised that the tree's removal should be in accordance with British Standard 5837:2005 "Trees in Relation to Construction - Recommendations".
2. You are advised that when carrying out the works to the trees, that nesting birds are protected and covered by the 1981 Wildlife and Countryside Act.

Justification

The Local Planning Authority raises no objection to the removal of the tree, which is not considered to affect the amenity of the area and therefore making it the subject of a Tree Preservation Order.

BACKGROUND PAPERS

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

Planning Application No: PAP/2011/0492

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	21/9/2011

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

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



APPENDIX 1 – Images of the conifer tree





General Development Applications

(13) **Application No PAP/2011/0187**

Ivy House, Taverners Lane, Atherstone

Demolition of factory units and a single dwelling and the erection of 14 new dwellings with associated car parking

for Whetstone Brothers & R. Freer

Introduction

The application is reported to Board in light of the issues involved.

The Site

The site lies to the west side of Westwood Road at a position immediately south of Westwood Crescent. It is bordered to the east by the rear gardens of properties on Westwood Road; to the west by a dwelling house known as The Pastures, with the Coventry Canal beyond that, to the south by a recreational playing field and to the north by an access road known as Taverners Lane which duals as a public right of way and the rear gardens of properties on Westwood Crescent. The access route leads to a pedestrian only bridge across the canal.

The Proposal

To demolish the existing factory units (totalling 1388 square metres of floorspace) together with a single dwelling, and the erection of 14 new dwellings with associated car parking. The general layout would be a U-shaped court of two and three storey dwellings with bridged routes to rear parking courts. Each property would have its own private rear garden and some would have a small front garden. The general site layout is shown below.



The development would comprise 6 two bedroom units, 6 three bedroom units and 2 four bedroom units.

The Development Plan

Saved Policies of the North Warwickshire Local Plan 2006: - Core Policy 1 (Social and Economic Regeneration), Core Policy 2 (Development Distribution), Core Policy 3 (Natural and Historic Environment), Core Policy 5 (Development in Towns and Villages), Core Policy 8 (Affordable Housing), Core Policy 11 (Quality of Development), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV5 (Open Space), ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ECON3 (Protection of Existing Employment Sites and Buildings Within Development Boundaries), HSG2 (Affordable Housing), HSG4 (Densities), TPT1 (Transport Considerations in New Development), TPT6 (Vehicle Parking).

Other Relevant Material Considerations

Government Advice: - Planning Policy Statement 1 (Delivering Sustainable Development), Planning Policy Statement 3 (Housing), Planning Policy Guidance Note Number 13 (Transport), Planning Policy Statement 23 (Planning and Pollution Control), Planning Policy Guidance Note Number 24 (Planning and Noise) together with the Draft National Planning Policy Framework (2011)

Consultations

Environmental Health Officer - The phase I report submitted with this application recommends an intrusive site investigation. I would agree and recommend that pre-commencement conditions are included in the planning permission if granted such that details of the ground investigation should be agreed with us prior to undertaking them. I strongly urge the applicant to ensure that an appropriate frequency and time over which ground gas monitoring is undertaken is applied at the site. A minimum of six monitoring events over three months with at least two of those monitoring events being at falling atmospheric pressure is likely to be acceptable.

I would also recommend that the results of the investigation are submitted for approval prior to commencement of building works.

A condition should also be attached to the permission if granted that states that if

any unexpected contamination were to be encountered during the building works that the building work should stop until a plan is proposed by the applicant and approved by us for remedial works at the site.

If it is identified that remedial measures are necessary on the site a verification plan should be submitted to us for approval in advance of the remedial works taking place and the works undertaken should be reported in a verification report at the end of the remediation. The report must be approved by us before the site can be developed.

Warwickshire Fire and Rescue - No objection subject to the inclusion of a condition requiring the submission and implementation of a scheme for the provision of adequate water supplies and fire hydrants.

Warwickshire County Council Highways Authority – Comments as follows:

Taverners Lane is a Private Drive accessed off Westwood Road (D200). Westwood Road is subject to a 30mph speed limit, is traffic calmed (with vertical features) and is approximately 5.1m wide. The footway to the north side of the existing access is approximately 2 metres wide, and to the south is approximately 1.3 metres wide. The current access is surfaced in a broken bituminous material and falls towards the highway. There is a BT pole within the proposed access location which will need to be moved at the applicants expense.

Transport and Roads for Developments – The Warwickshire Guide 2001 (section 5.18.1) advises that *“All premises within a new development must be capable of being reached by the emergency services even then the primary means of access is obstructed or unavailable for any reason.....Exceptions to this can be permitted where the emergency services have been consulted and have confirmed in writing that they have no requirement for an alternative route.”*

Whilst not a highway issue, the Planning Authority is advised to consult also with the emergency services (in particular Warwickshire Fire & Rescue) to ensure that they are satisfied with the proposals.

At 2.4m set-back, measured visibility from the proposed access location to the left on egress is greater than 70 metres and is acceptable. At the same set-back, measured visibility to the right on egress is less than 15 metres, as the necessary visibility splay crosses land which will not be in the applicants ownership/control.

The Manual for Streets (*MfS*) advises (Table 7.1) for a road with a 30mph design speed, a 43 metre visibility splay should be achieved. It can be seen therefore that 15 metres is only around 1/3 of the minimum advised.

Due to the traffic calming along Westwood Road, it is likely that vehicular speeds may well be less than 30mph, however I have no evidence of what such speeds are likely to be, in any case they are likely to be substantially higher than the 12mph which would be acceptable for a 15 metre visibility splay.

Having ascertained that the available visibility falls short of current standards, it is necessary to ascertain that the proposals will not result therefore in an intensification in use of the access.

The Applicant has provided trip generation information to demonstrate that vehicular movements in respect of the current application would be lesser than those which could be anticipated in respect of the current permitted use of the site. This information is derived by interrogation of the TRiCS database, which is a nationally recognised method to determine vehicular trips.

Whilst the Highway Authority is prepared to accept the suggested 99 (say 100) trips per day which could be generated by the existing permitted use of the site; I consider that the number of trips produced by the proposed use of the site has been incorrectly stated (at 25 ~ *applicants table 5.2*). Using the trip generation figures for residential traffic, as provided by the applicant in his Appendix D; a residential development is shown to generate 5.523 trips per dwelling per day. 14 dwellings therefore equates to some 77 (say 78) trips per day. 78 residential trips remains less than the 100 industrial trips; and therefore the proposals do not constitute an intensification in use of an access with substandard visibility.

The scale and detail shown on the plan makes things a little unclear, but the Applicant appears to show a “traffic calming” type feature prior to entry onto the public highway. This would be satisfactory to ensure that vehicles approaching the highway are doing so at a reduced speed. However, further details will be required for approval prior to construction commencing. No details of proposed drainage have been provided, suitable measures will be required in order to prevent surface water run-off from the site from washing across onto the public highway. Further details will be required for approval prior to construction commencing.

The Highway Authority points out to the Planning Authority and Applicant that whilst it may be proposed to construct the private drive to “an adoptable standard”; the layout of the access is such that in effect it cannot be constructed to a standard which would be suitable for adoption.

Public refuse collection may prove to be an issue within the site, should the Cleansing Authority choose not to collect other than from the highway, the Planning Authority is advised therefore to consult further with the appropriate cleansing/refuse collection authority in this regard.

The Highway Authority's response is one of NO OBJECTION, subject to conditions

Environment Agency – To be reported.

Severn Trent Water - No objection subject to conditions.

Warwickshire Police Crime Prevention Design Advisor - No objection.

Warwickshire County Council Rights of Way Team - This application affects public footpath AE92 which runs along Taverners Lane. The proposed new access road will be laid along part of this public footpath but I note that a segregated footway

is to be provided for pedestrians. Whilst provision of a wider footway would be desirable for the section adjacent to The Bramleys I appreciate that space is tight at this point and the footway is still a potential improvement on the existing conditions where there is no segregation between vehicles and pedestrians.

However, in the interest of public safety a pedestrian crossing with a raised table and appropriate markings should be provided where public footpath users have to cross the access road between the footways to get to and from the continuation of the public footpath south west of the site.

I understand that the access road is not to be adopted. As the Highway Authority are only obliged to maintain the public footpath to a standard suitable for pedestrians and not to a standard suitable for private vehicular use by the future householders the applicant should provide details of the arrangements that will be in place for the future maintenance of the access road.

Subject to these provisions I have no objection to the proposals.

Representations

Atherstone Civic Society - Indicates that it is pleased to see the change of use of this site, which is more in keeping with the adjacent residential uses and playing field.

We have no objection to the design or layout. However we are disappointed that the roofs are to be constructed of concrete tiles. The characteristic roofing material of the area is clay tiles and, in our view, this would enable the building to fit better into the landscape, especially when viewed from the higher ground to the south. We accept the use of upvc for windows and doors for energy-saving reasons, but ask that they be recessed to give some interest to the elevation.

Atherstone Town Council – Indicates that it has no objection to this application if it is acceptable to Warwickshire County Council Highways Authority and the neighbours. It suggests that a Section106 Agreement could help deal with the increased traffic at the junction of Westwood Road and Coleshill Road.

1 letter of objection has been received raising the following comments:

1. This site was previously rejected for residential development in the Atherstone Town Plan.
2. With the provision of footpaths in the Lane I doubt if there is enough room left for two way traffic in the Lane. The Lane at present is unsuitable for modern lorries, this may lead to site vehicles having to be unloaded or loaded in Westwood Road during the proposed work and difficulties for delivery lorries if the plan is accepted.
3. As this site rises up to three metres above Westwood Road. I think the proposal of three storey buildings would not be in character of the area as

most of the outlook would be of bungalows i.e. Slacks Ave, Erdington Road, the Pastures and the Bramleys.

4. The northern side of this site adjacent to Westwood Road properties is of “made up” ground retained by a brick wall almost a metre high, this is in poor condition and would possibly need replacing. The break up of this wall is partly due to the close proximity of trees which have self set and left to grow uncontrolled, these I believe should be removed and replaced with more suitable plantings. It is unclear from the plans but I assume close board fencing and brick piers would be used on this boundary, this was tried some years ago and collapsed partly due to being built on this retaining wall.
5. I would be concerned with the increase in traffic at the junctions of Taveners Lane/Westwood Rd and Westwood Rd/ Coleshill Rd. Although the traffic may not amount to any more than when the factories were operating it must be remembered that access could be gained then from Bachelors Bench over the canal bridge and the two new housing developments at Herring Rd and Barnsley Close did not exist along Westwood Rd.
6. The water and sewerage supply to this site at present feeds from Westwood Road across the Cowpasture Playing Field to the site. This would not be adequate for this development and these services should be replaced along Taveners Lane.
7. As some of the buildings are constructed with asbestos, I am concerned that any work carried out would take this into account and done in the correct manner.

Observations

The site lies within the development boundary identified for Atherstone in the North Warwickshire Local Plan 2006. There is therefore no objection in principle to the redevelopment of the site for residential purposes.

The main considerations will be the loss of the commercial use of the land; the impact of the development on highway safety, on the public right of way which runs through the site and on the amenity of occupiers of existing and proposed dwellings. An assessment of the appropriateness of the design, the need for the provision of affordable housing and the provision of open space and on drainage proposals and ground conditions will be necessary.

Policy ECON3 indicates that within the main towns existing employment sites and buildings will be retained for employment purposes unless:

- (i) Redevelopment or re-use is proposed as a mixed use scheme within a town centre defined on the Proposals Map; or
- (ii) There would be no negative impact on the range or quality of employment sites available in the settlement concerned.

In this instance the buildings have been vacant or under utilised for many years, access to the land is restricted and the buildings are surrounded by residential uses. The buildings themselves are in a poor state of repair and not fit for modern industrial processes. The use has the clear potential to be a 'bad neighbour'. It is considered that their loss from employment purposes would not significantly harm the offer of employment buildings in the settlement of Atherstone.

The highway authority consultation response outlined above sets out the consideration of the highway implications of the use of the site for the authorised industrial uses versus the level of traffic likely to be generated by the proposed residential development. The conclusion is that the residential use, with appropriate revised access arrangements can be less harmful than the potential end use of the site for its authorised industrial use.

The access is coexistent with a public right of way which is used frequently, particularly for journey to school trips. The proposed arrangements will formalise this route as a pedestrian walkway adjacent to the vehicular carriageway. Though its dimension will reduce it will have the added benefit of separating out pedestrian traffic from vehicular traffic, potentially improving pedestrian safety. The Warwickshire County Council Rights of Way Team offers no objection to the development on that basis.

The site is bordered on three sides by existing residential properties, with the rear gardens of those properties facing towards the site. With this arrangement there is a need to examine whether the development would result in any significant harm from overlooking or loss of privacy. The length of rear gardens, the orientation of neighbouring properties, the positioning of windows in the new development and the use of obscure glazing will ensure that no significant harm will result.

The application has been revised in response to failings identified in the original submitted plans.

Concern was initially expressed about the proposed three storey accommodation close to the southern boundary of the site. It was found to be highly visible across the adjacent playing field. In response, Units 6 to 11 were amended to continue to have accommodation over three floors but the revised design reduced the overall ridge height.

Concerns were raised about the form of the proposed dwellings. The design/layout was thought to propose conditions which would detrimental to the living conditions of the future occupiers of the development because the size of the accommodation within each unit was low for the number of bedrooms in the unit and because some units would suffer poor amounts of light and privacy in habitable rooms. The scheme has been amended to address these concerns and it is now considered that the development would result in acceptable living conditions for future occupiers. Revised plans have addressed the lack of provisions for cycle storage and waste and recycling storage.

The design, scale and density of the development are appropriate given the constraints of the site. Though the number of units proposed falls just short of the

threshold for the provision of affordable housing, it is considered that the site does not have the capacity to accommodate any greater number of units without causing conditions detrimental to future occupiers. Furthermore, the access constraints at the site limit the number of units that can be accommodated.

Though the development of fourteen new dwellings would normally bring about a need for the provision of new open space, or the payment of a contribution to existing open space, the circumstances of this site are such that it lies immediately adjacent to an existing recreation ground where there is no justification of additional open space needs.

The proposal originally suggested that surface waters from the development would be discharged to mains drainage, however, it has been revised to propose surface water disposal to soak aways.

Concerns expressed by the occupiers of neighbouring property about the poor order of an existing retaining wall have been addressed with receipt of confirmation that it will be rebuilt and that the provisions of the Party Wall Act will be adhered to.

A landscaping scheme and details of boundary treatments have been submitted. The landscaping would include the removal of existing self set trees and the planting of new replacement trees. This accords with the wishes of the occupiers of the neighbouring dwelling. The trees in question are sycamore trees. Whilst they contribute quite significantly to the visual amenity of the area, local residents regard them to be a nuisance, citing the dropping of seed and sap, and the weakening of boundary structures, as being of particular concern. They feel that the trees are of limited value, are self-set and will be of equal nuisance to the prospective future occupiers of the proposed dwellings. Whilst normally there is a reluctance to permit the felling of such trees, because they are mature and would soften the impact of new development, it is appreciated that they are not ideal trees in residential areas. The proposal to lose the two sycamore trees, but with specified provision for compensatory planting, in conjunction with a wider a landscaping proposal can be supported.

The applicant advises that the ongoing maintenance of communal areas, including boundaries, car parks, roadways and landscaping/trees, will be controlled by a Management Company administered by a chartered surveyor and the costs distributed amongst the new occupiers. A cyclical maintenance schedule would be addressed as of the discharge of a landscaping condition.

The Atherstone Civic Society has made a representation which is generally supportive of the proposal, however it expresses disappointment that the roofs are to be constructed of concrete tiles. It points out that the characteristic roofing material of the area is clay tiles and, in its view, this would enable the building to fit better into the landscape, especially when viewed from the higher ground to the south. The applicant's response is to propose the use of a roof tile which has the effect of a clay tile (Marley Ashmore is offered as a suggested material). Given that this site is beyond the towns Conservation Area this material would give an appropriate effect as an alternative material. A condition should be attached to ensure due consideration can be given to the choice of an appropriate colour and dimension tile.

The development proposes the demolition of a range of existing buildings and the loss of a number of trees. The Ecology Division of Warwickshire County Museum advise that this is a typical location for bats to be present. The development would clearly bring about disturbance because of the demolition. The Museum would recommend that a bat survey of the buildings is undertaken. The applicant has suggested that a condition be attached which requires completion of a bat survey prior to the commencement of development and indicates that should the final bat report confirm the presence on site of bats, he would provide a suitable bat roost within the scheme, compliant with the Local Planning Authority's requirements. This would be achieved by incorporation within one of the gables constructed as a cut roof 5 metres depth and minimum height of 2.1 metres. Whilst a pre-determinative survey would be preferable it is now beyond the season for such survey work and the suggested condition will achieve the same end in a reasonable manner.

The Atherstone Town Council queries whether Section 106 funds could be sought to address junction improvements where Westwood Road meets Coleshill Road. It is not considered that this would be appropriate, proportionate or reasonable in the context of this development, given that the trip generation of the proposed residential use has been shown to be less than the potential of the existing use and that the Highway Authority does not mention any problems with the capacity or standard of that junction.

Recommendation

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

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered 5550.05, 5550.07A, 5550.08A, 5550.09B, 5550.10A, 5550.11A, 5550.12A and 5550.13A received by the Local Planning Authority on 8 August 2011.

REASON

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

3. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be

made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority and a verification plan shall be submitted for approval prior to any works taking place. The remediation of the site shall incorporate the approved additional measures.

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.

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

REASON

To prevent pollution of the water environment.

5. No development shall take place on site until the existing structure(s) shown to be demolished on the approved plan has been so demolished and all resultant materials permanently removed from the site.

REASON

In the interests of the amenities of the area.

6. Notwithstanding the details shown on the application plan, the development hereby permitted shall not be commenced until details of traffic calming measures within the proposed access drive have been submitted and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

REASON

In the interests of safety on the public highway.

7. Access for vehicles to the site shall not be made or maintained from any public highway other than Westwood Road (D200).

REASON

In the interests of safety on the public highway.

8. The development shall not be occupied until access for vehicles has been provided to the site not less than 5.0 metres for a distance of 12.0 metres, as measured from the near edge of the public highway footway.

REASON

In the interests of safety on the public highway.

9. The gradient of the access for vehicles shall not be steeper than 1 in 10 for a distance of 12.0 metres, as measured from the near edge of the public highway footway.

REASON

In the interests of safety on the public highway.

10. The development hereby permitted shall not be occupied until the vehicular access has been surfaced with a bound material for a minimum distance of 12.0 metres as measured from the near edge of the public highway footway in accordance with details to be approved in writing by the Local Planning Authority in consultation with the Highway Authority.

REASON

In the interests of safety on the public highway.

11. No gates or barriers shall be erected at the entrance to the site closer than 12.0 metres from the near edge of the public highway footway. And such gates and barriers shall open inwards into the site.

REASON

In the interests of safety on the public highway.

12. The development shall not be occupied until space has been provided and maintained within the site, such that vehicles are able to turn to enter and exit the site in a forward gear.

REASON

In the interests of safety on the public highway.

13. Notwithstanding the details shown on the drawings, Section 163 of the Highways Act 1980 requires that water will not be permitted to fall from the roof or any other part of premises adjoining the public highway upon persons

using the highway, or surface water to flow - so far as is reasonably practicable - from premises onto or over the highway footway. The development hereby permitted shall not commence until full details of the proposed storm water drainage for the access have been submitted for approval in writing by the Local Planning Authority in consultation with the Highway Authority.

REASON

In the interests of safety on the public highway.

14. No demolition, construction or other on-site works shall take place between 18:00 hours on Mondays and 07:30 hours on Fridays inclusive, and between 13:00 hours and 08:00 hours on Saturdays. There shall be no operations whatsoever on Sundays, Public Holidays and Bank Holidays.

REASON

To prevent disturbance to the occupiers of nearby properties.

15. No additional opening shall be made other than shown on the plan hereby approved, nor any approved opening altered or modified in any manner, unless details have first been submitted to, and approved in writing by, the Local Planning Authority. All windows approved with obscure glazing shall remain as such at all times.

REASON

To protect the privacy of the occupiers of adjoining properties.

16. The parking area hereby approved shall not be used for any purpose other than the parking of cars.

REASON

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

17. No development shall be commenced before details of the facing bricks, roofing tiles, surfacing materials and screen wall facing bricks 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.

18. The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants,

necessary for fire fighting purposes at the site, has been submitted to, and approved in writing by, the Local Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the Local Planning Authority.

REASON

In the interests of fire safety

19. Before the commencement of the development, a landscaping scheme shall be submitted to the Local Planning Authority for approval in writing. The landscaping scheme shall include full details of all proposed tree and shrub planting, including plant species, planting density, planting sizes and the proposed times of planting. All tree and shrub planting shall be carried out in accordance with the approved details and at the approved times.

If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

REASON

In the interests of the amenities of the area.

20. A landscape and public areas management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape and hard surfaced areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development for its permitted use. The landscape management plan shall be carried out in accordance with the approved detail.

REASON

To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by landscape features of communal public, nature conservation or historical significance.

21. No development or site works whatsoever shall commence on site until details of measures for the protection of existing trees have been submitted to and approved in writing by the Local Planning Authority.

REASON

In the interests of the amenities of the area.

22. No dwelling hereby permitted shall be occupied until the road, including the footways and car parks serving it, have been laid out and substantially constructed to the satisfaction and confirmation of the Local Planning Authority in writing.

REASON

In the interests of safety on the public highway.

23. Prior to the commencement of development a Bat Survey which accords with best practice shall be undertaken to establish the presence of bats at the site. The findings shall be submitted to the Local Planning Authority in writing. In the event that bats are found to be present at the site a mitigation scheme shall be submitted to and approved in writing. Such a scheme shall consider the appropriateness of providing suitable alternative habitat within the site. The approved mitigation scheme shall be implemented in full.

REASON

In the interests of nature conservation.

Notes

14. 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.
15. 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 entitled "The Party Wall etc., Act 1996" is available from Her Majesty's Stationary Office (HMSO), Bull Street, Birmingham, during normal opening hours or can be downloaded from the Communities and Local Government web site - <http://www.communities.gov.uk/publications/planningandbuilding/partywall>.
16. Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from www.ukradon.org if you have a postal address and postcode. This will tell you if the home is in a radon

affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. If you are building a new property then you are unlikely to have a full postal address for it. A report can be obtained from the British Geological Survey at <http://shop.bgs.ac.uk/georeports/>, located using grid references or site plans, which will tell you whether you need to install radon protective measures when building the property. For further information and advice on radon please contact the Health Protection Agency at www.hpa.org.uk. Also if a property is found to be affected you may wish to contact the North Warwickshire Building Control Partnership on (024) 7637 6328 for further advice on radon protective measures.

17. The granting of Planning Permission does not give the Applicant/Developer consent to carry out works on the Public Highway (verge, footway or carriageway). To gain consent from the Highway Authority, not less than 28 days notice shall be given to the County Highways Area Team - Tel 01926 412515, before any work is carried out, this shall include for materials and skips which are stored within the highway extents. A charge will be made for the carrying out of inspections and the issue of permits.
18. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the [applicant{s}/ developer{s}] must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days notice will be required. For works lasting longer than 10 days, three months notice will be required.
19. Before any improvement works required by this planning permission are commenced to the existing highway, the developer shall enter into an Agreement under Section 184 of the Highways Act 1980 with the Highway Authority (Warwickshire County Council). This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of the works will be recoverable from the applicant/developer. The Area Team may be contacted by telephone: (01926) 412515.
20. The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. It should also be noted that this site may lie within an area where a current licence exists for underground coal mining. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

21. The developer should contact the Rights of Way Team well in advance of the commencement of any resurfacing works on public footpath AE92 to inform them works will be taking place and to arrange a temporary footpath closure if required.
22. Public footpath AE92 must remain open and unobstructed at all times, except when subject to a temporary closure order.
23. The Development Plan policies which are relevant to this Decision are as follows:
 - North Warwickshire Local Plan 2006 (Saved Policies):
 - Core Policy 1 – Social and Economic Regeneration
 - Core Policy 2 – Development Distribution
 - Core Policy 3 – Natural and Historic Environment
 - Core Policy 5 – Development in Towns and Villages
 - Core Policy 8 - Affordable Housing
 - Core Policy 11 – Quality of Development
 - ENV3 – Nature Conservation
 - ENV4 – Trees and Hedgerows
 - ENV5 – Open Space
 - ENV6 – Land Resources
 - ENV8 – Water Resources
 - ENV11 – Neighbour Amenities
 - ENV12 – Urban Design
 - ENV13 – Building Design
 - ENV14 – Access Design
 - ECON3 – Protection of Existing Employment Sites and Buildings Within Development Boundaries
 - HSG2 – Affordable Housing
 - HSG4 – Densities
 - TPT1 – Transport Considerations in New Development
 - TPT6 – Vehicle Parking

Reasoned Justification

The site lies within the development boundary for Atherstone. There is no objection in principle to residential redevelopment of this site. The loss of the site from employment use would normally be resisted but in this case the industrial units are in a poor state of repair, in a location where vehicular access is constrained and surrounded by residential development such that there is potential for the use to be a 'bad neighbour development'. The development can be accommodated with safe vehicular access, and the design of the development is appropriate and can be accommodated without creating conditions detrimental to existing or future occupiers. Matters relating to materials, landscaping, the presence of bats and

ground conditions can appropriately be addressed through the use of conditions. The site is below the threshold requiring the provision of affordable housing and the location adjacent to existing open space justifies the lack of on site open space or play space. In these circumstances the application conforms with the requirements of the above development plan policies.

BACKGROUND PAPERS

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

Planning Application No: PAP/2011/0187

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Supporting Documents and Plans	7 4 11 8 6 11
2	Environment Agency	Consultation Reply	27 6 11
3	Case Officer	E mail	28 6 11
4	Agent	Phase 1 Contaminated Land Assessment	29 6 11
5	Atherstone Town Council	Representation	7 7 11
6	B Boulstridge	Representations	8 7 11 9 7 11
7	Warwickshire County Council Highways Authority	Consultation Reply	8 7 11
8	Environmental Health Officer	Consultation Reply	7 7 11
9	Severn Trent Water	Consultation Reply	6 7 11
10	Warwickshire Police Crime Prevention Design Advisor	Consultation Reply	6 7 11
11	Agent	Revised Plans/Revised Application Forms	29 6 11 29 6 11 5 8 11
12	Atherstone Civic Society	Representation	7 7 11
13	Case Officer	E mail to Warwickshire County Council Highways Authority	27 7 11
14	Warwickshire County Council Highways Authority	E mail	27 7 11
15	Case Officer	Letter/E mail to Agent	26 7 11 29 7 11
16	Warwickshire Fire and Rescue Service	Consultation Reply	20 7 11
17	Agent	Letter	8 8 11
18	Warwickshire County Council Rights of Way Team	Consultation Reply	5 8 11
19	Agent	E mail	5 10 11

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.

