

**To: The Deputy Leader and Members of the Planning and Development Board  
(Councillors Simpson, Bowden, L Dirveiks, Fox, Jenkins, Lea, Morson, B Moss, Sherratt, M Stanley, Swann, Sweet, Winter and Wykes)**

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

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

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

## **PLANNING AND DEVELOPMENT BOARD AGENDA**

**12 APRIL 2010**

The Planning and Development Board will meet in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday 12 April 2010 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.**  
(Any personal interests arising from the membership of Warwickshire County Council of Councillors Fox, Lea, B Moss and Sweet and membership of the various Town/Parish Councils of Councillors Fox (Shustoke), B Moss (Kingsbury), Sherratt (Coleshill) and M Stanley (Polesworth) are deemed to be declared at this meeting.)

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

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

### **Summary**

Town and Country Planning Act 1990 – application presented for determination.

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

- 5 **Proposed Tree Preservation Order Land at Dunns Lane, Dordon (north side)** – Report of the Head of Development Control

### **Summary**

The purpose of this report is to confirm or otherwise a Tree Preservation Order made in respect of four oak trees situated on the northern side of Dunns Lane, Dordon.

The Contact Officer for this report is Erica Levy (719294).

- 6 **Proposed Footpath Diversion (AE144) at Arc School, Ansley Lane, Ansley** – Report of the Head of Development Control

### **Summary**

An application has been made to North Warwickshire Borough Council for the diversion of a public footpath under the Highways Act. The application arises following the grant of planning permission for the redevelopment of a former farm with a new school. (Planning Application Reference: PAP/2008/0399).

The Contact Officer for this report is Erica Levy (719294).

- 7 **Further Changes and Consultation** – Report of the Head of Development Control

### **Summary**

This report outlines further changes to the legislation affecting the handling of planning applications as well on the publication of two further consultation papers.

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 Proposed Tree Preservation Order – Hurley – Report of the Head of Development Control**

The Contact Officer for this report is Erica Levy (719294).

JERRY HUTCHINSON  
Chief Executive

## **Agenda Item No 4**

### **Planning and Development Board**

**12 April 2010**

### **Planning Applications**

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

#### **1 Subject**

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

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

- 2.1 This report presents for the Board decision, a number of planning, listed building, advertisement, proposals, together with proposals for the works to, or the felling of trees covered by a Preservation Order and other miscellaneous items.
- 2.2 Minerals and Waste applications are determined by the County Council. Developments by Government Bodies and Statutory Undertakers are also determined by others. The recommendations in these cases are consultation responses to those bodies.
- 2.3 The proposals presented for decision are set out in the index at the front of the attached report.
- 2.4 Significant Applications are presented first, followed in succession by General Development Applications; the Council's own development proposals; and finally Minerals and Waste Disposal Applications. .

#### **3 Implications**

- 3.1 Should there be any implications in respect of:

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

#### **4 Site Visits**

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

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

## 5 **Availability**

5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council’s web site [www.northwarks.gov.uk](http://www.northwarks.gov.uk)

5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 17 May 2010 at 6.30pm in the Council Chamber at the Council House.

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
1	PAP/2010/0088	4	<p><b>Coleshill Hall Farm, Birmingham Road, Coleshill</b></p> <p>To refurbish and change the use of the Grade II Listed former stables/farmhouse to hotel communal space, together with erecting new bedroom accommodation with 40 ensuite rooms</p>	General
2	PAP/2010/0102	16	<p><b>Land to south west of Birch Coppice Business Park, Dordon</b></p> <p>Outline planning application for the development of 49.9 hectares of land to south east of Birch Coppice Business Park to create 186,000 square metres of built floorspace for storage &amp; distribution uses within Use Class B8 as an extension to Birch Coppice Business Park (Phase II). Details relevant to Access, Layout and Landscaping are submitted for consideration now with matters of Scale and Appearance of buildings reserved for consideration in a subsequent planning application. Details submitted for consideration now include the layout of proposed site roads and vehicle accesses, site drainage infrastructure works, construction of site roads, site levels for building development plateau and proposed site boundary landscaping. Details of the layout, scale and appearance of buildings are included now for illustrative purposes only.</p>	General

## **General Development Applications**

### **(1) Application No PAP/2010/0088**

**Coleshill Hall Farm, Birmingham Road, Coleshill**

**To refurbish and change the use of the Grade II Listed former stables/farmhouse to hotel communal space, together with erecting new bedroom accommodation with 40 ensuite rooms,**

**For The Trustees of the K E Wingfield Digby Settlement**

#### **Introduction**

This application has recently been submitted, and is reported here for information before it is determined. The report will describe the proposal; outline the relevant Policies of the Development Plan, and identify the main issues that will need to be considered in its determination.

#### **The Site**

These premises are on the northern side of the Birmingham Road, about 800 metres west of its junction with the A446 Coleshill By-Pass, and 300 metres west of the roundabout junction with Coleshill Manor. It is shown on the attached plan at Appendix A. It comprises a brick built farm house and stables together with a range of agricultural buildings. There is a cluster of buildings on the other side of the road, but otherwise it lies in open countryside.

#### **The Proposal**

It is proposed to demolish the agricultural buildings surrounding the main farmhouse, and to erect a single block to the north. This would be two storey brick and tile structure accommodating forty hotel bedrooms. The existing building would accommodate the dining/cooking/lounge/reception and other service functions of the hotel, together with staff rooms and office accommodation. Access would be from the Birmingham Road via a new access to the east of the building, as the existing one to the west would be permanently closed. 54 car parking spaces would be provided within the new complex in and around the buildings. The overall layout as proposed is illustrated at Appendix B. Plans showing the appearance of the new building and its relationship with the existing are attached at Appendix C.

The footprint of the buildings to be demolished amounts to some 900 square metres, and the footprint of the new building is around 1000 square metres (a 10% increase in footprint). The height of the new building is 5.5 metres to its eaves and 9.5 metres to its highest ridge, whereas the ridge of the retained building is 11 metres.

A more extensive description of the proposed works is provided below.

## **Background**

### **a) History**

The existing building is a Grade 2 Listed Building dating from the late 17<sup>th</sup> Century. It lies close to the moated site of an earlier medieval manor house. The main brick building is a combined farmhouse and barn, probably converted to these functions in the mid to late 18<sup>th</sup> Century from what was the late 17<sup>th</sup> Century stables and coach house serving the former Coleshill Hall. That was demolished early in the 19<sup>th</sup> Century. A full Archaeological and Architectural Appraisal of the existing building, including descriptions of the former Coleshill Hall has been submitted to accompany the application. The building was Listed in 1989, and the list description is attached at Appendix D.

There is little planning history attached to the site. In 1970, planning permission was granted for the “modern” agricultural buildings to the north of the Listed Building. Both planning permission and Listed Building Consent were granted in 2007 for the demolition of the modern agricultural buildings here, and the conversion of the Listed Building to form five live/work units together with ancillary site works. These applications have not been taken up.

Since 2007, the building has been the subject of frequent vandalism, and the owners have undertaken a series of repairs together with a number of other measures including the removal of other buildings close by in order to prevent access; blocking up openings, clearing the undergrowth to make the site more visible and the digging of ditches to prevent vehicular access. Many of these measures have had to be repeated.

### **b) Repairs**

A list of repairs to the Listed Building is included with the application together with a description of the proposed refurbishments and alterations on a room by room basis. It also provides a description of the state of the building. In general terms, this says that as far as the exterior is concerned, the window and door openings are a complete mix of location and size reflecting internal changes in the use of the building. The roof tiling is said to be in need of re-laying, but the external brickwork walls are stable with surface treatment necessary. The stone plinths and corner quoins have weathered but are in a better condition. Internally, the structure is sound. The roof trusses, purlins and rafters are sound, as are the first floor beams and joists. First floor walls have extensive damage to lathe and plaster, and some ceilings have been removed completely. The farm house staircase has been removed and most internal fittings have been damaged. There are no internal features. In conclusion the report says that the general structure is sound and in generally good condition.

Proposed external changes to the Listed Building include: a new first floor window in the south elevation using an existing opening, two new windows in the north elevation together with two roof lights, new joinery in all of the existing openings on the west elevation and four roof lights, and similar work to the east elevation but with reinstating existing door and window features and two roof lights. Appendix C illustrates some of these works.



The new building is effectively a square building that has been varied and adapted to provide a variety of elevations and roofscapes. It will provide the forty bedrooms around its perimeter with circulation space internally provided.

### **c) Documentation**

The application is accompanied by a number of supporting documents. These include:

- i) A Flood Risk Assessment, given that the River Cole flows 50 metres to the west of the Listed Building. Neither the new or existing buildings are within current identified flood zones, although some of the proposed car parking will be.
- ii) A Road Safety Audit given that the existing access has poor visibility; the average speed of traffic on the road, and likely amount of traffic generated by the proposal. The existing access proposals are said to have been designed as a consequence of the Audits' conclusions.
- iii) A Design and Access Statement that outlines the reasoning behind the approach adopted towards the design of the new building.
- iv) A short statement on the likely impacts on existing trees and on the wildlife of the site.
- v) A Planning Statement outlining the applicant's assessment of the proposal against relevant Development Plan policy and Government Guidance.
- vi) A Business Statement and a Financial Appraisal that sets out the financial case for the development. This concludes that the total cost of the scheme is around £5.5 million but that the completed market value of the scheme would be equivalent to this, such that no surplus would result.

### **Development Plan**

a) The Regional Spatial Strategy ("RSS") 2004 - Policies RR1 (Rural Renaissance); PA1 (Prosperity for All), PA10 (Tourism and Culture), RA14 (Economic Development and the Rural Economy), QE1 (Conserving and Enhancing the Environment), QE3 (Creating a High Quality Built Environment), QE5 (Protection and Enhancement of the Historic Environment), QE6 (Conservation and Enhancement of the Landscape) and QE9 (The Water Environment).

b) The North Warwickshire Local Plan ("Local Plan") 2006 - Saved Core Policies CP1 (Social and Economic Regeneration); CP2 (Development Distribution), CP3 (Natural and Historic Environment), CP11 (Quality of Development), together with saved Policies ENV1 (Protection and Enhancement of Natural Landscape), ENV2 (Green Belt), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage Conservation), ENV16 (Listed Buildings), ECON9 (Re-Use of Rural Buildings), ECON10 (Tourism), ECON11 (Hotels and Guest Houses), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Transport) and TPT6 (Parking)

## **Other Material Planning Considerations**

a) The RSS Phase 2 Revision (2008) - Policies RR1, PA1, PA10, PA14, QE1, QE3, QE5, QE6 and QE9.

b) Government Guidance - Planning Policy Statement Number 1 (Delivering Sustainable Development); Planning Policy Guidance Note Number 2 (Green Belts), Planning Policy Statement Number 4 (Planning for Sustainable Economic Growth), Planning Policy Guidance Note Number 9 (Planning for Biodiversity and Geological Conservation), Planning Policy Guidance Note 13 (Transport), Planning Policy Statement Number 5 (Planning for the Historic Environment), PPS5 Historic Environment Planning Practice Guide, Planning Policy Statement 25 (Development and Flood Risk) and the Good Practice Guide on Planning for Tourism.

c) English Heritage Publications - Enabling Development and the Conservation of Heritage Assets (1999); Enabling Development and the Conservation of Significant Places (2008)

## **Procedural Matters**

The development proposed is a departure from the Development Plan. This is because it is for inappropriate development in the Green Belt, and because the use is more appropriately to be located within a settlement rather than in open countryside. As a consequence of the combination of these two issues and because of the size of the proposal, it will be necessary to refer the case to the Secretary of State if the Council is minded to support the proposal. He will then determine whether or not he wishes to “call-in” the application for his own decision following a Public Inquiry. The Council may however refuse the application without referral.

This application falls below the thresholds adopted by the West Midlands Regional Assembly and Advantage West Midlands for Regionally Strategic Development. It is thus a matter that can be assessed on local impacts.

No Environmental Statement was required with the application as it was considered that the environmental effects would not be significant. This is because these effects are likely to be local in nature; the lack of special designations at the site or adjoining the site, the applicant has already addressed highway and flood risk issues in supporting documentation, and the main environmental impact is that of the “enabling” nature of the application, which is fully addressed in the supporting application.

## **Observations**

### **a) The Green Belt**

The proposal is for inappropriate development in the Green Belt by definition in Government guidance, and thus there is a presumption that the application should be refused planning permission. In this case however, the applicant is suggesting that there are arguments that weigh against this position. It is thus necessary for the Board to identify whether there are indeed any material considerations of such weight that they can be considered to amount to the very special circumstances that might lead to re-consideration of this presumption. If there are, then the main issue

becomes whether they are of such weight to override the harm done to the Green Belt by virtue of the inappropriateness of the proposed development.

### **b) The Conservation Asset**

In this case, the applicant is saying that the main material consideration of such weight as to warrant overriding the presumption of refusal, is that the proposal represents a development proposal that “enables” the restoration and re-use of the Listed Building here. He is saying that there is little prospect of the building being brought into a viable use without such a scheme, and that it represents a last opportunity to retain the building. The component issues that the Board will have to consider relate to the state of building; past opportunities, current prospects and any evidence of interest from the marketing the property. Then there the issues that arise because the proposal is being forwarded as an enabling development; is the proposed use appropriate for the Listed Building, what is the cost of repairing and refurbishing the building so as to introduce the use, is there a deficit, is the quantum of enabling development the minimum necessary to cover that deficit, is the conservation merit of the building reduced as a consequence of that enabling development, and what are the impacts of the works themselves on the building’s own special architectural and historic attributes that led to it being listed.

### **c) Development Distribution**

In this case, the proposed development – a hotel, is also a use that would not normally be supported outside the development boundary of one of the main settlements of the Borough as defined by saved Local Plan Core Policy 2. A further issue will be to assess whether there are material circumstances that could support this proposal notwithstanding this policy background. In particular those considerations will include other Development Plan policies and Government guidance that actively promote tourism; saved Development Plan policy that prefers an economic re-use for rural buildings, the likely impact on the viability of other hotels and town centres in general, and the conclusions reached on the Green Belt issue referred to above.

### **d) Other Issues**

Whilst these are the substantive issues that the Board will have to debate, it will still need to satisfy itself that there are no adverse impacts arising from other matters that could lead to a refusal. These particularly here relate to highway/traffic matters; flood risk and to the impacts on wildlife.

### **Recommendation**

That the Board agrees to visit the site prior, to its determination of the application.

## BACKGROUND PAPERS

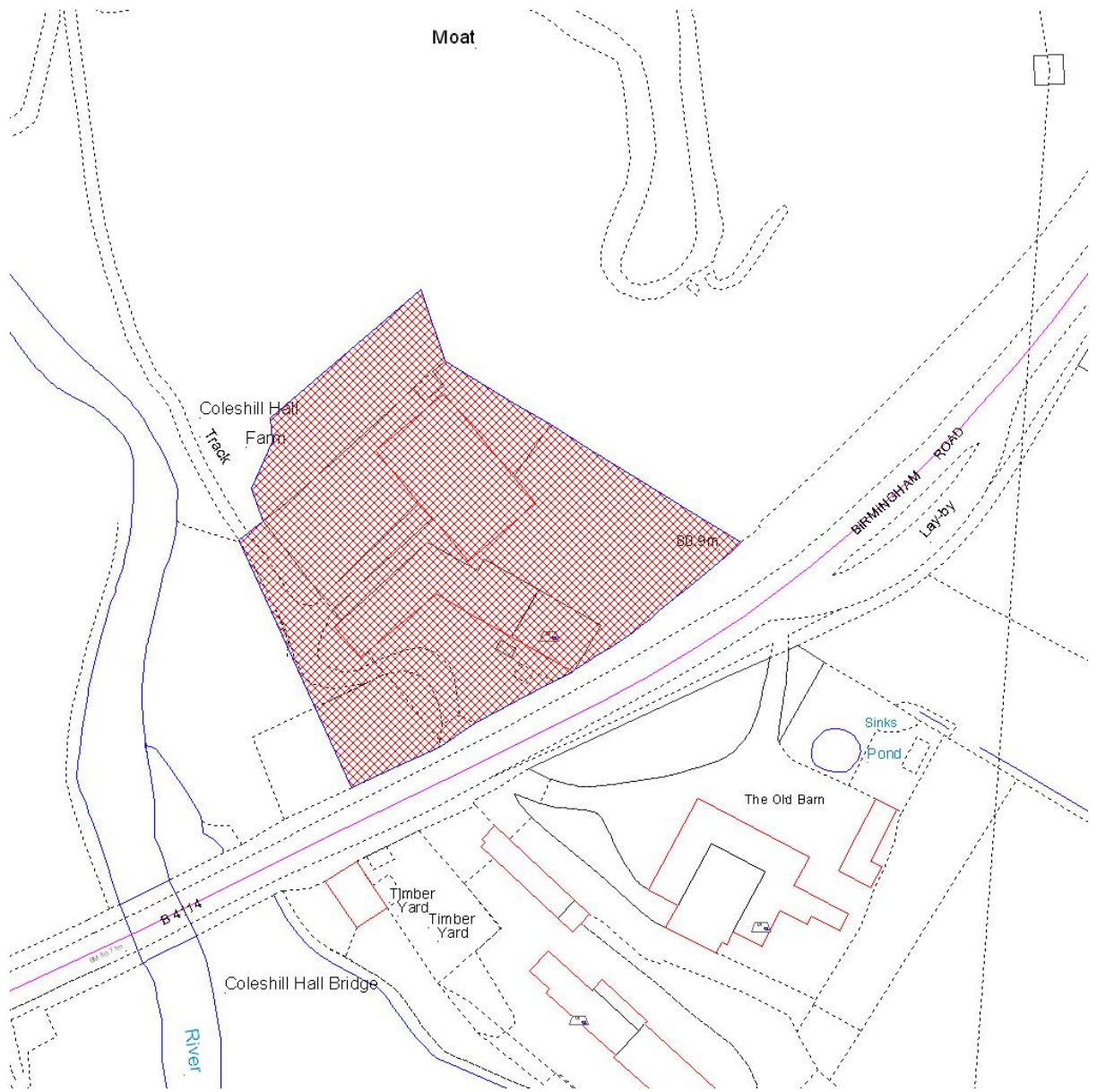
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

**Planning Application No: PAP/2010/0088**

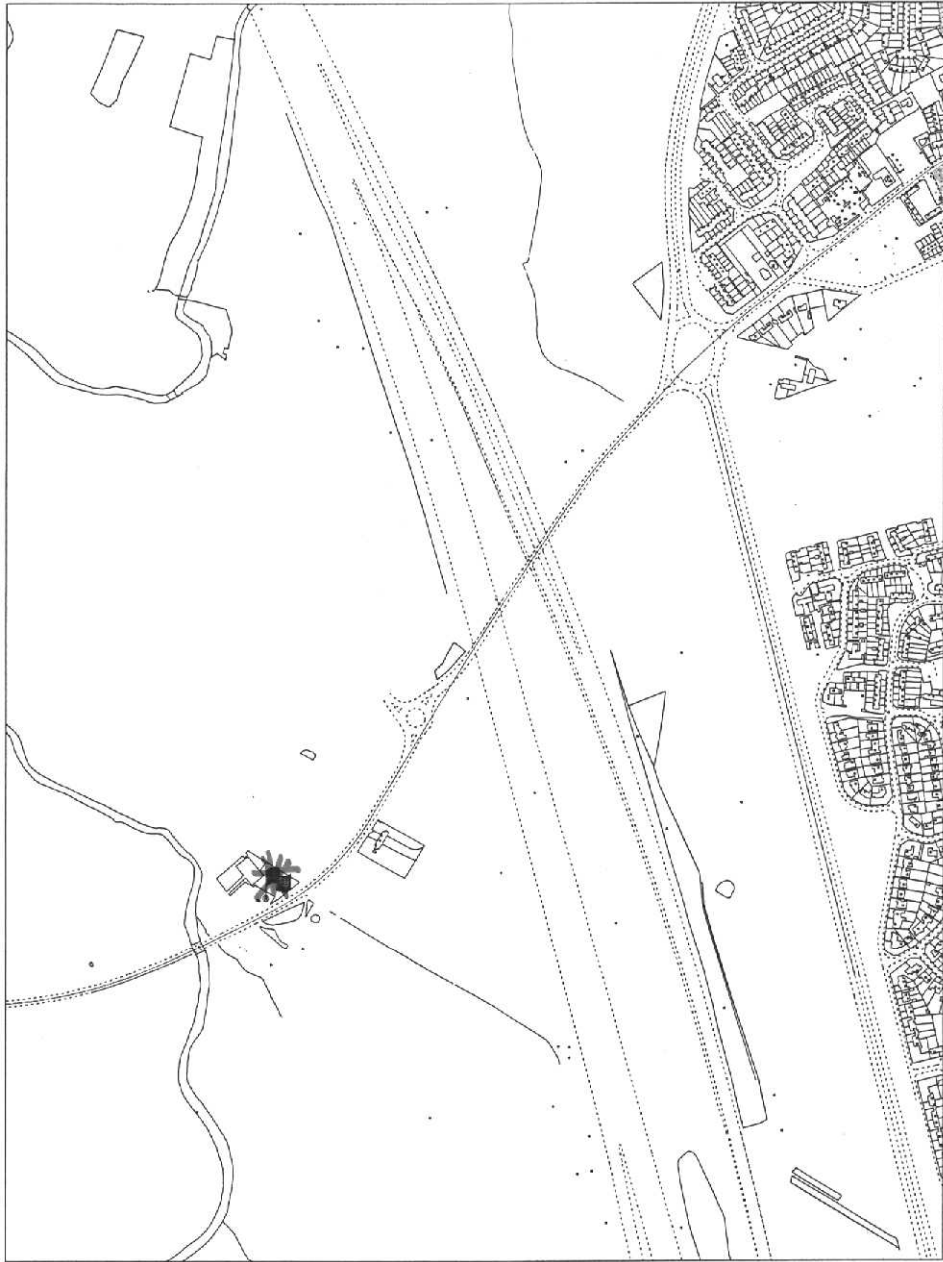
<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	2/3/10

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

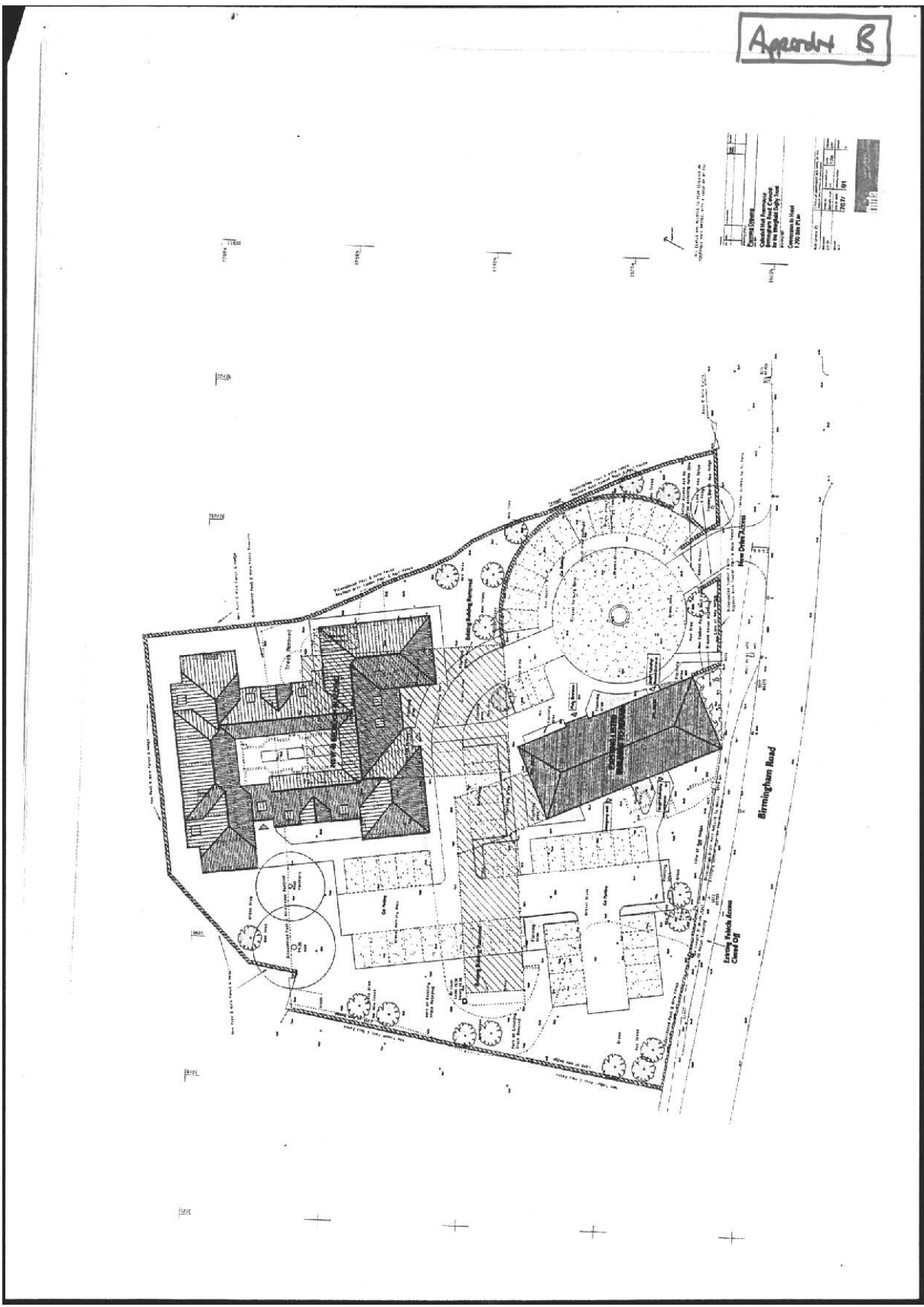
*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*



Appendix A



# Appendix B



2010 / 0088  
Coleshill Hall  
Farm House  
HOTEL

Coleshill Hall Farm House, Birmingham Road, Coleshill  
For The Wingfield Digby Trust

### Perspective Views for Planning Application

To refurbish and change the use of the Grade II Listed former Stables/farm house to hotel communal space, together with erecting new bedroom accommodation with 40 en-suite rooms.



**Coleshill Hall Farm House - Conversion to 40 Bedroom Hotel.  
As Viewed From The Birmingham Road Heading West Away From Coleshill.**

The existing listed building is on the left next to the road with the new building replacing some existing buildings on the right.

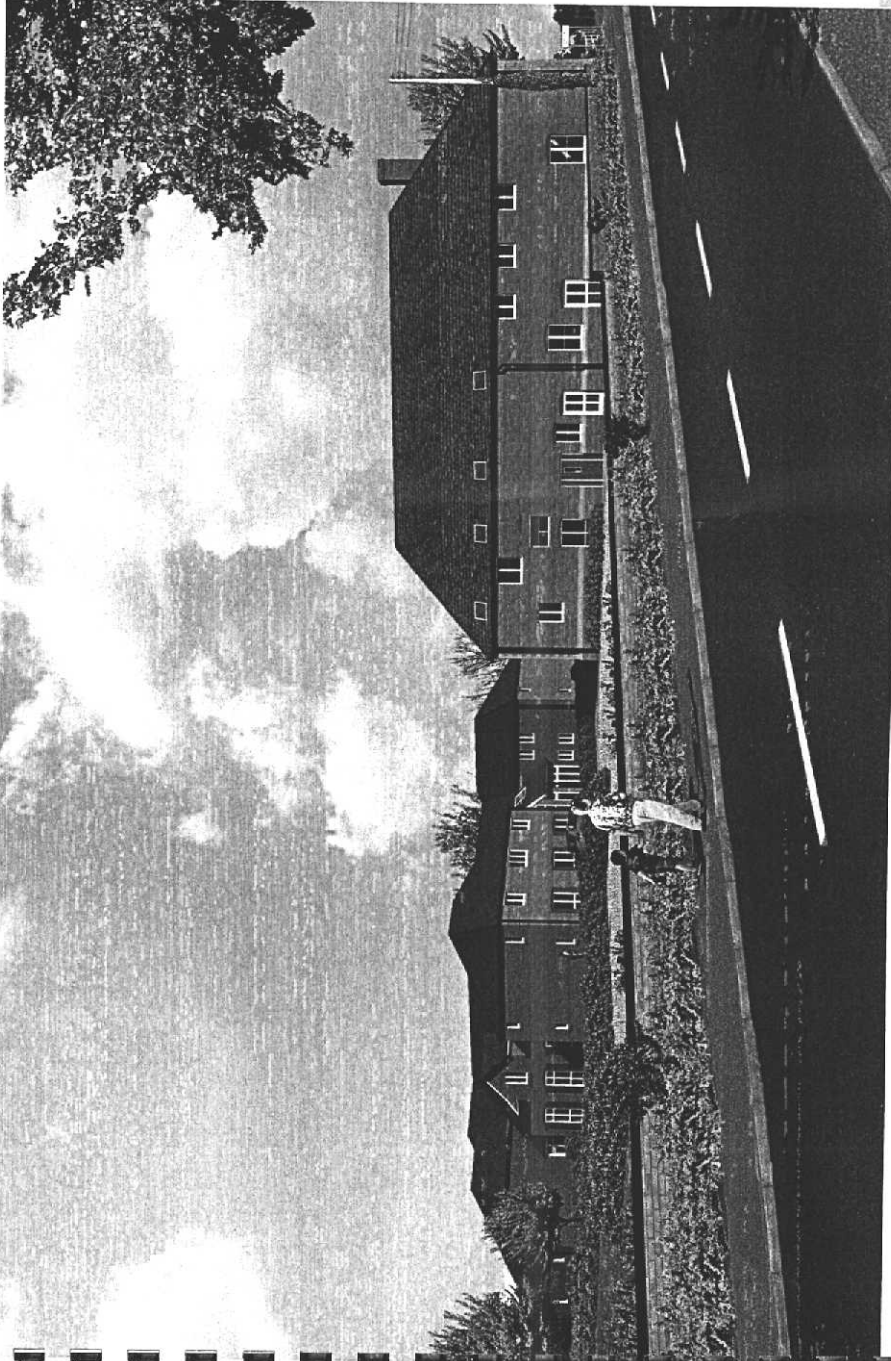
NORTH WARWICKSHIRE  
BOROUGH COUNCIL  
- 7 MAR 2010  
PLANNING DIVISION

Appendix C





**Coleshill Hall  
Farm House  
HOTEL**



**Coleshill Hall Farm House - Conversion to 40 Bedroom Hotel.  
As Viewed From The Birmingham Road Heading East Towards Coleshill.**

The existing listed building is on the right next to the road with the new building replacing some existing buildings on the left.

SCHEDULE  
 FORTY SIXTH LIST OF BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST  
 COMPILED UNDER SECTION 54 OF THE TOWN AND COUNTRY PLANNING ACT 1971

SPI8NE 7/1	COLESHILL	BIRMINGHAM ROAD (North-west side) Coleshill Hall Farmhouse
-		II

Stable block incorporating farm house. Late C17 with later alterations. Red brick (Flemish bond) with sandstone quoins and plinth coping; massive plain tile roof with hipped ends; brick off-ridge stack. Aligned north-west/south-east; the house occupies the south-east end of the range whereas the rest of the building is devoted to stables. North-east front: 2 storeys, 5 bays; C19 casements with segmental heads. Half-glazed door to left of centre with C19 bracketed canopy. The right hand half of this front is obscured by vegetation. The south-west front towards the farmyard has a central door with heavy chamfered timber frame, leading into a former through-passage. House door to the right flanked by 2 bays of segmental headed casements. The fenestration is otherwise irregular and includes 2 fixed-light glazing bar casements with segmental heads. Inserted doors to the left, and a loft hatch with plank door. Interior: late C17 roof with 2 collars and 2 pairs of queen struts. Reputed to be the former stable block to the now demolished Coleshill Hall.

## **(2) Application No PAP/2010/0102**

### **Land to south west of Birch Coppice Business Park Dordon**

**Outline planning application for the development of 49.9 hectares of land to south east of Birch Coppice Business Park to create 186,000 square metres of built floorspace for storage & distribution uses within Use Class B8 as an extension to Birch Coppice Business Park (Phase II). Details relevant to Access, Layout and Landscaping are submitted for consideration now with matters of Scale and Appearance of buildings reserved for consideration in a subsequent planning application. Details submitted for consideration now include the layout of proposed site roads and vehicle accesses, site drainage infrastructure works, construction of site roads, site levels for building development plateau and proposed site boundary landscaping. Details of the layout, scale and appearance of buildings are included now for illustrative purposes only,**

**For I M Properties (Dordon) Ltd**

#### **Introduction**

This report informs Members of the receipt of this outline planning application; describes the proposals, identifies the relevant Development Plan policy framework and draws attention to the main issues that will be involved with its determination.

#### **The Site**

The application site extends over 49.4 hectares to the south east of the existing Birch Coppice Business Park, located south of the A5 Trunk Road between Dordon and Junction 10 of the M42 Motorway. The land is presently in agricultural use, leased to a local farmer. The site includes Lower House Farm.

The existing Business Park amounts to some 112 hectares and the majority of it is now developed providing around 2 million square metres of distribution warehouse sheds and other commercial buildings. A rail freight terminal is located to the west. The former Birch Coppice colliery spoil heap has been re-graded and is to the west.

The site is bounded to the east by Lower House Lane which runs from the Dordon roundabout on the A5 into Wood End. The site includes Lower House Farm, which has a house and a collection of agricultural buildings. Open countryside lies beyond this lane, with a few small agricultural units. The western edge of Baddesley Ensor is 500 metres from the site boundary and at a significantly higher level. Wood End is 1.3 kilometres distant. The northern boundary is the line of an access track which leads from the existing Business Park to Lower House Lane, following the course of the Penmire Brook. The southern boundary is the line of the former mineral railway that ran from Baxterley Colliery to Kingsbury. The reinstated part of this line further to the west serves the Rail Freight Terminal referred to above.

Appendix A provides a plan illustrating the site and its setting as described above.

## The Proposal

This is an outline planning application to develop the area as Phase Two of the Birch Coppice Business Park for approximately 186,000 square metres of floor space to be used for B8 (Distribution) purposes. Approval is also being sought for a number of detailed matters – access to the site; site layout including plot layout, site levels, drainage, significant infrastructure and structural landscaping. The application seeks to reserve a number of matters for later applications – namely the appearance, landscaping, layout and scale of the buildings to be planned for each of the development plots. These would follow, and be the concern of the future occupiers. However these later applications would be “informed” by a Design Guide that the applicant has submitted with the current application, and which he is seeking approval for. In essence this reproduces the design, appearance and landscaping detail already seen in Phase One.

The developable area of the application site amounts to 37.5 hectares and this would provide the floor area outlined earlier. Access to the site would be through Phase One using the existing A5 junction and the Phase One road arrangements. Access into Phase Two is thus from the southern end of Danny Morson Way off a connecting spur. This would be extended into Phase Two providing a straight access right down to the south eastern end of the site, dividing the site into two development plateaux – one of 21.5 and the second of 16 hectares. Both would have a finished site level of 92.3 metres AOD. This is lower than the surrounding countryside. For instance Lower House Lane varies between 100 AOD where it crosses the railway line; 90 AOD where it has the sharp curve, 98 AOD at Lower House Farm and 83 AOD where it crosses the Penmire Brook. The former mineral line to the south is at 90 AOD. There would be no “export” of material off the Birch Coppice site as a consequence of this proposed level, as the material is needed to provide the final site level over the whole site, and for the structural landscaping banks that would run around the perimeter of the site.

The proposals include reservation at the south eastern end of one of the two plateaux referred to above, of space for the Warwickshire County Council to relocate its Household Waste Recycling Centre and Waste Transfer Station. Planning permission exists for the redevelopment of Lower House Farm for this purpose, but with the inclusion of that site into the Phase Two proposals, the applicant and the County Council have agreed a relocation package. All HGV access to the County’s site would come through the Phase Two site thus linking to Phase One and the A5 junction. Vehicular access for the public wanting to use the household waste centre would be via the already approved new access onto Lower House Lane. This would not enable a through route into Phase Two, being a dedicated public access only to the Recycling Centre.

Dedicated emergency access points are to be provided from Phase Two onto Lower House Lane close to where it passes over the former railway line, and along the line of the Penmire Brook.

The existing reed beds at the south end of Phase One are to be extended to enable a sustainable surface water drainage system for Phase Two to be incorporated into existing arrangements.

Appendix B is a plan illustrating the proposed layout as described above.

The application is accompanied by a Draft Section 106 Agreement. This has been amended from that submitted with the application, and the time of preparation of this report. It presently includes the following Obligations proposed by the applicant:

- i) An agreement that if the re-location of the County Council's proposals at Lower House Farm is agreed then, then the applicant will provide access to that site for HGV's over its own land.
- ii) To implement a Green Travel Plan
- iii) An agreement that any remaining money from the financial contribution to be provided specifically for off-site landscaping, if not expended, but already forwarded to the Borough Council under previous Section 106 Agreements, be "varied" so that it can be used instead, for public transport and training purposes.

### **Supporting Documentation**

The application is accompanied by a full Environmental Statement. This has sections on the Development Proposals (Sustainability and Construction); Socio-Economic Impacts, Landscape and Visual impacts, Cultural Heritage and Archaeology, Highways and Transportation, Noise and Vibration, Ground Conditions, Agricultural Classification, Hydrology, drainage and ecology. A Non-Technical Summary has been provided and this is attached in full at Appendix C.

In addition, the applicant has submitted a Planning Statement that deals with the applicant's planning case for the development, assessing the proposals against Development Plan policy and Government Guidance and Policy.

Other Documents include a Design and Access Statement that sets out the applicant's reasoning behind the preparation of the site and the layout selected; a Building Design Statement that sets out the applicant's criteria for the design and appearance of the finished buildings and plots, a Tree survey, a Flood Risk Assessment, a report covering Civil Engineering considerations, a Transport Assessment, a Marketing Report and a Statement of Community Involvement. The latter describes the pre-application work undertaken by the applicant.

### **Procedural Matters**

The development proposals are considered to represent a departure from the current Development Plan. As such, the Secretary of State has been informed to see if he wishes to call-in the proposal for his own determination following a Public Inquiry. The Council may refuse planning permission without referral.

The applicants provided a presentation of their proposals to the Members of the Borough Council prior to submission of the application. An agreed minute from that presentation is attached at Appendix D.

### **Development Plan**

North Warwickshire Local Plan 2006 ("the Local Plan") – Saved Core Policies CP1 (Social and Economic Regeneration), CP2 (Development Distribution), CP3 (Natural and Historic Environment), CP9 (Employment Land Requirement), CP11 (Quality of Development) and CP12 (Implementation) together with saved policies ENV1

(Protection and Enhancement of the Natural Landscape), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV7 (Development of Existing Employment Land Outside Development Boundaries), ENV8 (Water Resources), ENV9 (Land Resources), ENV10 (Energy Generation and Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ECON1 (Industrial Sites), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Development), TPT 5 (Promoting Sustainable Freight Movements) and TPT6 (Vehicle Parking)

Regional Spatial Strategy for the West Midlands 2008 (“the RSS”) – Policies PA1 (Prosperity for All), PA6 (Portfolio of Employment Land), PA9 (Regional Logistics Sites), PA14 (Economic Development and the Rural Economy), QE1 (Conserving and Enhancing the Environment), QE3 (Creating a High Quality Built Environment), QE9 (The Water Environment), EN1 (Energy Generation), EN2 (Energy Conservation)

Warwickshire Structure Plan 1996-2011 (“the Structure Plan”) - Saved Policy I2 (Industrial Land Provision)

### **Other Material Planning Considerations**

RSS Phase 2 Revision Preferred Option (2007) - Policies PA1 (Prosperity for All), PA6 (Portfolio of Employment Land and Premises), Policy PA6A (Employment Land Provision), PA9 (Regional Logistics Sites), PA14, QE1, QE3, QE9, EN1 and EN2.

RSS Phase 2 Revision Report of the Examination in Public - Recommendations in respect of Policy PA9

The Regional Logistics Sites Studies - Stages 1 (2004) and 2 (2005)

Government Planning Policy Statements and Guidance -PPS1 (Delivering Sustainable Development), PPS 4 (Planning for Sustainable Economic Growth), PPS7 (Sustainable Development in Rural Areas), PPG13 (Transport), PPS23 (Planning and Pollution Control) and PPS25 (Development and Flood Risk)

North Warwickshire Borough Council – The LDF Core Strategy Issues and Options Paper (June 2009), and its Draft Strategic Housing Land Availability Assessment (June 2009)

### **Observations**

. In the latter two documents, the application site is not identified or allocated for new development. It is agricultural land lying outside of any

#### **a) The Main Issue**

The application is a departure from the current Development Plan. The main issue that the Board will have to deal with is whether there are material planning considerations of such weight that they could still lead to the grant of a planning permission. Those considerations revolve around the emerging status of the RSS. It is worthwhile at this stage to outline the issue in a little more detail.

This application is being promoted as a Regional Logistics Site (RLS), and thus the departure issue is focussed around the policies relating to such sites.

The Development Plan is currently made up of the RSS, the saved Structure Plan policies and the saved policies of the Local Plan defined settlement boundary. The site is neither named nor otherwise identified in the adopted RSS. However the RSS does contain Policy PA9. This acknowledges that RLS's should be provided in a portfolio of employment sites. It says that they should have good quality access to the region's rail and highway networks; be served, or proposed to be served, by multi-modal transport facilities, be of the order of 50 hectares in area, have easy access to appropriate labour supply and education and training opportunities, and minimise impacts on the local environment. It concludes by saying that the region should "have a choice of RLS available at any point in time".

The Preferred Option for the Phase 2 Review of the RSS, amongst other things, expanded on the original RSS Policy PA9, with the benefit of a series of technical and research papers exploring the criteria referred to in that Policy, in order to give it more focus. These papers are the Regional Logistics Sites Studies referred to above as a material planning consideration. The outcome was that the reviewed Policy PA9 as set out in the Preferred Option, states that at least 150 hectares of land for RLS provision is required in the Region up to 2021, and it clearly says that additional land, as its first priority, should be brought forward, "to upgrade the existing rail-connected logistics facility at Birch Coppice, to a RLS". The Preferred Option was the subject of an Examination in Public, and the Panel's Recommendations to the Secretary of State, have been published. These resulted in more detail being added to Policy PA9, by including a recommendation that, "a further 40 hectares, to complete Phases 1 and 2 at Birch Coppice as part of the RSS base line provision for RLS throughout the Region" be provided.

The Panel's Recommendations remain with the Secretary of State, and he has not yet published his Proposed Modifications to the RSS Phase Two Preferred Option, in response. The earliest indication is that they will not be available before July.

The issue is therefore that whilst the application is a departure from the Development Plan, the Board has to decide what weight it gives to the Panel Recommendations to the Secretary of State, and the evidence base on which they were made, in regard of them specifically identifying expansion at Birch Coppice of the order proposed in this application.

## **b) The Re-Location of the Lower House Farm Development**

This application also includes a proposal to re-locate the County Council's proposed Household Waste Recycling Centre and Waste Transfer Station from Lower House within one of the development plots proposed in this Phase Two application. The Board will need to examine whether this is appropriate given the promotion of the site as part of the RLS base line; whether there are environmental and highway benefits arising from the proposed re-location and identify any dis-benefits or adverse impacts. At this stage the issue is confined to the principle of the proposed re-location, as the detail would be looked at following the grant of any planning permission for Phase 2.

However, it is important for the Board to deal with the application it has before it as an RLS, proposed to provide the base line for such developments under the RSS. It should not be considering approving the application just because it might provide a

better solution to the Lower House Farm proposals. The re-location proposal is a consequence of the former, and should not be seen as the “driver”.

### **c) The Draft Section 106 Agreement**

The draft Agreement will need attention. The three heads within the current draft were outlined above. There is one significant issue here. It will be seen that no “new” contribution is being offered as a direct consequence of the Phase 2 proposals. In its place, the applicants are saying that any monies “left over” from the off-site landscaping contributions, provided under previous 106 Agreements relating to Phase One, should be re-directed to the other matters already contained in those previous Agreements. This approach is not accepted. The first Agreements related to impacts from the first phase. It will be necessary to establish needs that directly arise from the Phase 2 proposals. These will then have to be addressed through an Agreement for the Phase 2 proposals.

### **d) Other Issues**

As with all major applications accompanied by an Environmental Statement, the Board will have to ensure that the matters covered are satisfactorily dealt with. In other words that they agree that there are unlikely to be adverse impacts where so concluded, but that where there are, then they can be reasonably mitigated or compensated through good design; planning conditions or by way of the Section 106 Agreement. If there are impacts that can not be so dealt with, these “residual” impacts need to be identified, and then a weight given to them such that the harm can be balanced against any identified benefits from the proposal.

## **Recommendation**

- a) That the Board visits the application site and its surroundings prior to determination of the application.
- b) That an early report is brought to Board in respect of the draft Section 106 Agreement.



## BACKGROUND PAPERS

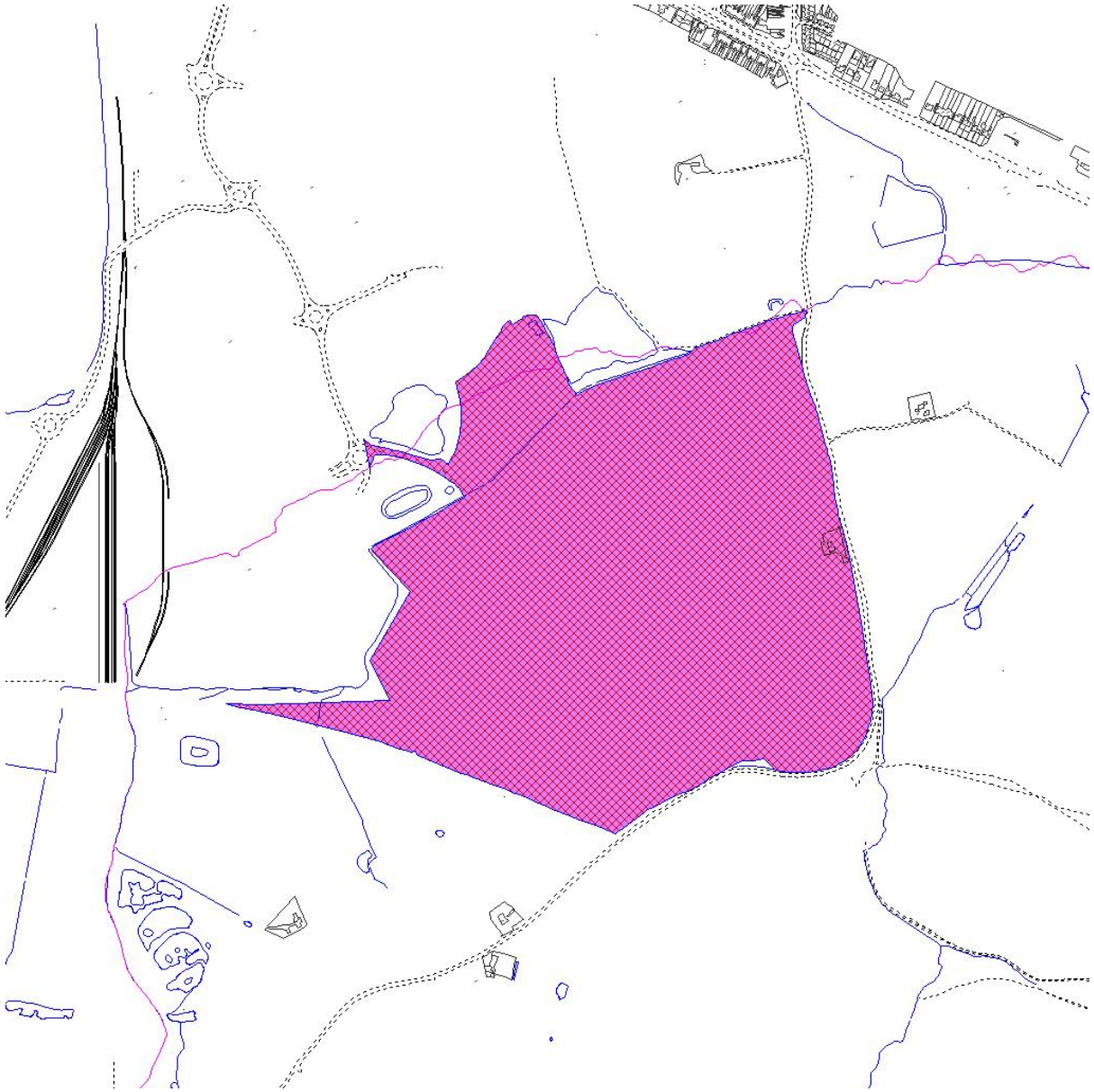
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

**Planning Application No: PAP/2010/0102**

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	10/3/10

*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.*





LEGEND:  
Application Site

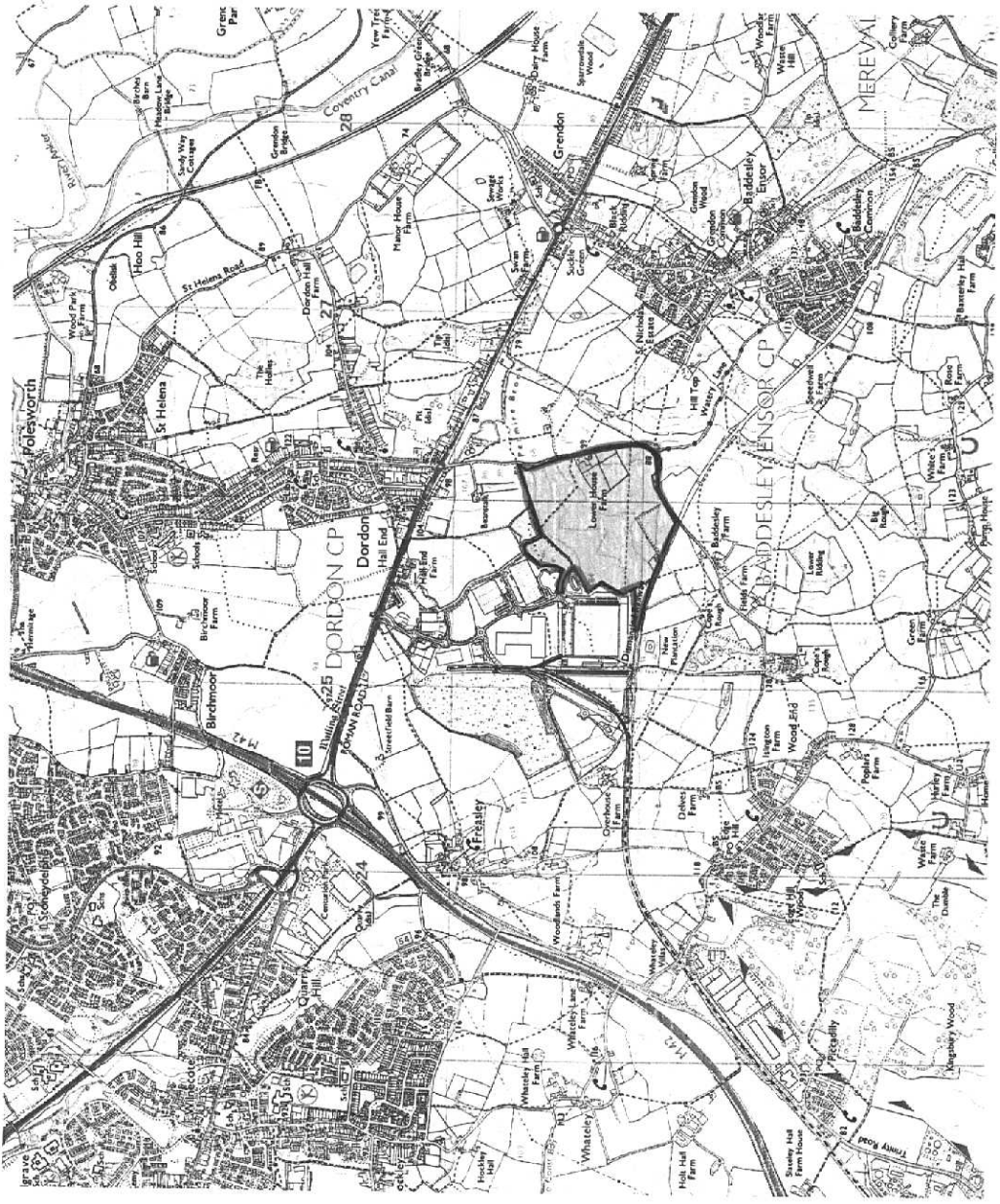


Figure 2: Site Location Plan

**Tweedale**  
ARCHITECTS TOWN PLANNERS PROJECT MANAGERS

Appendix B

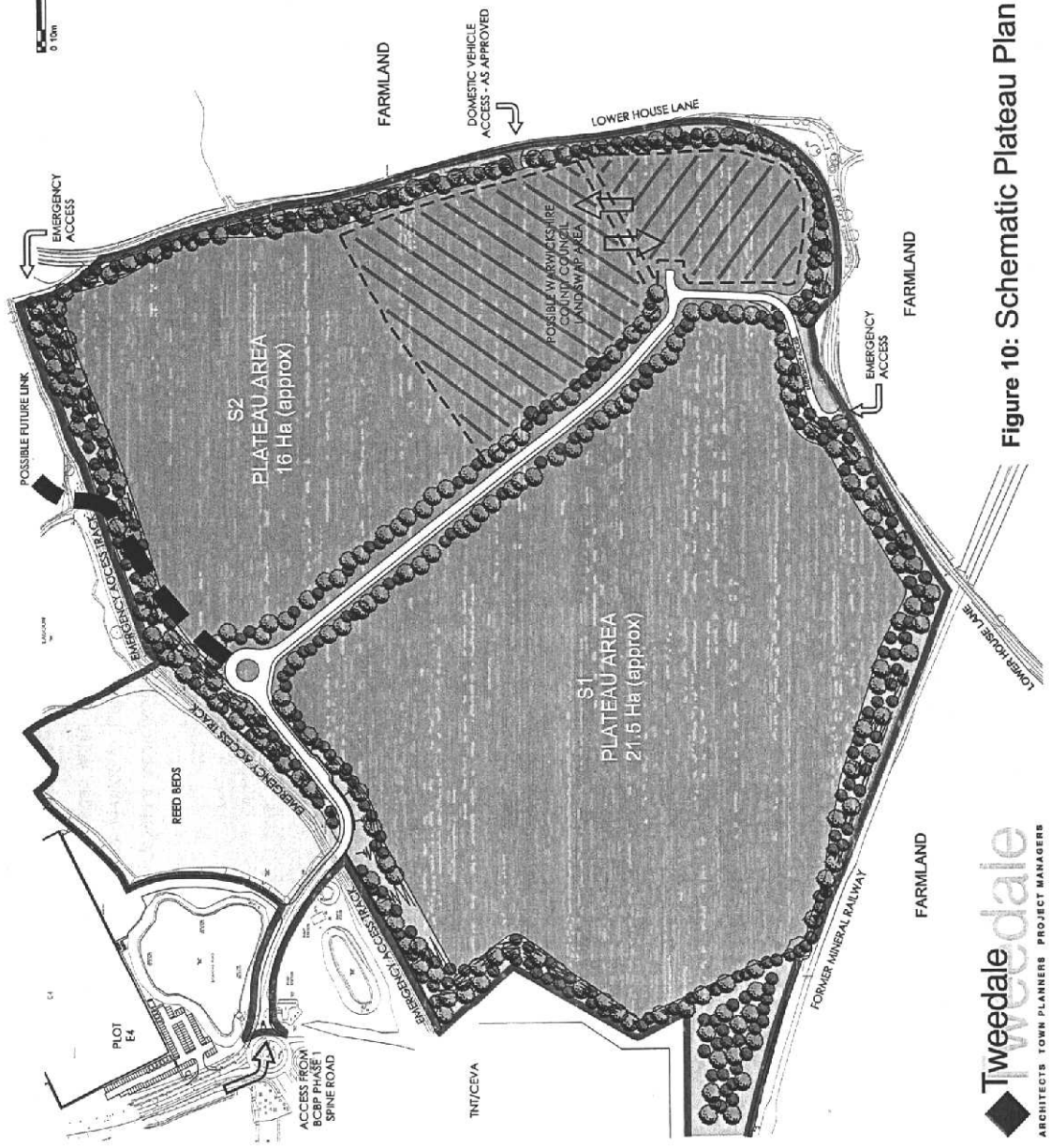


Figure 10: Schematic Plateau Plan



## Non Technical Summary

### Background

- 1 IM Properties (Dordon) Ltd is submitting a planning application to North Warwickshire Borough Council for the proposed development of land at Birch Coppice, Dordon, for an employment park comprising of distribution (B8) uses. The application is being made under the Town and Country Planning Act 1990 (as amended).

### Environmental Statement

- 2 The project has been subject to a formal process of Environmental Impact Assessment (EIA) undertaken in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 1999. The EIA has been undertaken as an aid to the planning and development of the design proposals, to identify any potentially significant environmental impacts and to allow appropriate mitigation measures to be incorporated into the proposals.
- 3 At the outset of the project the range of potential environmental impacts to be dealt with by the EIA was assessed and these were:
  - Development Proposals, sustainability and construction;
  - Socio-economic;
  - Landscape and Visual Impact;
  - Cultural Heritage and Archaeology;
  - Highways and transportation;
  - Noise and Vibration;
  - Ground conditions and Agricultural Classification;
  - Hydrology and Drainage; and
  - Ecology.
- 4 IM Properties (Dordon) Limited appointed a team of specialist consultants to assess the proposals against each subject area and undertake the EIA. The team has consulted widely on the assessment with the Local Planning Authority and various statutory and non-statutory agencies and organisations. The assessment process considered the existing site conditions, the range of potential impacts, what mitigation measures are needed to address those impacts and any residual effects that will remain after mitigation.
- 5 An Environmental Statement (ES) reporting the findings of the EIA has been prepared as part of the planning application. This Non Technical Summary outlines the findings of the

EIA as detailed in the main ES. The various technical reports produced during the EIA process are also provided separately and entitled the Technical Appendices.

### The Site

- 6 The site is located adjacent to an established business park at the former Birch Coppice Colliery located 1 km east of Tamworth and south of Dordon. The site extends to approximately 49.4 hectares. It comprises mainly of farm land , some 42 hectares, an existing reed bed and a triangle of land left over after the development of Phase 1 of Birch Coppice Business Park.
- 7 The site is bounded on its western and northern boundaries by Penmire Brook which in turn presently forms the boundary of Phase I of Birch Coppice Business Park. The eastern and south eastern boundaries are defined by Lower House Farm Lane with the south western boundary being contained by the dismantled mineral railway that used to link to Baddesley Ensor.
- 8 The topography of the site is one of a naturally rolling landscape rising up from Penmire Brook along the northern and western boundaries to a high point midway along the eastern boundary and then dipping down again in the south east corner.
- 9 There exists on site two demolished farms, Sweetmoores in the south west corner of the site, with its old access track and associated hedge and mature trees and another farm in the south east corner whose name is not know. Midway along the eastern boundary is an exiting farm known as Lower House Farm, which until recently has been a 'Saltings' treating animal hides but has recently been given planning approval for a Household Waste Recycling Centre /Waste Transfer Station. This farm is currently owned by Warwickshire County Council.
- 10 The agricultural land is presently accessed at two points off Lower House Lane, one midway along the south east boundary and the other at the junction with Gypsy Lane, in the extreme north east corner. Lower House Farm itself has two existing access points midway along the eastern boundary of Lower House Lane itself. There is an existing public footpath that crosses the north east corner of the site but a diversion of this path, adjacent to Lower House Lane and Penmire Brook, has already been applied for.
- 11 The site is presently of limited nature conservation value because of its past agricultural use although the remnant hedge and mature trees along the old access track to Sweetmoores Farm and those on the boundary of Lower House Farm do offer potential habitats, roosting and nesting opportunities for bats and birds.
- 12 Although the site adjoins the former Birch Coppice Colliery site it does not contain any remnants from those past activities and there are no other recorded archaeological features thus the site is not considered to have any more than local importance for archaeology.

## The Application Proposals

- 13 The planning application is for an employment park comprising distribution (B8) uses. The application has been submitted in outline with all matters of detail reserved for subsequent approval other than means of access and structural landscaping. Notwithstanding the 'Outline' nature of the proposals, the types of land uses, the amount and size of the development, and the general layout have been fixed in accordance with planning regulations for outline applications.
- 14 Significant earthworks and site re-profiling is required at the start of the development to create a viable development plateau. As a result of this, most of the internal existing trees and vegetation on the site will be removed but with those on the boundary retained.
- 15 The development site has be re-profiled to allow for the optimum design flexibility and also to ensure that there is a balanced 'cut and fill' meaning there is no requirement to bring in or take away large amounts of material from the site. The proposals have also been developed to ensure that there is a minimum of 15m -25m of proposed planting around the boundary of the site.
- 16 Vehicle access to the site will be from the existing signalled junction on the A5 (Watling Street) that already serves Phase 1 of the Birch Coppice Business park. The existing estate road will be extended over Penmire Brook via a new bridge midway along the northern boundary. Once in the site a new traffic island will be provided at the northern section of the site with a main spine road running down the centre of the site to a new island at the southern end. Emergency access only (and a possible future buss link) will be allowed to use the existing access point midway along the southern boundary onto Lower House Lane and the existing access at the junction of Gypsy Lane and Lower House Lane. These access points will be gated to prevent any unauthorised use.
- 17 A further access will also be provided along Lower House Lane, within the land currently owned by the county council and already approved, but this will be restricted to private vehicles only and used to serve the Household Waste Recycling centre only. Private vehicles using this access will not be allowed to enter the remainder of the Phase 2 site or the existing Phase 1 site.
- 18 Pedestrian access to the site will be secured from the existing Phase 1 infrastructure. A shared footpath/cycleway is proposed along the internal access road. Good connections will also be provided to each of the development units from the main access road. The public footpath that currently crosses the north east corner of the site will be retained but diverted along the boundary of Lower House Lane and Penmire Brook.

- 19 The principle activities associated with the construction stage of the proposed scheme are site stripping, earth moving and site profiling, creation of drainage features and the redevelopment of the existing reed beds, infrastructure installation including the crossing of Penmire brook, building foundations and construction and landscaping. Working areas would be fully secured to ensure that public safety is maintained throughout the construction stage in accordance with statutory requirements and recognised good practices. Outside of the site boundary itself the only works required as part of the development will be associated with the required highway works for the new private vehicle junction from the county council land onto Lower House Lane. It is envisaged that the initial site infrastructure and earth works will be completed in one year and the construction phase of the development from two to three years dependant upon the economic climate.

### Planning Policy Context

- 20 The development of the Birch Coppice Phase 2 site is supported in the emerging West Midlands Regional Spatial Strategy with the publication of the Secretary of State's Proposed Modifications to Policy PA 9, Regional Logistics sites (RLS) (published December 2009). These Proposed Modifications identify Birch Coppice Phase 2 as a priority RLS for development, because it is an extension of the existing site, has the benefit of good road and rail access and possesses an intermodal freight facility.

### Impact Assessment

- 21 The impacts of the development are best summarised by distinguishing between the generally short term effects arising from the construction phase, and the longer term effects of the operational, or developed phase.

#### Construction Phase

- 22 The construction phase of any development of this scale has the potential to have significant effects, albeit short term, on the environment. Although it is not possible to completely avoid the impacts of such large scale construction, much can be done to manage and reduce those impacts to an acceptable levels through the adoption of best practice construction methods and working procedures (such as Considerate Contractor's schemes), limiting contractors' working hours to industry norms and adherence to all regulations and guidelines on protecting the environment during construction processes.
- 23 Following the careful mitigation, the main **residual adverse impacts** of the **construction phase** of the development are predicted to be:
- An immediate moderate to large impact on the landscape character and visual appearance of the site resulting from site clearance, temporary plant and storage areas, lighting and construction activities;
  - A minor to moderate impact from the loss of ecological habitat associated with the removal of existing trees and hedgerows;



- A slight noise impact at the following residential buildings Stone Cottage, Snibsons's Farm and the Beanstalk
  - Negligible nuisance from dust from the movement of construction vehicles;
  - Negligible risk from soil based contaminants during site operations when soils are exposed;
  - Negligible risk to surface water quality and Penmire Brook from construction solids, oil, fuel and chemical spillages, and waste from concrete/cement mixers and;
  - Negligible risk associated with the formation of a new crossing over Penmire Brook.
- 24 The above are only likely to be experienced over the short term and will cease once the development is operational. The effects are also unlikely to be continuous throughout the construction period but will vary at different stages and with the different phase of the development.

#### **Operational (Developed) Phase**

- 25 Once developed, the site will be characterised by a range of distribution buildings and their associated offices, service yards, car parking, roads and landscaping.
- 26 A development of this scale will inevitably have some effects on the environment in terms of the change in character of the area, the appearance of the site, increased traffic, a change to the sites ecology and drainage patterns. However, many of the impacts of the development can be limited through high quality design and landscaping, the creation of new habitats, improvements to the highway network, the promotion of sustainable methods of travel, appropriate boundary treatments and surface water management.
- 27 Following extensive mitigation, the **residual adverse impacts** of the **operational (built) stage** of the development can be summarised as follows:
- Slight adverse impact on the character of the area;
  - Impacts on the visual appearance of the site as a result of the new buildings, ranging from negligible for most views over 1 km from the site boundary, within 1 km ranging from moderate at Hill Top on the St. Nicholas Estate and from Stone Cottage and large from the Beanstalk and footpaths that are adjacent to the site.
  - Moderate long term impact from the loss of agricultural land;
  - Minor impacts on the site's ecosystem due to the change in potential habitats and increase in human activity;
  - A slight adverse impact from increased traffic noise and site operations;
  - A negligible risk of reduced surface water quality.

**Beneficial Impacts**

28 The EIA has identified a number of beneficial impacts of the development. These can be summarised as follows:

- A large beneficial impact in the short , medium and long term for the economic and social benefits arising from the creation of a substantial number of jobs, estimated to be between 1250 to 1750 (depending upon the mix of uses and types of companies attracted to the site), together with indirect and induced economic benefits from the substantial levels of capital investment that would occur. There would also be long term economic benefits for existing local businesses that might supply the new workers on the site. There would also be a short term economic gains from the construction jobs and building and supply contracts for local construction and suppliers;
- A moderate to large long term benefit from potential occupiers of the site being able to utilise rail served transport network thus reducing required vehicle movements;
- Large beneficial highway improvements by removing the proposed Heavy Goods Vehicles off Lower House Lane and Gypsy Lane from the approved Waste Transfer Station;
- Beneficial long term impact on the ecological habitat of the site ranging from minor to moderate from the creation of significant areas of new habitats. This will include some 65,000 trees, approximately 7 hectares of structural woodland planting, 2.9 hectares of managed reed beds and 13,600 m2 of ornamental shrub and grass planting;
- Slight beneficial effect by reducing the impact of the approved Waste Transfer Station by reducing its relative height to the surrounding landscape;
- Minor benefit from removal of any contaminated land associated with Lower House Farm and its previous activities as a 'Salting';
- Moderate beneficial impacts by the diversion of the footpath network and the creation of new links within the existing network including cycle ways and;
- Slight beneficial impact from the cessation of the use of fertilizers on the site.

**Conclusions**

29 The EIA has demonstrated that there would be a number of environmental impacts associated with the construction and operation of the proposed development. The majority of the adverse impacts would be no worse than slight but there would remain some moderate to large adverse impacts relating to visual impact within close proximity to the site and a loss of some mature trees. Good design and extensive landscaping/habitat creation will do much to address these issues.

- 30 In view of the sites allocation for B8 uses associated with the rail freight terminal and in accordance with the RSS these impacts would have to an extent already been taken into account by the government and Local Planning Authority when allocating the site. In this regard there are clear benefits arising from the development, particularly with regard to the economic benefits that arise. In conclusion, it is considered that the benefits of the development outweigh the residual impacts identified.
- 31 Copies of the main Environmental Statement, together with the technical Appendices, this Non Technical Summary and the Planning Application itself, have been deposited at the council offices South Street, Atherstone, Warwickshire, CV9 1DE for inspection. Copies of all documents are available free of charge on CD at the council offices. Paper copies can also be obtained from the council offices although a copying charge is applicable. Expressions of support, representations, or objections should be sent to the council at the above address.

**Proposed Phase 2 Proposals  
Birch Coppice**

**Presentation by IM Properties  
18 January 2010 5.30pm**

**Present:**

Representing IM Properties – D Cooper, M Pearson, M. Bates, M Jones, M Eagleton, T Grantham-Wright, P Fulcher and D Cooke

NWBC Members – Councillors Simpson, Winter, Morson, L Dirveiks, N Dirveiks, Phillips, Moore, Sweet, Wykes, Butcher, B Moss, M Moss, Lewis, Lea, Swann, May, Sherratt and Fox

NWBC Officers – Ann McLauchlan, Jeff Brown, Dorothy Barratt, Denis Winterbottom and Annie Ryan

1. Councillor Simpson opened by welcoming IM to the Council, and drawing Members attention to the Protocol in respect of pre-application meetings. Members would be invited to ask questions, raise issues and clarify matters concerning the proposals, but should not indicate that they had “pre-determined” their position.
2. D Cooper then introduced IM’s team. He pointed out that IM would be holding an exhibition in the Village Hall at Dordon over the weekend and that publicity for this event had been widely circulated throughout Dordon as well as Wood End, and Baddesley Ensor. M Pearson then explained the planning history and background to the existing development at Birch Coppice. He referred to the decontamination work undertaken, to the rail freight facilities and to the new A5 access and the improvements made to Junction 10 on the M42 Motorway. There were presently 2000 jobs on site, with around 2 million square feet of floor space. Only two plots remains vacant. He outlined the geographic extent of the proposed Phase 2 extension. This would provide around 1750 further jobs.
3. The Planning Policy background to the proposal was then explained, referring to the Regional Spatial Strategy (RSS) and to the Panel’s recommendation that a further 40has of land at Birch be allocated as a Regional Logistics Site (RLS). This recommendation has still not been taken forward as a formal proposal by the Secretary of State, but is anticipated by mid February.
4. He also outlined that negotiations were underway between WCC and IM with the aim of relocating the Warwickshire County Council’s proposed Waste Transfer Station within Phase 2. This would mean that all HGV traffic to this site would enter via Birch and the A5.
5. An outline planning application for Phase 2 would be submitted shortly. This would be for B8 Use and requesting approval for access arrangements;

infrastructure provision, ground levels, and structural landscaping. It would be accompanied by an Environmental Impact Assessment.

6. M Bates then explained the proposal in more detail. He drew attention to the quality of the Phase 1 development, and reiterated that all HGV access would be through the site. The site would be 50 hectares gross, and include substantial perimeter planting (generally 20 metre bands), with retention and extension of the reed beds. All public footpaths would be rationalised internally and with their outside connections. WCC was already involved with this. A green park/corridor/link would be provided through the site to connect with provision already made in Phase 1. The site would be lowered to below that of the existing levels of Lower House Lane, and adjoining parts of the site, such that it would sit within a "bowl". Little material would be exported as excavated material would be used for landscaping bunds and engineering works. There would be emergency access onto Lower House Lane and potentially a link to a future site for industrial development if that came through the Core Strategy route -ie in the area of "The Beanstalk". The buildings would be designed to a good BREEAM Standard with some LZC energy supplies such as heat pumps, and extensive use of rain water harvesting. The design and appearance of the buildings would follow that established in Phase 1 and a Design Brief would accompany the application.
7. Councillor Simpson then invited questions.
8. IM confirmed that new drainage arrangements were in the course of completion on the rail link to Kingsbury following recent flooding, in response to a question from Cllr B Moss.
9. Cllr Simpson asked about how occupiers could be encouraged to use the rail facilities. M Pearson replied that the use of planning condition would be difficult given the recent appeal decision on the TNT plant. However a lot of work would be done with occupiers to encourage their use. The web site refers to this and a lot of the initial enquiries referred to having this option available either now or in the future. The rail terminal operator would also be encouraging use. A carefully worded planning condition encouraging rail use would be a likely outcome. M Eagleton confirmed that much of the interest in the site so far had been from large National retailers and they were all very interested in the potential rail connection. The reason why so few of the Phase 1 occupiers had taken up a rail option was because when they had signed contracts with IM and commenced operations, the terminal was not on site let alone operational. Hence there was no opportunity to press this link. Phase 2 would be in a different situation. In response to a question from Cllr Wykes, IM confirmed that the Freight Operator here at Birch was not a Channel Tunnel operator.
10. Cllr Lea remarked that the outcome from the RSS was essential. Dorothy Barratt confirmed that presently, there was no allocation for the Phase 2 extension, and thus any application submitted now would not have the weight of RSS backing, and would technically be a departure. The Modifications

were due out in February at the earliest, but there was no way of finding out what they would say.

11. Cllr Winter asked what would happen if an industrial (B2) use came forward. Officers confirmed that the only reason for the potential allocation at Birch was the B8 RLS justification. Industrial uses would be unlikely to gain support. However the RSS indicates that NWBC should be allocating 44 hectares of industrial land through its Core Strategy and that there potentially was an option to look at land to the north of the proposed Phase Two extension here as part of that provision – ie “The Beanstalk”.
12. Cllr Morson and Simpson said that the A5 is congested and that the application should make it very explicit what the impacts would be in terms of extra traffic. IM were confident that there would be none. They explained that the current access was under capacity and that most B8 occupiers now worked a three shift system which meant that there were few peaks throughout the day. Even with the relocation of the Waste Transfer Station into the site, there would be capacity on the A5 and M42.
13. In response to a question by Cllr Butcher, officers confirmed that they knew of no plans by the HA to dual or widen the A5 hereabouts.
14. Cllr B Moss asked why IM would not have the public access to the Waste Transfer Site through Phase One. IM confirmed that the roads here were un-adopted, and that they wished to retain control over their use; maintain the present levels of security, and to enhance the quality image already presented.
15. The meeting closed at 6.25 pm.

## **Agenda Item No 5**

### **Planning and Development Board**

**12 April 2010**

**Report of the  
Head of Development Control**

**Proposed Tree Preservation Order  
Land at Dunns Lane, Dordon  
(north side)**

#### **1 Summary**

- 1.1 The purpose of this report is to confirm or otherwise a Tree Preservation Order made in respect of four oak trees situated on the northern side of Dunns Lane, Dordon.

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

**That the Tree Preservation Order be confirmed, with the modification set out in this report.**

#### **2 Consultation**

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

- 2.1.1 The draft Order has already been through Board.

#### **3 Background**

- 3.1 The Council made a Tree Preservation Order in respect of four oak trees situated on the northern side of Dunns Lane, Dordon which took provisional effect from 25 January 2010. The Tree Preservation Order had been agreed by the Planning and Development Board at its September 2009 meeting. A copy of that report is attached as Appendix 1.

...

- 3.2 The closing date for representations about the Tree Preservation Order was 5 March 2010. No letters of objection were received, however, one letter was received which supported the principle of protecting the trees, but queried the drafting of the Order and the implications for the trees.

- 3.3 The correspondent correctly identified a discrepancy within the Order in respect of T4. The plan accompanying the Order wrongly showed the location of T4. This was simply a drafting error. The description of the location of T4 within Schedule 1 of the Order was correctly given as 'standing in the front garden of Clarmina'. The Board report which proposed the Tree Preservation Order did also refer to a plan which correctly indicated the position of T4. However the draft Order showed the location of T4 in front of

the next door property to Clarmina. It is proposed that this drafting error be addressed through a modification to the Tree Preservation Order if the Board confirms the Order. The corrected plan is attached to this report (Appendix 2).

- 3.4 The correspondent also queried why other oak trees in the locality were not included in the Order. The assessment made by the Tree Officer at Warwickshire County Council and a second assessment from this Council's own Tree Officer indicates that the only tree in the locality, other than those on the planning application site, which justified protection through a TPO, was the tree later identified as T4 within the Order. Given this, and that the other oaks are not known to be under any significant threat, it is not considered appropriate to widen the extent of the TPO to any other trees.
- 3.5 Finally, the correspondent expressed a belief that the trees which are the subject of the Order may benefit from some work to reduce their canopy size, and suggested that this work should be undertaken before confirmation of a Tree Preservation Order. The desirability of this work does not prohibit their protection by an Order. If the Order is confirmed, and the respective owners of the trees then wish to carry out crown reduction works, they will be able to make applications seeking permission. If the works are reasonably necessary and appropriate, there would be no reason to object to such work taking place. The decision to seek to protect these trees by way of a Tree Preservation Order does not place any obligation on the Local Planning Authority to carry out necessary works to them. This remains the responsibility of the respective owners.

#### **4 Observations**

- 4.1 Tree Preservation Orders are made under Section 198 of the Town and Country Planning Act 1990. The Council may make an Order if it appears to them that it is "...expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area". The Act does not define "amenity", nor does it prescribe the circumstances in which it may be in the interests of amenity to make a Tree Preservation Order. It is normally recognised, however, that the tree or trees should have a reasonable degree of public visibility, and be protected for the public's benefit.
- 4.2 In this instance, the oaks make an important contribution to the amenity of the area. This view is endorsed by the correspondent who expressed support in principle for the Tree Preservation Order.
- 4.3 The trees make such a significant contribution to the amenity of the area that it is considered that the Order should be confirmed.
- 4.5 It is for the Board to decide whether or not to confirm the Order.
- 4.6 Members will see in Appendix 1 that the resolution included protection for the holly hedge. Legal advice has been given to the effect that hedgerows are unable to be protected through a Tree Preservation Order, and this was thus omitted from the draft Order.



## 5 Report Implications

### 5.1 Finance and Value for Money Implications

5.1.1 The confirmation of the Order has no implications, but in certain limited circumstances, claims for compensation can be made.

### 5.2 Safer Communities Implications

5.2.1 The felling of a tree protected by an Order is an offence.

### 5.3 Legal and Human Rights Implications

5.3.1 There is a balance here between the importance to public amenity in retaining the trees and controlling works to them. In the future, should consent be refused for works to the trees, appeals can be lodged with the Secretary of State.

### 5.4 Environment and Sustainability Implications

5.4.1 The value of the trees as a living resource would be retained if the Order is confirmed.

The Contact Officer for this report is Erica Levy (719294).

## 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	North Warwickshire Borough Council	Tree Preservation Order dated 25 January 2010	25-1-10
2	W T Whitmore	Letter	23-2-10
3	Case Officer	Letter to Mr Whitmore	2-3-10

## APPENDIX 1

### Agenda Item No 10

#### Planning and Development Board

21 September 2009

Report of the  
Head of Development Control

Proposed Tree Preservation Order  
Land at Dunns Lane, Dordon  
(north side)

### 1 Summary

- 1.1 A planning application proposes development on land at Dunns Lane, Dordon. The land contains several mature trees and a hedgerow. The trees, hedgerow and another in the near vicinity of the site, have been inspected and are considered worthy of a Tree Preservation Order.

#### Recommendation to the Board

**That an Emergency Tree Preservation Order be made with immediate effect, in respect of four oak trees and a holly hedge for the reasons given in this report, and that any representations received be referred to the Board for it to consider when it decides whether to make the Order permanent.**

### 2 Background and Observations

- 2.1 A planning application was submitted earlier this year to erect nine dwellings within a plot of land that formerly contained a single dwelling, named Chapel House. The application is currently undetermined. The site lies on the northern side of Dunns Lane, adjoining open countryside and at a position in the street where its character changes from the urban built up area to the more dispersed rural edge of the settlement. The site is bordered by a number of trees and a substantial hedgerow. It is considered that these trees and hedgerow add significantly to the semi rural character of the area and that it important that in any redevelopment proposal as much of this existing planting is retained as possible.
- 2.2 The proposed development seeks to build to a relatively high density and, as a consequence, the new dwellings would be built close to trees and hedgerows on the border of the site. Officers have expressed concern that the trees surrounding the site would be likely to cast the gardens and rooms of the dwellings in shade; that the occupiers of the dwellings would be likely to be troubled by leaf, and possibly, limb fall and that there is strong possibility that there would be a desire, upon the part of future occupiers, to fell, or carry out substantial reductions to the size of these trees because of their 'nuisance value'. An amended scheme has been sought to achieve greater separation distance between these trees and the proposed dwellings to ensure their long term retention and a full tree report has been requested which addresses how the development can be achieved without detriment to the trees and

hedgerow and without harm to the residential amenity of future occupiers. Amended plans and the said report are currently awaited.

- 2.3 In the meantime there is concern the trees are not presently afforded any protection and the developer could choose to fell them because they are limiting what he can achieve from this site.
- 2.4 The Warwickshire County Council Forestry Officer (acting as this Council's advisor) has therefore been asked to assess the trees and hedgerow for suitability for a Tree Preservation Order. He advises that they merit an Order given their public amenity value. They are significant landscape features visible from Dunns Lane and are noteworthy specimens. The trees are all in good health.
- 2.5 In considering the possibility of a Tree Preservation Order it was identified that there is a further tree along Dunns Lane in the near vicinity of the planning application site that contributes significantly to the amenity of the area. It is considered appropriate to seek to also seek to protect this tree in the interests of public amenity.
- 2.6 The trees referred to are shown in the photographs below.



Oak Trees at Chapel House (T1, T2 & T3)  
(background of photograph)



Oak Trees at Chapel House (T1, T2 & T3)



Oak tree on north side of Dunns Lane, to the front of 'Clarmina' (Prominent tree on the right hand side of the road towards the background of the photograph).



Holly hedge on rear boundary of the Chapel House site.

2.7 As there is a potential threat to the retention of the trees at the Chapel House site it is considered that any such Order should take immediate effect.

### 3 Report Implications

#### 3.1 Legal and Human Rights Implications

3.1.1 The owners of the land have the opportunity to make representations to the Council before any Order is confirmed as being permanent. If planning permission is subsequently refused, they would also have the right of appeal.

3.1.2 These trees have significant amenity value and it is thus important to protect them.

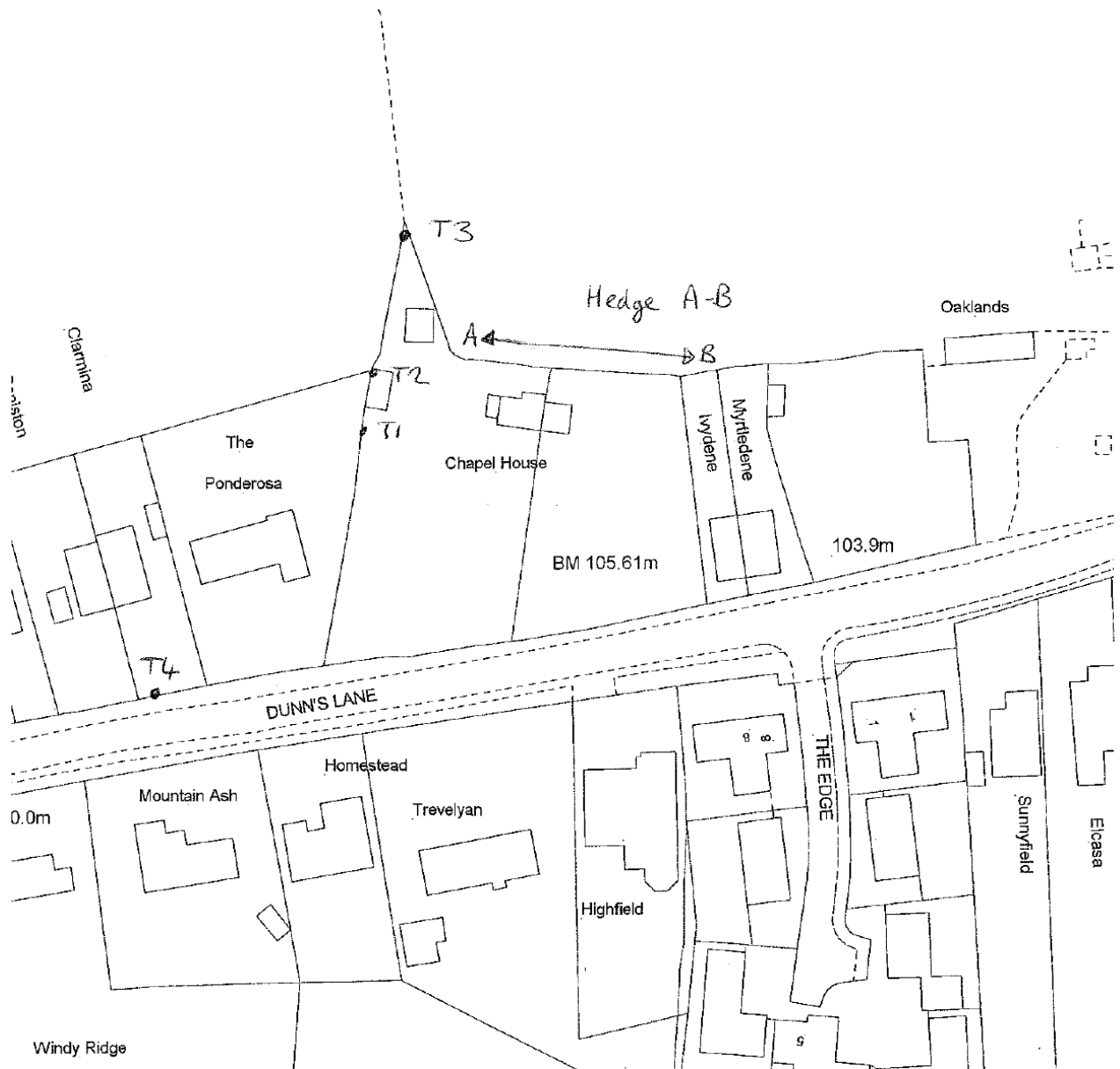
The Contact Officer for this report is Erica Levy (719294)

#### Background Papers

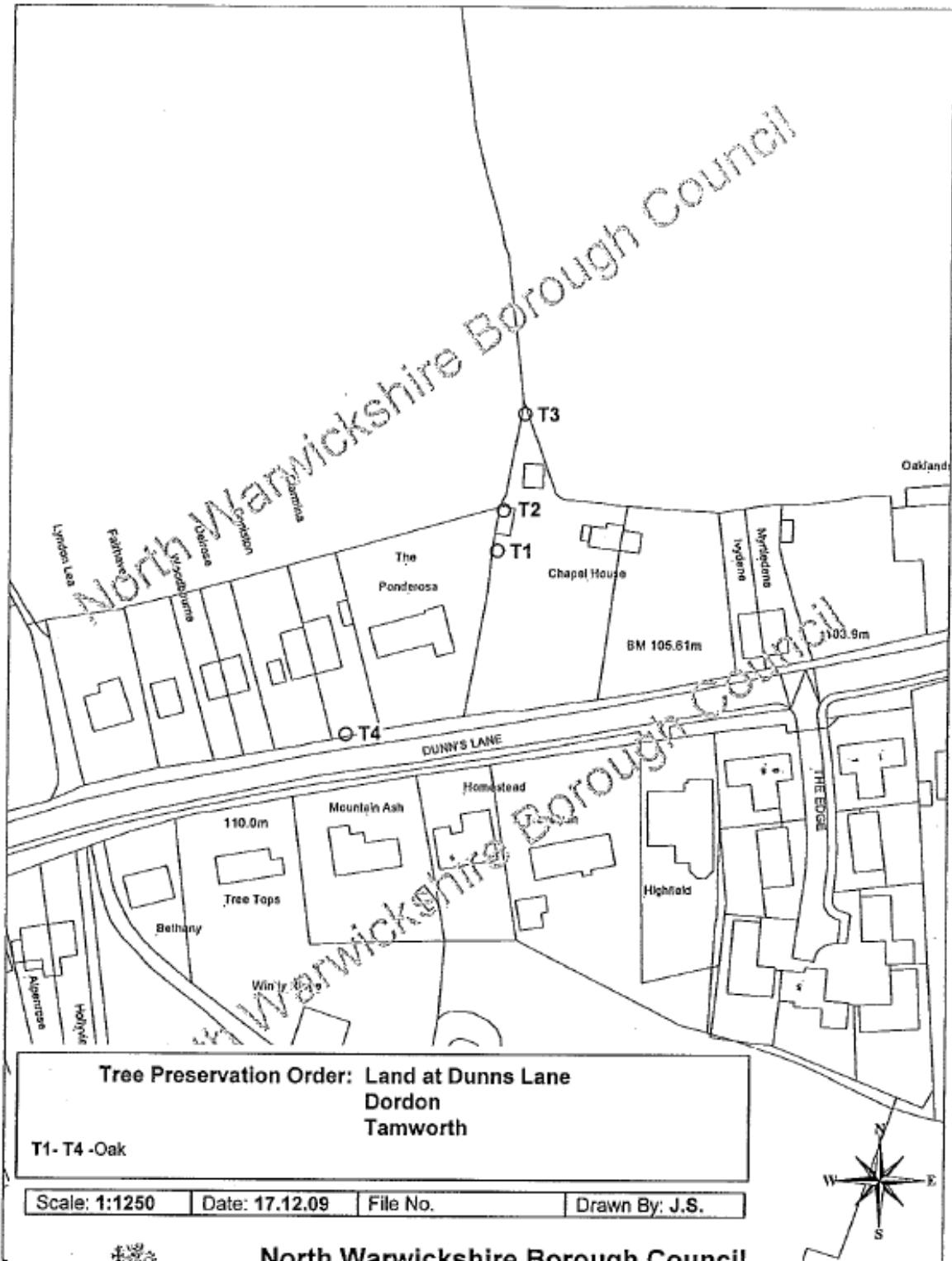
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
Consultation	Warwickshire County Council Forestry Officer		August 2009

# DUNN'S LANE, DORDON



APPENDIX 2



**North Warwickshire Borough Council**  
Directorate of Community & Environment

The Council House  
South Street  
Atherstone  
Warwickshire CV9 1DE

Telephone (01827) 715341

Development Control



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## **Agenda Item No 6**

### **Planning and Development Board**

**12 April 2010**

**Report of the  
Head of Development Control**

**Proposed Footpath Diversion  
(AE144) at Arc School, Ansley Lane,  
Ansley**

## **1 Summary**

- 1.1 An application has been made to North Warwickshire Borough Council for the diversion of a public footpath under the Highways Act. The application arises following the grant of planning permission for the redevelopment of a former farm with a new school. (Planning Application Reference: PAP/2008/0399).

### **Recommendation to the Board**

**That the Council makes an Order under the provisions of S119(1) of the Highways Act 1980 for the diversion of part of the public footpath AE144 at Land formerly known as Hood Lane Farm, Ansley, now known as Arc School, Ansley Lane, Ansley, in the manner described in this report, and that any representations received be referred to the Board for it to consider whether to confirm the Order.**

## **2 Consultation**

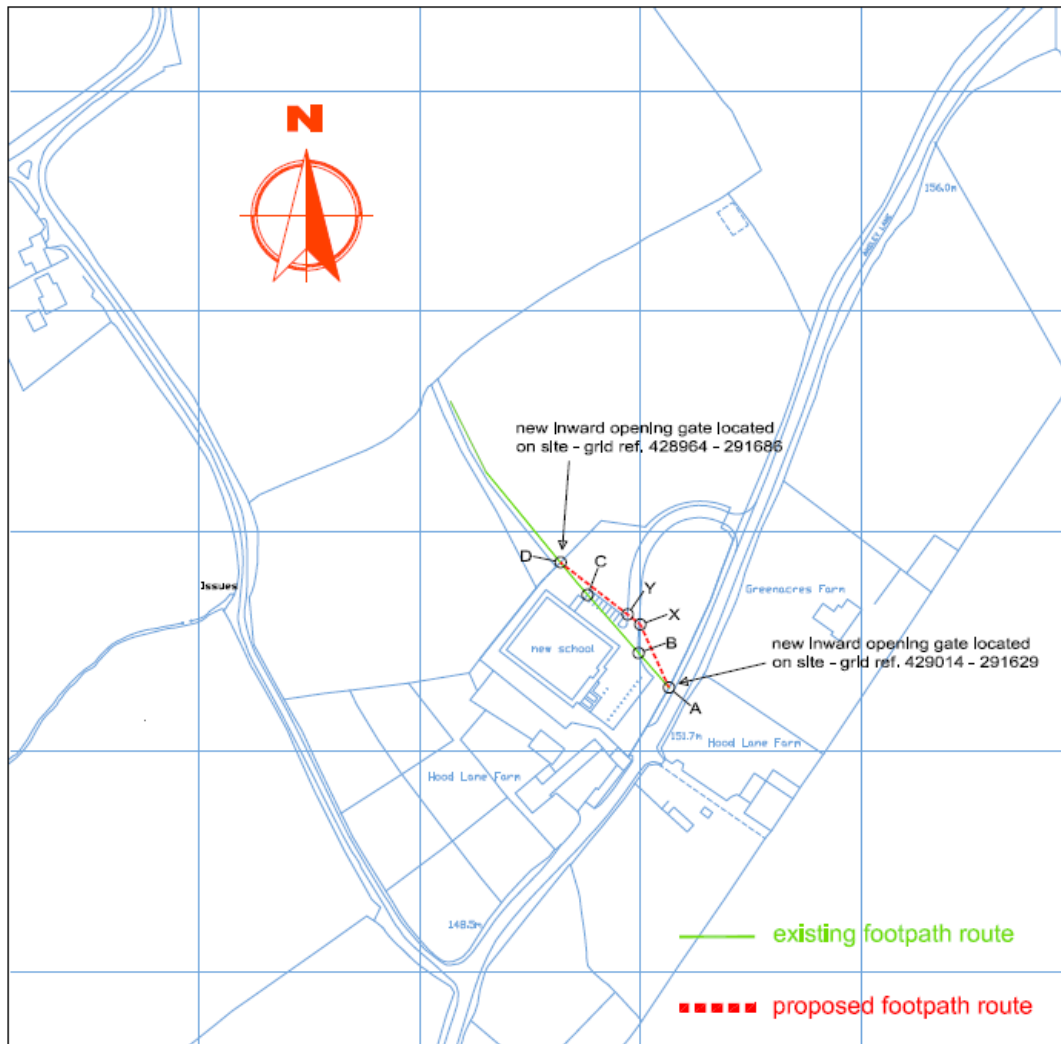
### **2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members**


- 2.1.1 Any comments will be referred to the Board.

## **3 Report**

- 3.1 We have received an application for the diversion of the public footpath AE144 at Ansley Lane, Ansley. The diversion request arises following the grant of planning permission for the redevelopment of a former farm to a new school. The diversion proposes a minor realignment which will run adjacent to the existing route of the footpath to skirt a newly formed row of car parking spaces which serve the new school, instead of the existing route, which would cross the row of parking spaces. This diversion was proposed as an integral part of the planning application, however the development has been substantially completed and therefore the Town and Country Planning Act 1990 cannot be relied upon to alter the footpath. The proposed diversion and extinguishment will need to be administered under the Highways Act 1980 and as a result the proposed diversion and extinguishment are subject to the provisions of the Highways Act 1980.

3.2 The existing length of footpath is 74.8 metres and the diverted footpath would be 77.1 metres. The route shown on the plan below as A-X-Y-D would become the new footpath route and the route shown as A-B-C-D would cease to be used and would be extinguished as it would not be needed for public use. The footpath where it meets Ansley Lane is proposed to be in an unaltered position and where it exits the new school site is also in an unaltered position. Details of the existing and proposed routes are shown on the plans and specifications below.



 <p>Suite 2f, St. Georges Court, 1 Albion Street, Birmingham, B1 3AH, United Kingdom t. +44(0)121 314 6618 f. +44(0)121 233 2716</p>	<p>CLIENT</p> <p><b>Kedleston Real Estate Ltd.</b></p>
<p>TITLE</p> <p><b>proposed diversion of Public Footpath AE144</b></p>	<p>PROJECT</p> <p><b>School development, Ansley Lane, Nuneaton.</b></p>
<p>DRG. NO. 0801001 / 214</p>	<p>SCALE 1:2500 @ A4</p>



## Supplementary Questions/Information, Declarations, Guidance & Ownership Consent relating to application to divert footpath AE144

### Supplementary Questions/Information

#### 1. Section of existing footpath AE144

Length(s) in metres of section(s) to be extinguished, stopped up or diverted by reference to points:

A-B - 19.5m  
B-C - 36.2m  
C-D - 19.1m.

#### 2. Proposed alternative footpath

Proposed length(s) in metres of section(s) of alternative footpath by reference to points:

A-X - 32m.  
X-Y - 6.6m.  
Y-D - 38.5m.

#### 3. Objections to Diversion

If the applicant is not the owner of all the land crossed by the existing or proposed alternative footpath has the owner any objections to the diversion?

APPLICANT IS OWNER .

### Supplementary Declarations (*delete as applicable*)

#### 4. Ownership (see note A)

Either:  We confirm that the land over which the existing route lies and over which the proposed route is to run is wholly in ~~our~~ our ownership and that no other party has any interest in this land (eg private rights of access, sporting rights etc)

Or:  I/We have completed the attached ownership consent form(s) and identified ownership boundaries on the plan.

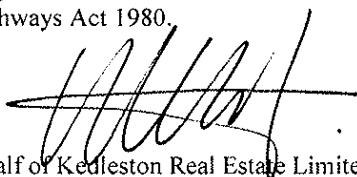
#### 5. Costs (see note B)

We have read the Report of the Head of Development Control dated 17<sup>th</sup> August 2009 relating to costs and expenses arising from footpath diversion applications and agree to reimburse the Council's costs as set out in that report including advertising costs whether or not the procedure is successful.

#### 6. Compensation costs (see note C)

We agree to reimburse the costs in full of any compensation which becomes payable under Section 28 of the Highways Act 1980.

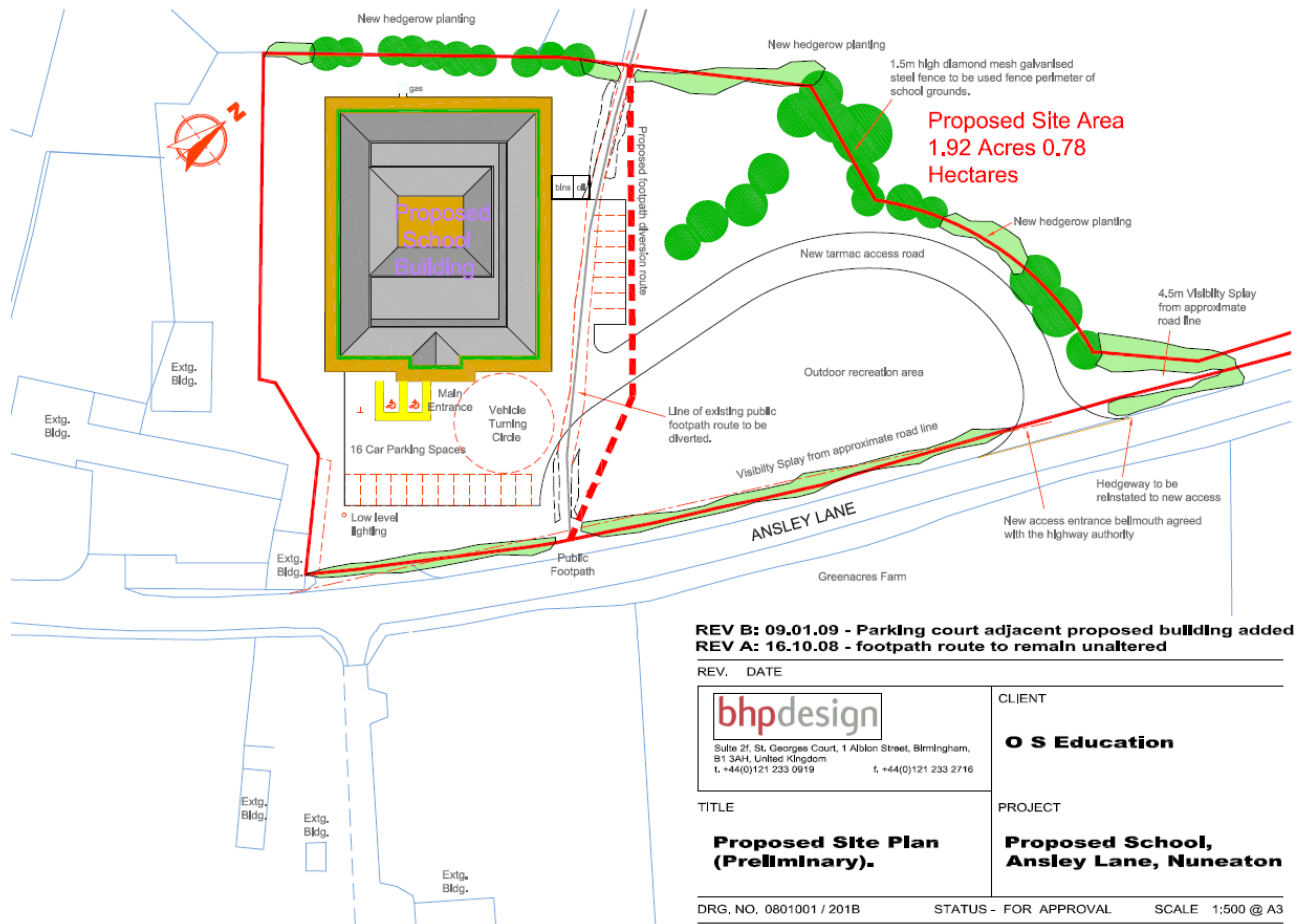
Signed



Date

02.10.09.

On behalf of Keelestone Real Estate Limited



3.2 Consultation on the planning application for the new school, including the publication of a notice in the press. No objections relating to the impact on the public footpath were received. No objections were raised by the Parish Council in respect of the public footpath diversion.

3.3 Informal consultation has been undertaken ahead of making a Diversion Order. The responses to this consultation are set out below:

**Warwickshire County Council, Countryside Access Team** - No objections to the Order – indeed, it confirms that it supports the proposal.

**Ansley Parish Council** - The Parish Council support this application to divert the public footpath as specified.

**The Cyclist’s Touring Club** – No comments as this is a footpath only and cyclists are limited to bridleways.

**The Open Spaces Society, The Ramblers Association, Auto Cycling Union, British Horse Society and Byways and Bridleways Trust** – No comments received

3.4 This informal consultation has therefore not resulted in the receipt of any objection, nor in the identification of any adverse issues.

- 3.5 The Highway's Act 1980 requires a Local Authority to be satisfied that it is expedient that the line of the path or way, or part of that line, should be diverted in the interests of the owner, lessee or occupier of the land crossed by the path or way or of the public. In this instance, the diversion would facilitate the more efficient use of the school site, allowing the provision of car parking adjacent to the new school building and is considered expedient in the interests of the owner, lessee or occupier of the land that the diversion be made.
- 3.6 However, under s119(2) of the Highway Act the making of an Order should be refused where the proposed Order alters the point of termination of the path or way unless that new point of termination is on:
- (a) a highway;
  - (b) on the same highway or highway connected to it;
  - (c) at a point which is substantially convenient to the public.

In this instance the diversion would not alter the point of termination of the path and would only very marginally increase the overall length of the route.

- 3.7 In the above circumstances it is recommended that a Diversion Order is made as set out above.

## 4 Report Implications

### 4.1 Finance and Value for Money Implications

- 4.1.1 The publicity and officer costs of the processing of this diversion application will be met by the applicant company under the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993. The applicant has undertaken to reimburse the Council for the costs incurred.

### 4.2 Legal and Human Rights Implications

- 4.2.1 Authorities may confirm Orders which are unopposed or to which all duly made representations and objections have been withdrawn. However, in the case of an Order to which there are duly made representations or objections, or which require modification, an Inspector appointed by the Secretary of State will determine whether or not to confirm it.

The Contact Officer for this report is Erica Levy (01827 719294).

### Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
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1	Kedleston Real Estate Limited	Diversion Application	16-9-09
2	Kedleston Real Estate Limited	Supplementary Forms	6-10-09
3	Case Officer	Informal consultation	1-2-10
4	Warwickshire County Council	Consultation Reply	18-2-10
5	Right to Ride – Cyclists Touring Club	Consultation Reply	2-2-10
6	Ansley Parish Council	Consultation Reply	18-2-10

**Agenda Item No 7**

**Planning and Development Board**

**12 April 2010**

**Report of the  
Head of Development Control**

**Further Changes and Consultation**

**1 Summary**

- 1.1 This report outlines further changes to the legislation affecting the handling of planning applications as well on the publication of two further consultation papers.

**Recommendation to the Board**

**That the report be noted.**

**2 Consultation**

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

- 2.1.1 No consultation has taken place.

**3 Background**

- 3.1 Members have been aware that a series of further changes to procedures had been proposed at the end of last year, and following consultation these took affect from 6 April with no further change. Additionally, the Government has published two further draft Planning Policy Statements as part of the review of available advice and the approach that much existing advice should be consolidated. This report will briefly outline the new changes, but spend a little more time explaining further new permitted development rights changes, before then describing the two consultation papers.

**4 Procedural Changes from 6 April**

- 4.1 The mandatory requirements for Design and Access Statements to accompany planning applications are reduced, such that these Statements will now be required for fewer applications. This move is welcome, removing work that does not add value to many proposals.
- 4.2 The appeal time limits for the submission of appeals where the application relates to the same, or substantially the same development, the subject of an Enforcement Notice is to be reduced to 28 days. This is welcome as it reduces the likelihood of some applicants using the system to extend the life of unauthorised developments.

- 4.3 There is a right of appeal introduced for appeals against the non-determination of applications seeking minor non-material amendments. This has been done so as to provide equal treatment for all types of application.
- 4.4 There are to be new minimum requirements for publicising applications particularly in respect of information on a Council's website. This will be taken on board as the website for the service is reviewed.
- 4.5 Changes are to be introduced to make the adoption of Local Development Orders less centralised without the need to refer draft Orders to the Secretary of State for approval. However there will be a need to undertake far wider consultation prior to adoption. This change is welcomed.
- 4.6 The Local Requirements Documents that set out the documentation required to be submitted with each type of application, are to be simplified, with Authorities being requested to ask for information that is proportional to the nature of the application. This is welcomed and the review of our own documents is already underway.

## **5 New Permitted Development Rights**

- 5.1 The Government has already consulted on proposed changes so as to reduce the number of applications submitted for non-domestic developments. The changes affect four main groups of development – industrial and warehousing; schools, universities, colleges and hospitals, office buildings and shops. The new rights essentially enable buildings used for these purposes to extend further than they could do previously without the need for a planning application, subject to a series of specified height, distance and other conditions. In very general terms – industrial buildings can now extend by 10%, and all other buildings used for the uses identified above, by 25%. These new thresholds however do not apply to Listed Buildings and those within Conservation Areas. Additionally the hard surfacing of areas within the curtilages of these buildings is now to be brought under planning control in order to reduce the risk of flooding.
- 5.2 A previous report stated that the Government estimated that there would be a 25% reduction in planning applications as a result of these changes. It was noted at the time, that this related to a national estimate. The reduction in North Warwickshire will be much less than this, given that our industrial estates are quite old with high building plot ratios, and that we have few of the other types of building affected.
- 5.3 There is to be a new Use Class, C4, which will be for Houses in Multiple Occupation. There is quite a strict definition for this new Class, but it is unlikely to figure significantly in North Warwickshire, as there we are not an area housing large numbers of students or transient workers.

## 6 Draft Planning Policy Statement – A Low Carbon Future in a Changing Climate

6.1 This is the first of two new draft PPS's that have recently been published for consultation. The critical challenge that the Government now expects planning to meet is to consider climate change on a par with housing and economic development. Local Development Frameworks will be expected to set "stretching local targets" to develop renewable and low carbon energy sources in their own areas, as well as to include policies that mitigate the impact of climate change through their ability to influence the location, scale and mix of new development. They are seen as one of the mechanisms of moving towards low carbon communities. Whilst the Building Regulations are quickly changing so as to meet the target of achieving zero carbon housing by 2016, the wider picture of delivering new development in general, with all energy generation supplied from non-carbon sources is not keeping pace. For instance, new strategic allocations in the Core strategy will need to consider how the lowest possible carbon footprint can be achieved for that allocation.

6.2 The draft policies of this PPS are reproduced at Appendix A, and they illustrate the significance of this issue in progressing our own Core Strategy and in the determination of future development proposals. For instance, the following paragraphs are drawn to the attention of the Board:

- i) LCF 1.4 – Local Planning Authorities should be looking at decentralised energy sources; greater integration of waste management with those sources, co-location of potential heat suppliers and users, and district heating schemes based on renewable energy sources.
- ii) LCF 4.1 – Authorities should design their policies to support and not unreasonably restrict renewable and low carbon energy developments.
- iii) LCF 6.1 – Authorities should assess the suitability of sites for new development against the extent to which decentralised energy can contribute to the energy supply; to the potential of the development itself contributing to heat demand, the impact on travel demand to and from the site, the opportunities for green infrastructure, and for instance the impacts of increased intensity of rainfall, and the need for shading.
- iv) LCF 9.1 – All Authorities need to set out their requirements for a new building's sustainability.
- v) LCF 13.1 – In determining applications, Authorities should expect new development to be designed to reduce greenhouse gas emissions; to provide open space, to give priority to sustainable drainage systems, to support waste management, secure opportunities for sustainable transport, to avoid adding to the vulnerability of impacts from climate change, and to encourage innovative design.
- vi) LCF 14.1 – Authorities should not delay proposals for renewable and low carbon energy generation or their associated infrastructure.

7 **Draft Planning Policy Statement – Planning for a Natural and Healthy Environment**

7.1 This draft stresses the significance of well planned green spaces; green infrastructure, and open space within sustainable communities. It sets out a series of policy requirements and these are attached in Appendix B. These largely bring together matters which have been included in earlier Planning Policy Guidance that are now to be superseded.

8 **Report Implications**

8.1 **Environment and Sustainability Implications**

8.1.1 The content of the two new draft Policy Statements go to the heart of the planning system in creating sustainable communities. Planning applications will be determined with a wider and deeper consideration of the sustainability implications of the proposals than previously.

8.2 **Links to Council’s Priorities**

8.2.1 The two new draft Policy Statements will assist the Council in achieving several of its priorities through the planning system and the management of new development.

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

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	CLG	Draft Planning Policy Statement – Low Carbon	March 2010
2	CLG	Draft Planning Policy Statement – Natural Environment	March 2010
3	CLG	Letter from Chief Planner	16/3/10



## PLAN-MAKING POLICIES

### Policy LCF1: Evidence base for plan-making

- LCF1.1 Sustainability appraisal (incorporating strategic environmental assessment) should be used by plan-makers to identify options for regional and local plans which best reflect the objectives and policies in this PPS.
- LCF1.2 Sustainability appraisal, in considering the vulnerability of areas to impacts arising from changes in the climate, should draw from published material on projected climate change and its impacts (including flooding) prepared by the Department for Environment, Food and Rural Affairs (Defra) and the Environment Agency, and be carried out in line with published policy for the relevant risk where provided<sup>10</sup>. For impacts not covered by this derived material, such as changes in temperature or extreme weather events, the assessments can be informed directly by the latest set of UK Climate Projections<sup>11</sup> and the latest UK Climate Change Risk Assessment<sup>12</sup>.
- LCF1.3 Responsible regional authorities should, working with regional and local partners, assess the potential in their region for renewable energy and complete this as part of the evidence base. The assessment should be drawn up having regard to, and where feasible be consistent with, guidance on assessing potential for renewables in the English regions published by the Department of Energy and Climate Change (DECC)<sup>13</sup>.
- LCF1.4 Local planning authorities should assess their area for opportunities for decentralised energy<sup>14</sup>. The assessment should focus on opportunities at a scale which could supply more than an individual building and include up-to-date mapping of heat demand and possible sources of supply. Local planning authorities should in particular look for opportunities to secure:
- i. decentralised energy to meet the needs of new development;
  - ii. greater integration of waste management with the provision of decentralised energy;
  - iii. co-location of potential heat suppliers and users; and,
  - iv. district heating networks based on renewable energy from waste, surplus heat and biomass, or which could be economically converted to such sources in the future.

<sup>10</sup> Notably in Planning Policy Statement 25 *Development and Flood Risk* and the new planning policy on coastal change.

<sup>11</sup> <http://ukclimateprojections.defra.gov.uk>

<sup>12</sup> The first UK Climate Change Risk Assessment will be published in 2012.

<sup>13</sup> Published by DECC on 5 March 2010.

<sup>14</sup> See Annex A.

LCF1.5 In preparing the evidence base for plan-making consideration should be given to joint working across local planning authority boundaries and between tiers (in two-tier areas) to develop assessments for sub-regions, including city-regions.

### **Policy LCF2: Regional planning approach**

- LCF2.1 Regional strategies (RS) should support the move to a low-carbon economy and secure low-carbon living in a changing climate. The RS should therefore plan for substantial new development in locations and ways which:
- i. reduce the need to travel and enable the fullest possible use of sustainable low carbon transport;
  - ii. provide for energy, in particular heat, to be gained from existing decentralised energy systems, including those integrated with waste management, or where there are clear opportunities for new or extended decentralised energy systems; and,
  - iii. avoid increased vulnerability to impacts arising from climate change, unless it is viable to manage likely risks through suitable measures so as to provide resilience. In areas of water stress, and so as to secure development that would otherwise be unacceptable for its proposed location, resilience should be provided by setting sub-regional standards for water usage in new development<sup>15</sup>.
- LCF2.2 The RS should set ambitious targets for renewable energy and a clear strategy to support their delivery. Each RS should include targets for renewable electricity generation. Targets should be set taking account of the assessment of the region's renewable energy resource and any contribution from imported resources should be clearly identifiable. Targets should be expressed as the minimum amount of installed capacity in megawatts and be set for 2015, 2020 and 2030. Any targets for renewable heat generation should build on policies in the RS which support the development of identified opportunities. Targets for renewable energy should be treated as minima not maxima.
- LCF2.3 The RS should identify the broad areas where substantial development of renewable energy is anticipated and ensure that these areas are not prejudiced by other proposals and policies in the strategy.

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<sup>15</sup> Any proposed standard should be consistent with the local planning approach in Policy LCF9 for setting requirements for sustainable buildings and LCF11 on testing local requirements.

### **Policy LCF3: Local planning approach for a low-carbon future in a changing climate**

LCF3.1 Local development frameworks should support the move to a low-carbon economy and secure low-carbon living in a changing climate. This should be reflected in the vision for how the area and the places within it should develop and respond to local challenges and opportunities.

### **Policy LCF4: Local planning approach for renewable and low-carbon energy and associated infrastructure**

LCF4.1 Local planning authorities should:

- i. design their policies to support and not unreasonably restrict renewable and low carbon energy developments;
- ii. ensure any local criteria-based policies, including local approaches for protecting landscape and townscape, that will be used to assess planning applications for renewable and low-carbon energy and associated infrastructure:
  - a. provide appropriate safeguards, so that any adverse impacts are addressed satisfactorily, but do not preclude the development of specific technologies other than in the most exceptional circumstances;
  - b. expect the scale and impact of developments in nationally recognised designations<sup>16</sup> to be compatible with the purpose of the designation;
  - c. are informed by the approach and policies set out in the National Policy Statements for nationally significant energy infrastructure;
- iii. ensure the development of renewable energy in any broad area set out in the regional strategy for where the substantial development of renewable energy is anticipated is not prejudiced by non-energy developments;
- iv. set out how any opportunities for district heating (to supply existing buildings and/or new development) identified through heat mapping will be supported;
- v. set out the decentralised energy opportunities that can supply new development proposed for the area; and,
- vi. support opportunities for community-led renewable and low carbon energy developments, including the production, processing and storage of bioenergy fuels.

<sup>16</sup> Sites of Special Scientific Interest, National Nature Reserves, National Parks, the Broads, Areas of Outstanding Natural Beauty, Heritage Coasts, Scheduled Monuments, Conservation Areas, Listed Buildings, Registered Historic Battlefields and Registered Parks and Gardens.

LCF4.2 Strategic sites which are central to delivering the local planning approach for decentralised energy should be allocated in the core strategy.

**Policy LCF5: Local planning approach for adapting to a changing climate**

LCF5.1 Local development frameworks should set out how the local authority area will be planned to adapt to the opportunities and impacts arising from changes in the climate. In their local development framework, local planning authorities should therefore:

- i. set out how new development should be planned to avoid significant vulnerability to impacts arising from changes in the climate;
- ii. ensure that when new development is brought forward in areas with significant vulnerability to impacts arising from changes in the climate, risks can be managed through suitable adaptation measures so as to provide sufficient resilience. In areas of water stress, and so as to secure development that would otherwise be unacceptable for its proposed location, resilience should be provided by setting standards for water usage in new development<sup>17</sup>;
- iii. bring forward adaptation options for existing development in areas with significant vulnerability to impacts likely to arise from changes in the climate. Options should pay particular attention to vulnerable groups as different impacts (and options to manage impacts) will affect parts of the community differently; and,
- iv. plan green infrastructure so as to optimise its many benefits, and as part of wider green infrastructure networks, in order to support local biodiversity and healthy, living environments, including through providing urban cooling, local flood risk management, and local access to shady outdoor space.

**Policy LCF6: Local planning approach for selecting sites for new development**

LCF6.1 Local planning authorities should assess the suitability of sites for new development, and for what type and intensity of development, against the following criteria:

- i. the extent to which existing or planned opportunities for decentralised energy could contribute to the energy supply of new development on the site;
- ii. the potential for new development on the site to contribute heat demand where a heat network exists or could be provided;
- iii. the impact on travel demand of developing the site and whether there is a realistic choice of access, and opportunities to service the site, through sustainable low carbon transport;

<sup>17</sup> Any proposed standard should comply with Policy LCF9 and LCF11.

- iv. whether development of the site would result in the loss of a significant carbon sink;
- v. whether developing the site would provide opportunities to help the existing community adapt to impacts arising from changes in the climate, including sustainable drainage systems<sup>18</sup> and green infrastructure;
- vi. the effect of developing the site on biodiversity's capacity to adapt to likely changes in the climate; and,
- vii. whether developing the site is appropriate having regard to known physical and environmental risks such as sea-level rises, flooding, stability and extremes of weather having regard to increases in risk resulting from changes in the climate.

LCF6.2 Where sites perform poorly against the criteria in LCF6.1 they should not be allocated or identified for new development unless:

- i. there are proposals in the local development framework which would improve their performance; and/or,
- ii. their performance would be improved by, for example, limiting development on the site to particular uses and/or density.

**Policy LCF7: Local planning approach to setting requirements for using decentralised energy in new development**

LCF7.1 Local requirements for decentralised energy should be set out in a development plan document (DPD) and be derived from an assessment of local opportunities in line with LCF1.4. Local requirements for decentralised energy should:

- i. relate to identified development areas or specific sites;
- ii. be consistent with giving priority to energy efficiency measures; and,
- iii. focus on opportunities at a scale which developers would not be able to realise on their own in relation to specific developments.

LCF7.2 Local requirements should be consistent with national policy on allowable solutions<sup>19</sup> set out in support of the zero carbon homes and buildings policy.

<sup>18</sup> The Flood and Water Management Bill, includes provisions on Sustainable Drainage Systems <http://www.defra.gov.uk/environment/flooding/policy/fw:tsb/index.htm>

<sup>19</sup> See Annex A

- LCF7.3 Where there are existing, or firm proposals for, decentralised energy supply systems with capacity to supply new development, local planning authorities can expect proposed development to connect to an identified system, or be designed to be able to connect in future. In such instances, and in allocating land for development, local planning authorities should set out how the proposed development would be expected to contribute to the decentralised energy supply system.
- LCF7.4 If a local requirement is set out as a target for the use of decentralised energy in new development the target should be expressed as either:
- the percentage reduction in CO<sub>2</sub> emissions to be achieved. In doing so, local planning authorities should set out how the target relates to standards for CO<sub>2</sub> emissions set by Building Regulations; or,
  - an amount of expected energy generation expressed in KWh.
- LCF7.5 Where a local requirement relates to a decentralised energy supply system fuelled by bioenergy, local planning authorities should not require fuel sources to be restricted to local sources of supply.

**Policy LCF8: Local planning approach to setting authority-wide targets for using decentralised energy in new development**

- LCF8.1 The progressively demanding standards for CO<sub>2</sub> emissions set through Building Regulations, together with the assessment of local opportunities for renewable and low carbon energy, will help drive greater use of decentralised energy. Targets for application across a whole local authority area which are designed to secure a minimum level of decentralised energy use in new development will be unnecessary when the proposed 2013 revisions to Part L of the Building Regulations (for both domestic and non-domestic buildings) are implemented. As an interim measure until the coming into force of the 2013 revisions, the Secretary of State will support the application of authority-wide targets where these are included in the development plan. At the local level, any target should be in a DPD and have met the tests in LCF11.

**Policy LCF9: Local planning approach to setting requirements for sustainable buildings**

- LCF9.1 Any local requirement for a building's sustainability should be set out in a DPD and:
- i. relate to a development area or specific sites and not be applicable across a whole local authority area unless the justification for the requirement can be clearly shown to apply across the whole area;

- ii. not require local standards for a building's performance on matters relating to construction techniques, building fabrics, products, fittings or finishes<sup>20</sup>, or for measuring a building's performance; and,
- iii. be specified in terms of achievement of nationally described sustainable buildings standards. In the case of housing, this means a specific level of the Code for Sustainable Homes. Where local circumstances do not support specifying compliance with an entire Code level (because of the range of environmental categories covered) – or envisaged development could not attain the relevant Code level on all environmental categories – a local requirement can be stipulated solely in relation to the energy/CO<sub>2</sub> emissions standard and/ or water standard in an identified level of the Code.

#### **Policy LCF10: Local planning approach for electric and plug-in hybrid vehicles**

LCF10.1 Local planning authorities should support the take-up of electric and plug-in hybrid vehicles and, in particular, encourage new developments with parking facilities to:

- i. be designed to provide opportunities for charging such vehicles;
- ii. include cabling for charging infrastructure; and,
- iii. provide charging infrastructure.

LCF10.2 Any local requirement relating to electric and plug-in vehicles, including for cabling or charging infrastructure, should be set out in a DPD. In bringing forward a local requirement, local planning authorities should be able to demonstrate that it satisfies the tests in Policy LCF11.

#### **Policy LCF11: Testing local planning requirements**

LCF11.1 A local requirement relating to decentralised energy, a building's sustainability or for electric vehicle charging infrastructure, will only be acceptable where the local planning authorities can demonstrate that it:

- i. would not make new development unviable having regard to the overall costs of bringing sites to the market, including the costs of any necessary supporting infrastructure;
- ii. is, in the case of housing development, consistent with securing the expected supply and pace of housing development shown in the housing trajectory required by PPS3, and does not inhibit the provision of affordable housing; and
- iii. will be implemented and monitored without duplication of applicable rating or assessment systems.

<sup>20</sup> Unless in the case of (i) electric vehicle charging infrastructure/ cabling this is a local requirement set out in line with Policy LCF10 or (ii) green roofs where this supports a local planning approach to adaptation set out in line with Policy LCF5.

## DEVELOPMENT MANAGEMENT POLICIES

### Policy LCF12: General approach

LCF12.1 Local planning authorities should:

- i. ensure their approach complements controls under building control and other regulatory regimes and avoids duplication;
- ii. only require information from applicants which is proportionate to the scale of the proposed development and is consistent with that needed to demonstrate conformity with the development plan and this PPS; and,
- iii. not require specific and standalone assessments of new development where the requisite information can be provided through:
  - a. a Design and Access Statement;
  - b. a national rating system such as for the Code for Sustainable Homes;
  - c. any environmental impact assessment or other regulatory requirement.

### Policy LCF13: Designing for a low carbon future in a changing climate

LCF13.1 Local planning authorities should engage constructively with developers to deliver well-designed, sustainable buildings and high-quality local environments suitable for low-carbon living in a changing climate.

LCF13.2 In determining planning applications, local planning authorities should expect proposed new development to:

- i. be designed to reduce greenhouse gas emissions by:
  - a. using landform, layout, building orientation, massing and landscaping to reduce likely energy consumption;
  - b. using the layout, density and mix of development to support identified opportunities for decentralised energy;
  - c. connecting to an existing decentralised energy supply system where there is capacity to supply the proposed development, or being designed for a future connection where there are firm proposals for such a system;
- ii. provide public or private open space as appropriate so that an accessible choice of shade and shelter is offered, recognising the opportunities for people, biodiversity, flood storage and carbon management provided by multi-functional greenspaces and green infrastructure networks;
- iii. give priority to the use of sustainable drainage systems, paying attention to the potential contribution to be gained to water harvesting from impermeable surfaces and layouts that accommodate waste water recycling;



- iv. support sustainable waste management by providing space for recycling and composting;
- v. create and secure opportunities for sustainable transport by:
  - a. implementing travel plans when required in line with PPG13<sup>21</sup> so as to minimise greenhouse gas emissions;
  - b. providing for safe and attractive walking and cycling opportunities including, where appropriate, secure cycle parking and changing facilities;
  - c. ensuring the provision of car parking is consistent with cutting greenhouse gas emissions, including through providing for electric vehicle charging infrastructure;
- vi. be designed to avoid adding to the vulnerability of existing or other proposed development to impacts arising from changes in the climate; and,
- vii. if the site has not been allocated for development in a DPD in accordance with Policy LCF6, reflect the site selection criteria set out in Policy LCF6.

LCF13.3 Local planning authorities should expect proposals for major<sup>22</sup> new development to demonstrate through the submitted Design and Access Statement how the proposed development complies with the criteria in LCF13.2. In determining planning applications for major development, local planning authorities should give great weight to compliance with the criteria. Where a proposal for major development fails to meet one or more of the criteria, the application should be refused planning permission unless it can be demonstrated by the applicant (having regard to the type of development and its design) that meeting a criterion is not feasible.

LCF13.4 Local planning authorities should support innovation which secures well designed, sustainable buildings. Some features which are essential for securing a low or zero carbon building, or adapting to impacts arising from changes in the climate, may give rise to concerns about incompatibility with an existing townscape. Such concerns by themselves should not normally warrant planning applications being refused planning permission. Planning permission should only be refused where the concern relates to a heritage asset protected by an international or national designation and the impact would cause material harm, or removal of significance in relation, to the asset and this is not outweighed by the proposal's wider social, economic and environmental benefits.

<sup>21</sup> Planning Policy Guidance 13: Transport available at:  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/155634.pdf>

<sup>22</sup> 10 or more dwellings or commercial development with 1000 square metres or more commercial floor space.

**Policy LCF14: Renewable and low carbon energy generation**

LCF14.1 Local planning authorities should ensure their development management does not prevent, delay or inhibit proposals for renewable and low carbon energy, and associated infrastructure, which could be permitted having regard to the objectives and policies in this PPS.

LCF14.2 In determining planning applications for the development of renewable or low-carbon energy, and associated infrastructure, local planning authorities should:

- i. expect applicants to have taken appropriate steps to mitigate any adverse impacts through careful consideration of location, scale, design and other measures, including through ensuring all reasonable steps have been taken, and will be taken, to minimise noise impacts<sup>23</sup>;
- ii. give significant weight to the wider environmental, social and economic benefits of renewable or low-carbon energy projects whatever their scale, recognising that small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and not reject planning applications simply because the level of output, or number of buildings supplied, is small;
- iii. not require applicants for energy development to demonstrate the overall need for renewable or low-carbon energy;
- iv. expect developers of decentralised energy to support the local planning approach for renewable and low-carbon energy set out in the local development framework and, if not, provide compelling reasons consistent with this PPS to justify the departure; but, otherwise, not question the energy justification for why a proposal for renewable and low carbon energy must be sited in a particular location;
- v. not refuse planning permission for a renewable energy project because a renewable energy target set out in the RS has been reached; but where targets have not been reached this should carry significant weight in favour of proposals when determining planning applications;
- vi. take great care to avoid stifling innovation, including by rejecting proposals for renewable energy solely because they are outside of a broad area identified in a RS for where substantial development of renewable energy is anticipated;
- vii. where the proposed development is for a renewable energy technology included in the National Policy Statement for Renewable Energy Infrastructure, or associated infrastructure, expect applicants to follow the approach to assessment and apply themselves as far as practicable the approach to decision-making and mitigation set out in National Policy Statements; and,

<sup>23</sup> For wind energy development, the approach to assessment and policies set out in the National Policy Statement for Renewable Energy Infrastructure should be used.

- viii. recognise that when located in the Green Belt elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of the Green Belt. Careful consideration will therefore need to be given to the visual impact of projects, and developers will need to demonstrate very special circumstances that clearly outweigh any harm by reason of inappropriateness and any other harm if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

**Policy LCF15: Safeguarding renewable and low carbon energy supplies**

LCF15.1 In determining planning applications, planning authorities should consider the likely impacts of proposed development on:

- i. existing or other proposed development and their supply of, or potential for using, decentralised energy; and,
- ii. existing, or proposed, sources of renewable or low carbon energy supply and associated infrastructure.

LCF15.2 Where proposed development would prejudice renewable or low carbon energy supply, consideration should be given as to how the proposed development could be amended to make it acceptable. Where this is not achievable planning permission should be refused.

**PLAN-MAKING POLICIES**

**Policy NE1: Evidence base for plan-making**

- NE1.1 Regional and local planning authorities should work together to ensure that they have up-to-date information, at the appropriate scale, about the characteristics of the natural environment in their areas to inform plan-making.
- NE1.2 Responsible regional authorities should work with appropriate organisations to identify:
  - (i) the regional and sub-regional distribution of habitats and species of principal importance<sup>13</sup>, internationally and nationally designated areas for biodiversity and geodiversity, and broad opportunity areas for habitat restoration and re-creation
  - (ii) likely changes to the distribution and characteristics of habitats and species as a result of climate change
  - (iii) the objectives of the nationally designated and defined landscapes of National Parks, the Broads, Areas of Outstanding Natural Beauty (AONBs) and Heritage Coasts as laid out in their management plans and other documents
  - (iv) strategic sport and recreational facilities, which due to their size, uniqueness, or potential catchment area are of regional significance.
- NE1.3 Local planning authorities should undertake, and keep up-to-date:
  - (i) assessments of the existing and future needs of their communities for open space, green infrastructure, sports, recreational and play facilities; and
  - (ii) audits of the existing provision in their area of such land and facilities taking into account its quantity, quality, accessibility, typology and location.
- NE1.4 In preparing the evidence base for plan-making, consideration should be given to joint working across local authority boundaries and between tiers (in two tier areas) to develop the assessments and audits set out in NE1.3.

**Policy NE2: Regional planning approach**

- NE2.1 The Regional Strategy should:
  - (i) address regional, sub-regional and cross-boundary issues in relation to biodiversity, geodiversity, landscape and green infrastructure, particularly in areas of growth and renewal where substantial amounts of development will be delivered and in areas which will be most vulnerable to the impacts of climate change

<sup>13</sup> The Secretary of State for Environment, Food and Rural Affairs has published a list of priority habitats and species under Section 41 of the Natural Environment and Rural Communities Act 2006.

- (ii) incorporate targets linked to national goals and appropriate for their regions for the restoration and re-creation of priority habitats and the recovery of priority species populations
- (iii) have regard to the relevant objectives of the Regional Forestry Framework to secure trees and woods for future generations.

### **Policy NE3: Local planning approach for the natural environment**

- NE3.1 Local development frameworks should, subject to policy NE3.2, set out policies for the conservation, restoration, enhancement and enjoyment of the natural environment in their area which are consistent with national, regional and local biodiversity, geodiversity and landscape priorities, objectives and targets (including those agreed by local biodiversity partnerships, and the statutory management plans of National Parks, the Broads and AONBs).
- NE3.2 Local planning authorities should cross refer to the statutory protection given to international and national sites and wildlife species that receive statutory protection in the explanatory texts to their proposals map. As such sites have statutory protection; plans should not include specific policies in respect of them.<sup>14</sup>
- NE3.3 Local planning authorities should include criteria-based policies in their local development frameworks against which to judge proposals for development on, or affecting:
- (i) sites of regional and local biodiversity and geodiversity interest, including Local Nature Reserves and Local Sites including Regionally Important Geological Sites
  - (ii) landscapes outside nationally designated landscape areas that are particularly highly valued locally, based on an assessment of landscape character, sensitivity and capacity. The policies should provide sufficient protection for these areas of landscape while not unduly restricting acceptable, sustainable development and economic activity. Local planning authorities should rigorously consider the justification for retaining existing local landscape designations, and they should only be maintained or, exceptionally, extended where it can be clearly shown that criteria-based planning policies cannot provide the necessary protection.

<sup>14</sup> Guidance on the statutory obligations relating to biodiversity and their impact within the planning system is contained in the joint ODPM Circular 06/2005 and Defra Circular 01/2005 (under revision).

#### **Policy NE4: Local planning approach for green infrastructure**

- NE4.1 Local development frameworks should set out a strategic approach for the creation, protection and management of networks of green infrastructure. In doing so, local planning authorities should build on work undertaken at the regional and sub-regional level. Policies should:
- (i) provide for green infrastructure, particularly in locations where it will assist in reducing the impacts of climate change by providing flood water storage areas, sustainable drainage systems, urban cooling and local access to shady outdoor space
  - (ii) avoid development being located in areas which result in the fragmentation or isolation of natural habitats
  - (iii) identify opportunities to enhance green infrastructure and the natural habitats within it, by retaining, enhancing or creating green corridors linking rural and urban fringe areas and urban green spaces; and
  - (iii) identify opportunities to enhance the functions urban green spaces can perform.

#### **Policy NE5: Local planning approach to open space, sport, recreation and play**

- NE5.1 Local planning authorities should provide sufficient high quality, multifunctional open space, sports and recreational facilities, and space suitable for play to meet the needs of local communities. This should take account of the differing needs of those living, working in and visiting the area. This includes areas of open space that provide a community resource and can be used for informal or formal events such as religious and cultural festivals, agricultural shows and travelling fairs. Local planning authorities should also identify priorities for protection, investment, rationalisation and reallocation for different types of open space, and sport, recreation and play facilities.
- NE5.2 Local planning authorities should include local standards in their local development frameworks for the quantity, quality and accessibility for open space, and facilities for sport, recreation and play.
- NE5.3 Where deficiencies in open space, or land and facilities for sport, recreation and play have been identified, local planning authorities should identify opportunities to enhance existing areas or facilities, or to create new ones.
- NE5.4 Local planning authorities should identify opportunities for the co-location of facilities, so that different types of open space and land and facilities for sport and recreation, can be located next to each other and also in proximity to other community facilities for education and health.

NE5.5 In rural areas, local planning authorities should plan to locate sports and recreational facilities in, or on the edge of, country towns if they are likely to attract significant numbers of participants or spectators. Smaller scale facilities intended to meet the needs of local communities should be located in, or adjacent to, the rural settlements they will serve.

**Policy NE6: Local planning approach to recreational rights of way**

NE6.1 Rights of way, National Trails and Open Access Land should be protected and enhanced. Where appropriate, local development frameworks should identify where new or improved links to rights of way should be provided for walkers, cyclists and horse-riders. In doing so, they should have regard to the local rights of way improvement plans prepared by the Highways Authority.

**Policy NE7: Local planning approach to the undeveloped coast and coastal access**

NE7.1 Local planning authorities should maintain the natural character of the undeveloped coast, protecting and enhancing its distinctive landscapes, cultural, biodiversity and geodiversity interest. They should also seek to improve opportunities for public access and enjoyment of the coast. Particular attention should be given to areas defined as heritage coast. Policies should be consistent with their objectives, special qualities and management strategies.

NE7.2 When considering suitable locations for development, local planning authorities should ensure, as far as reasonably practicable, that access to the coast and the integrity of coastal rights of way and National Trails is not constrained. Account should be taken of the likely impacts of climate and coastal change.

**DEVELOPMENT MANAGEMENT POLICIES**

**Policy NE8: Policy principles guiding the determination of applications in relation to the natural environment**

NE8.1 Local planning authorities should aim to avoid harm to the natural environment through development. Where granting planning permission would result in significant harm to biodiversity or geodiversity interests, local planning authorities should be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where harm cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. Local authorities should use conditions or planning obligations to ensure that mitigation or compensation measures take place.

If significant harm to biodiversity cannot be adequately mitigated against, or compensated for, permission should be refused. In considering effects on landscape, local planning authorities should aim to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate, having regard to siting, operational and other relevant constraints.

- NE8.2 Local planning authorities should have due regard to the likely impact of development on habitats and species which receive statutory protection.<sup>15</sup>
- NE8.3 Planning permission should be refused for development within, or outside, a Site of Special Scientific Interest (SSSI), which is likely to have an adverse effect on the SSSI (either individually or in combination with other developments) unless the benefits of the development at that site clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national networks of SSSIs. Local planning authorities should use planning obligations or conditions to mitigate the harmful aspects of the development, and where possible, to ensure the conservation and enhancement of the site's biodiversity or geological interest.
- NE8.4 Planning permission should be refused for development that would result in the loss or deterioration of species and habitats of principal importance, ancient woodland or aged or 'veteran'<sup>16</sup> trees found outside ancient woodland, unless the need for, and benefits of, the development in that location outweigh their loss. Local planning authorities should consider the retention of veteran trees and other trees of amenity value as part of development proposals, and where appropriate, use tree preservation orders to protect them in the longer term.
- NE8.5 Nationally designated areas, comprising National Parks, the Broads and AONBs, have the highest status of protection in relation to landscape and scenic beauty. The conservation of the natural beauty of these designated areas should be given great weight in planning policies and decisions. In National Parks and the Broads, their wildlife and cultural heritage should also be given great weight, whilst in AONBs they are important considerations. Planning permission for major developments should be refused except in exceptional circumstances. Major development proposals should be demonstrated to be in the public interest and subject to the most rigorous examination. Consideration of such applications should include an assessment of:
- (i) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy

<sup>15</sup> Guidance is contained in Circular 06/2005 (under revision).

<sup>16</sup> A veteran tree is defined as 'a tree which, because of its great age, size or condition is of exceptional value culturally, in the landscape or for wildlife'.



- (ii) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
  - (iii) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.
- NE8.6 Planning permissions granted for major developments in nationally designated areas should be carried out to high environmental standards through the use of conditions where necessary.
- NE8.7 Local planning authorities should maximise opportunities for building-in beneficial biodiversity or geodiversity features in and around developments, as part of good design, using planning obligations where appropriate. Development proposals on previously developed land which has significant biodiversity, geodiversity or landscape interest of recognised local importance, or which provides opportunities for public access, should aim to retain this interest or access and incorporate it into any development of the site.
- NE8.8 Development proposals where the principal aim is to conserve or enhance biodiversity and geodiversity should be treated favourably.
- NE8.9 When considering applications involving significant areas of agricultural land, local planning authorities should take account of the presence of best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) alongside other sustainability considerations. Where significant development of agricultural land is unavoidable, local planning authorities should seek to develop areas of poorer quality land (grades 3b, 4 and 5) in preference to that of a higher quality, except where this would be inconsistent with other sustainability considerations. Little weight should be given to the loss of agricultural land in grades 3b, 4 and 5, except in areas (such as uplands) where particular agricultural practices may themselves contribute to the quality and character of the environment or the local economy.

**Policy NE9: Policy principles relating to the maintenance of an adequate supply of open space, green infrastructure, sports, recreational and play facilities**

- NE9.1 Planning permission should be refused for proposals which would result in the loss of existing areas of open space or land and buildings used for sport, recreation or play, unless the assessment of open space (NE1.3) has clearly shown that the land or buildings are surplus to requirements or there are wider public benefits from the development which outweigh the harm. For open space to be considered 'surplus to requirements', consideration should be given to all the functions that the open space can perform.

- NE9.2 Where a development would result in an adverse impact on green infrastructure, local planning authorities should consider imposing conditions or planning obligations to mitigate any harmful aspects of development and should ensure the functioning and connectivity of the green infrastructure network is maintained. Where development would cause significant harm to the functioning of green infrastructure networks, particularly in relation to reducing the impacts of climate change, and that harm cannot be mitigated, planning permission should be refused.
- NE9.3 When considering applications for development on or next to open space or green infrastructure, local planning authorities should consider favourably proposals that would remedy identified deficiencies in particular types of open space, green infrastructure or sports, recreational or play facilities, for example, by securing part of the development site for the type of use that is in deficit; or where the site could be exchanged for another which is at least as good in terms of size, usefulness, attractiveness, quality and accessibility. Where appropriate, local planning authorities should use planning obligations or conditions to ensure that the new facilities are adequately maintained and managed.
- NE9.4 Local planning authorities should:
- (i) avoid any erosion of recreational function and maintain or enhance the character of open spaces
  - (ii) ensure that open spaces do not suffer from increased overlooking, traffic flows or other encroachment, particularly those areas formally identified as urban 'Quiet Areas'
  - (iii) protect and enhance those parts of the rights of way network that might benefit open space.

**Policy NE10: Policy principles guiding the determination of applications affecting playing fields<sup>17</sup>**

- NE10.1 Where it cannot be demonstrated through an up-to-date assessment of need in accordance with policy NE1.3 that playing fields are surplus to requirements, planning permission to develop on them should be refused unless:
- (i) the proposed development is ancillary to the use of the site as a playing field (e.g. new changing rooms) and does not adversely affect the quantity or quality of pitches and their use
  - (ii) the proposed development only affects land which is incapable of forming a playing pitch (or part of one)
  - (iii) the playing fields that would be lost as a result of the proposed development would be replaced by a playing field or fields of equivalent or better quantity and quality and in a suitable location; or
  - (iv) the proposed development is for an outdoor or indoor sports facility of sufficient benefit to the development of sport to outweigh the loss of the playing field.

**Policy NE11: The consideration of applications for floodlighting for sports and recreational facilities**

- NE11.1 When determining applications for sports and recreational facilities that include floodlighting, local planning authorities should consider:
- (i) the benefits to the health and wellbeing of those participating in sport and recreation
  - (ii) the increased provision of sport and recreation in an area which would result from the extended hours of use of the facilities
  - (iii) the impact on local amenity, biodiversity, and where appropriate, the openness of the Green Belt or the character of the countryside; and
  - (iv) whether conditions could be put in place to control the use of floodlights to an acceptable level.

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<sup>17</sup> As defined in Statutory Instrument 1996 No.1817 as amended by SI 2009 No. 453

**Policy NE12: Proposals for sport and recreation requiring natural features and water**

- NE12.1 When considering applications linked to activities that are based on particular natural features (e.g. climbing, potholing) and water, local planning authorities should consider:
- (i) the impact of the sports and recreational activities on the natural features, the water resource or water quality
  - (ii) whether visual amenity, heritage, and biodiversity value will be protected; and
  - (iii) any conflicts between the sports and recreational activities and other interests or users.

**Policy NE13: Sport and recreation provision in nationally designated areas**

- NE13.1 National Park Authorities should work with other local authorities and with sports and recreation bodies with a view to securing new sports and recreational facilities in appropriate locations within National Parks.
- NE13.2 When considering applications for new sports and recreational facilities in National Parks and AONBs, local planning authorities should consider the benefits of the application and the impacts on:
- (i) residents or other recreational users. Noisy or other intrusive activities which have an unacceptable impact should be refused; and
  - (ii) the natural beauty and character of the landscape, and the needs of biodiversity, agriculture, forestry and other uses.
- NE13.3 Planning permission for development for temporary or permanent sporting and recreational activities in or near a Site of Special Scientific Interest (SSSI) should only be granted if the permission is subject to conditions that will prevent damaging impacts on the SSSI or if material considerations are sufficient to override biodiversity or geodiversity impacts.

**Policy NE14: Proposals for major sports development and mixed use sport and recreational facilities**

- NE14.1 Major sports developments (including stadia) which attract large numbers of visitors should only be granted where they are located in areas with good access to public transport.
- NE14.2 Sporting and recreational facilities comprising significant elements of entertainment, retail and leisure uses should only be granted permission where they comply with the town centre policies set out in PPS4.