

To: Members of the Planning and Development Board

For the information of other Members of the Council

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

PLANNING AND DEVELOPMENT BOARD AGENDA

23 MAY 2011

The Planning and Development Board will meet in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday 23 May 2011 at 6.30 pm.

AGENDA

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Declarations of Personal or Prejudicial Interests.**

- 4 **Minutes of the meetings of the Board held on 14 March, 23 March and 11 April 2011, copies herewith.**

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

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

Summary

Town and Country Planning Act 1990 – applications presented for determination

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

- 6 **Government Consultation Paper - Use Classes Order** – Report of the Head of Development Control.

Summary

The Government has published a consultation paper on proposed changes to the Town and Country Planning (Use Classes) Order and its proposals are outlined in this report.

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

- 7 **Tree Preservation Order - 18 Minworth Road, Water Orton** - Report of the Head of Development Control.

Summary

Having considered the representations received, the Board is invited to confirm or otherwise a Tree Preservation Order made in respect of 18 Minworth Road, Water Orton.

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

PART C – EXEMPT INFORMATION (GOLD PAPERS)

- 8 **Exclusion of the Public and Press**

Recommendation:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for

the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

9 Breaches of Planning Control - Report of the Head of Development Control.

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

JERRY HUTCHINSON
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

14 March 2011

Present: Councillor Simpson the Chair.

Councillors Bowden, Davis, L Dirveiks, Lea, Morson, B Moss, Sherratt, Swann, Sweet, Winter and Wykes

Apologies for absence were received from Councillors Jenkins and M Stanley.

Councillors Lewis and Phillips were also in attendance.

80 **Declarations of Personal or Prejudicial Interests**

Personal interests arising from the membership of Warwickshire County Council of Councillors Lea, B Moss and Sweet and membership of the various Town/Parish Councils of Councillors Davis (Atherstone), B Moss (Kingsbury) and Sherratt (Coleshill) were deemed to be declared at this meeting.

Councillor Sherratt declared a personal and prejudicial interest in Minute No 82 Planning Applications (Application No 2010/0375 - Rear Garden of 124 Coventry Road Coleshill) left the meeting and took no part in the discussion or voting thereon.

Councillor L Dirveiks declared a personal and prejudicial interest in Minute No 87 Breaches of Planning Control (Site at Charity Farm, Baxterley) left the meeting and took no part in the discussion or voting thereon.

81 **Minutes**

Subject to the amendment of the second line of Minute No 60a to read Kingsbury Hall, Coventry Road, Kingsbury, the minutes of the meetings of the Board held on 17 January and 14 February 2011, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

82 **Planning Applications**

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

Resolved:

- a That Application No 2011/0003 (Garage Site at George Road, Water Orton) be approved subject to the variation of condition 13 to read
 - “13. Parking bays C1 and C2 shall be clearly labelled for the use of numbers 62 and 64 George Road only, within three months of the date of this permission. When the historical rights for the occupiers of numbers 62 and 64 George Road cease, the spaces shall be re-labelled to provide 3 parking bays for cars, and the 1.8m high close boarded timber fence immediately to the east of these bays removed.”
- b That consideration of Application No 2009/0420 (Almshouses, Church Lane, Middleton) be deferred;
- c That consideration of Application No 2010/0315 (108 Long Street, Atherstone) be deferred;
- d That Application No 2010/0375 (Rear Garden of 124 Coventry Road Coleshill) be approved subject to the conditions specified in the report of the Head of Development Control;
- e That consideration of Applications No 2010/0462 and 2011/0014 (Beech House, 19 Market Street, Atherstone) be deferred to enable discussion with English Heritage and to enable the Board to inspect the interior of the building;
- f That in respect of Application No 2010/0584 (The Club Spice 45 Ltd, Club Spice A45, Birmingham Road, Meriden) if it is confirmed that the unauthorised use of these premises as a private members club has ceased, then it would not be expedient to issue an Enforcement Notice, but that the Solicitor to the Council be authorised to issue such a Notice requiring the cessation of the use of these premises as a private members club for the reasons outlined in the report, with a compliance period of three months, should such a use re-commence;
- g That consideration of Application No 2010/0592 (The Sportsmans Arms, Perryman Drive, Piccadilly) be deferred; and
- h That providing the applicant first enters into a Section 106 Agreement in respect of the obligations set out in the report of the Head of Development Control,

Application No 2010/0609 (3M (UK) Plc, Ratcliffe Road, Atherstone) be approved subject to the conditions set out in the said report.

83 Tree Preservation Orders

The Head of Development Control reported that two Tree Preservation Orders had recently been made and the period for representations had passed. Having considered the representations received, the Board was invited to confirm the Orders.

Resolved:

- a That the Tree Preservation Order relating to an oak tree at 8 Shawbury Village be confirmed; and**
- b The Tree Preservation Order relating to five oak trees at Nuthurst Crescent in Ansley, be confirmed.**

84 Section 106 Monitoring Report

The Head of Development Control provided the six monthly review of outstanding Section 106 Agreements.

Resolved:

- a That the report be noted; and**
- b That in respect of the Atherstone Magistrate's Court site the Landscape Officer be asked to arrange an early meeting with the Local Ward Members to bring this matter forward.**

85 Re-development Proposals for the MIRA Technology Park

The Head of Development Control outlined the proposals that were being put together for the redevelopment proposals of the MIRA premises at Higham-on-the-Hill in the Borough of Hinckley and Bosworth. The Board was asked to agree a suggested course of action.

Resolved:

That responsibility remains with North Warwickshire for determining the planning application in respect of the A5 access arrangements to the site.

86 Exclusion of the Public and Press

Resolved:

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

87 Breaches of Planning Control

The Head of Development Control reported on a number of alleged breaches of planning control and the Board was asked to agree suggested courses of action.

Resolved:

- a That in respect of Heart of England Ltd, Fillongley**
 - i The position as set out in the letters of 7 January 2010 and 21 February 2011 be treated as material considerations;**
 - ii Counsel's Opinion be sought on the success of Injunctive proceedings being commenced under Section 187(B) of the Town and Country Planning Act 1990, as amended, as outlined in this report;**
 - iii The Solicitor to the Council be authorised to issue an Enforcement Notice under Section 172 of the 1990 Act as amended, requiring the second field gate access to be reinstated to the same dimensions, and to the same position prior to the current unauthorised works taking place;**
 - iv The Solicitor to the Council be authorised to issue an Enforcement Notice under Section 172 of the 1990 Act as amended, requiring the removal of the tower superstructure around the pump equipment on the island in the lake; and**
 - v The Solicitor to the Council be authorised to issue an Enforcement Notice under Section 172 of the 1990 Act as amended, requiring the removal of the hard surfaced track running from the second field gate access to and alongside the woodland.**
- b That in respect of Lynwyn, Botts Green Lane, Over Whitacre, should the building be altered in accordance with the plan submitted on 28 February 2011, it would not be expedient to commence enforcement proceedings;**

- c That in respect of land at Stipers Hill Farm, Kisses Barn Lane, Warton, the Solicitor to the Council be authorised to issue an Enforcement Notice relating to the change of use of the land for the storage of non-agricultural vehicles including: public service vehicles; heavy goods vehicles; caravans/mobile homes; scrap cars/car parts; containers; and boats; together with the formation of a hardstanding area. The enforcement notice to require the removal of the aforesaid and the proper reinstatement of the land; and**

- d That in respect of the site at Charity Farm, Main Road, Baxterley, the Solicitor to the Council be authorised to issue an Enforcement Notice relating to the erection of a steel framed and clad, aircraft and historic vehicle storage building. The owner/occupier being required to demolish and/or remove the structure from the site and also to reinstate the land by digging up and removing the hardcore foundation for the building and that the compliance period be six months.**

M Simpson
Chairman

**Planning and Development Board
14 March 2011
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
5/2	2009/0420	Mr & Mrs Elliott	Objection	11/3/11
5/4	2010/0375	Mr Barry	Objection	14/3/11
5/7	2010/0592	English Heritage Petition	Letter Objection	14/3/11 2/3/11
6	N/A	Letter	Objection	10/3/11

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

23 March 2011

Present: Councillor Simpson the Chair.

Councillors Bowden, Davis, L Dirveiks, Lea, Morson, B Moss, Sherratt, M Stanley, Sweet, Winter and Wykes

Apologies for absence were received from Councillors Bowden, Jenkins, M Stanley and Swann.

Councillors Hayfield, Lewis, Phillips and Smith were also in attendance.

88 **Declarations of Personal or Prejudicial Interests**

Personal interests arising from the membership of Warwickshire County Council of Councillors Lea and Sweet and membership of the various Town/Parish Councils of Councillors Davis (Atherstone), Sherratt (Coleshill) and M Stanley (Polesworth) were deemed to be declared at this meeting.

89 **Planning Application**

The Head of Development Control submitted a further report in respect of Application No 2010/0592 (The Sportsmans Arms, Perryman Drive, Piccadilly). Details of correspondence received since the publication of the agenda is attached as a schedule to these minutes.

Resolved:

That provided the Applicant first enters in to a Section 106 Agreement based on the outline identified in the report of the Head of Development Control, planning permission be granted subject to the amendment of condition iii) as set out below and to the other conditions contained in the recommendation in Appendix A of the said report

“iii) No house shall be occupied until a scheme for the provision of affordable housing has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of PPS3 (June 2010) or any future guidance that replaces it. The scheme shall include:

- a) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing in perpetuity;**
- b) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced; and**
- c) Continued sole control of the scheme by a Registered Social Landlord.”**

M Simpson
Chairman

**Planning and Development Board
23 March 2011
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
4	2010/0592	Timothy Jones	Counsel's Opinion	21/3/11
4	2010/0592	Councillor Johnston	Observations	22/3/11
4	2010/0592	Councillor Swann	Observations	22/3/11

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

11 April 2011

Present: Councillor Simpson the Chair.

Councillors Davis, L Dirveiks, Lea, Morson, Sherratt, M Stanley, Swann, Sweet, Winter and Wykes

Apologies for absence were received from Councillors Bowden, B Moss and Jenkins.

Councillor Phillips was also in attendance.

Before the commencement of the meeting, Councillors Simpson and Sweet thanked Members and Officers for their support and contribution to the work of the Board over the last four years.

90 **Declarations of Personal or Prejudicial Interests**

Personal interests arising from the membership of Warwickshire County Council of Councillors Lea and Sweet and membership of the various Town/Parish Councils of Councillors Davis (Atherstone), Sherratt (Coleshill) and M Stanley (Polesworth) were deemed to be declared at this meeting.

Councillor Sweet declared a personal and non-prejudicial interest in Minute No 97 (Tree Preservation Order, Baddesley Ensor) and took no part in the discussion or voting thereon.

91 **Planning Applications**

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

Resolved:

- a **That, provided the applicant first enters into a Section 106 Agreement as varied to allow the provision and first occupation of 4 affordable dwellings within 2 years (failing which 6 affordable dwellings are to be provided) alongside the unchanged contribution towards open space, Application No 2008/0369 (151 Plank Lane, Water Orton) be approved subject to conditions outlined in Appendix A to the report of the Head of Development Control;**
- b **That consideration of Application No 2009/0420 (Almshouses, Church Lane, Middleton) be deferred for further consultation with the applicant;**

- c That consideration of Application No 2010/0058 (Grimscote Manor, Lichfield Road, Coleshill) be deferred for a site visit;
- d That Application No 2010/0172 (Bridge House, Coleshill Road, Atherstone) be approved subject to the conditions specified in the report of the Head of Development Control; and
- e That Application No 2011/0096 (Land to the rear of 3 Silverbirch Close, Hartshill) be approved subject to the conditions specified in the report of the Head of Development Control.

92 Tree Works to the Rear of 19 Welcome Street, Atherstone

The Assistant Director (Leisure and Community Development) reported on the proposed felling of a tree located within the Atherstone Conservation Area to the rear of 19 Welcome Street, Atherstone and the Board was asked to agree a suggested course of action.

Resolved:

- a That the proposed felling works to be undertaken at the rear of 19 Welcome Street, Atherstone, as detailed in the report and at Appendix A, be noted; and
- b That the matter be referred to the Community and Environment Board for further consideration with a request that a replacement tree or trees be planted elsewhere in the Borough.

93 Consultation Responses - Interim Planning Policy Statement, Design Briefs & Affordable Housing Addendum to SPD

The Assistant Chief Executive and Solicitor to the Council reported on the outcome of the consultation on a number of documents – Interim Planning Policy Statement; Design Briefs for Holly Lane & Britannia Mill; and, Affordable Housing Addendum. The Board was asked to agree a suggested course of action.

Resolved:

- a That the Interim Planning Policy Statement be agreed and adopted by the Executive Board;
- b That the Design Briefs be agreed and adopted; and
- c That the Affordable Housing Addendum be agreed and adopted.

Recommendation to Executive Board

- d That the Interim Planning Policy Statement be agreed and adopted.**

94 Tree Preservation Order Land adjacent to Plank Lane, Water Orton

Having considered the representations received, the Board was invited to consider whether or not to confirm the Tree Preservation Order on land adjacent to Plank Lane, Water Orton.

Resolved:

That the Tree Preservation Order made in respect of 35 individual trees, 5 groups of trees and 2 areas of trees at Plank Lane, Water Orton be confirmed without modification.

95 Exclusion of the Public and Press

Resolved:

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

96 Breaches of Planning Control

The Head of Development Control reported on a number of alleged breaches of planning control and the Board was asked to agree suggested courses of action.

Resolved:

- a That in respect of Unit 2a, Arley Industrial Estate, Arley the Solicitor to the Council be authorised to issue an Enforcement Notice requiring the cessation of caravan sales from this unit for the reasons given in the report of Head of Development Control and that the compliance period be three months; and**
- b That in the cases of Fillongley Garage, Tamworth Road, Fillongley; The Old Manor House, Old House Lane, Corley; 18 Stoneleigh Close, Hartshill and Lot 1, Burrow Hill Farm, Burrow Hill Lane, Corley, the Council does not consider it expedient to issue enforcement notices against the breaches of planning control. That the Head of Development Control be asked to write to each offender and landowner involved explaining the correct procedures for submitting a planning application and gaining**

planning permission prior to commencing any development work in the future.

97 Tree Preservation Order, Baddesley Ensor

The Board was invited to consider the making of a Tree Preservation Order in respect of a number of mature trees in the garden of The Vicarage, Newlands Road, Baddesley Ensor.

Resolved:

That a Tree Preservation Order be made with immediate effect, in respect of 32 individual trees and 1 group of trees which are located within the grounds of The Vicarage, Newlands Road, Baddesley Ensor for the reasons given in the report of the Head of Development Control, and that any representations received be referred to the Board for it to consider when it decides whether to make the Order permanent.

M Simpson
Chairman

Planning and Development Board
11 April 2011
Additional Background Papers

Agenda Item	Application Number	Author	Nature	Date
4/2	2009/0420	G Bancroft	Representation	29/3/11
		P Lawson	Representation	27/3/11
		A Harris	Representation	1/4/11
		D Williets	Representation	31/3/11
		Applicant	E-mail	7/4/11
4/3	2010/0058	Applicant's Solicitor	Representation	1/4/11

Agenda Item No 6

Planning and Development Board

23 May 2011

**Report of the
Head of Development Control**

**Government Consultation Paper -
Use Classes Order**

1 Summary

- 1.1 The Government has published a consultation paper on proposed changes to the Town and Country Planning (Use Classes) Order and its proposals are outlined in this report.

Recommendation to the Board

That the Council is uncertain about the benefits of this proposal as far as it affects North Warwickshire, given the Authority's priorities of promoting sustainable development, and encouraging job and employment creation within the Borough.

2 Background

- 2.1 As part of the recent Budget Statement and the Government's Plan for Growth, the Government wishes to see greater flexibility in the planning system so as to support economic growth and to increase the supply of land for housing. The Use Classes Order is a deregulatory means of allowing changes of use between different land uses that have similar impacts, without applying for planning permission. The Government is thus proposing extending the freedoms available through this Order. There are three objectives:
- i) To provide freely for the change of use from commercial uses to residential uses. This responds, it says, to the recognised and urgent need to increase housing supply, suggesting that housing is less likely to have wide land-use impacts.
 - ii) A call for communities to relax constraints through existing measures, to target particular local issues, encourage new development, support local economic strategies and make best use of existing property.
 - iii) To remove barriers to change of use so as to liberalise and promote housing supply.

3 The Proposals

- 3.1 It is proposed that no planning application would be needed to change the use of industrial property and land – that is all light industrial (B1), general industrial (B2) and warehousing uses (B8) – to residential use. This would establish the principle of residential use without the need to submit an outline planning application. However applications would still then be necessary to look at the details of conversion of existing buildings; the construction of new dwellings on existing vacant commercial land, and the redevelopment of existing industrial premises. The paper recognises that some existing commercial premises would not be suitable for housing, and is looking to introduce measures to mitigate the risk of homes being built in unsuitable locations, but in general terms it continues by saying that, “the market will make sensible decisions about where land classified as B2 and B8 is and is not suitable for residential development “. There is a time limit too, such that if the land has not been re-used within five years then it reverts back to its industrial use.
- 3.2 The second proposal in order to increase flexibility between commercial and residential uses relates to the change of use of retail and financial and professional services in town centres to mixed uses including a greater proportion of residential use. At present a change to a mixed use involving one flat does not require a planning application, but this proposal would enable a greater number of flats. The paper asks for upper limits on this and asks for mitigation measures to ensure proper habitable space.
- 3.3 The paper identifies a number of adverse impacts that could arise from this liberalisation of the Use Classes Order. Firstly it identifies social impacts such as the loss of local employment sites and provision; no provision of affordable housing within these sites and that there might be pressure on existing facilities. It concludes by saying discussions on these items would have to take place “outside” of the planning system and be on a voluntary basis. Secondly, the Government recognises that there could be adverse impacts on commercial vacancy rates; on commercial rental values and in rural areas where the loss of local employment sites and the conversion of commercial buildings on farms may have real local impacts. Thirdly, the paper recognises that traffic impacts could significantly change; the need for car parking could be seriously affected and that in some cases, new housing sites and public transport routes would not match. Fourthly there are the potential contaminated land risks and “bad neighbour” impacts that might arise from greater flexibility. In general terms the Government considers that it will be necessary to introduce measures to reduce the worst of these impacts. A number are identified - the introduction of some pre-conditions to limit all changes of use; that there should be greater use of Article Four Directions and a widening of the Prior Approval procedures, that some degree of upper thresholds should be introduced, and that mitigation measures are required to be signed up to by a developer prior to work commencing, in order to remove or to reduce the worst of all of these impacts. However the general strand running through the document is that the market would decide the outcome of whether a change of use would “work”.

4 Observations

- 4.1 In strategic terms, this proposal is a direct consequence of the realisation that without there being a means to provide and plan for a strategic housing requirement, the supply of housing land in the future could well be uncertain at best, or placed in jeopardy at worst. However it does then seem to completely contradict the growth and economic development agenda of seeking to support and enable job creation and opportunity. The balance between these objectives, the Government is saying, is a matter for each Local Authority to determine through its Local and Neighbourhood Plans. This is the proper approach – in other words, maintaining a plan-led system. But the consequences of fully implementing the proposals in this paper, by completely de-regulating these changes of use, could seriously undermine the approach taken in a Local Plan or in Neighbourhood Plans. This would be very likely in the Boroughs' case.
- 4.2 One of the strategic policies in North Warwickshire has been to seek expansion of job opportunities in the Borough so as to enable local people to have the best opportunity to gain local employment and thus to reduce the amount of out-commuting. In this way more sustainable communities could be encouraged. Additionally the policy preference for the re-use of rural buildings has been for economic purposes. This approach could be placed in jeopardy through this proposal, as existing commercial premises could be lost and local employment provision in the more remote rural settlements could be removed in favour of residential units. So strategically in North Warwickshire this proposal could lead to less sustainable development and reduce the amount of employment provision.
- 4.3 In terms of impacts in North Warwickshire, then the two that stand out immediately are the lack of a means of securing affordable housing in new housing developments that come about as a consequence of these changes of use, and secondly the transport and highway implications, particularly in the more rural settlements.
- 4.4 If these proposals are to go ahead, then there needs to be a series of measures that would control the scope of the unfettered freedom that is being set out here.

5 Report Implications

a) Use of Resources and Financial Implications

- 5.1.1 If more housing is made available under this proposal then the Council could benefit under the New Homes Bonus.

b) Environment and Sustainability Implications

- 5.1.2 There would be an adverse impact on the provision of sustainable development in the Borough, and there could be environmental issues arising

from the development of residential areas in potentially unsuitable locations without appropriate mitigation measures.

c) Links to the Council's Priorities

5.1.3 This proposal if left unfettered would not align with the Council's priorities of promoting sustainable development; protecting the Borough's local rural character and widening the availability to and opportunity for new employment provision.

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
1	Communities and Local Government	Consultation Paper	April 2011

Agenda Item No 7

Planning and Development Board

23 May 2011

**Report of the
Head of Development Control**

**Tree Preservation Order
18 Minworth Road
Water Orton**

1 Summary

- 1.1 The Council's Tree Officer was consulted on a Section 211 notification in respect of the removal of an Ash tree (Common Ash) sited within the Conservation Area at 18 Minworth Road Water Orton, (as indicated on the plan at appendix A) the tree was identified to exhibit a significant amenity value, considered worthy of a Tree Preservation Order.
- 1.2 A report was presented to the Board in February 2011 that a Tree Preservation Order be made, in respect of 1 Ash tree, and that any representations received be referred to the Board for it to consider whether to make the Order permanent. The Order was made on 15 February 2011 and applies in provisional form until 15 August 2011.
- 1.3 The required minimum period for representations by interested parties in respect of this Tree Preservation Order expired on 1st April 2011.

Recommendation to the Board

That the Tree Preservation Order made in respect of 1 Ash tree, at the above address be confirmed without modification.

2 Observations

- 2.1 The Council's solicitor is satisfied that the Council has complied with the legislative requirements with regards to notifying adjoining owners/occupiers.
- 2.2.1 One representation has been received from the owner in response to the Council making the Tree Preservation Order. The concerns were; that the size of the trunk restricts visibility when reversing out of driveway onto Minworth Road. Also the roots to the tree has lifted the block paved drive to the extent that the drive no longer falls away to the road and holds water and the raised blocks present a trip hazard and the garden wall has also been pushed out of 'upright' by the tree roots. The drive can be re-instated and levelled but the roots of the tree will need to be cut, which could destabilize or kill the tree. Should the tree be left to grow, it will be considerably larger and will result in a financial burden to maintain it and to repair the damage cause by the roots. The tree will not stand forever and when it eventually comes down either

by collision or heavy winds it will certainly cause extensive damage to properties nearby.

- 2.3.1 This representation was referred to the Council's tree officer who instructed a response to the applicant. It was advised that the tree is worthy of protection due to its amenity value and it is in good condition in terms of its physical and structural condition. At this time the Council do not consider it appropriate to fell the tree. It was also advised that protection does not necessarily mean that works to the tree in question would not be allowed. An application could be submitted for works relating to root pruning. With regards to the tree not standing forever and the uncertainty of whether the tree would come down due to heavy winds or through a collision, then the removal of a tree cannot be justified on this basis.

3 Report Implications

3.1 Legal and Human Rights Implications

- 3.1.1 The owners of the land have been given the opportunity to make representations to the Council before the Order is confirmed as being permanent. Following a response from the owners of the land they are aware that a tree preservation order is recommended by the tree officer to be permanent.
- 3.1.2 The tree to be protected exhibits significant amenity value for both the present and the future given its prominent location within the Conservation Area.

The Contact Officer for this report is Fiona Wallace (719475)

Background Papers

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

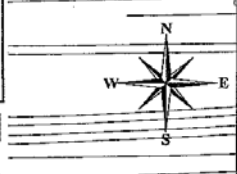
Background Paper No	Author	Nature of Background Paper	Date
Memo	NWBC Principal Solicitor	Copy of representation received	18 March 2011
Email	NWBC Tree Officer	Instruction of response to representations author	7 April 2011
Memo	NWBC Principal Solicitor	Summary of representation received and deadline date for confirming a TPO	14 April 2011



**Tree Preservation Order: 18 Minworth Road
Water Orton**

T1- Ash

Scale: 1:1000	Date: 01.02.11	File No.	Drawn By: J.S.
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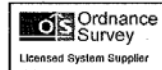


Development Control

North Warwickshire Borough Council
Office of The Chief Executive

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Agenda Item No 8

Planning and Development Board

23 May 2011

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

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

Agenda Item No 9

Breaches of Planning Control - Report of the Head of Development Control.

Paragraph 6 – by reason of the need to consider appropriate legal action and the issue of enforcement notices

The Contact Officer for this report is David Harris (719222).