

General Development Applications

(6/i) Application No: PAP/2023/0421 and PAP/2023/0422

W H Smith And Sons (tools) Ltd, Water Orton Lane, Minworth, Sutton Coldfield, B76 9BG

- a) PAP/2023/0421 – Engineering Operations to facilitate the construction of new industrial unit comprising ground re-profiling, installation of storm and foul water drainage provision, demolition of existing buildings and structures.**
- b) PAP/2023/0422 – Demolition of existing buildings and structures to facilitate the erection of a new industrial unit (Use Class B2) associated with battery technology for the production of electrically powered vehicles; canopy, ancillary storage and office use, re-profiling of site levels, erection of two silos, water sprinkler tanks, pump house, provision of photo-voltaic roof panels, service yard including security barriers, associated parking including cycle shelters and landscaping**

both for WHS Plastics

1. Introduction

- 1.1** These two applications were referred to the Board in January 2024 when it was resolved that the Board was minded to grant planning permission for both applications subject to:
 - i) them being referred to the Secretary of State under the then 2021 Direction, as “Green Belt development” to see if he wished to call-in either, or both of them for his own determination;
 - ii) if there was no intervention, then planning permissions are to be granted subject to the conditions as set out in the report together with any others recommended from the outstanding consultees - the Environment Agency (EA), the Lead Local Flood Authority (LLFA) and the County Ecologist,
 - iii) but that in the event of an objection from these consultations, the cases are referred back to the Board, notwithstanding the response from the Secretary of State.
- 1.2** The cases were not called-in by the Secretary of State but are referred back to this Board as a consequence of (iii) above, in that the EA has submitted an objection which is not capable of removal by an appropriate condition. The LLFA's response is contingent on the EA's final response, and thus too its objection is maintained.
- 1.3** Referral back to the Board also enables Members to review the applications as a consequence of the following changes to the material planning circumstances affecting the proposals.

- i) The changes to the National Planning Performance Framework (“NPPF”) in December 2024, relating to the introduction of “grey belt” land within the Green Belt.
 - ii) National Planning Practice Guidance on Flood Risk was updated in September 2025. This will be referred to below.
 - iii) The 2021 Direction was also re-published in early 2024, but after the date of the resolution set out in paragraph 1.1.
 - iv) The grant of a Certificate of Lawfulness for Proposed Development in January 2025 for “the storage of containers”.
- 1.4 This report therefore brings Members up-to-date on these three matters but in particular, sets out a response to the outstanding EA objection.
- 1.5 For the benefit of Members, the previous report is attached at Appendix A; the response from the Secretary of State is at Appendix B and a copy of the Certificate and its associated plan is at Appendix C. All three should be treated as an integral part of this report.
- 1.6 The report will first look at the matters set out in paragraph 1.3 above.

2. The 2024 NPPF

- 2.1 Members are aware that the 2024 NPPF introduced the concept of “grey belt” land within the Green Belt and that this was supplemented in early 2025 by guidance on the matter published in National Planning Practice Guidance.
- 2.2 The definition of “grey belt” land is contained within the Glossary to the NPPF. It reads that this is “land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b) or (d) in para 143. “Grey Belt” excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than the Green Belt) would provide a strong reason for refusing or restricting development”.
- 2.3 In this case, as reported above, there is an outstanding objection from the EA. Footnote 7 of the NPPF therefore does apply here as one of the areas referred to therein is, “areas at risk of flooding”. As a consequence, the sites are not “grey belt” land.
- 2.4 This means that as previously set out in Appendix A – paragraph 4.10 – the proposals are both for inappropriate development in the Green Belt. The “test” here for the Board, is to assess whether there are material planning considerations of such weight to “clearly” outweigh the cumulative harms caused, such that they would constitute the “very special circumstances” needed to support the grant of planning permissions.
- 2.5 The assessment of this will be made in the final planning balance below.

The Direction

- 2.6 There is no change to the substance of the 2021 Direction as a consequence of its recent review. These proposals would still be defined as “Green Belt Development”. Additionally, now that the EA has maintained its objection, the proposals would be within a “flood risk area” – see paragraph 8 of the Direction. As such in the event that the Council is minded to support the grant of planning permissions here, the cases would still need referral to the Secretary of State. Refusals would not need to be referred.

3. The Certificate

- 3.1 As Members are aware from the previous report, the sites have been used for storage purposes – i.e. wooden pallets and for coal bagging stocks as verified by a 2019 Certificate of Lawfulness (see paragraph 4.3 of Appendix A and Appendix D).
- 3.2 In January this year, a further Certificate was granted for a Proposed Use of the same sites – for the “storage of containers” (see Appendix C). This means that the use of the land for such storage would be lawful throughout the whole without restriction on the numbers involved. The weight to be given to this Certificate as a “fall-back” position is addressed within the discussion section of this report.
- 3.3 The applicant’s position on this “fall-back” is set out in Appendix E. Here it says that he has been actively looking at this as an alternative.

4. The Outstanding Consultations

- 4.1 It is now necessary to bring the Board up to date on the responses of the outstanding consultees as at January 2024 – see paragraph 1.1.

a) The County Ecologist

- 4.2 As can be seen from the previous report at Section 2 of Appendix A, there was unlikely to be an objection in principle, but that the results of a number of surveys were outstanding. Additionally, it was highly likely that bio-diversity gain of over 10% could be achieved – see paragraphs 4.37 to 4.41 of Appendix A. These matters were subsequently agreed, and the Ecologist was satisfied that the submitted Landscape and Ecological Management Plan together with the Construction and Environmental Management Plan could be conditioned as approved documents, and that a signed Section 106 Unilateral Undertaking would satisfy off-site bio-diversity gain, but on land within the applicant’s control. As a consequence, it is considered that this matter is now resolved.

b) The Lead Local Flood Authority

- 4.3 The previous report noted that this response was still outstanding – see paragraphs 4.42 and 4.43 of Appendix A. Its final response is at Appendix F and as can be seen the withdrawal of its objection is contingent on the final response of the EA.

c) The Environment Agency

- 4.4 There has been on-going engagement with the EA since the applications were first submitted. This has resulted in a series of holding objections – eight in total – before the last one of 25 April 2025. In order that Members are fully aware of the issues involved, all of the letters are attached to this report running from Appendices G to N, with N being the latest of 22 September 2025.
- 4.5 In essence the EA's position is that the proposals represent an increased flood risk to others downstream compared to the site as it currently is, because of the loss of flood plain through the new built development, as no floodplain compensation has been proposed – either on site, or on land within the applicant's control. This position is said not to accord with Local Plan policies LP29 (11) and LP33, as well as paragraphs 170 and 181 of the NPPF, together with paragraph 049 of the National Planning Practice Guidance (NPPG).
- 4.6 The applicant has responded to the references in Appendices M and N to the weight that should be given to the 2025 Certificate - see Appendix E - as well as to the provision of compensatory storage – see Appendix O.
- 4.7 These matters will be discussed in the Observations section below, as the Board will have to assess the weight to be given to the EA's objection.
- 4.8 As part of that assessment, the Board needs to be fully aware of the policies that are mentioned in the EA letters. Their content is now set out.
- 4.9 Local Plan policy LP29 (11) says that:
- “Development should manage the impacts of climate change through the design and location of development, including sustainable building design and materials, sustainable drainage, water efficiency measures, use of trees and natural vegetation and ensuring no net loss of flood storage capacity”.
- 4.10 Local Plan policy LP33 says that amongst other things:
- “New development proposals in or land raising within Flood Zone 3 (including Climate Change) should provide for flood plain compensation on a level-for- level basis”.
- 4.11 Paragraph 170 of the NPPF says that:
- 4.12 “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”.
- 4.13 Paragraph 181 of the NPPF says that:
- “When determining any planning applications, local planning Authorities should ensure that flood risk is not increased elsewhere”.

4.14 Paragraph 49 of the NPPG as referred to in paragraph 1.3 (ii) above, says that:

“Development, or the cumulative impacts of development, that result in an increase in flood risk elsewhere as a result of impacts such as the loss of floodplain storage, the deflection or constriction to flood flow routes or through inadequate management of surface water. Site-specific flood risk assessments should assess these impacts and demonstrate how mitigation measures have addressed them. Where flood storage from any source of flooding is to be lost as a result of development, on site level-for-level compensatory storage accounting for the predicted impacts of climate change over the lifetime of the development should be provided. Where it is not possible to provide compensatory storage on site, it may be acceptable to provide it off-site if it is hydraulically and hydrologically linked. Where it is not possible to fully mitigate the impacts of development on flood plain risk elsewhere, now and in the future, the site-specific flood risk assessment will need to fully detail the extent and nature of the increase in risk and to assess its significance. This is likely to be a key consideration in whether planning permission is granted”.

5. Observations

a) Introduction

5.1 The approach to be taken in the assessment of these applications is set out in paragraph 2.4 above. The previous report at para 4.44, identified that the harm side of the final planning balance comprised the substantial definitional Green Belt harm caused, the moderate actual harm, the less than substantial heritage harm and the minimal visual harm. The other side of the balance in paragraph 4.51 of that report, comprised the substantial weight given to the proposal satisfying Development Plan policy in respect of economic regeneration, local employment retention and opportunity, and its re-use of previously developed land which has a lawful general industrial use and for its contribution to the climate change agenda. The paragraphs below will now establish what weight should be attached to the EA’s objection and then how that may affect the outcome of the final planning balance when it is added to the harm side of the balance set out above.

b) The Objection

i) Explanation

5.2 There is some background that Members should be aware of in making these assessments. The first point is that the site already has flood defence banks around its northern, eastern and southern boundaries – as seen on site. The proposals do not involve any changes to these flood banks. Secondly, it is agreed by the applicant and the EA that the storage capacity of the site is 27,000 cubic metres of flood water.

5.3 Members will have seen from the EA letters that a number of matters have been raised and that the differences between the EA’s position and that of the applicant have been made explicit through the sequence of letters. Both parties agree that

the site is in the flood plain of the River Tame and that the development will displace flood water should it enter the site – i.e. that means more flood water going downstream. It is significant too, that both parties have agreed a common base and methodology for modelling the likely impact of the proposals on the capacity of the site as a floodplain and thus the “scale” of that displacement. In that respect both parties have agreed that that displacement would be 14,000 cubic metres of water. The applicant says that the site itself acts as a depression and in the modelling, it would flood very early and thus it would not materially affect flood attenuation or conveyance of flood water downstream. Additionally, the model shows that no third-party land would be affected as the floodplain is relatively wide. The scale of the displacement is thus something that can be accepted within the tolerances of the agreed modelling. The EA agrees that the amount of water displaced, “is expected to be spread out sufficiently to be hidden under the tolerances”, “largely because of the size of the flood zones” and thus, “the level of risk highlighted by the modelling falls under the model tolerance”. However, it continues by saying that, whilst an increased flood risk might not have been shown in the modelling, a significant amount of water will still be displaced and thus there will be an increased flood risk to others compared to the site as it currently is, because there is no compensatory storage proposed and this approach is in accordance with both national and local planning policy. The issue here is therefore that the EA considers this is a matter of principle, whilst the applicant says that the impact is within the tolerances of the agreed modelling.

- 5.4 As above, the EA is saying that its concerns could be removed through the provision of compensatory water storage measures – either on the site, or on other land within the applicant’s control. The applicant has confirmed that physically the site cannot provide level-for-level compensation. Additionally, excavation to provide non, level-for-level compensation on-site would just fill early and thus make no difference to peak levels downstream as shown by the modelling. Off-site compensation on land within the applicant’s control would remove bio-diversity and may not be able to be hydraulically connected to the water courses. The EA recognises that sites differ, and that level-for-level compensation may not always be practical. It is thus prepared to be “pragmatic” and look at not requiring full level-for-level compensation here. However, it disagrees in principle with the applicant, in that earlier flooding of the compensation area results in some benefit, as flood events are dynamic in nature and every cubic metre of water stored at an early stage helps reduce flood impacts throughout the event, even at peak times. Early filling of compensatory storage is therefore beneficial during smaller and more frequent flood events. As above, the EA is saying that even some compensatory storage here is going to be beneficial, and that the model’s tolerances should not be used to justify the loss of flood plain storage. Even if this is all accepted by the applicant, he is saying that even a lesser compensatory storage is not physically or hydraulically possible on-site, nor potentially on the applicant’s other land.

- 5.5 There is a further factor that needs to be added into the assessment of the weight to be given to the EA’s objection. This is the “fall-back” position provided by the 2025 Certificate – Appendix C. The applicant is saying that in the event of a refusal here, or there being further delay in determination, he would take up the lawful use under the Certificate and use the site accordingly – namely for the unrestricted storage of containers on the site (Appendix E). This too he says would reduce the

capacity of the site for flood water storage. With a 70% surface coverage by containers, the storage area left would be 8100 cubic metres. The area left under the current proposal as agreed by the EA and the applicant would be 13000 cubic metres. In other words, the fall-back of container storage based on a 70% site coverage would present a “worse” situation. The EA acknowledges that this is a material consideration but leaves it quite properly to the Council to attribute what weight should be given to it.

ii) Discussion

- 5.6 Members are asked to look through the sequence of letters from the EA – Appendices G to N. These reflect repeated concerns about the lack of compensatory flood storage.
- 5.7 As Members can see from Appendix M – at the top of the second page - its case as set out above, is based on the Council attaching “limited” weight to this “fall-back” position. The EA has updated its response should the Board attribute greater weight to this “fall-back” – Appendix N. The final assessment of the weight to be attributed is a matter for this Council and not for the EA.
- 5.8 It is considered that, given the real prospect of this lawful use being taken up – Appendix E - it should carry significant weight. Even if the Board considered that it carried only moderate weight, that is still greater than that assumed by the EA in its analysis of flood risk. This position has been put to the EA and its response is at Appendix N. This is not to lessen the weight to be given to the EA’s position as that is supported through the in-principle conflict with national and local planning policy. It is up to the Board to assess the actual level of conflict with those policies in this particular case.
- 5.9 The matter before the Board is thus to decide the weight to be attached to the EA’s objection. This will come down to a matter of planning judgement. From the outset, Members are advised that there is a clear in-principle conflict here with National and Local Planning policy, as it is agreed by the parties that there will be loss of flood water storage capacity as a consequence of these proposals and that no compensatory storage areas are proposed. The comments from the EA are not a “Direction” as to how the Council should deal with the case. There is no Statutory requirement to refuse these applications based on the EA’s letters. However, they should not be ignored, and it is thus necessary for the Board to attribute the weight that it should give to the letters and thus the degree of conflict with these policies. This is a matter of planning judgement. In this particular case, based on the circumstances here, the actual level of conflict is considered to be moderate in extent. There are several reasons for this.
- a) A Flood Risk Assessment has been undertaken by the applicant and found to be “fit for purpose” by the EA. The scale of the displacement has been agreed and the impact of that has been found to be within the tolerances of the agreed modelling by the EA. As a consequence, the level of risk is considered to be low.

- b) The applicant has shown that compensatory storage areas are not physically or hydraulically practical on site, and that such storage on other adjoining land in his ownership has not been designed or costed to see if it would function, or if it would be viable. It would also remove established bio-diversity and habitats. Because the level of risk is low without such mitigation, the lack of it is not considered to materially increase the level of risk.
- c) Notwithstanding the position set out in the updated paragraph 049 of the NPPG as focussed on by the EA, that paragraph concludes by saying that, “Where it is not possible to fully mitigate the impacts of development on flood plain risk elsewhere, now and in the future, the site-specific flood risk assessment will need to fully detail the extent and nature of the increase in risk and to assess its significance. This is likely to be a key consideration in whether planning permission is granted” – see paragraph 5.14 above. The applicant considers that his Assessment shows “low” risk, and that matters (a) and (b) above would fall within the ambit of the above wording. The EA however maintains its in principle objection saying that the model tolerances should not be used to justify the loss of floodplain storage. However, this would appear not to take account the wording of this part of the NPPG advice.
- d) In this actual case, there is a “fall-back” position which would attract significant weight by the Council. That “fall-back” is acknowledged by the EA and its last response has indicated its position if the Board does give “significant” weight to the “fall-back” – i.e. not wishing to pursue flood risk as a reason for refusal.

5.10 It is in these circumstances, that it is considered that in this particular case, the degree of conflict with the identified policies is moderate in scale. As such moderate weight is to be given to the EA’s objection.

c) Conditions

5.11 If the development does proceed, then there is still a “risk” that the remainder of the site – the open land – could still be used for the storage of containers (albeit on a lesser scale). This would thus further reduce the remaining flood storage capacity of the site. The EA clearly would want to avoid this, and in this respect would support such a restrictive condition. One has been agreed, to preclude the storage of containers: “No storage of containers shall be permanently retained on the site without the prior written approval of the Local Planning Authority.

Reason: To reduce the risk of flooding.

5.12 The one matter that runs through the report above, is the prospect of compensatory flood storage either on site, or on adjoining land within the applicant’s control. Members will be aware of “Grampian” conditions whereby the wording says that, “No development shall commence on site until such time as ????? is provided on site”. This might be an appropriate approach here in order to provide compensatory storage. However for such a condition to meet the statutory tests for conditions, there has to be a realistic prospect, in this case, of that storage being designed so as to work from an engineering point of view, to be approved and to be implemented on site. The applicant has indicated that on-site provision

would not work physically or hydraulically and effectively prevent the implementation of the permission. Off-site provision has not been designed and therefore its functionality has not been calculated or assessed by the EA. Its viability and cost are therefore unknown. Additionally, both the EA and the applicant acknowledge that the flood risk is within the limits of the agreed modelling. It is in all of these circumstances that officers consider that such a condition in this case, would not be appropriate.

d) The Final Planning Balance

- 5.13 This balance was set out at the date of the previous report and again in paragraph 5.1 above. The moderate harm attributed to the EA objection has now to be added to the harm side of that balance, and as a consequence, a re-assessment has to be made. The previous assessment concluded that the cumulative harms were “clearly” outweighed so that there were the very special circumstances that would enable support to be given to the grant of planning permission. In light of the additional harm identified, the “gap” between the two sides of the balance will have closed, such that the final assessment is now more finely balanced. The Board’s current position is that it is minded to support the grant of planning permissions here. It now has to consider whether that position should be overturned, because of the additional harm added to that side of the balance by the EA objection.
- 5.14 Officers would say that this is not the case. The EA objection is one of an in-principle position, albeit with policy support, but that it should be given moderate rather than significant weight because of the matters identified in paragraph 6.9 above. In other words, that objection should be assessed in the circumstances of this particular site and these particular proposals. It is considered that the wording of the NPPF and NPPG paragraphs referred to above allow for this approach to be taken, notwithstanding the wording of the Local Plan policies. Whilst planning decisions should be taken in compliance with the Development Plan, material planning considerations can indicate otherwise – the NPPF, the NPPG and the matters in paragraph 6.9 are those considerations here.
- 5.15 In these circumstances, the benefits side of the planning balance would still outweigh the cumulative harms identified

Recommendation

- a) That the Board is minded to GRANT planning permission for both applications and that as a consequence, they are both referred to the Secretary of State as being “Green Belt development” within a “flood risk area” under the 2024 Direction to see if he wishes to call-in either or both of them for his determination.
- b) That if there is no intervention on either application, planning permissions are granted subject to the following conditions.

a) PAP/2023/0422

1. Standard three-year condition.
2. Standard plan numbers condition:
 - i) Plan numbers:
7281/004A,005A,006,007A,009C,010C,012A,014A,015,018C,16B and 10948 all received on 19/10/23 together with the tree protection plan and the planting plan numbered 11828L/PP/001A both received on 29/11/23.
 - ii) The Arboricultural Method Statement received on 26/10/23.
 - iii) The Lighting Strategy ref: 2522/E3 dated 8/9/23 received on 19/10/23.
 - iv) The Construction Transport Management Plan received on 13/11/23.
 - v) The Demolition Method Statement received on 19/10/23.
 - vi) The Bio-Diversity Impact Assessment prepared by Harris Lamb and referenced PE0412 dated January 2024.
 - vii) The Landscape and Ecological Management Plan prepared by Harris Lamb referenced PE0412/ENV/LEMP dated January 2024.
 - viii) The Construction and Environmental Management Plan prepared by Harris Lamb referenced PE010 dated January 2024.
3. No storage of containers shall be permanently retained on the site without the prior written approval of the Local Planning Authority.

REASON

To reduce the risk of flooding.

4. There shall be no development above slab level until a Noise Impact Assessment, based on BS4142, has first been submitted to the Local Planning Authority. The Assessment shall specifically address the installation and location of internal and external fixed plant and machinery, together with the measures to be introduced to ensure that noise levels do not exceed the limits set out in Condition 4. Development shall then only proceed in accordance with any mitigation measures that have been approved in writing by the Local Planning Authority.

REASON

in the interests of reducing noise emissions from the site.

5. The rated noise level as defined in BS4142:2014+A1:2019 from the operation of the development hereby approved, shall not exceed the background noise level of the curtilage of any noise sensitive property existing or consented at the time of the application. For the avoidance of doubt background noise levels are defined in Table 11 of the Delta Simons Noise Impact Assessment (ref: 101714.591889 11th September 2023).

REASON

In the interests of reducing noise emissions from the site.

6. Plus drainage conditions

b) PAP/2023/0421

1. Standard three-year condition.

2. Standard plan numbers condition:

- i) Plan numbers 7281/007A; 006 and 018C, together with 10948 all received on 19/10/23 and the tree protection plan received on 29/11/23.
- ii) The Arboricultural Method Statement received on 26/10/23.
- iii) The Construction Transport Management Plan received on 13/11/23.
- iv) The Demolition Method Statement received on 19/10/23.
- v) The Asbestos Demolition Survey received on 19/10/23.
- vi) The Fire Statement received on 19/10/23.

Plus drainage plans and conditions

General Development Applications

(5/b) Application No: PAP/2023/0421 and PAP/2023/0422

W H Smith And Sons (tools) Ltd, Water Orton Lane, Minworth, Sutton Coldfield, B76 9BG

- a) PAP/2023/0421-Engineering operations to facilitate the construction of new industrial unit comprising ground re-profiling, installation of storm and foul water drainage provision, demolition of existing buildings and structures.**
- b) PAP/2023/0422 Demolition of existing buildings and structures to facilitate the erection of a new industrial unit (Use Class B2) associated with battery technology for the production of electrically powered vehicles; canopy, ancillary storage and office use, re-profiling of site levels, erection of two silos, water sprinkler tanks, pump house, provision of photo-voltaic roof panels, service yard including security barrier, associated parking including cycle shelters and landscaping.**

both for WHS Plastics

1. Introduction

1.1 The receipt of these applications was referred to the Board in November in order to enable Members to have an early understanding of the proposals prior to their determination. That report is attached at Appendix A. A site visit has also been undertaken and a note of this is attached at Appendix B. Both Appendices should be taken as being an integral part of this determination report.

1.2 As pointed out in that last report, there may need to be a referral of the case to the Secretary of State because of the proposals being "green belt" development, as defined by the 2021 Direction. This matter is dealt with later in the report.

1.3 The applicant is proposing a Unilateral Undertaking under Section 106 of the 1990 Planning Act with the Birmingham City Council in order to add to and upgrade road signage in Water Orton Lane.

1.4 The Board is advised that there has been no change to the Development Plan since November. The National Planning Policy Framework (the "NPPF") was updated in mid-December 2023. However, the changes do not affect the approach to new development proposals within the Green Belt. The Board should also be aware that the Biodiversity Gain Requirements (Exemptions) Regulations will come into force during January.

2. Consultations

Warwickshire County Council as Highway Authority – No objection as the access is in the Birmingham City Council's area.

Warwickshire County Council as Lead Local Flood Authority – It raised an initial objection and required a significant amount of additional detail and clarification. This has been provided by the applicant and forwarded to the Authority in the form of an updated

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Flood Risk Assessment. At the time of preparing this report, the County Council has yet to respond. The Board will be updated at the meeting.

Warwickshire Ecologist – The initial response did not indicate an objection in principle but asked for a number of additional surveys be undertaken together with a full Bio-Diversity Impact Assessment using the relevant metric. All of this has now been completed and is with the County Ecologist at the time of preparing this report. Members will be updated at the meeting.

Warwickshire Archaeologist – No comments received.

Warwickshire Arboriculturalist - No objection to the Arboricultural Method Statement submitted to protect existing trees that are to be retained.

Environment Agency – The Agency has asked for more detail given the proximity of the River Tame and its flood defences. The Board will be updated at the meeting. It has received the same updated documentation as the Flood Authority.

Birmingham City Council (Highways) – No objection subject to conditions.

Environmental Health Officer – No objection subject to conditions.

Cadent – No objection in principle

National Rail – It has provided a schedule of detailed operational matters which the applicant will need to address if the proposal goes ahead.

3. Representations

Water Orton Parish Council – The Council is supportive but wishes to see:

- better cycle connections into the village.
- A traffic management plan for the use of the Vesey Bridge.
- A new bus stop in the village.
- Named contacts in a Construction Management Plan.

Water Orton Heritage Conservation Society refers to the following matters:

- The heritage asset at the Vesey Bridge should not be harmed.
- The building is tall.
- There should be no river pollution.

There are two letters of objection. The matters raised refer to:

- There is already noise emanating from the present use of the site.
- There will be greater light pollution.
- The building is too high, rising above the existing one.
- There are issues with the use of the Vesey Bridge

4. Observations

a) The Green Belt

- 4.1 The site is in the Green Belt. Here, the NPPF says that inappropriate development is harmful to the Green Belt and that it should not be approved except in very special circumstances. The substantive proposal here is that described in the application for a new building. The construction of new buildings is defined in the NPPF as being inappropriate development and thus there is a presumption here to refuse this proposal. However, the NPPF does define a number of exceptions and the Board will need to consider whether any of these might apply here. There are two "exceptions" which might do so – where the new building is a replacement and secondly, if it comprises the partial or complete redevelopment of previously developed land, whether redundant or in continuing use. Each of these will now be reviewed.
- 4.2 In this case, the replacement building would be in the same Use Class as the existing – a B2 General Industrial Use as defined by the 2020 Use Classes Order. The proposal is explicitly for a B2 Use and the lawful use of the land is a B2 use – see section 4 of Appendix A. As such the proposal passes the first test under this exception. The second test is that the replacement building is not materially larger than the one it replaces. There is no definition of "materially larger" in the NPPF, but Local Plan policy LP3 says that each case should be treated on its own merits and that both quantitative and qualitative assessments should be made. The justification for the policy suggests that a 30% volume increase could be taken as a guide for the quantitative assessment. In this case, the volume of the existing building on the site is around 18,850 cubic metres and that of the new one is around 91,500 cubic metres – just under a 400% increase. If a 30% increase is "accepted" on top of the existing, giving the "existing" figure a volume of around 24,500 cubic metres, that would still represent a 350% increase. It is considered that as such, this increase is material in quantitative terms.
- 4.3 The significance of looking at each case on its merits is important here. This is because the existing lawful use for wooden pallet recycling and its previous use for coal bagging, were both operating with significant levels of open storage on the site. This has been verified by the Council through the issue of a Certificate of Lawfulness for open storage in 2019. The last occupier has confirmed the scale of that storage – see Section 4 of Appendix A. This storage thus took up space in three dimensions and was also essential to the operation of both of the previous B2 uses on the site. It is considered proportionate and reasonable that this can be taken into account in the assessment of whether there is a "materially" larger outcome with this proposal. Members will recall that the Council has adopted this approach at other Green Belt sites - the Builders Yard in Common Lane, Corley, Corley Nurseries and more recently in the former Daw Mill Colliery Planning Inquiry. In the latter case, the Planning Inspector did not reject this approach. Discussion with the applicant, and based on the evidence submitted, it has been agreed that there should be a volumetric allowance for the open storage of some 46,000 cubic metres. If this is added to the existing building, plus the 30%, the total is around 70,

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600 cubic metres. This is still below the 91,500 cubic metres of the building proposed – still just under a 30% increase. The 30% should not be counted twice and thus it is still considered that in quantitative terms the new building should be treated as being materially larger than the combined size of the existing building and its associated operational open storage areas.

- 4.4 Looking now at the qualitative issues, then the new building would be partly on the same footprint as the existing, thus satisfying one of the issues identified in Policy LP3. There would be a visual improvement too given the unkempt and derelict state of the existing building and the open yard, even when it was fully operational. However, the massing and scale of the building would be materially different with it extending over a far greater area than the existing. Moreover, outside storage was variable and thus the perception of the yard as being “full” will have changed over periods of time. In all of these circumstances it is considered that the new building would from a qualitative point of view still be materially larger than the existing.
- 4.5 As a consequence of the above analysis of the first exception, the replacement building would be materially larger than the existing and as such it is inappropriate development in the Green Belt.
- 4.6 The second exception is whether the proposal represents the complete redevelopment of previously developed land (“PDL”). PDL is defined amongst other things in the NPPF as being “land, which is or was occupied by a permanent structure including the curtilage of the developed land”. This is the case here. The exception is however conditional. The test for the proposal not being inappropriate development, is that it would not have a greater impact on the openness of the Green Belt than the existing development. The test is quite explicit – the comparison is against the “existing” development. Whilst the existing building is on the site, the majority of it, is an open yard. This is the base-line against which the comparison should be made. There is no definition of openness in the NPPF, but National Planning Guidance recommends that an assessment should be made up of four elements. The first is a spatial element. Here a substantially larger building would be proposed – not only in footprint but also in volume. Its massing would also be substantially different. The appearance of the site would be spatially materially changed. The second element is a visual one. The new building would materially change the appearance of the site. The building would be larger, taller and cover a greater area. The third element is to assess the levels of activity of the proposed development. The site is presently unoccupied and thus there would be a material change in both vehicular and human activity. Finally, the development would be permanent and not temporary. As a consequence of these four matters, by fact and by degree there would be a greater impact on the openness of the Green Belt. The proposal, when assessed under this exception would be inappropriate development in the Green Belt.

- 4.7 Hence, when assessed against the tests applicable to both exceptions, the proposed new building would be inappropriate development in the Green Belt.
- 4.8 Members are reminded that there are two applications submitted – one in essence is for the new building and its associated infrastructure plant and structures, and the second for the engineering operations on the ground to accommodate this. Under the NPPF, engineering operations might not be inappropriate development in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
- 4.9 In this case, the proposed operations are for ground works including demolition together with new drainage infrastructure in order to accommodate the new building and its service yard. The proposals do not include any changes to the embankments presently surrounding the site. As a consequence, it is considered that these operations if considered separately would preserve the openness of the Green Belt as they are all surface works within the site's perimeter embankments. Indeed, the demolition would enhance openness. There is neither a conflict with purposes of including land within the Green Belt.
- 4.10 In conclusion therefore, the proposals when taken as a whole do comprise inappropriate development in the Green Belt. Substantial weight is thus to be afforded to this definitional harm.
- 4.11 It is also necessary to establish what the actual Green Belt harm might be on the ground. When all of the assessments above are taken into account, it is considered that there would be moderate actual Green Belt harm. It would not be limited harm, because of the quantitative assessment made in paragraph 3.3 and the change acknowledged in para 3.6. However, it would not be as great as significant harm, because of the potential consequences on the openness of the site arising from the lawful use of the site and the 2019 Certificate of Lawfulness.

b) Other Harms

i) Heritage Matters

- 4.12 There are no heritage assets on the site. The two that are nearest to the site are the Grade 2 star Listed Vesey Bridge – some 300 metres to the east and the Water Orton Conservation Area, the western boundary of which is some 400 metres distant.
- 4.13 Local Plan Policy LP15 says that the quality, character, diversity and local distinctiveness of the Borough's historic environment will be conserved and enhanced. In order to do so an assessment has to be made of the potential impact of the proposals on the significance of heritage assets that might be affected by new proposals. The applicant has provided such an Assessment. Each asset will be looked at in turn.
- 4.14 The Council in under a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of its Conservation Areas. The significance of the Water Orton Conservation Area is that it recognises the historic core of the village which lies between the River Tame and the railway line on raised ground,

but where there was a river crossing at the Vesey Bridge. It is proposed to extend it further to the south to include the villages' later evolution. The nearest part of the Area to the proposed development is over 400 metres away. The application site has no historical link to the Area and in between is the residential estate of Mercer Avenue which itself stands on higher ground. The application site thus also plays no part physically or visually in the setting or the significance of the Area or its proposed extension. The intervening land will remove any visual impact arising from the height of the new building. As a consequence, no harm is caused.

4.14 The Council is also under a statutory duty to have special regard to the desirability of preserving a listed Building or its setting or any features of special architectural or historic interest which it possesses. There are such buildings in the vicinity of the site.

4.15 The Vesey Bridge referred to above is a Grade 2 Star Listed Building. It marks the location of the original river crossing and is thought to have replaced an earlier structure in 1520. It is now a narrow sandstone masonry structure that has been repaired over time with the current parapets dating from the 19th Century. Notwithstanding its proximity to the village, it has a largely rural and isolated setting in the river valley with a well wooded backdrop. It thus has historical, architectural and visual significance. The nearest part of the development is some 280 metres to the west and the proposed new building would be taller than its neighbours and come closer to the bridge than the existing arrangement. There is however a tree belt in between and additional planting is proposed. At present, these trees screen views and also because of the distances involved and the topography, the application site does not impose or intervene into the setting of the Bridge. However, the top of the proposed building and the increased levels of light, may well become visible when looking west from the bridge. However, given the distances involved, the intervening trees and that the night-time lighting levels here reflect the urban/commercial development further to the west, this would cause less than substantial harm to the setting of the bridge.

4.16 There are three other Grade 2 Listed buildings in the older part of Water Orton within the existing Conservation Area, all on Old Church Road. These are the medieval cross in the grave-yard on the northern side of the road; the 15th Century timber framed house known as The Chestnuts and the nearby Wakefield House probably of early 16th Century origin but with mainly 17th Century additions. Both would have been in the centre of the original settlement and have rural characteristics and are reminders of the agricultural prosperity of the village. Combined, these all have historical, architectural and community significance for the village. The proposed building would not be visible and would not affect the setting of these assets which is really restricted to their local area.

4.17 In conclusion therefore, in respect of the potential heritage impacts of the proposals, this would amount to the less than substantial harm to the setting of the Vesey Bridge.

ii) Residential Amenity

4.18 Local Plan Policy LP29 (9) says that new development should avoid and address unacceptable impacts on neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution.

4.19 The main concerns here are the potential noise and light emissions arising from the proposed redevelopment of the site. In terms of its setting, then as already referred to, the site has a lawful B2 General Industrial Use including significant areas used for open storage and with no working hour restrictions. It also adjoins a well-used railway line. Residential properties immediately back onto this railway line – at Smiths Way – and these stand at a much higher level than the line and the site due to the embankment which is well covered with trees. Their rear elevations are around 110 metres from the new building. There are also residential properties, some 200 metres to the east, at Mercer Avenue. There is tree cover between them and the site. There have been complaints about noise emissions from the use of the site – particularly at night when the wooden pallet use was in occupation.

4.20 The proposal does provide an opportunity to improve existing and particularly the former noise environment of the site. This opportunity provides the removal of a substantial area of open storage yard which was wholly used by previous occupiers; the main service/loading and unloading areas would be on the north side of the new building and a secondary loading area at the rear would be enclosed within a canopy. The proposed building would also be taller than an existing building to the south and that extends beyond the rear of the proposed building and its parking area. In general terms the existing building to the south together with the taller, purpose-built proposed building would act as a noise buffer.

4.21 The Council's Environmental Health Officer has reviewed the applicant's noise assessment and agrees that there would be a betterment. That can be protected through the use of planning conditions which set noise thresholds and which would require further assessment once the exact specification for the new plant is known.

4.22 In terms of the lighting impacts, then the proposal includes a detailed lighting strategy which essentially enables different light standards to be adopted at different locations. The highest standard would be along the northern elevation with its docking bays and within the rear canopied storage yard. A variety of different heights would thus also be used for the lighting columns.

4.23 The Council's Environmental Health Officer considers that there would be minimal lighting impact beyond the application site boundary and thus has no objection to the proposed strategy.

4.24 In all of these circumstances, it is considered that the proposal would accord with Policy LP29 (9).

iii) Landscape

4.25 Policy LP14 of the Local Plan says that new development should look to conserve, enhance and where appropriate restore landscape character so as to reflect that as described in the North Warwickshire Landscape Character Assessment of 2010. In this case the site is within the "Cole Valley" landscape area, described as being a broad flat valley dominated by busy roads, which is contained by urban areas with substantial industrial influences, but with remnants of isolated and fragmented arable and pastoral landscape.

4.26 In these circumstances and particularly with regard to the immediate setting of the site and past uses, it is considered that the sensitivity of the site to change is low and thus the proposals could be integrated into this landscape without adversely affecting the characteristics of the whole of the Landscape Character Area. The scale, appearance and use of the proposed development is compatible with the landscape of the setting of the site. Any new landscape mitigation would enhance this conclusion by re-enforcing the established perimeter woodlands.

4.27 The proposal would thus accord with Local Plan policy LP14.

iv) Design and Appearance

4.28 Local Plan policy LP30 says that new development should respect and reflect the existing pattern, character and appearance of its setting. This is the case here given the appearance of the immediate surroundings and the neighbouring similar buildings. The building would not stand alone or be isolated from its neighbours.

4.29 Moreover, the building would integrate into its location without any long term adverse visual effects. It is likely that it will be glimpsed from a short section of Water Orton Lane, but the whole of this range and complex of buildings is significantly well screened by established woodland when travelling along the Lane. The height of the building is the most significant difference in the appearance of this building, but the site itself is low lying, below the top of the railway embankments to the south and the rising ground between it and the village to the east. The houses to the south of the railway embankment back onto that embankment and stand at a much higher level than the site which together with the heavily landscaped nature of that embankment will mitigate against any significant visual impact. Overall, it is considered that there would be only minimal harm and thus that the proposal would satisfy policy LP30.

v) Highway Matters

4.30 Local Plan Policy LP29(6) says that safe and appropriate access should be provided for all users of new development. The purpose of Policy CP01 of the Water Orton Neighbourhood Plan is to "limit any adverse impact of traffic on the village and its residents". The NPPF advises that planning permission should not be refused on highway grounds unless there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Here the existing arrangements onto Water Orton Lane are actually within the administrative area of Birmingham City Council. It is therefore the relevant highway authority in this case, not the Warwickshire County Council.

4.31 The applicant considers that the potential traffic generation from the development would be between 12 and 15 two-way movements in the respective peak periods, with around 180 daily two-way trips. It is said that the previous occupier generated around 160 two-way daily movements. Additionally, the lawful use of the land is for unrestricted general industrial use and a new occupier here could well generate similar levels of traffic. Given this background, the proposal does not offer any changes to those existing access arrangements.

4.32 The City Council has not raised an objection as it considers that there is unlikely to be a severe impact on the surrounding highway network given the planning circumstances of the site and the projected activity arising from the proposal. It also welcomes the additional wayfinding/road signage that is to be the subject of the Unilateral Agreement.

4.33 Whilst the access is in the City Council's remit, the actual site is in Warwickshire. The County has no objections to the internal site layout arrangements, nor to the Construction Traffic Management Plan which has all traffic entering and leaving the site from the west – from Minworth.

4.34 The parking arrangements and provision satisfy the Council's requirements as set out in Local Plan policy LP34.

4.35 One of the most significant matters raised and understandably so, is to ensure that there is no impact on the Listed Vesey Bridge as a consequence of increased use. The physical characteristics of the bridge and the existing consequential Traffic Regulation Order restrict additional traffic arising from this proposal using it. At present too, there is signage on Water Orton Lane in the vicinity of the site's access warning of the traffic restrictions on the "bridge" and the existing site access does enable space for vehicles to turn, so as to avoid the "hazard". The Construction Transport Management Plan avoids the use of the bridge and the applicant will ensure contractors and eventually drivers attending the site are aware of the concern. The applicant is also proposing to enter a Unilateral Undertaking under Section 106 of the 1990 Act, to add to and "upgrade" the warning signage. This is not a direct requirement as a consequence of the proposal and thus should not carry any weight in the final planning balance. However, it is a welcome offer.

4.36 The proposal overall therefore is considered to satisfy policy LP29 (6).

vi) Ecology and Bio-Diversity Matters

4.37 Local Plan policy LP 16 says that the quality, character, diversity and local distinctiveness of the natural environment is to be protected and enhanced as appropriate relative to the nature of the development proposed and net gains for bio-diversity should be sought where possible. Members should be aware that the new Regulations referred to in para 1.4 above would not "exempt" these proposals from the 10% bio-diversity nett gain requirement.

4.38 The applicant's ecological appraisals identified no nationally designated nature conservation sites within two kilometres of the site. There were however twenty non-statutory sites within that distance. The appraisal found that habitats found on the site consisted mainly of hardstanding and "neutral grassland" with other scrub land – all in poor condition - but with lines of perimeter trees which were in moderate condition. The appraisal found that there was unlikely to be any significant impact on protected species.

4.39 In the initial response from the County Ecologist, it was agreed that the proposals would not be expected to impact on either of the statutory sites. In respect of the non-statutory sites, particularly those connected to the River Tame and Water Orton Sidings, mitigation measures including an eight-metre, wide buffer, will however be needed during the construction period to prevent pollution and soil/dust deposition as well as appropriate filters in the drainage system to prevent polluted surface water entering the River Tame. The County Ecologist also agreed that there would be unlikely to be significant impacts on species, but that a number of mitigation measures will be required as precautions – e.g. bird and bat boxes. The additional survey work however would confirm this. As such, an Ecological Management Plan will need to be conditioned.

4.40 In terms of meeting the 10% bio-diversity nett gain requirement, the County Ecologist's comments are yet to be received, but it appears that an appropriate Assessment has been submitted. If this is the case, then the proposed landscaping plan includes the introduction of a number of different species in order to improve the condition of the surrounding habitats. The applicant considers that overall, these proposals would result in a 35% net gain in habitat bio-diversity, together with a 80% nett gain in hedgerow bio-diversity. The Ecological Management Plan would include the measures to monitor and manage these gains.

4.41 If these matters are confirmed by the County Ecologist, then that will be of substantial weight, with no overall adverse bio-diversity impact and with proposed mitigation and landscaping proposals which would achieve the necessary enhancements and meet the new requirements. As such the proposal would then satisfy the requirements of Policy LP16.

vii) Drainage and Flooding

4.42 Local Plan policy LP33 requires amongst other things that new development within Flood Zone three includes a number of mitigation and precautionary measures. As previously reported, the site is predominantly within Flood Zones 2 and 3 and the NPPF states that "less vulnerable" development is compatible within the Zones without the need for exception testing. It is agreed with the applicant that the proposal would be a "less vulnerable development". Members will have noted that the existing perimeter flood embankments are to remain in situ and that the finished floor level of the building is to be raised above the existing ground level – one of the reasons for the height of the building. Additionally, the redevelopment of the site does provide a significant opportunity to install a more bespoke drainage system than presently exists. As a consequence, it is anticipated that there will be no objections in principle from the relevant Agencies.

4.43 However the advice from both the Environment Agency and the Lead Local Food Authority is still awaited. That advice will carry significant weight.

viii) Other Matters

ix) The Harm Side of the Planning Balance

3.44 The cumulative level of harm in the planning balance in this case is thus made up of the substantial definitional Green Belt harm caused, the moderate actual Green Belt harm, the less than substantial heritage harm and minimal visual harm.

c) The Applicant's Material Planning Considerations

4.45 The harm identified above has to be assessed in the final planning balance, against the planning considerations put forward by the applicant on the other side of that balance. In this case he has identified the following matters.

4.46 The main consideration advanced is the content of Local Plan Policy LP11. Amongst other things, this says that there is a need to broaden the employment base of the Borough and to improve the employment choices and opportunities of local people. Additionally, there is a need to protect all employment land and to support the expansion of established businesses subject to there being no significant and demonstrable harm. This policy is supplemented by policies CPO1 and 3 in the Water Orton Neighbourhood Plan which both refer to the same considerations. The policies are also said to align with the NPPF in its support for economic growth taking into account local business needs as well as wider opportunities.

4.47 The applicant points out that the proposal is an industrial B2 use, rather than a B8 distribution use, and the building would accommodate a new production facility associated with the electrification of the motor industry. Some 60 skilled manufacturing jobs are to be created as well as skills within the existing business being retained in order to support the new facility. The end product is an essential component for battery powered vehicles and thus the proposal would also assist in achieving the wider environmental objectives of the Council through its Climate Action Plan. The proposal would therefore broaden the employment opportunities in the Borough as well as make use of previously developed land that has a lawful industrial use.

4.48 Other considerations include the opportunity improve the appearance of the area as well as to enhance the bio-diversity of surrounding land within the ownership of the applicant.

4.49 It is considered that these considerations when treated together should carry substantial weight.

d) The Final Planning Balance

4.50 Members now have to assess the final planning balance. The "test" here is whether the weight attributed to the planning considerations put forward by the applicant, "clearly" outweigh the cumulative level of harm caused, in order to amount to the very special circumstances necessary in order to support this inappropriate development in the Green Belt.

4.51 It is considered that they are. This is because the actual level of Green Belt harm likely to be caused is of moderate weight with no other significant harms being caused. This is outweighed by the substantial weight given to the proposal wholly satisfying Development Plan policy in respect of economic regeneration through its re-use of previously developed land within a lawful general industrial use and for its contribution to the climate change agenda. The benefits of the proposal as put forward by the applicant would also outweigh the less than substantial heritage harm identified.

Recommendations

- a) That the Board is minded to grant planning permission for both applications and that as a consequence, they are both referred to the Secretary of State as being "Green Belt development" under the 2021 Direction to see if he wishes to call-in either of them for his own determination.
- b) If there is no intervention, then planning permissions are granted subject to the following conditions, together with other conditions arising from the final consultation responses from the Environment Agency, the Lead Local Flood Authority and the County Ecologist.
- c) If either the Environment Agency, the Lead Local Flood Authority or the Ecologist maintains an objection, the cases are referred back to the Board, notwithstanding the response from the Secretary of State.

PAP/2023/0422 - The Redevelopment of the Site

- 1. Standard three year condition
- 2. Standard plan numbers condition:
 - a) Plan numbers 7281/004A, 005A, 006, 007A, 009C, 010C, 012A, 014A, 015, 018C, 16B and 10948 all received on 19/10/23 together with the tree protection plan and the planting plan numbered 11828L/PP/001A, both received on 29/11/23.
 - b) The Arboricultural Method Statement received on 26/10/23.
 - c) The Lighting Strategy ref: 2522/E3 dated 8 September 2023 received on 19/10/23.
 - d) The Construction Transport Management Plan received on 13/11/23.
 - e) The Demolition Method Statement received on 19/10/23.
 - f) The Bio-Diversity Impact Assessment prepared by Harris Lamb and received on 28/11/23.
 - g) The Framework Travel Plan received on 19/10/23.

Pre-Commencement Conditions

- 3. No development shall commence on site, including demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. In particular the Plan should detail the proposed measures to monitor and mitigate emissions of noise, vibration (piling) and dust during both construction and demolition periods. In terms of noise and vibration, reference should be made to BS5228 Parts 1 and 2. The Plan shall state that no construction or demolition work shall take place, other than for unforeseen emergency work, before 0800 hours and after 1800 hours on Mondays to Fridays; before 0800 hours and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays. The Plan that is approved in writing shall be adhered to at all times during the demolition and construction periods.

REASON

In order to protect residential amenity

4. There shall be no development above slab level until a Noise Impact Assessment, based on BS4142, has first been submitted to the Local Planning Authority. The Assessment shall specifically address the installation and location of internal and external fixed plant and machinery, together with measures that are to be introduced to ensure that noise levels do not exceed the limits set in Condition (3). Development shall then only proceed in accordance with any mitigation measures that have been approved in writing by the Local Planning Authority.

REASON

In order to protect residential amenity

5. There shall be no development above slab level until a Landscape and Ecology Management Plan ("LEMP") has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be in general accordance with the submitted Planting Plan and Table One of the Bio-Diversity Impact Assessment, both approved under condition (2) above. The LEMP shall include:

- a) A description and evaluation of the features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) The aims, objectives and targets for the management regime.
- d) Descriptions of the management operations for achieving the aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period).
- g) Details of the monitoring needed to measure the effectiveness of management.
- h) Details for each element of the monitoring programme
- i) Details of the persons or organisation(s) responsible for implementation and monitoring.
- j) Mechanisms of adaptive management to account for necessary changes in the work schedule to achieve the required aims, objectives and targets.
- k) Reporting procedures for each year 1, 2, 5, 10, 20 and 30 with bio-diversity net gain reconciliation calculated at each stage.
- l) The legal and funding mechanisms by which the long-term implementation of the LEMP will be secured by the developer and the management body(ies) responsible for its delivery.
- m) How contingencies and/or remedial action will be identified, agreed and implemented in the event that monitoring under (k) above, shows that the conservation aims and objectives set out in (c) above are not being met, so that the development still delivers the full functioning bio-diversity objectives of the originally approved scheme.

REASON

In order to enhance and deliver bio-diversity gain and ecology benefits.

Other Conditions

6. The rated noise level, as defined in BS4142:2014+A1:2019, from the operation of the development hereby approved, shall not exceed the background noise level at the curtilage of any noise sensitive property, existing or consented at the time of the application. For the avoidance of doubt, background noise levels are defined in Table 11 of the Delta-Simons Noise Impact Assessment (ref: 101714.591889 11th September 2023.)

REASON

In order to protect residential amenity

Notes:

- a) The Local Planning Authority has met the requirements of the NPPF in this case through the issue of a positive outcome with full engagement with the applicant in order to overcome technical concerns raised by statutory consultations as well as to seek amendments so as to mitigate adverse environmental impacts.
- b) The applicant is advised to contact Network Rail at the earliest opportunity as the proposals may impact on existing operational railway assets. Such impacts may include glare from solar panels as well as the use of vibro-impact machinery used the construction of the building.
- c) Cadent Gas Ltd own and operate gas infrastructure in the area. Prior to the carrying out of works, contact must be made with Cadent in order to submit details of the planned works ensuring that requirements are adhered to – www.linerearchbeforeyoudig.co.uk.

PAP/2023/0421 – The Engineering Operations

- 1. Standard Three Year Condition
- 2. Standard plan numbers --- plan numbers 7281/007A; 006, 009C and 18C together with 10948 all received on 19/10/23 and the Tree Protection Plan received on 29/11/23.
The Arboricultural Method Statement received on 26/10/23.
The Construction Transport Management Plan received on 13/11/23.
The Demolition Method Statement received on 19/10/23.
The Asbestos Demolition Survey received on 19/10/23.
The Fire Statement received on 19/10/23.

3. No development shall commence on site, including demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. In particular the Plan should detail the proposed measures to monitor and mitigate emissions of noise, vibration (piling) and dust during both construction and demolition periods. In terms of noise and vibration, reference should be made to BS5228 Parts 1 and 2. The Plan shall state that no construction or demolition work shall take place, other than for unforeseen emergency work, before 0800 hours and after 1800 hours on Mondays to Fridays; before 0800 hours and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays. The Plan that is approved in writing shall be adhered to at all times during the demolition and construction periods.

REASON

In order to protect residential amenity

Notes:

- a) The Local Planning Authority has met the requirements of the NPPF in this case through the issue of a positive outcome with full engagement with the applicant in order to overcome technical concerns raised by statutory consultations as well as to seek amendments so as to mitigate adverse environmental impacts.
- b) The applicant is advised to contact Network Rail at the earliest opportunity as the proposals may impact on existing operational railway assets. Such impacts may include glare from solar panels as well as the use of vibro-impact machinery used the construction of the building.
- c) Cadent Gas Ltd own and operate gas infrastructure in the area. Prior to the carrying out of works, contact must be made with Cadent in order to submit details of the planned works ensuring that requirements are adhered to – www.linesearchbeforeyoudig.co.uk

APPENDIX A

General Development Applications

(5/e) Application No: PAP/2023/0422

WHS Plastics, Water Orton Lane, Minworth

Demolition of existing buildings and structures on site to facilitate the erection of a new industrial unit (Use Class B2) associated with battery technology for the production of electrically powered vehicles; canopy, ancillary storage and office use, re-profiling of site levels, erection of two silos, water sprinkler tanks, pump house, provision of photovoltaic reef panels, service yard including security barrier, associated parking including cycle shelters and landscaping.

a) PAP/2023/0421

WHS Plastics, Water Orton Lane, Minworth

Engineering operations to facilitate the construction of new industrial unit comprising ground re-profiling, installation of storm and foul water drainage provision, demolition of existing building and structures.

both for

WHS Plastics

1. Introduction

- 1.1 These two applications relate to the same site and are treated together. They are reported to the Board at the discretion of the Head of Development Control in view of their significance in a Green Belt location. The report provides an introduction to the proposals prior to a final determination report being brought to the Board at a later date.
- 1.2 The report describes the site and outlines the proposals together with summarising the supporting documentation. The most important planning policies relevant to their determination will also be identified, as well as any other material planning considerations.
- 1.3 Members should be aware that because of the location of the site in the Green Belt, there may need to be a referral to the Secretary of State under the 2021 Direction should the Board resolve to support the proposals. If not, then the applications can be determined by the Council.

5e/27

5b/19

6i/255

2. The Site

- 2.1 WHS Plastics is already established as an industrial site comprising four large buildings and other land to the west of Water Orton lying between the railway line to the south and Water Orton Lane to the north. There are settlement ponds to the west and then the larger warehouses on the Minworth Estate. The Minworth treatment works are to the north beyond Water Orton Lane and the residential outskirts of Water Orton at Mercer Avenue are some 200 metres to the east beyond open land and woodland. On the other side of the railway line is a steep embankment on the other side of which are other residential properties in Smiths Way – some 110 metres distant.
- 2.2 The River Tame flows through the premises between the buildings and Water Orton Lane with a minor tributary to the south.
- 2.3 The actual site for the proposals is flat and lies to the east of the main building and north of another. It is presently occupied by an existing warehouse with canopies, servicing areas and large external storage areas, as well as some smaller outbuildings and cabins. There is also a perimeter mound around the northern, eastern and southern boundaries.
- 2.4 A general location plan is at Appendix A.

3. The Proposals

- 3.1 The supporting documentation indicates that WHS Plastics has been given the opportunity to work with Jaguar Land Rover on a mass production electrification project. This is a requirement to produce 64 to 80 million plastic parts a year. This has led to the need for a new production facility. This would be a purpose-built building to full fill the energy and cleanliness specifications required to produce the parts.
- 3.2 The new building would be around 6000 square metres in footprint (53 by 112 metres) with a B2 General Industrial Use classification. The overall height with the low-pitched roof would be 17.6 metres and there would be solar panels within its southern side. The materials to be used would match those of the Company's existing buildings here – predominantly a range of grey. It would be located on the site of the former warehouse and yard as referred to above once this building has been demolished. The car park (59 spaces) and offices would be located at its western end with the service yards, loading bays and lorry park at its eastern end. There would 24/7 working at the new building.
- 3.3 All access would be via the existing arrangements into Water Orton Lane.
- 3.4 The applicant estimates that 60 jobs would be created.

5e/28

5b/20

6i/256

- 3.5 The overall layout as described above is at Appendix B with the elevations at Appendix C.

4. Background

- 4.1 The site of this proposed building has in the past been used as a coal bagging plant and more recently by a Company involved in the recycling of wooden pallets (Kingsbury Pallets).
- 4.2 The main building here is dated and it can be seen at Appendix D.
- 4.3 A Certificate of Lawfulness was granted by the Council in 2019 for the yard to be used for open storage purposes – see Appendix E.
- 4.4 In respect of this, a letter accompanies the application which says that Kingsbury Pallets did use this yard for the open storage of pallets up to 44 in height. The letter and an attached plan are at Appendix F.
- 4.5 The demolition of the main building is permitted development under Class B of Part 11 of Schedule 2 to the General Permitted Development Order 2015 as amended. The Council has not sought details for prior approval under the conditions attached to Part 11. A Section 80 Notice under the Building Act 1984 for consent of the method of demolition has been issued.
- 4.6 Members will be aware that Water Orton Lane as it exits the village crosses the Vesey Bridge around 200 metres to the east. This has access restrictions, and it is also a Grade 2 Listed Building.

5. Supporting Documentation

- 5.1 A Statement of Community Involvement describes the pre-application consultation undertaken by the applicant with the local community. The refers to a Public Exhibition held in the Library on 6th September between 1430 and 1930 as well as a website. Around 30 residents attended. The main concerns raised included potential HGV movements through Water Orton over the Vesey Bridge, noise from the service yards and light spillage into residential property.
- 5.2 A Noise Impact Assessment identifies sensitive residential receptors in Mytton Road and Smiths Way to the south and Mercer Avenue to the east. It concludes that provided noise from fixed plant does not exceed 45dB in the daytime and night-time there should be no adverse impacts, including no adverse impacts arising from traffic noise.

5e/29

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- 5.3 A Landscape and Visual Impact Assessment has been undertaken and identifies the site as being within a visually well contained setting enclosed by industrial buildings and the rail embankment together with the mature vegetation to the north and east. The wider setting is described as being a mix of industrial and residential uses interspersed with regenerating green infrastructure and the Severn Trent Treatment Works. There is limited vegetation cover on the site with rough grassland along its eastern boundary. The overall conclusion is that the proposals would represent a negligible change to the immediate setting being part of a much larger brownfield site. In the wider setting, there would be little perceived change to the character of the area as the scale and appearance of the development is compatible within the landscape. In respect of the effect on the visual environment, then the Appraisal concludes that the development could be integrated into the location without long term adverse visual impacts. There would be glimpses of the new building from around the site, but it would be seen in its wider context with similar other buildings.
- 5.4 A Lighting Assessment concludes that a scheme has been designed so as to limit both glare and light spillage. This includes LED light sources; appropriately coloured lights, hoods and shields, different specifications for parts of the site and timed periods for when they are used.
- 5.5 A Fire Statement drafts out the Fire Risks and Actions necessary in the event of fire at the site.
- 5.6 A Transport Assessment describes the local highway network, which identifies the limitations of Water Orton Lane to the east with the Vesey Bridge and the engineering works recently constructed at the Marsh Lane/Minworth Road junction to deter HGV traffic travelling north along Water Orton Lane. It also concludes that the site is well-connected for access by walking and cycling as well as for bus services. The Assessment is based on use of the existing arrangements onto Water Orton Lane which is concluded as being adequate for the proposed traffic generation. At present, the access caters for 120 two-way HGV movements and 40 LGV two-way movements a day. The proposal would add 20 two-way daily movements a day. Overall, the Assessment concludes that there would not be "severe" harm caused to the capacity of the local highway network. In respect of local concerns, it does however show a commitment to improve and add signage so as to further deter/warn traffic from turning right towards Water Orton and to warn traffic from the west not to continue beyond the site access. 59 car parking spaces are included, as well as 20 cycle spaces, 6 motor-cycle spaces and 19 HGV spaces. 8 LEV points are proposed.

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- 5.7 A Construction Traffic Management Plan is proposed on the basis of a 10month construction period and based on the condition that there is to be no used by HGV's or LGV's on the Vesey Bridge. Hence all construction traffic would turn right into the site from the Minworth direction and left out towards Minworth. This would be conditioned into the contractor's contracts and there would be on-site management to prevent backing-up. A temporary compound will be needed on the site to be located within the curtilage of the site boundary along with staff visitor car parking. Construction hours would be 0800 to 1800 on weekdays. 0800 to 1300 on Saturdays with no Sunday and Bank Holiday working. Deliveries are to be made between 0800 and 1800.
- 5.8 There are several documents submitted relating to demolition works and procedures.
- 5.9 An Alternative Site Assessment has been submitted. It sets out the operational requirements for the new building and then reviews whether an alternative site might meet these requirements. The Assessment describes the case-law relating to such Assessments. The review of sites was within a five-mile radius of the WHS holding and looked at over 180 locations of which only one met the operational requirements – a site in Erdington. This was not considered suitable because there needed to be significant demolition, the site was adjacent to residential areas and the distance from current operations – 6.7 miles.
- 5.10 An Ecological Impact Assessment concludes that the proposal would not have any impact on any statutorily designated sites of nature conservation interest with no such sites within two kilometres of the site. The site does not support similar habitats to non-statutory sites within two kilometres and given the distances involved and the nature of the intervening development there would neither be no significant impact on these sites. In terms of impacts on habitats on site, then the Assessment describes the site as being predominantly hardstanding and buildings with unmanaged grassland and scrub to the east. The final landscaping proposals should therefore be able to maximise the biological value of the site and achieve measurable on-site bio-diversity gain. In respect of species, then the site has low potential for the presence of greater crested newts and badgers, but mitigation measures should be introduced in respect of bats, reptiles and riparian mammals.
- 5.11 A Flood Risk Assessment identifies the proximity of the main branch of the River Tame as being between 5 and 40 metres north of the site and another small branch of the river around 10 metres south of the site's boundary. There are formal flood defences at present along the banks of the River Tame to the west, southwest and northeast of the site, but these would not afford flood protection to the site. However, there are site-specific flood defence embankments along the northern, eastern and southern perimeters of the site itself. The site is predominantly in Flood Zones 2 and 3. The proposal being for less vulnerable

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development would be compatible within these Zones. Because of the flood defences which are higher than the design flood level, the risk of fluvial flooding is said to be low. The Assessment identifies groundwater flooding as the greatest risk because of the proximity of the Tame and the underlying geology. However, there is no historical evidence of this occurring. The flood defences are proposed to be replaced with new ones positioned closer to the built development than the existing bunds. Additionally, the finished floor levels are to be raised to create a flood-free building. The change to the bunding will reduce the risk of a breach and also provide additional floodplain capacity that may reduce the flood risk elsewhere. The surface water drainage strategy proposed shows that the runoff would be attenuated within a surface water attenuation basin to discharge at the greenfield rates into the Tame at two locations by gravity. This will be assessed by the Lead Local Flood Authority. There is an existing foul water pumping station to the west of the access road and it transfers flows to the adopted foul sewer along Water Orton Lane via a rising main. The development would connect to this system via a new rising main.

- 5.12 A Planning Statement draws these matters together and puts them into a planning policy context. The proposed site is said to be "previously developed land" and thus the exception in the NPPF relating to the complete redevelopment of such land in the Green Belt as not being inappropriate development is reviewed. It concludes that the proposal falls under this exception. With no other harms recorded from the documentation above, the Statement argues that in line with the NPPF, it should be supported as sustainable development.

6. Development Plan

The North Warwickshire Local Plan 2021 – LP1(Sustainable Development); LP3 (Green Belt), LP6 (Additional Employment Needs), LP11 (Economic Regeneration), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP23 (Transport), LP29 (Development Considerations), LP30 (Built Form), LP33 (Water Management), LP34(Parking) and LP35 (Renewable Energy)

Water Orton Neighbourhood Plan - CP01 (Expansion of Existing Businesses) and CP03 (Traffic Impacts)

7. Other Material Planning Considerations

Birmingham Development Plan 2017
The National Planning Policy Framework 2023 – ("NPPF")
The North Warwickshire Landscape Character Appraisal 2010
The Water Orton Conservation Area Designation Report
The Town and Country Planning (Consultation) (England) Direction 2021

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8. Observations

- 8.1 The site is in the Green Belt and thus the key consideration will be for the Board to determine whether or not this is inappropriate development in this location. The applicant considers that it is, as he says it falls under one of the NPPF exceptions – that relating to the complete redevelopment of previously developed land. This conclusion will need to be assessed. If the Board agrees then it will have to determine whether or not there is likely to be any significant and demonstrable harms caused that would outweigh the general support for that appropriate development. If not, then the Board will still need to assess the other harms caused and then undertake the final planning balance of establishing whether the considerations put forward by the applicant “clearly” outweigh the cumulative harms caused so as to amount to the very special circumstances that can support the case.
- 8.2 This assessment will then determine whether the matter is referred to the Secretary of State under the 2021 Direction.
- 8.3 The main harms that are likely to arise and need investigation are noise and lighting together with traffic impacts on the local highway network. Given the proximity to the River Tame, flooding issues will need to be considered as well the need to provide bio-diversity gain.
- 8.4 It is recommended that Members visit this site so as to better understand the setting and thus the planning implications of the proposals.

Recommendation

That the report is noted and that the Board undertake a Site Visit prior to determination.

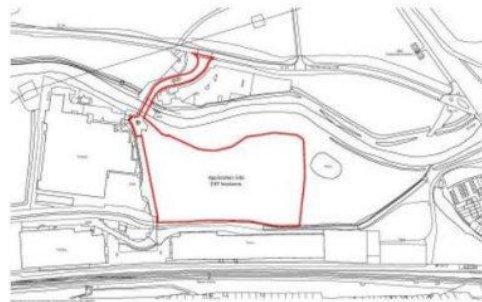
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APPENDIX A

PAP20230422



Work Facility
Water Control

DATE _____

SIGNATURE _____

7285 - 780v A

APPENDIX B

[illegible]

Revised Site Layout Plan

7281 - 100000

APPENDIX E



PAP/2023/0422

APPENDIX 5 Decision Notice PAP/2018/0707



5e/36

5b/28

6i/264



North Warwickshire
Borough Council

Mr Peter Frampton
Framptons
Oriol House
42 North Bar
Banbury
OX16 0TH

Jeff Brown BA Dip TP MRTPI
Head of Development Control Service
The Council House
South Street
Atherstone
Warwickshire
CV9 1DE

Switchboard: (01827) 715341
Fax: (01827) 719225
E Mail: PlanningControl@NorthWarks.gov.uk
Website: www.northwarks.gov.uk

Date: 02 January 2019

The Town & Country Planning Acts
The Town and Country Planning (Listed Buildings and
Conservation Areas) Act 1990
The Town & Country Planning (General Development)
Orders
The Town and Country Planning (Control of
Advertisements) Regulations 1992 (as amended)

DECISION NOTICE

Certificate of Lawfulness Application

Application Ref: PAP/2018/0707

Site Address

Kingsbury Pallets, Water Orton Lane, Water Orton, B76 9BG

Grid Ref:

Easting 417006.82
Northing 291353.66

Description of Development

Certificate of lawfulness for existing use for B2 (General Industrial) & B8 (Storage or Distribution) use

Applicant

W H Smith & Sons (Tools) Limited Retirement Benefits Scheme

Your application was valid on 5 December 2018. It has now been considered by the Council. I can inform you that:

I hereby certify that on 5 December 2018, the use described in the First Schedule to this Certificate, in respect of the land specified in the Second Schedule to this Certificate and edged red on the plan attached to this Certificate, was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

Evidence has been submitted to show that on the balance of probability the use has been continuous on this site over the last ten years.

FIRST SCHEDULE

Use of the site for B2 (General Industrial) and B8 (Storage and Distribution).

SECOND SCHEDULE

The land shown edged red on the Certificate Plan at Water Orton Lane, Water Orton. B76 9BG.

Authorised Officer

Date 2 January 2019

Page 1 of 2

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5b/29

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NOTES

1. This Certificate is issued only for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use specified in the First Schedule taking place on the land described in the Second Schedule was lawful, on the specified date and thus, is not liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use described in the First Schedule, and to the land specified in the Second Schedule, identified on the attached plan. Any use which is materially different from that described or which relate(s) to other land may render the owner liable to enforcement action.
4. A report has been prepared that details more fully the matters that have been taken into account when reaching this decision. You can view a copy on the Council's web site via the Planning Application Search pages <http://planning.northwarks.gov.uk/portal>. It will be described as 'Decision Notice and Application File'. Alternatively, you can view it by calling into the Council's Reception during normal opening hours (up to date details of the Council's opening hours can be found on our web site <http://www.northwarks.gov.uk/site/scripts/contact.php>).
5. Plans and information accompanying this decision notice can be viewed online at our website <http://www.northwarks.gov.uk/planning>.

Authorised Officer _____

Date 2 January 2019

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5b/30

6i/266

APPENDIX F



PAP/2023/0422

APPENDIX 6 Kingsbury Pallets letter dated 9th August 2023



5e/39

5b/31

6i/267



kingsbury
pallets

Kingsbury Pallets Ltd

Rush Lane
Dosthill
Tamworth
B77 1LT

T: 0121 747 7766

W: www.kingsburypallets.co.uk

E: sales@kingsburypallets.co.uk

[REDACTED]
WHS Plastics
Water Orton Lane
Minworth
B76 9BG

9th August 23

Dear Brad,

Re: WHS Plastics Site 5-

Following our recent telephone conversation regarding the time I tenanted the above site I can confirm the following;

1. Kingsbury Pallets Ltd tenanted this site from April 2004 to April 2021. We were in full occupation of the site during this period.
2. I can confirm that during this period we never experienced any part of the site flooding at any time.
3. During our occupation we stored new & reconditioned pallets stacked 44 number high.

If you need any further information please let me know.

Regards



[REDACTED]
Managing Director

Registered in England Number 3148552
Registered Office: Rush Lane, Dosthill, Tamworth, B77 1LT

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APPENDIX B

PAP/2023/0421 and 0422

WHS Plastics, Water Oton

Site Visit - 9th December 2023 at 1030

Present: Cllrs Bell, Ririe and Simpson together with B Smith (applicant) and J Brown

1. Members were shown the plans for the proposal including a more general location plan so that they could see the wider setting, including the nearest residential areas and the other buildings on the site.
2. They then walked to the site itself and saw the existing buildings and the large open yard that had been used for outside storage. Whilst here, the levels were pointed out as were the surrounding perimeter bunds.
3. The surrounding vegetation and woodland areas were identified together with the trees that are on the north-facing slope of the railway embankment at the rear of residential properties here.
4. The existing building to the south was pointed out – its height and length. Comparisons with the proposed building and the existing buildings were also made.
5. Views from the site were outlined – particularly those to the south and to the east.
6. Members then went into the main building and were shown the plant and equipment inside the factory/workshops with an explanation of the operations that presently run from the here.
7. The visit concluded at around 1145.



Department for Levelling Up,
Housing & Communities

Jeff Brown
Head of Development Control
North Warwickshire Borough Council

Sent by email only:
JeffBrown@NorthWarks.gov.uk

Tel: [REDACTED]
Email: [REDACTED]@levellingup.gov.uk

Your ref: PAP/2023/0421 & PAP/2023/0422

Our ref: PCU/CONS/R3705/3336640
PCU/CONS/R3705/3336641

Date: **25 January 2024**

Dear Mr Brown,

The Town and Country Planning (Consultation) (England) Direction 2021

Application by Mr Bradley Smith for:

- 1) Engineering operations to facilitate the construction of new industrial unit comprising, ground reprofiling; installation of storm and foul water drainage provision, demolition of existing building and structures.
Application number - PAP/2023/0421
- 2) Demolition of existing buildings and structures on site to facilitate the erection of a new industrial unit (use class B2) associated with battery technology for the production of electrically powered vehicles; canopy; ancillary storage and office use; re-profiling of site levels; erection of 2 Silos; water sprinkler tanks; pump house; provision of photovoltaic roof panels; service yard including security barrier; associated parking including cycle shelters and landscaping
Application number - PAP/2023/0422

at Water Orton Lane, Minworth, Sutton Coldfield, B76 9BG

I refer to your e-mail of 9 January 2024 referring to the Secretary of State for Levelling Up, Housing and Communities ("The Secretary of State") two applications for planning permission for the above developments.

The Secretary of State has carefully considered the cases against call-in policy, as set out in the Written Ministerial Statement by Nick Boles on 26 October 2012. The policy makes it clear that the power to call in a case will only be used very selectively.

The Government is committed to give more power to councils and communities to make their own decisions on planning issues and believes planning decisions should be made at the local level wherever possible.

In deciding whether to call in these applications, the Secretary of State has considered his policy on calling in planning applications. This policy gives examples

Planning Casework Unit
Department for Levelling Up, Housing & Communities
23 Stephenson Street
Birmingham
B2 4BH

Tel: 0303 44 48050
pcu@levellingup.gov.uk

of the types of issues which may lead him to conclude, in his opinion that the application should be called in. The Secretary of State has decided not to call in these applications. He is content that they should be determined by the local planning authority.

In considering whether to exercise the discretion to call in this application, the Secretary of State has not considered the matter of whether this application is EIA Development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The local planning authority responsible for determining this application remains the relevant authority responsible for considering whether these Regulations apply to this proposed development and, if so, for ensuring that the requirements of the Regulations are complied with.

Yours sincerely

A large black rectangular box redacting the signature of the Head of Casework and Procedure.

**Head of Casework and Procedure
Planning Casework Unit**

This decision was made by officials on behalf of the Secretary of State, and signed on his behalf



North Warwickshire Borough Council

Mitchel Barnes
Frampton Town Planning Limited
Oriel House, 42
North Bar Street
Banbury
OX16 0TH

Jeff Brown BA Dip TP MRTPI
Head of Development Control Service
The Council House
South Street
Atherstone
Warwickshire
CV9 1DE

Switchboard: (01827) 715341
Fax: (01827) 719225
E Mail: PlanningControl@NorthWarks.gov.uk
Website: www.northwarks.gov.uk

Date: 27 January 2025

The Town & Country Planning Acts
The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990
The Town & Country Planning (General Development) Orders
The Town and Country Planning (Control of Advertisements) Regulations 1992 (as amended)

DECISION NOTICE

Certificate of Lawfulness Application

Application Ref: PAP/2024/0584

Site Address

W H Smith And Sons (Tools) Ltd, Water Orton Lane, B76 9BG

Grid Ref: Easting 417007.04
Northing 291353.53

Description of Development

Certificate of Lawfulness for the Proposed Use of the Siting of Storage Containers

Applicant

WHS Plastics

Your application was valid on 20 December 2024. It has now been considered by the Council. I can inform you that:

I hereby certify that on 20 December 2024, the use described in the First Schedule to this Certificate, in respect of the land specified in the Second Schedule to this Certificate and edged red on the plan attached to this Certificate, was lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

FIRST SCHEDULE

The storage of containers

SECOND SCHEDULE

The land shown edged red on the Certificate Plan at Water Orton Lane, Water Orton, B76 9BG

Reason

The site benefits from a Certificate of Lawfulness dated 2 January 2019 for B2 (General Industrial) and B8 (Storage and distribution) uses. The proposed falls within the B8 Use Class.

Authorised Officer

Date 27 January 2025

Page 1 of 2

NOTES

1. This Certificate is issued only for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use specified in the First Schedule taking place on the land described in the Second Schedule was lawful, on the specified date and thus, is not liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use described in the First Schedule, and to the land specified in the Second Schedule, identified on the attached plan. Any use which is materially different from that described or which relate(s) to other land may render the owner liable to enforcement action.
4. A report has been prepared that details more fully the matters that have been taken into account when reaching this decision. You can view a copy on the Council's web site via the Planning Application Search pages <http://planning.northwarks.gov.uk/portal>. It will be described as 'Decision Notice and Application File'. Alternatively, you can view it by calling into the Council's Reception during normal opening hours (up to date details of the Council's opening hours can be found on our web site <http://www.northwarks.gov.uk/site/scripts/contact.php>).
5. Plans and information accompanying this decision notice can be viewed online at our website <http://www.northwarks.gov.uk/planning>.

Authorised Officer

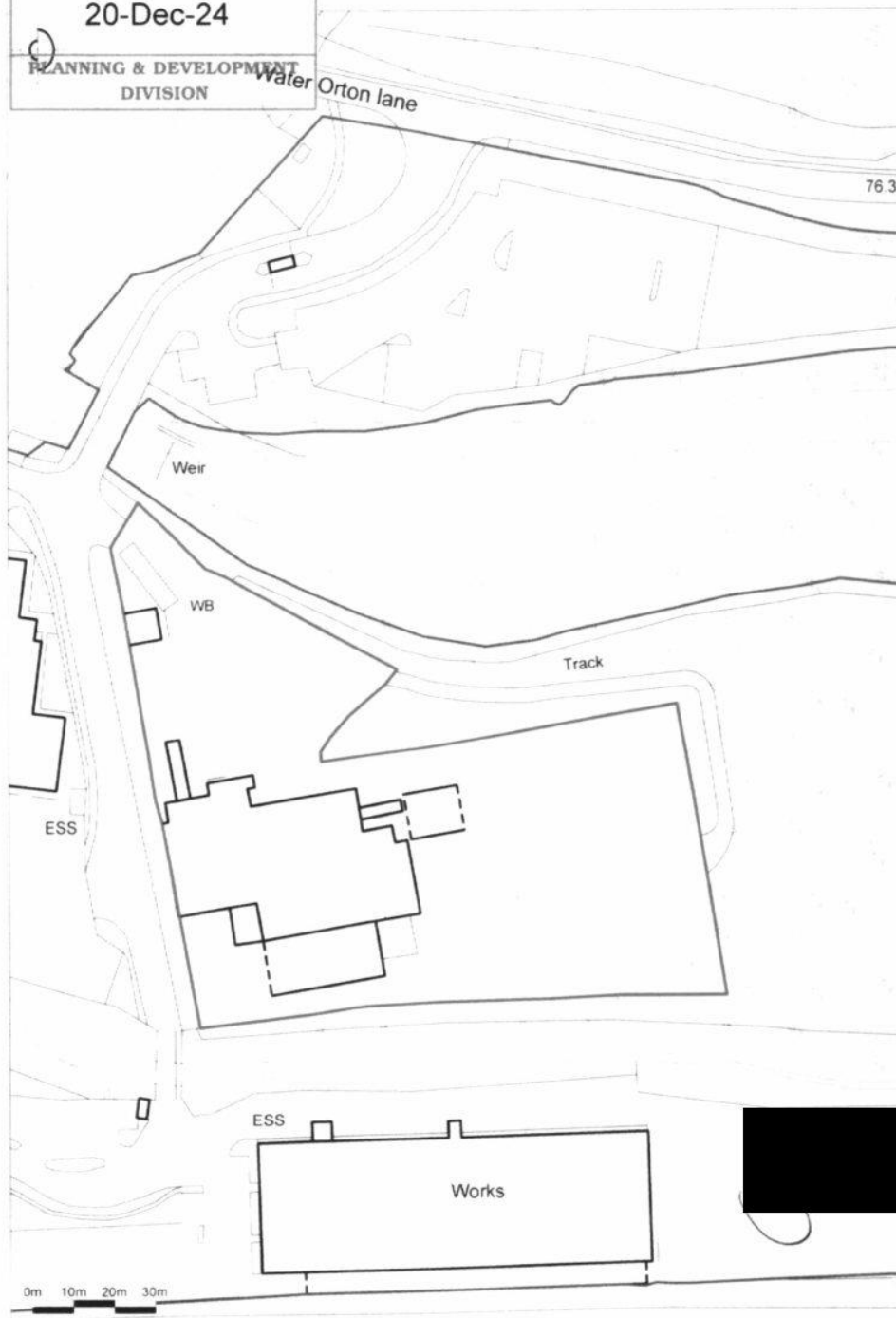
Date 27 January 2025

Page 2 of 2

NORTH WARWICKSHIRE
BOROUGH COUNCIL
RECEIVED
20-Dec-24
PLANNING & DEVELOPMENT
DIVISION

Site Location Plan
Water Orton Lane, Minworth

PAP/2024/0584



Promap

Orthometric Survey: © Crown Copyright 2014. All rights reserved.
Licence number 100022412. Printed Scale: 1:1250

Our ref: PJF/flm/PF/9655 Dwg. No: PF/9655.02



North Warwickshire
Borough Council

Mr Peter Frampton
Framptons
Oriel House
42 North Bar
Banbury
OX16 0TH

**Jeff Brown BA Dip TP MRTPI
Head of Development Control Service**

The Council House
South Street
Atherstone
Warwickshire
CV9 1DE

Switchboard: (01827) 715341
Fax: (01827) 719225
E Mail: PlanningControl@NorthWarks.gov.uk
Website: www.northwarks.gov.uk

Date: 02 January 2019

The Town & Country Planning Acts
The Town and Country Planning (Listed Buildings and
Conservation Areas) Act 1990
The Town & Country Planning (General Development)
Orders
The Town and Country Planning (Control of
Advertisements) Regulations 1992 (as amended)

DECISION NOTICE

Certificate of Lawfulness Application

Application Ref: PAP/2018/0707

Site Address

Kingsbury Pallets, Water Orton Lane, Water Orton, B76 9BG

Grid Ref: Easting 417006.82
Northing 291353.66

Description of Development

Certificate of lawfulness for existing use for B2 (General Industrial) & B8 (Storage or Distribution) use

Applicant

W H Smith & Sons (Tools) Limited Retirement Benefits Scheme

Your application was valid on 5 December 2018. It has now been considered by the Council. I can inform you that:

I hereby certify that on 5 December 2018, the use described in the First Schedule to this Certificate, in respect of the land specified in the Second Schedule to this Certificate and edged red on the plan attached to this Certificate, was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

Evidence has been submitted to show that on the balance of probability the use has been continuous on this site over the last ten years.

FIRST SCHEDULE

Use of the site for B2 (General Industrial) and B8 (Storage and Distribution).

SECOND SCHEDULE

The land shown edged red on the Certificate Plan at Water Orton Lane, Water Orton. B76 9BG.

Authorised Officer



Date 2 January 2019

Page 1 of 2

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Authorised Officer _____

Date 2 January 2019

Page 2 of 2

Site Location Plan
Kingsbury Pallets, Water Orton Lane, Minworth

RECEIVED

28 NOV 2018

North Warwickshire
Borough Council



Promap

Ordnance Survey © Crown Copyright 2018. All rights reserved.
Licence number 100022412. Plotting Scale - 1:1250

Our ref: PJF/flm/PF/9655 Dwg. No: PF/9655.02

2/1/19



North Warwickshire Borough Council
Council House,
South St,
Atherstone,
CV9 1DE

20/09/2025

Dear Jeff Brown,

Re: Proposed Use of Minworth Site – Fallback Position of Container Storage

I am writing to confirm our intentions regarding the WHS Plastics site at Water Orton Lane, Minworth (B76 9BG).

Our preferred development for this site is the construction of a new building to house advanced manufacturing facilities. As you are aware the building design and full plans have already been submitted for planning approval. This facility will enable us to install and operate battery related technology manufacturing, a project which already has an established market with a major British automotive manufacturer.

While planning consent for this building is still under consideration, we believe it is important to set out our fallback position. The site already has planning consent for storage and we intend to proceed with establishing this use should the primary proposal not move forward.

The fallback position would involve:


- Storage of up to 1250 containers (20ft length), stacked three high.
- Operation seven-day, 24-hour.
- Use of the containers as self-storage, rented out on a weekly basis.
- Full site security staffing, CCTV, and electronic access control.

The market for self-storage containers is experiencing significant growth, with increasing demand from both individuals and businesses. It is our strong belief that container storage would not only make good use of the land but also respond to a genuine and expanding need in the local economy.

We would also like to highlight the conclusions set out in the Burley Browne letter, which makes clear that the Minworth site is highly suitable for container storage. This independent confirmation further supports our view that container storage represents a strong and sustainable use of the land.

While our priority remains the development of the new building for manufacturing, we believe it is important to make clear that container storage is a viable and permanent alternative use for the land.

Yours sincerely,


WHS Plastics Ltd

Our ref: BN/9911



Strictly Private & Confidential

WHS Plastics Ltd,
Water Orton Lane,
Minworth
B76 9BG

7th May 2025

Re: WHS Plastics, Water Orton Lane, Site 5

Further to our recent communications, I understand that you are considering your options in relation to the possible disposal of Site 5 at the above.

We consider that the site should be strongly considered for storage purposes and furthermore for the use of storage containers which continues to be a very popular use. Burley Browne has recently disposed of numerous parcels of storage land locally including land at Drayton Manor Business Park and at Nether Whitacre and therefore consider ourselves well placed to assist you with this matter. We have found that rental levels for storage land opportunities have continued to rise in line with demand.

The location continues to be a sought-after position for commercial occupiers which is reflected with the high level of neighbouring occupation with limited availability within the market, particularly for that of storage land which is rarely presented in this area.

The excellent nearby road access with the M42 & M6 Motorways, M6 Toll Road, and further with Birmingham City Centre and the wider Midlands Motorway Network reinforces the position for this style of use and based on our recent experience of disposal of storage land, we consider that the area could command a premium, depending on level of specification.

I trust that this is satisfactory for your requirements at this stage, however, if you would like to take this further please do not hesitate to contact me and we can prepare the next stages for marketing.

Kind regards

Yours sincerely

BURLEY BROWNE

enquiries@burleybrowne.co.uk

Enc

0121 321 3441

enquiries@burleybrowne.co.uk

burleybrowne.co.uk



1A Mitre Court, 38 Lichfield Road, Sutton Coldfield, West Midlands B74 2LZ

Also at 1 Victoria Square, Birmingham B1 1BD

Burley Browne Chartered Surveyors is the trading name of Burley Browne Ltd | Registered in England No. 5488324 | Registered Office: 1A Mitre Court, 38 Lichfield Road, Sutton Coldfield, B74 2LZ

Your ref: PAP/2023/0422
 Our ref: WCC002971 R6/FRM/MB/007
 Your letter received: 31/07/2024



SENT BY EMAIL

Mr Jeff Brown
 Head of Development Control
 North Warwickshire Borough Council
 The Council House
 South Street
 Atherstone CV9 1DE

Flood Risk Management
 Warwickshire County Council
 Shire Hall
 Warwick
 Warwickshire
 CV34 4RL
 Tel: 01926 412982
FRMPlanning@warwickshire.gov.uk
www.warwickshire.gov.uk

FAO Jeff Brown

21 August 2024

Dear Mr Brown

PROPOSAL:

Demolition of existing buildings and structures on site to facilitate the erection of a new industrial unit (use class B2) associated with battery technology for the production of electrically powered vehicles; canopy; ancillary storage and office use; re-profiling of site levels; part realignment of the existing earth bund; erection of 2 Silos; water sprinkler tanks; pump house; provision of photovoltaic roof panels; service yard including security barrier; associated parking including cycle shelters and landscaping

LOCATION:

W H Smith And Sons (tools) Ltd, Water Orton Lane, Water Orton, B76 9BG

Warwickshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the additional information for this application which was received on the 31 July 2024. It is understood this is in response to the LLFA's prior response on 30 July 2024 where the following was considered outstanding.

1. An updated hydraulic modelling report has been submitted in response to the Environment Agencies previous comments. The LLFA request sight of any updated Environment Agency response before providing further comment.
2. Policy LP33 of the Local Plan states that finished floor levels should be set a minimum of 600mm above the 1% AEP level plus climate change. The applicant should therefore consult with the Local Planning Authority if further guidance is required.
3. North Warwickshire Local Plan Policy LP33 states that floodplain compensation should be provided on a level for level basis. The LLFA note the comments in the Environment Agencies consultation response dated 21 March 2024.
4. Calculations have previously been provide in the source control module of micro drainage. Suitable network level calculations are required to demonstrate performance of the proposed drainage strategy for events up to and including the 1 in 100 year plus climate change event. Such calculations should demonstrate that the attenuation will be sufficiently sized in line with the discharge rate proposed.



*Working for
Warwickshire*

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5. In line with the above a drainage strategy that is fully cross referenceable with the supplied calculations is requested.
6. Surface water pumping is proposed as part of the drainage strategy at the site as such details of backup pumping arrangements and modelling for a pump failure scenario coinciding with a submerged outfall should be provided.
7. Submission of cross-sectional drawings of all SuDS features demonstrating design in accordance with CIRIA Manual C753. Alternatively this information may be captured in a suitably worded condition.
8. Demonstrate that consideration has been given to any exceedance and overland flow routing. It should be recognised that exceedance can occur during any storm event due to a number of factors and such consideration should therefore not rely on calculations demonstrating no flooding.

Based on the information submitted the LLFA currently **maintains our objection** to the development based on the following reasons.

Reason

The information submitted with this application does not comply with the requirements set out in the National Planning Policy Framework¹ (NPPF) and supporting Flood Risk & Coastal Change guidance². Specifically:

- The Flood Risk Assessment may be considered insufficient in assessing the flood risk to or from the proposed development.

The submitted information does not therefore allow a suitable assessment of the proposed development, considering flood risk and surface water drainage matters.

Overcoming our objection

You can overcome our objection by submitting further information which is detailed below. This information should provide a suitable assessment of the flood risk both to and from the development to ensure the site will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application.

At the 'full' planning stage proposals for surface water drainage should be well developed and this should be reflected in the level of detail provided. A surface water drainage scheme should be provided based on SuDS principles demonstrating how the development attenuates surface water runoff, improves water quality and provides amenity and biodiversity. This should be supported by network level calculations demonstrating the performance of the system.

Given the above, the following comments are made and further information required is outlined. This forms the basis of our current objection:

1. The LLFA request sight of any updated Environment Agency response before providing further comment.
2. Policy LP33 of the Local Plan states that finished floor levels should be set a minimum of 600mm above the 1% AEP level plus climate change. The applicant should therefore consult with the Local Planning Authority if further guidance is required.
3. North Warwickshire Local Plan Policy LP33 states that floodplain compensation should be provided on a level for level basis. The LLFA note the comments in the Environment Agencies consultation response dated 21 March 2024.

We ask to be re-consulted with the results of any additional information. We will provide you with bespoke comments within 21 days of receiving formal reconsultation.

OFFICIAL

Informative

- a) Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management. Sustainable Drainage Systems (SuDS) are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on-site as opposed to traditional drainage approaches which involve piping water off-site as quickly as possible.
- b) The LLFA does not consider oversized pipes or box culverts as sustainable drainage. Where such attenuation is considered necessary, this should be supplemented with suitable above ground features such as green roofs, rain-gardens and tree pits to provide water quality, amenity and biodiversity benefits.
- c) Reference is made to the LLFA's *Flood Risk Guidance for Development*ⁱⁱⁱ. This was updated in June 2023 and provides further advice and guidance as to how surface water drainage proposals should be designed.

Yours sincerely

[REDACTED]
Flood Risk Management

[REDACTED] Coleshill North & Water Orton ED

Documents Reviewed:

LGG-JBAU-XX-XX-RP-Z-0002 Detailed Drainage Strategy Rev S5 P01

N.B. On 10th January 2023, the Defra published^{iv} "the Review for implementation of Schedule 3 to the Flood & Water Management Act 2010;" this recommended implementation of Schedule 3 which the government has accepted. Warwickshire County Council will take on the role of the SuDS Approval Body (SAB), you can read more about this on our website which we will be updating periodically.

<https://www.warwickshire.gov.uk/severe-weather/planning-and-sustainable-drainage/2>

ⁱ https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf

ⁱⁱ <https://www.gov.uk/guidance/flood-risk-and-coastal-change>

ⁱⁱⁱ <https://api.warwickshire.gov.uk/documents/WCCC-453486374-170>

^{iv} <https://www.gov.uk/government/publications/sustainable-drainage-systems-review>

OFFICIAL

North Warwickshire Borough Council
Development Control
PO Box 6
Atherstone
Warwickshire
CV9 1BG

Our ref: SV/2023/112030/01-L01
Your ref: PAP/2023/0421
Date: 14 November 2023

F.A.O: Jeff Brown

Dear Sir

DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES ON SITE TO FACILITATE THE ERECTION OF A NEW INDUSTRIAL UNIT (USE CLASS B2) ASSOCIATED WITH BATTERY TECHNOLOGY FOR THE PRODUCTION OF ELECTRICALLY POWERED VEHICLES; CANOPY; ANCILLARY STORAGE AND OFFICE USE; RE-PROFILING OF SITE LEVELS; ERECTION OF 2 SILOS; WATER SPRINKLER TANKS; PUMP HOUSE; PROVISION OF PHOTOVOLTAIC ROOF PANELS; SERVICE YARD INCLUDING SECURITY BARRIER; ASSOCIATED PARKING INCLUDING CYCLE SHELTERS AND LANDSCAPING AT WHS PLASTICS LTD, WATER ORTON LANE, SUTTON COLDFIELD, BIRMINGHAM, B76 9BG

Thank you for referring the above consultation, which we received on 24 October 2023.

Based on the information submitted, including a Flood Risk Assessment (FRA) prepared by JBA consulting (dated 17 October 2023, revision S3 P01), we object to the proposed development and would offer the following comments to assist your consideration at this time.

For completeness, we have engaged in pre-planning application discussions with the applicant, their agent and flood risk consultant.

Furthermore, we are also in receipt of a consultation relating to planning application reference PAP/2023/0422, at the site. As well as two identical planning application consultations from Birmingham City Council. To avoid confusion, these comments are relevant and applicable to all four planning applications.

Fluvial Flood Risk

Based on our Flood Map for Planning (Rivers and Sea), the majority of the proposed development site is located within Flood Zones 2 and 3 of the River Tame, which is designated as a Main River.

Environment Agency
Mance House Worcester Road, Kidderminster, DY11 7RA.
Customer services line: 03708 506 506
www.gov.uk/environment-agency
Cont/d..

Following our review of the submitted FRA, we do not consider it complies with the requirements for site-specific FRAs, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change section of the National Planning Practice Guidance (NPPG). The FRA does not adequately assess the flood risks posed by the development. In particular, the FRA fails to consider how a range of flooding events (including extreme events) will affect people and property. The modelling has not demonstrated that in the baseline scenario that water cannot enter the site through the General Storage Area in the southwestern side of the site.

As such, we recommend additional information is submitted which demonstrates the site would not flood in the baseline 2009 model 1 in a 100 year plus climate change scenario. The Flood Defence Embankment and High Ground is shown to encircle most but not all the site. The topographic survey suggests that flood routes would enable flood water to enter the site in this scenario.

As such, additional information should either demonstrate why this is not the case or show an alternative proposal that would mitigate the flood risk impacts onsite and to third parties.

To overcome our objection, the applicant should submit additional information which addresses the points highlighted above.

If the applicant wishes to have a meeting with us or wishes for us to review a document prior to its formal submission as part of the application, this will be chargeable as part of our Cost Recovery Service. We would recommend they contact our team email address at WestMidsPlanning@environment-agency.gov.uk . Further information on our charged planning advice service is available at: [Planning and marine licence advice: standard terms for our charges - GOV.UK \(www.gov.uk\)](#)

I trust the above will assist in your determination of the application.

Yours faithfully


Planning Specialist

@environment-agency.gov.uk

cc FRAMPTON TOWN PLANNING LTD

End

2

North Warwickshire Borough Council
Development Control
PO Box 6
Atherstone
Warwickshire
CV9 1BG

Our ref: SV/2023/112030/02-L01
Your refs: PAP/2023/0422 &
PAP/2023/0421

Date: 18 January 2024

DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES ON SITE TO FACILITATE THE ERECTION OF A NEW INDUSTRIAL UNIT (USE CLASS B2) ASSOCIATED WITH BATTERY TECHNOLOGY FOR THE PRODUCTION OF ELECTRICALLY POWERED VEHICLES; CANOPY; ANCILLARY STORAGE AND OFFICE USE; RE-PROFILING OF SITE LEVELS; ERECTION OF 2 SILOS; WATER SPRINKLER TANKS; PUMP HOUSE; PROVISION OF PHOTOVOLTAIC ROOF PANELS; SERVICE YARD INCLUDING SECURITY BARRIER; ASSOCIATED PARKING INCLUDING CYCLE SHELTERS AND LANDSCAPING AT WHS PLASTICS LTD, WATER ORTON LANE, SUTTON COLDFIELD, BIRMINGHAM, B76 9BG

Thank you for referring the above re-consultations which we received on 18 December 2023.

For completeness, we previously commented on the above applications on 14 November 2023.

Based on the additional information submitted, namely a Flood Risk Assessment (FRA) prepared by JBA Consulting (version 4, dated December 2023), we wish to maintain our standing objection and offer the following comments to assist your consideration.

These formal comments are provided in addition to our email sent on 8 January 2024. We can confirm at the time of writing we are in receipt of the requested hydraulic modelling and are in the process of reviewing this additional information. To avoid confusion the following comments do not include our review of the modelling.

Flood Risk Assessment

As indicated in our email, the amended FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change section of the National Planning Practice Guidance (NPPG). The amended FRA does not adequately assess the flood risks posed by the development. In summary, the FRA fails to:

- Provide the hydraulic model information used to support the assertions made in the report (as outlined above, we are now in receipt of this and are currently reviewing it at this time. We will provide additional comments in due course)
- Appropriate consideration of floodplain compensation,
- Provide sufficient information to demonstrate why the new embankment is less likely to breach than existing embankment.

Hydraulic Modelling

The FRA includes reference to hydraulic modelling updates to the 2019 Environment Agency model. To allow the EA to fully consider the FRA, these updates would need to be submitted as part of this application to allow their consideration and review.

Environment Agency
Mance House Worcester Road, Kidderminster, DY11 7RA.
Customer services line: 03708 506 506
www.gov.uk/environment-agency
Cont/d..

For completeness, the hydraulic modelling update would need to be in line with the River Modelling technical standards and assessment guidance:

<https://www.gov.uk/government/publications/river-modelling-technical-standards-and-assessment>

Impacts on flood risk elsewhere

We would also seek to ensure the FRA provides sufficient information to demonstrate that there are no adverse impacts on flood risk elsewhere post development. We note the FRA includes reference to no net loss in floodplain storage capacity. However, the FRA needs to clarify whether the building would flood during the 1 in 100 plus climate change flood event. The outcome of this, in addition to other works, should then be used to demonstrate no net loss in storage capacity. Please see guidance to floodplain compensation below.

Floodplain compensation must be provided on a "level for level" and "volume for volume" basis for any ground raising within the 100 year plus climate change floodplain extent. The compensation area must be hydraulically connected to the watercourse which the site floods from and adhere to the following design principles:

1. The equal (or larger) volume must apply at all levels between the lowest point on the site and the 1 in 100 year plus climate change flood level. This must be calculated by comparing volumes taken by the development and the volume offered by the compensatory storage for a number of horizontal slices starting from the 1 in 100 year plus climate change critical flood level down to the existing ground level.
2. The thickness of a slice must be 0.2 metres.
3. Compensatory storage must be provided equal to or exceeding the development for each of these slices.
4. Details of the floodplain compensation scheme including plans and calculations must be provided as part of a site specific flood risk assessment. The calculations must include the upper and lower levels over which the compensation works will apply, the slice thickness to be used and the location of the works.
5. Floodplain compensation scheme information should be detailed in a table both on drawings and within the flood risk assessment and the proposals (200mm slices) shown on a detailed plan and cross section drawing/s, of existing and proposed ground levels (please ensure drawing scales are appropriate to show the slices on all drawings).
6. Any flood compensation works must be completed and in place before development takes place.

To overcome our objection, in addition to the modelling already submitted, the applicant should submit a revised FRA which addresses the above. I trust that this confirms our position at this time.

Yours sincerely


Planning Specialist

@environment-agency.gov.uk

End

2

North Warwickshire Borough Council
Development Control
PO Box 6
Atherstone
Warwickshire
CV9 1BG

Our ref: SV/2023/112030/03-L01
Your ref: PAP/2023/0422 &
PAP/2023/0421

Date: 21 March 2024

Dear Sir

HYDRAULIC MODELLING - DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES ON SITE TO FACILITATE THE ERECTION OF A NEW INDUSTRIAL UNIT (USE CLASS B2) ASSOCIATED WITH BATTERY TECHNOLOGY FOR THE PRODUCTION OF ELECTRICALLY POWERED VEHICLES; CANOPY; ANCILLARY STORAGE AND OFFICE USE; RE-PROFILING OF SITE LEVELS; ERECTION OF 2 SILOS; WATER SPRINKLER TANKS; PUMP HOUSE; PROVISION OF PHOTOVOLTAIC ROOF PANELS; SERVICE YARD INCLUDING SECURITY BARRIER; ASSOCIATED PARKING INCLUDING CYCLE SHELTERS AND LANDSCAPING AT WHS PLASTICS LTD, WATER ORTON LANE, SUTTON COLDFIELD, BIRMINGHAM, B76 9BG

Thank you for referring the additional information submitted in relation to the above planning applications, which we received on 14 February 2024.

For completeness, we previously commented on the above applications on 14 November 2023 and 18 January 2024.

Based on the Hydraulic Modelling and Flood Risk Assessment (FRA) submitted, we wish to maintain our objection and provide the following comments to assist your consideration at this time.

Hydraulic Modelling

Following our review of the additional information submitted, we essentially conclude that the hydraulic modelling is not fit for purpose.

We note the chosen methodology involves adapting a strategic-level model of the River Tame to incorporate the southern watercourse near the site, without making adjustments to the original model. This approach raises concerns regarding its suitability, primarily due to the insufficient level of detail within the River Tame model concerning the specific study area. The review has identified multiple issues suggesting that the model, in its current state, is not appropriate for its intended application. Please see full review for detail (submitted separately).

Environment Agency
Mance House Worcester Road, Kidderminster, DY11 7RA.
Customer services line: 03708 506 506
www.gov.uk/environment-agency
Cont/d..

In summary, the main comments arising from the review, based on the Red, Amber, Green status are detailed below. Overall, there are 5 Red comments, and 33 Amber comments. The red comments are summarised below:

- The existing Tame Model is not of sufficient detail in the area of interest to assess flood risk to the site and comments throughout indicate updates which should be made to reflect this.
- Ensure spill widths match the upstream channel section for all structures in the area of interest. Confirm the appropriateness of 1.6 as a weir coefficient
- Confirm the purpose of the 2D_zsh_WC_Fill_001_R as this is not currently impacting the model topography.
- Confirmation of how defences have been represented.
- Amend file management structure.

For completeness, in the review spreadsheet there may also be Green comments. There is no action to address these, however some of these may be addressed coincidentally while responding to the Red and Amber comments.

As outlined previously, any hydraulic modelling update would need to be in line with the River Modelling technical standards and assessment guidance:

<https://www.gov.uk/government/publications/river-modelling-technical-standards-and-assessment>

Flood Risk Assessment

As outlined in our most recent letter, the FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change section of the National Planning Practice Guidance (NPPG). The amended FRA does not adequately assess the flood risks posed by the development. In summary, the FRA fails to include:

- Appropriate hydraulic modelling;
- Appropriate consideration of floodplain compensation; and
- Provide sufficient information to demonstrate why the new embankment is less likely to breach than existing embankment.

Impacts on flood risk elsewhere

As previous, we would also seek to ensure the FRA provides sufficient information to demonstrate that there are no adverse impacts on flood risk elsewhere post development. We note the FRA includes reference to no net loss in floodplain storage capacity. However, the FRA needs to clarify whether the building would flood during the 1 in 100 plus climate change flood event. The outcome of this, in addition to other works, should then be used to demonstrate no net loss in storage capacity. Please see guidance to floodplain compensation below.

Floodplain compensation must be provided on a "level for level" and "volume for volume" basis for any ground raising within the 100 year plus climate change floodplain extent. The compensation area must be hydraulically connected to the watercourse which the site floods from and adhere to the following design principles:

- The equal (or larger) volume must apply at all levels between the lowest point on the site and the 1 in 100 year plus climate change flood level. This must be calculated by comparing volumes taken by the development and the volume offered by the compensatory storage for a number of horizontal slices starting from the 1 in 100 year plus climate change critical flood level down to the existing ground level.
- The thickness of a slice must be 0.2 metres.

Cont/d..

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- Compensatory storage must be provided equal to or exceeding the development for each of these slices.
- Details of the floodplain compensation scheme including plans and calculations must be provided as part of a site specific flood risk assessment. The calculations must include the upper and lower levels over which the compensation works will apply, the slice thickness to be used and the location of the works.
- Floodplain compensation scheme information should be detailed in a table both on drawings and within the flood risk assessment and the proposals (200mm slices) shown on a detailed plan and cross section drawing/s, of existing and proposed ground levels (please ensure drawing scales are appropriate to show the slices on all drawings).
- Any flood compensation works must be completed and in place before development takes place.

To overcome our objection, the applicant should submit updated hydraulic modelling and a revised FRA which addresses the above. I trust that this confirms our position.

Yours faithfully



Planning Specialist

@environment-agency.gov.uk

cc Framptons and JBA Consulting

End

3

North Warwickshire Borough Council
Development Control
PO Box 6
Atherstone
Warwickshire
CV9 1BG

Our ref: SV/2023/112030/04-L01
Your ref: PAP/2023/0422 &
PAP/2023/0421

Date: 10 September 2024

Dear Sir

DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES ON SITE TO FACILITATE THE ERECTION OF A NEW INDUSTRIAL UNIT (USE CLASS B2) ASSOCIATED WITH BATTERY TECHNOLOGY FOR THE PRODUCTION OF ELECTRICALLY POWERED VEHICLES; CANOPY; ANCILLARY STORAGE AND OFFICE USE; RE-PROFILING OF SITE LEVELS; ERECTION OF 2 SILOS; WATER SPRINKLER TANKS; PUMP HOUSE; PROVISION OF PHOTOVOLTAIC ROOF PANELS; SERVICE YARD INCLUDING SECURITY BARRIER; ASSOCIATED PARKING INCLUDING CYCLE SHELTERS AND LANDSCAPING AT WHS PLASTICS LTD, WATER ORTON LANE, SUTTON COLDFIELD, BIRMINGHAM, B76 9BG

Thank you for referring the additional information submitted in relation to the above planning applications, which we received on 30 July 2017.

For completeness, we previously commented on the above applications on 14 November 2023, 18 January and 21 March 2024.

Based on the updated Flood Risk Assessment (FRA), including the technical modelling report and hydrological estimation submitted, we wish to maintain our objection and provide the following comments to assist your consideration at this time.

Fluvial Flood Risk

Hydraulic Model Review

Following our review of the submitted information, we do not consider the model is fit for purpose. In brief, there are still several issues outstanding in both the baseline and proposed hydraulic models. The most significant concern is model inflow - the changes to hydrological calculations significantly reduces inflows to the hydraulic model. There is great uncertainty over the values used. A gauge is located near to the site (Tame at Water Orton) which could be used to check inflows and modelled flows.

Furthermore, the additional red status comments from the review are summarised

Environment Agency
Mance House Worcester Road, Kidderminster, DY11 7RA.
Customer services line: 03708 506 506
www.gov.uk/environment-agency
Cont/d..

below:

- We were unable to run a Q1000 event due to the difference in save times of several of the MIF/MID files.
- Since the previous review there appears to be significant changes in flow from flow 205m3/s to 140m3/s for the 100-year event. This needs to be explained and justified.
- Sensibility of model outputs compared with gauge data need to be addressed to understand the uncertainty of the model.
- The details of the post-development scenario in the model need to be clarified.
- There are a number of outstanding Model Outputs Calibration in particular with Gauge 28003

The attached review spreadsheet, also includes some amber and green comments. There is no action to address the green comments, however some of these may be addressed coincidentally while responding to the red and amber comments.

Flood Risk Assessment

In the absence of an acceptable FRA we object to this application. We do not consider that the application adequately assesses fluvial flood risk. In particular, the FRA fails to include:

- Appropriate hydraulic modelling (as outlined above);
- Appropriate consideration of floodplain compensation (see below); and
- Confirm whether a new (or replacement) embankment is proposed. In the interests of ensuring safe development, the applicant will also need to consider the residual flood risk in the event of a breach of the existing/proposed embankment.

Impacts on flood risk elsewhere

As previous, we would also seek to ensure the FRA provides sufficient information to demonstrate that there are no adverse impacts on flood risk elsewhere post development. We note the FRA includes reference to no net loss in floodplain storage capacity. However, the FRA needs to clarify whether the building would flood during the 1 in 100 plus climate change flood event. The outcome of this, in addition to other works, should then be used to demonstrate no net loss in storage capacity. Please see guidance to floodplain compensation below.

Floodplain compensation must be provided on a "level for level" and "volume for volume" basis for any ground raising within the 100 year plus climate change floodplain extent. The compensation area must be hydraulically connected to the watercourse which the site floods from and adhere to the following design principles:

- The equal (or larger) volume must apply at all levels between the lowest point on the site and the 1 in 100 year plus climate change flood level. This must be calculated by comparing volumes taken by the development and the volume offered by the compensatory storage for a number of horizontal slices starting from the 1 in 100 year plus climate change critical flood level down to the existing ground level.
- The thickness of a slice must be 0.2 metres.
- Compensatory storage must be provided equal to or exceeding the development for each of these slices.
- Details of the floodplain compensation scheme including plans and calculations must be provided as part of a site specific flood risk assessment. The calculations must include the upper and lower levels over which the compensation works will apply, the slice thickness to be used and the location of

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the works.

- Floodplain compensation scheme information should be detailed in a table both on drawings and within the flood risk assessment and the proposals (200mm slices) shown on a detailed plan and cross section drawing/s, of existing and proposed ground levels (please ensure drawing scales are appropriate to show the slices on all drawings).
- Any flood compensation works must be completed and in place before development takes place.

To overcome our objection, the applicant should submit updated hydraulic modelling and a revised FRA which addresses the above. I trust that this confirms our position.

Yours faithfully


Planning Specialist

@environment-agency.gov.uk

End

3

NON-REAL TIME HYDRAULIC MODEL REVIEW



Type of review

Project	WHS Plastics	Job Number	Required coastal standard (if applicable)

Model Type	1D/2D	Software	FMP/TuFlow	2nd review	3rd review	4th review
Revision		Date	08/03/2024	23/08/2024		
Area Client		Reviewer	Arcadis - SD	JKE		

REVIEW SUMMARY/CONCLUSION

Is the model suitable for intended user?

JKE - 2nd Review August 2024
There are still several issues outstanding in both the baseline and proposed hydraulic models and neither is currently considered fit for purpose. The most significant concern is that of model inflow - the changes to hydrological calculations significantly reduces inflows to the hydraulic model. There is great uncertainty over the values used. A gauge is located near to the site of interest (Tame at Water Orton) which could be utilised to check inflows and modelled flows.

First review - March 2024
The chosen methodology involves adapting a strategic-level model of the River Tame to incorporate the southern watercourse near the site, without making adjustments to the original model. This approach raises concerns regarding its suitability, primarily due to the insufficient level of detail within the River Tame model concerning the specific study area. The review has identified multiple issues suggesting that the model, in its current state, is not appropriate for its intended application. As it stands the model is currently **not fit for purpose**. Please see full review for details.

MODEL REVIEW PROCESS

Hydraulic Model reviews are an essential component of the Hydraulic Modelling Quality Assurance (QA) process that provides confidence in a model's suitability for its intended purpose. Evidence that the model has undergone QA may be requested by external parties and hence all reviews should be written with an expectation that they could be read externally.

Should any issue(s) be raised during the review process, which require attention, the reviewer should detail the action(s) required in sufficient detail to allow the modeller to complete the changes as appropriate. Completion of this Model Review document does not automatically constitute model approval. Once the suggested changes have been completed, the reviewer may require that the model be resubmitted for further review to establish whether the actions have been completed satisfactorily. Only once all the amendments have been completed satisfactorily, will the model be approved and the quality assured by the reviewer.

It is recommended that the reviewer makes good use of the fluvial design guide chapter 7 and the user manual/help guides for the appropriate modelling software.

Depending on the work being reviewed some questions or entire sections may not be relevant, in which case they can be deleted. On completion of the review the reviewer may choose to use the following colour coding system to alert the modeller to the priority of the actions required (if any):

Colour coding used:

OK – Good practice.

Minimum response: No minimum.

Maximum expected response: No maximum.

Planning: No Objection.

Green – Consider for future studies. Negligible impact on the results that is unlikely to change the outcome of the study.

Minimum response: Acknowledge the comment in the spreadsheet and update the limitation section of the report.

Maximum expected response: Actions done to address the issue identified.

Planning: No Objection.

Note: Taking action to address issues would be expected and some issues may be addressed coincidentally by work on others.

Amber – Follow recommendation. Potential impact on the results that may change the outcome of the study.

Minimum response: Comments justifying the approach taken and update the limitation section of the report if not sorted.

Maximum expected response: Actions done to address the issue identified.

Planning: Consider objecting to the application based on comments highlighted in this category.

Note: Taking action to address issues should be undertaken, some issues may be addressed coincidentally by work on others.

Red – Must do. Has an impact on the results that may have a significant impact on the outcome of the study.

Minimum response: Comments thoroughly justifying approach from applicant based on evidence and update the limitation section of the report if not sorted.

Maximum expected response: Actions done to address the issue identified.

Planning: Objection - Application to be objected if comments are highlighted in this category.

Note: If no action is taken the response must clearly demonstrate why the issue raised is not relevant and the approach employed is justified backed up with evidences. If issues highlighted red are ignored, then submissions should always be sent back.

North Warwickshire Borough Council
Development Control
PO Box 6
Atherstone
Warwickshire
CV9 1BG

Our ref: SV/2023/112030/06-L01
Your ref: PAP/2023/0422
Date: 24 December 2024

Dear Sir

DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES ON SITE TO FACILITATE THE ERECTION OF A NEW INDUSTRIAL UNIT (USE CLASS B2) ASSOCIATED WITH BATTERY TECHNOLOGY FOR THE PRODUCTION OF ELECTRICALLY POWERED VEHICLES; CANOPY; ANCILLARY STORAGE AND OFFICE USE; RE-PROFILING OF SITE LEVELS; ERECTION OF 2 SILOS; WATER SPRINKLER TANKS; PUMP HOUSE; PROVISION OF PHOTOVOLTAIC ROOF PANELS; SERVICE YARD INCLUDING SECURITY BARRIER; ASSOCIATED PARKING INCLUDING CYCLE SHELTERS AND LANDSCAPING AT WHS PLASTICS LTD, WATER ORTON LANE, SUTTON COLDFIELD, BIRMINGHAM, B76 9BG

We are in receipt of additional information in relation to the above planning applications, which we received most recently on 12 December 2024.

For completeness, we previously provided formal comments on the above applications on 14 November 2023, 18 January, 21 March and 10 September 2024.

Hydraulic Modelling

Based on the updated assessment of flood risk, including the technical modelling report and hydrological estimation, we are satisfied that the modelling is now fit for purpose and suitable to inform the consideration of fluvial flood risk.

The changes made to the model following third review have introduced a 2D negative depth for the 0.1% AEP run. However isolated negative depths are not usually an issue, and this occurs approximately 4km upstream of the site of interest. Results are unlikely to be affected at the site. As an advisory the applicant may wish to either resolve the 2d negative depth or acknowledge this in the reporting.

For completeness, please find attached a copy of the model review commentary.

Flood Risk Assessment

Whilst the modelling is suitable for use, the submitted Flood Risk Assessment (FRA) does not confirm that the proposed development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. In particular, the FRA fails to:

- Appropriately consider floodplain compensation
- Confirm whether any changes are proposed to the embankment. If changes are being made, evidence will need to be provided that the embankment is not more likely to collapse during a flood event than without these changes.

Floodplain Compensation

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Cont/d..

As outlined previously, whilst the submitted FRA states that there is no requirement for floodplain compensation, the proposal appears to have the effect of displacing water that will go into the floodplain which needs to be compensated for. The cumulative impact of lots of developments, including this, must be accounted for, or else this development may increase flood risk elsewhere.

Therefore, a scheme for floodplain compensation must be submitted to, and approved in writing by, the local planning authority for any ground raising within the 1 in 100 year plus climate change extent. Floodplain compensation must be provided on a "level for level" and "volume for volume" basis within the boundary of the application site. The compensation area must be hydraulically connected to the watercourse which the site floods from and adhere to the following design principles:

1. The equal (or larger) volume must apply at all levels between the lowest point on the site and the 1 in 100 year plus climate change flood level. This must be calculated by comparing volumes taken by the development and the volume offered by the compensatory storage for a number of horizontal slices starting from the 1 in 100 year plus climate change critical flood level down to the existing ground level.
2. The thickness of a slice must be 0.2 metres.
3. Compensatory storage must be provided equal to or exceeding the development for each of these slices.
4. Details of the floodplain compensation scheme including plans and calculations must be provided as part of a site specific flood risk assessment. The calculations must include the upper and lower levels over which the compensation works will apply, the slice thickness to be used and the location of the works.
5. Floodplain compensation scheme information should be detailed in a table both on drawings and within the flood risk assessment and the proposals (200mm slices) shown on a detailed plan and cross section drawing/s, of existing and proposed ground levels (please ensure drawing scales are appropriate to show the slices on all drawings).
6. Any flood compensation works must be completed and in place before development takes place.

If the applicant wishes to have a meeting with us or wishes for us to review a document prior to its formal submission as part of the application, this will be chargeable as part of our Cost Recovery Service. We would recommend they contact our team email address at WestMidsPlanning@environment-agency.gov.uk. Further information on our charged planning advice service is available at: [Planning and marine licence advice: standard terms for our charges - GOV.UK \(www.gov.uk\)](#)

To overcome our objection, the applicant would need to submit a revised FRA which addresses the above. I trust that this confirms our position.

Yours faithfully

[Redacted Signature]

Planning Specialist

[Redacted Email Address]

s@environment-agency.gov.uk

cc FRAMPTON TOWN PLANNING LTD and JBA

End

2

North Warwickshire Borough Council
Development Control
PO Box 6
Atherstone
Warwickshire
CV9 1BG

Our ref: SV/2023/112030/07-L01
Your ref: PAP/2023/0422
Date: 11 February 2025

[REDACTED]

Dear Sir

RE-CONSULTATION RE. DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES ON SITE TO FACILITATE THE ERECTION OF A NEW INDUSTRIAL UNIT (USE CLASS B2) ASSOCIATED WITH BATTERY TECHNOLOGY FOR THE PRODUCTION OF ELECTRICALLY POWERED VEHICLES; CANOPY; ANCILLARY STORAGE AND OFFICE USE; RE-PROFILING OF SITE LEVELS; ERECTION OF 2 SILOS; WATER SPRINKLER TANKS; PUMP HOUSE; PROVISION OF PHOTOVOLTAIC ROOF PANELS; SERVICE YARD INCLUDING SECURITY BARRIER; ASSOCIATED PARKING INCLUDING CYCLE SHELTERS AND LANDSCAPING AT WHS PLASTICS LTD, WATER ORTON LANE, SUTTON COLDFIELD, BIRMINGHAM, B76 9BG

Thank you for confirming the email dated 15 January from JBA (flood risk consultants) to myself, is being treated as additional information in support of the above application. As such, your Council have formally re-consulted on the Environment Agency for comments.

For completeness, we previously provided formal comments on the above application on 14 November 2023, 18 January, 21 March, 10 September 2024 and 24 December 2024.

As outlined previously, we are satisfied that the submitted hydraulic modelling is now fit for purpose and suitable to inform the consideration of fluvial flood risk in relation to the proposed development.

We understand from the additional information submitted that no changes to the existing embankment on site are proposed.

Whilst we note the commentary regarding floodplain storage compensation, the proposal appears to have the effect of displacing water that will go into the floodplain which needs to be compensated for. The cumulative impact of lots of developments, including this, must be accounted for, or else this development may increase flood risk

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elsewhere.

Therefore, as advised previously, a scheme for floodplain compensation must be submitted to, and approved in writing by, the local planning authority for any ground raising within the 1 in 100 year plus climate change extent. Floodplain compensation must be provided on a "level for level" and "volume for volume" basis within the boundary of the application site. The compensation area must be hydraulically connected to the watercourse which the site floods from and adhere to the following design principles:

1. The equal (or larger) volume must apply at all levels between the lowest point on the site and the 1 in 100 year plus climate change flood level. This must be calculated by comparing volumes taken by the development and the volume offered by the compensatory storage for a number of horizontal slices starting from the 1 in 100 year plus climate change critical flood level down to the existing ground level.
2. The thickness of a slice must be 0.2 metres.
3. Compensatory storage must be provided equal to or exceeding the development for each of these slices.
4. Details of the floodplain compensation scheme including plans and calculations must be provided as part of a site specific flood risk assessment. The calculations must include the upper and lower levels over which the compensation works will apply, the slice thickness to be used and the location of the works.
5. Floodplain compensation scheme information should be detailed in a table both on drawings and within the flood risk assessment and the proposals (200mm slices) shown on a detailed plan and cross section drawing/s, of existing and proposed ground levels (please ensure drawing scales are appropriate to show the slices on all drawings).
6. Any flood compensation works must be completed and in place before development takes place.

We are satisfied that our position is in accordance with your Local Plan policies LP29, part 11 which requires "... ensuring no net loss in of flood storage capacity..." and LP33 part i. of the Local Plan "New development proposals in or land raising within Flood Zone 3 (including Climate Change) should provide for the following: i) Floodplain Compensation; provide floodplain compensation on a level-for-level basis."

Furthermore, paragraph 181 of the National Planning Policy Framework (NPPF) states "When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere."

As such, the requirement for floodplain compensation comes from the need to ensure that flood risk is not increased elsewhere. If floodwater is displaced, that floodwater must go elsewhere. Policies do not set a lower limit for displacement, either in terms of impacts or magnitude. To prevent this floodplain compensation is required.

Furthermore, paragraph: 049 (reference ID: 7-049-20220825) in the Flood Risk and Coastal Change Section of the National Planning Practice Guidance, Paragraph: 049

Cont/d..

(Reference ID: 7-049-20220825) states:

"How to assess the suitability of development where there is a possibility it will increase flood risk elsewhere.

Development or the cumulative impacts of development may result in an increase in flood risk elsewhere as a result of impacts such as the loss of floodplain storage, the deflection or constriction of flood flow routes or through inadequate management of surface water. Site-specific flood risk assessments should assess these impacts and demonstrate how mitigation measures have addressed them. Where flood storage from any source of flooding is to be lost as a result of development, on-site level-for-level compensatory storage, accounting for the predicted impacts of climate change over the lifetime of the development, should be provided. Where it is not possible to provide compensatory storage on site, it may be acceptable to provide it off-site if it is hydraulically and hydrologically linked." "Where it is not possible to fully mitigate the impacts of development on flood risk elsewhere, now and in the future, the site-specific flood risk assessment will need to fully detail the extent and nature of the increase in risk and to assess its significance. This is likely to be a key consideration in whether planning permission is granted."

If the applicant wishes to have a meeting with us or wishes for us to review a document prior to its formal submission as part of the application, this will be chargeable as part of our Cost Recovery Service. We would recommend they contact our team email address at WestMidsPlanning@environment-agency.gov.uk. Further information on our charged planning advice service is available at: Planning and marine licence advice: standard terms for our charges - GOV.UK (www.gov.uk)

To overcome our objection, the applicant would need to submit a revised Flood Risk Assessment (FRA) which addresses the above. I trust that this confirms our position.

Yours faithfully


Planning Specialist

@environment-agency.gov.uk

End

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North Warwickshire Borough Council
Development Control
PO Box 6
Atherstone
Warwickshire
CV9 1BG

Our ref: SV/2023/112030/08-L01
Your ref: PAP/2023/0422
Date: 23 April 2025

Dear Sir

ADDITIONAL INFORMATION SUBMITTED - DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES ON SITE TO FACILITATE THE ERECTION OF A NEW INDUSTRIAL UNIT (USE CLASS B2) ASSOCIATED WITH BATTERY TECHNOLOGY FOR THE PRODUCTION OF ELECTRICALLY POWERED VEHICLES; CANOPY; ANCILLARY STORAGE AND OFFICE USE; RE-PROFILING OF SITE LEVELS; ERECTION OF 2 SILOS; WATER SPRINKLER TANKS; PUMP HOUSE; PROVISION OF PHOTOVOLTAIC ROOF PANELS; SERVICE YARD INCLUDING SECURITY BARRIER; ASSOCIATED PARKING INCLUDING CYCLE SHELTERS AND LANDSCAPING AT WHS PLASTICS LTD, WATER ORTON LANE, SUTTON COLDFIELD, BIRMINGHAM, B76 9BG

Thank you for re-consulting the Environment Agency on the above consultation.

For completeness, we most recently commented on the above application in our letter dated 11 February 2025.

We note the following additional information has been submitted as part of this application:

- Note to File prepared by JBA Consulting (project code 2023s1115, dated 3 April 2025).

Furthermore, we also note the decision notice of application reference PAP/2024/0584, which refers to a Certificate of Lawfulness for the Proposed Use of the Siting of Storage Containers. The land to which the Certificate relates is broadly the same as the red line site plan submitted in respect of this application and confirms the siting of containers on site to be lawful.

Fallback Position

We understand from the File Note submitted, the Certificate *"is referred to as the fallback position and will be taken forward if planning approval for the proposed development is not granted."*

We will leave your Council to decide how much weight should be given to this potential fallback position in the determination of these applications.

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If it is decided that limited weight should be given to the potential fallback position, we make the following comments with regards to the impacts of flood risk elsewhere as a result of the proposed loss of floodplain storage capacity on site.

Impacts on Flood Risk Elsewhere

Table 1 in the submitted File Note confirms that the baseline flood storage capacity on site is 27,000m³ in a 100 year plus climate change flood event. The proposed development would result in a flood storage capacity on site of 13,000m³, which amounts to a loss of 14,000m³.

For completeness, the File Note also confirms that the potential fallback position will lead to an additional 5000m³ loss of floodplain storage capacity, compared to that of the development proposed as part of this application.

We note the applicant's approved model shows that flood risk will not be increased accounting for a model tolerance of 10mm. While models are not perfect representations of real-world flooding, they are often the best available information when determining the likely impacts of changes in development, flow routes or the development of Flood Alleviation schemes.

The proposed loss of floodplain storage might not have shown increased flood risk on the model, whether that's through being under the model tolerance or general uncertainty levels, but that water will be displaced from the site. Based on the information submitted, we can only confirm that if approved, this application represents an increased flood risk to others compared to the site as it currently is.

Therefore, as advised previously, a scheme for floodplain compensation should be submitted to, and approved in writing by, the local planning authority for any ground raising within the 1 in 100 year plus climate change extent. We are aware that some sites may have difficulty providing level-for-level compensation. On this basis we are able to be pragmatic given the nature of the site and this policy requirement and not require fully level for level compensation. Any floodplain compensation would still have to compensate for the lost volume and likely act in a way that acts hydraulically similar to level-for-level compensation.

We are satisfied that this position is in accordance with your Local Plan policies LP29, part 11 which requires "... ensuring no net loss in of flood storage capacity..." and LP33 part i. of the Local Plan "New development proposals in or land raising within Flood Zone 3 (including Climate Change) should provide for the following: i) Floodplain Compensation; provide floodplain compensation on a level-for-level basis."

Furthermore, paragraph 181 of the National Planning Policy Framework (NPPF) states "When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere."

As such, the requirement for floodplain compensation comes from the need to ensure that flood risk is not increased elsewhere. If floodwater is displaced, that floodwater must go elsewhere. Policies do not set a lower limit for displacement, either in terms of impacts or magnitude. To prevent this floodplain compensation is required.

Furthermore, paragraph: 049 (reference ID: 7-049-20220825) in the Flood Risk and Coastal Change Section of the National Planning Practice Guidance, Paragraph: 049 (Reference ID: 7-049-20220825) states:

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"How to assess the suitability of development where there is a possibility it will increase flood risk elsewhere.

Development or the cumulative impacts of development may result in an increase in flood risk elsewhere as a result of impacts such as the loss of floodplain storage, the deflection or constriction of flood flow routes or through inadequate management of surface water. Site-specific flood risk assessments should assess these impacts and demonstrate how mitigation measures have addressed them. Where flood storage from any source of flooding is to be lost as a result of development, on-site level-for-level compensatory storage, accounting for the predicted impacts of climate change over the lifetime of the development, should be provided. Where it is not possible to provide compensatory storage on site, it may be acceptable to provide it off-site if it is hydraulically and hydrologically linked." "Where it is not possible to fully mitigate the impacts of development on flood risk elsewhere, now and in the future, the site-specific flood risk assessment will need to fully detail the extent and nature of the increase in risk and to assess its significance. This is likely to be a key consideration in whether planning permission is granted."

I trust that the above is of use in assisting with your Council's determination of this application. If your Council are minded to approve the application, we would welcome an opportunity to recommend planning conditions.

Yours faithfully

[Redacted]
Planning Specialist

[Redacted] environment-agency.gov.uk

End

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North Warwickshire Borough Council
Development Control
PO Box 6
Atherstone
Warwickshire
CV9 1BG

Our ref: SV/2023/112030/12-L01
Your ref: PAP/2023/0422
Date: 22 September 2025

Dear Sir

ADDITIONAL INFORMATION SUBMITTED - DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES ON SITE TO FACILITATE THE ERECTION OF A NEW INDUSTRIAL UNIT (USE CLASS B2) ASSOCIATED WITH BATTERY TECHNOLOGY FOR THE PRODUCTION OF ELECTRICALLY POWERED VEHICLES; CANOPY; ANCILLARY STORAGE AND OFFICE USE; RE-PROFILING OF SITE LEVELS; ERECTION OF 2 SILOS; WATER SPRINKLER TANKS; PUMP HOUSE; PROVISION OF PHOTOVOLTAIC ROOF PANELS; SERVICE YARD INCLUDING SECURITY BARRIER; ASSOCIATED PARKING INCLUDING CYCLE SHELTERS AND LANDSCAPING AT WHS PLASTICS LTD, WATER ORTON LANE, SUTTON COLDFIELD, BIRMINGHAM, B76 9BG

Thank you for consulting the Environment Agency on the above planning application. For completeness, we have provided correspondence regarding this application between 14 November 2023 and 10 September 2025. In summary, we have objected to the proposed development based on insufficient information, the displacement of circa 14,000m³ of water and uncertainty over the impact on fluvial flood risk elsewhere.

Your Council made us aware of a Certificate of Lawful Development at the site, application reference PAP/2024/0584, which we noted in our letter dated 23 April. The Applicant has used this Certificate to show they could potentially cover 70% of the site in storage containers and used this in their floodplain displacement calculations. Further to our discussions, your Council are seeking our thoughts, should 'significant weight' be given to this 'fallback' position.

If your Council decide to give significant weight to the siting of storage containers covering 70% of the site when determining this application, we would not wish to pursue flood risk as a reason for refusal. However, we would still encourage the exploration of opportunities for off-site flood storage compensation, as a way to prevent adverse flood risk elsewhere, with a potential for betterment.

For the avoidance of doubt, without the 'fallback', and in line with policy, we would

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maintain our objection and recommend appropriate flood storage compensation is provided. However, we acknowledge that if implemented, the 'fallback' position would result in an approximate loss of 18,900m³, compared to a loss of 14,000m³ as a result of the proposed development. The 'fallback' position clearly shows a greater loss of floodplain storage on site.


Please note both the fallback and the current proposals would displace a volume of floodwater more than 100 times greater than normally allowed.

The applicant should submit broad principles to demonstrate that the off-site floodplain compensation storage area is achievable in principle, after which we recommend your Council include a planning condition or legal agreement to secure further details at the post permission stage.

As discussed previously, should your Council be minded to afford the fallback 'significant weight' we would also recommend your Council impose a suitable worded planning condition to ensure no outdoor storage or shipping containers on site. This is within the interests of ensuring no additional loss of floodplain storage on site.

I trust that the above confirms our position.

Yours faithfully


Planning Specialist

@environment-agency.gov.uk

End

2

**WHS Site 5
Presentation to Councillors 19th September 2025**

1. We gained provisional planning approval from NWBC & BCC with 6 months of our first enquiry what was a fantastic achievement with the help and support from NWBC so thank you for this.
2. However, the provisional approval came with a holding objection from the EA. This was because the EA didn't have sufficient data on the proposed site on flooding issues.
3. We then spent the last 18 months tooing and frowing with the EA running many different hydraulic models with the surrounding water courses each time ticking off the many query points the EA raised. This was due to establish whether the site would flood and what impact that would have to third party land and what effects it would have on down stream land.
4. On the 2nd Jan 2025 the EA confirmed that they were satisfied that the submitted modelling was "fit for purpose". However they still had a holding objection with reference to land compensation. So I will explain this.
5. In the extreme modelling the highest model requires it to be based on 100 year storm plus 22% for climate change. On this model the site will flood.
6. However, due to the unique topography of the site flood water will just remain on our site and will NOT effect or spill out and third party land. In effect a bowl.
7. The EA are requesting for Land compensation but this is not a statutory requirement (our consultants have stated). However, is usually a requirement on sites that flood and do effect third party land. BUT OURS DOESN'T DO THIS.
8. We have very limited opportunities to provide any land compensation for this site. Therefore we went back to the EA and stated the above. However their response was they still wanted this .
9. We then went away and had a look at the existing use of the site . We obtained a certificate of lawfulness for the use of steel storage containers on the site which we could now proceed with. (See plan)
10. The result of this consent was, although if we proceed with the containers use would not give the same displacement as the new factory it will be broadly similar.

11. We sent this information back to the EA and although they haven't lift their request for land compensation on the 25th April response they leave it for the LPA to determine. Compared to previous responses the EA 's response removed reference to maintaining their objection.
12. Conclusion- We do think we have a robust case for the support of full approval of the new factory scheme with the fall back position displacement being broadly similar to what the new development proposes, and the help of NWBC accepting these conclusions.

The three points that are site specific to this development are;

- a) Our consultants are saying that as there are no flood risk impacts to third parties, it has been stated that floodplain compensation provision should not be considered critical.
- b) The fall back position of the storage containers approval , must be taken into consideration as this can be implemented without the need for land compensation and is broadly similar displacement to the new factory.
- c) Not a technical point but relevant to the site if the site does flood in the extreme weather conditions, the other WHS factories, Water Orton Lane & part of Water Orton will all be flooded but the WHS 5 will contain it's flood waters.


19th September 2025.

General Development Applications

(6/j) Application No: PAP/2024/0363

Land 250 Metres North Of Lea Farm, Haunch Lane, Lea Marston,

Change of use to equestrian use and erection of animal and equine buildings and facilities on existing equine land, for

Mr James Richards

1. Introduction

- 1.1 This is being reported to the Planning & Development Board at the request of a local member.

2. The Site

- 2.1 The site is situated to the east of Haunch Lane, including an existing access. The applicant owns an additional piece land to the north of the application site accounting for 6.3 hectares of land. This land will be used for grazing and turning out of the horses.
- 2.2 The application site is approximately 0.984 hectares. To the west of the site across Haunch Lane is an agricultural field and north of this is the Lea Marston Shooting Club. Two public footpaths cross this area to the west. To the east of the site is the Environment Agency's land and the River Tame. To the south of the site is Lea Marston Village, around 200 metres from the boundary of the site.

3. The Proposal

- 3.1 The proposal has been amended from its original submission resulting in a reduction in the overall scale of the development. The amended scheme is set out below.
- 3.2 The proposal includes a stable block for 12 horses, an open sided hay barn for feed and bedding, a menage measuring 20m by 40m, tack and feed stores together with an office and staff facilities. This is designed to stable 12 mainly livery horses with a few owned by the applicant, 17 donkeys and 6 reindeer, all with an associated feed barn.
- 3.3 The application layout plan shows a block of 12 stable units for horses with a tack room at the eastern end running along the southern boundary, an office, staff kitchen and boot room with shower and WC at the corner, with some ancillary units. A small temporary paddock area is to be set aside for donkeys.
- 3.4 The original submission showed 14 stables, a horse walker and much larger the proposal included a high brick wall and gates at the front of the site.

- 3.5 10 parking spaces are proposed, as well as a muck trailer space together with a compound for donkeys. Boundaries to the compound area will be fenced and hedgerow planting alongside the post and rail fencing carried out and maintained. Two field gate accesses will be formed to let animals out into the larger field area for grazing purposes.
- 3.6 The principal vehicle access off Haunch Lane is designed to meet WCC Highway requirements and will continue to comprise post and rail fencing with 1.4 metre high walls. A vehicle access of some 6m width is proposed with its gate set back 21.38 metres from the back of the highway. There will be a separate pedestrian gate and footway alongside it on one side. Details of the proposal are shown in Appendix A.

4. Background

- 4.1 The applicant has set out in the application, that he began his equine business almost forty years ago, moving it to Dunton Stables in 1995 and then more recently to Bodymoor Heath Lane. The applicant ran three main enterprises from Dunton Stables - a riding school, providing donkey rides at various venues and events around the country together with a donkey stud. Dunton Stables was a successful and profitable business and a planning application for a permanent dwelling to support the business, was successful in 2004.
- 4.2 Dunton Stables was however subsequently closed due to the compulsory purchase of the site for the HS2 line. As a result of this, and seeing the changing trends in the leisure market, the applicant purchased a nearby site at Bodymoor Heath Lane, close to the Kingsbury Water Park.
- 4.3 In 2015, the applicant made a planning application to develop the site into a leisure business largely based around hiring out horses and donkeys as a visitor attraction particularly in association with the nearby Water Park. This application was permitted but for various reasons, the full extent of the development was never built out. However, the stable block and manage and some other infrastructure was built and the equine business continued as a stud and for retraining racehorses for sale. The site was also used for grazing horses and donkeys.
- 4.4 The existing site at Bodymoor Heath consisted of only 1.24 hectares which meant that there was very limited turnout area for horses and donkeys at the actual site meaning that additional land was needed away from the site.
- 4.5 Following the change in the nature and scape of the business over the last few years, the site at Bodymoor Heath is no longer viable or appropriate for the use and as explained above has no readily available grazing land adjacent to it. So, the applicant has sought the option of finding an alternative site large enough to transfer all of livestock rather than split the business between smaller sites. The applicant had had the Haunch Lane site for some time and therefore its availability led to him to propose to transfer here. The applicant has sold the Bodymoor Heath site but, is still renting part of the land.

5. Development Plan

North Warwickshire Local Plan 2021 - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP3 (Green Belt), LP13 (Rural employment), LP16 (Natural Environment), LP29 (Development Considerations), LP30 (Built Form), LP32 (Agricultural Equestrian Buildings), LP34 (Parking) and Appendix K Parking Standards

Warwickshire Minerals Plan 2018- 2032 Adopted - Site 9 Lea Marston

Other Relevant Material Considerations

North Warwickshire Landscape Character Assessment 2010

National Planning Policy Framework 2024 – (the “NPPF”).
Planning Practice Guidance - (“PPG”)

Natural Environment and Rural Communities Act 2006

Conservation of Habitats and Species Regulations 2017

Environment Act 2021

6. Consultations

Warwickshire County Ecology – No objections subject to legal agreement and conditions

Warwickshire County Council as Highway Authority - No objections subject to conditions

Warwickshire County Council as Minerals Planning Authority – No objection

Warwickshire County Council as Lead Local Flood Authority – No objection subject to conditions

Environmental Health Officer – No objection

7. Representations

7.1 Five objections have been received raising the following points and concerns:

- The deletion of various forms and volume of proposed buildings and equipment together with the overall revised footprint development area has now provided and increased the requirement of Green Belt openness within the application
- The appearance of precast concrete vertical kicker units is still not acceptable and where this is evident, external cladding should be introduced as proposed landscaping is not satisfactory due to the seasonal changes to hedgerows.
- Lighting details required
- Use of caravans on the site is not acceptable and also the original access gate onto Centenary Way (existing Bridle Path) is totally unacceptable.

- Temporary stables erected on adjacent site
- The new entrance proposal provides for a rural appearance and takes away the hard appearance as previously presented.
- Existing measures in addressing the drainage and flooding issues interfacing with the entrance and ditches in the location remains an important issue.
- Animal Welfare is important with noise from adjacent shooting club causing problems.
- Site inadequate for the number of animals proposed.
- Static caravan on there would not be appropriate.
- The proposed Grand Union Canal Transfer Public Consultation as put in place in September 2024 and as such being a National Utility facility is important to this application.
- Bio-diversity net gain is important and should be provided.
- Donkeys are likely to lead to noise and disturbance.
- The proposed hedge-line provides a non-historic boundary.
- Additional evergreen planting is required.
- This would set a precedent hard to resist on other sites.
- The applicant has already failed elsewhere and now proposes to move onto this site.
- Siting of mobiles should not be acceptable.

7.2 Lea Marston Parish Council has concerns as follows:

- The welfare of the animals in respect of the noise from the shooting club.
- The development is disproportionate in Green Belt.
- Not enough grazing land for horses, requires 1-1.5 acres per horse.
- Land floods which will reduce the amount of grazing land available
- Buildings 70 metres long and up to 8.5 metres high are detrimental to visual amenity of the area.
- No provision for storage of manure and other waste.
- Nitrate vulnerable zone.
- Application includes an area of land for a member of staff to live.

8. Observations

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, together with Section 70(2) of the Town and Country Planning Act 1990, require planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.

a) Principle of Development

8.2 The application site lies beyond any defined development boundary as defined by Local Plan policy LP2 and is thus in a Category 5 location for the purposes of this policy – essentially a countryside location. Whilst the policy makes it clear that development in such locations will not generally be acceptable, the actual proposal is for an equestrian use which would be appropriate as a matter of principle in a countryside area. This is because Local Plan policy LP32 refers to new agricultural, forestry and equestrian buildings and is supportive of these buildings in such a location. Moreover, whilst the proposal is also within the situated within Green Belt,

new agricultural buildings here are not defined as being inappropriate developments by the NPPF. Equestrian buildings are generally treated as being very similar to agricultural buildings and have been approved in other Green Belt locations throughout the Borough.

- 8.3 Notwithstanding this overall conclusion, a more detailed assessment is still needed.

b) Green Belt

- 8.4 The site is located in the Green Belt. This means that the construction of new buildings on this site is considered inappropriate and harmful to the Green Belt unless it can be demonstrated that the proposed development meets the criteria set out both in the NPPF and Local Plan policy LP3.
- 8.5 Paragraph 154 of the NPPF sets out the exceptions to inappropriate development involving the construction of new buildings, providing that the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within in. These include buildings to be used for agriculture and forestry use as well as buildings for the provision of facilities in connection with outdoor sport and recreation. It is not considered that the proposed buildings would fall under either of these exceptions and as such, the stables, offices, reindeer enclosure, feed and bedding area and storage would be inappropriate development in the Green Belt.
- 8.6 In terms of the recent changes to the NPPF introducing the concept of “grey belt” land within the Green Belt, this site would fall under such a definition. However, under paragraph 155 of the NPPF, it is not considered that the proposed development would meet the criteria set out here as there is more than sufficient land within the whole of the Borough for stabling purposes and the land itself is not in a sustainable location. As such the development remains as inappropriate.
- 8.7 As a result of being inappropriate development, the proposal carries a de-facto presumption of refusal with permission only forthcoming in situations where very special circumstances are present which clearly outweigh Green Belt harm, and any other harm arising from the development.
- 8.8 It is thus now necessary to assess the actual level of that Green Belt harm as well as any other harms. Dealing first with Green Belt harm, then assessments are needed on whether the openness of the Green Belt is preserved and then on whether the proposals conflict with the purposes on including land within the Green Belt.
- 8.9 As Members are aware there is no definition of “openness” in the NPPF and it has been held in case-law that the term “preserving” the openness of the Green Belt does not mean that the openness of the Green Belt should be entirely unchanged as a result of new development. Preservation refers to the need to ensure that the openness remains unharmed. The PPG however sets out what factors can be taken into account when considering the potential harm of development on the openness of the Green Belt. These are spatial and visual aspects, as well as the degree of permanence and activity.

- 8.10 The present site, is an open agricultural field without any buildings. The field is separated by hedgerows to the north and there is a hedgerow to the road boundary on Haunch Lane. The whole appearance of the setting of the site is thus one of open countryside. This is the current position with it not being spatially or visually contained by buildings, by infrastructure or by topography. This is the base-line against which to assess any changes in the openness of the area. The proposal introduces new development into this open setting. There would be a change in appearance of the area over the base-line description set out above by fact and by degree.
- 8.11 In respect of the spatial element, then the perception and appearance of the site will be altered through the introduction of new development and the engineered vehicular access. However, this would not be too dissimilar to a new agricultural access to new agricultural buildings in this location. In this case however the stables have a limited height and the access if sympathetically finished would not harm the openness of the Green Belt being a surface development. The proposal will retain existing native hedgerows to the front of the site. Berms and swales will be created to the western and southern boundaries. Overall, the openness within the wider setting is reduced, particularly as a consequence of the buildings and structures which will introduce a third dimension. However, the actual spatial impact will only be local in extent and scope, such that the development would be largely self-contained.
- 8.12 The second element is a visual one. It is acknowledged that the proposed development would be visible from the public domain from the footpath on the road. A change will appear visually in the local setting with the introduction of the range of these buildings, hard surfacing and the new access. With regards to this visual impact of the buildings and layout, it has been much reduced from that originally submitted due the reduction in the scale of the new buildings proposed. Again here, visually the scale of any visual harm would be local in extent and transitory, being mainly viewed from drivers or walkers.
- 8.13 The third element is the activity associated with a proposal. Here this would be all new activity – traffic, coming and goings, parked vehicles, delivery activity, horse owners checking on their horses and all the other delivery and other visits made to the business. This activity is materially different to that if the site was in agricultural use or just used as grazing land. There would be some harm to openness, but again that would be limited and local in impact.
- 8.14 The final element is that the proposal is not temporary in nature.
- 8.15 As a consequence of these four matters, it is considered by fact and by degree that the openness of the area would not be preserved, but the level of actual Green Belt harm caused would be limited in extent and scope.
- 8.16 The second matter is now to assess whether the proposal conflicts with the five purposes of including land with the Green Belt. It is considered that there would be conflict with one of these - namely safeguarding land from encroachment.

- 8.17 As concluded above, there would be a change here in respect of the visual and spatial elements of openness, but the weight to be attributed would be mitigated Firstly, by the localised extent of the changes and also secondly, by the fall-back position in that similar agricultural buildings could be developed here and that they would be treated as being appropriate in the Green Belt under the NPPF exceptions. Thirdly, there is Local Plan policy LP32 which supports equestrian developments in countryside locations. Finally, Members are aware that both of the previous locations lawfully used by the present applicant – Dunton Stables and at Bodymoor Heath – have been Green Belt locations. As a consequence, it is considered that the harm to this one purpose is limited in impact.
- 8.18 Overall therefore in respect of the Green Belt it is concluded that the proposal is inappropriate development, but that the actual Green Belt harm caused is limited in extent and scope.

c) Agricultural policy

- 8.19 LP32 reads as follows:

New or extensions to existing agricultural, forestry and equestrian buildings or structures will be supported if it can be demonstrated that they are reasonably necessary both in scale, construction and design for the efficient and viable long-term operation of that holding; that there are no other existing buildings (other than where that would be demonstrably impractical, have adverse visual effects compared with an alternative location, or where a new holding and buildings are being established) or structures that can be used, altered or extended, that they are located within or adjacent to a group of existing buildings, the site selected and materials used would not cause visual intrusion and in the case of livestock buildings their location would not cause loss of residential amenity.

- 8.20 Having regard to this wording, it is considered that the most important matter to establish is whether the evidence presented demonstrates a reasonable necessity for the scale, construction, and design of the proposed developments, for the efficient and viable long-term operation of that holding. In this case the scale of the proposal has been much reduced from the original submission based on advice given by the Council's Agricultural Consultant – ie, the removal of any form of residential accommodation and the loss of parts of the scheme which were not justified. This was because of the Consultant's view that the business as originally proposed was ambitious and unevidenced. As a consequence, the reductions in the proposal are now considered to have resulted in a more proportionate proposal, in that it is far more likely to be able to become a viable business in the longer term. However, there is still some caution needed.
- 8.21 The Parish Council has raised a matter due to the fact in its view, that there is insufficient grazing land here for the proposed number of horses and other animals. The advice from the Consultant referred to above is that the proposal will allow for the effective and efficient use. Further advice has been sought from the British Horse Society, this will be reported to Board as an update. Horses and reindeer require around 1 acre of land each and donkeys require around 0.5 an acre each. The applicant proposes to accommodate 12 mainly livery horses, 17 donkeys and 6 reindeer on the site. The site equates to around 15 acres and is

substantially more than the previous site in Bodymoor Heath, albeit it was close to Kingsbury Water park where animals could use the adjacent park. Although, the site is on its limits in terms on number it must be remembered that the reindeer and donkeys can be off site at events where there additional land and feed. The applicant has for hay on site which can allow for increased intensity of use of the land. The development is on the limits of usage it would therefore be necessary to place a condition on restricting the number of animals on the site.

- 8.22 In addition to LP32, the Local Plan Landscape policy LP14 is of relevance. It records that within identified landscape character areas, development should look to “conserve, enhance and where appropriate, restore landscape character”. The site does not contain any statutory landscape designations. It falls within the “Middleton to Curdworth Tame Valley Farmlands Landscape” area as defined in North Warwickshire’s Landscape Character Assessment of 2010. This is described as characterised by “gently undulating and open arable slopes of the western Tame Valley, a number of small watercourses cut through the landscape to connect to the Tame, the most notable being the Langley Brook, which flows to the south of Middleton.” It goes onto to say that there are number of golf courses in the area and “A few quiet and winding narrow lanes link the settlements, in places these have close hedges and hedge banks, and elsewhere hedges have been removed allowing open views across fields.” Further to this it indicates that “A general lack of woodland and tree cover in combination with the sloping landform creates an open empty feel to this landscape, except within the immediate vicinity of the small villages/hamlets.” Following gravel extraction, few areas of traditional landscape remain and further pressure from HS2 to the west of the site would also have an urbanising effect. Though the immediate surroundings appear to be attributed to leisure pursuits encouraging access to the countryside, this is noted by the golf course north of the site at Lea Marston Hotel. Amongst the landscape management strategies referred to are the maintenance and conservation of the primary hedge lines and their positive management as landscape features together with new hedgerow planting and enhanced tree cover.
- 8.23 The site is relatively self-contained visually, assisted by existing landscaping along the southern, northern and eastern boundaries. As a consequence, the impacts from further afield are considered to be minor. However, the field here has no development on it other than the remnants of an historical shelter within the northern most centre of the field. The development here as indicated in the Green Belt element of the report is harmful, but as assessed above, there is only a limited impact on the landscape of the surrounding area by the provision of the new enterprise. The proposal is visible from public vantage points along the Haunch Lane from the west and the south of the site, and the public footpath which is to the west of the site. The developments finish would be in corrugated green metal which has a rural appearance. It is considered that there would be no adverse impact from the perspective of the nearest neighbours to the site due to distance and particularly to intervening hedgerows. It is thus a localised impact rather than affecting the wider views of the landscape. Overall, the single storey nature of the proposal is such that there are opportunities to mitigate its impact through the enhancement of hedgerow and tree planting, together with the urbanising influences already identified above, the actual impact on the landscape character of this new enterprise is considered to be local in extent.

- 8.24 Residential receptors are distant from the application site and it is unlikely that the proposed equestrian uses will impact detrimentally on the residential amenity of the area. No objections have been raised from the Council's Environmental Health Officer to the proposed development. It is not considered that the proposals would lead to unacceptable amenity implications for residential property, in compliance with policies Local Plan policies LP29 and LP32.
- 8.25 Overall, therefore having taken advice from the Council's agricultural consultant on the main elements of Local Plan policy LP32, it is considered that there is no conflict provided that any permission granted is limited in extent.

d) Design

- 8.26 In principle the provision of a stable block and associated riding arena are not considered discordant features within what is an intrinsically rural, open countryside setting, subject to appropriate design. The scale, massing and height of the stable block and the riding arena are appropriate for their intended purposes and this, when combined with their siting which takes advantage of the existing boundary hedgerows, ensures that no aspect of the development would form prominent, dominating landscape features. Though facing materials have not been supplied at this time, the drawings indicate timber construction which is appropriate with the ménage demarcated with post and rail fencing. Moreover the driveway is to be surfaced with breedon gravel, a suitable less intrusive surfacing material than traditional tarmacadam hardstanding.
- 8.27 In summary it is considered that the development would retain the character and appearance of the immediate setting, respect existing natural features and integrate with its surroundings. The proposals accord with Local Plan policies LP32 and LP30.

e) Highway Safety

- 8.28 With regards to highways implications, Local Plan Policy LP29(6) states that development is only supportable in situations whereby there is sufficient capacity within the highway network to accommodate the traffic generated and that it would not be hazardous to traffic safety and visibility. This policy approach is considered to be broadly consistent with paragraph 115 of the NPPF which only seeks for development to be refused on highways grounds where there would be an unacceptable impact on highway safety, or the cumulative impacts would be severe.
- 8.27 Following initial concerns from the Highway Authority and the submission of a road safety audit, the access into the site has now been supported. Space is to be made within the site for a trailer to manoeuvre and exit in a forward gear, with the gates set back a sufficient distance to enable a horse box and trailer to wait clear from the highway whilst the gates are open. Furthermore the requisite visibility splays appear to be achievable.
- 8.28 The development accords with Local Plan policy LP29 as well as with paragraph 115 of the NPPF.

f) Ecology

- 8.29 Local Plan policy LP16 seeks to protect and enhance the quality, character, diversity, and local distinctiveness of the natural environment. The submitted Ecological Appraisal concludes that the site is of low ecological value and that no protected species were identified. Moreover, the nearby pond has poor habitat suitability. The County ecologist has raised no objection to the conclusions of the Appraisal. Significant weight is given to this response, such that the development would comply with the provisions of the Local Plan policy.

g) Biodiversity Impact Assessment

- 8.30 Biodiversity Net Gain (BNG) is now mandatory requirement under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). This development proposal is not considered to fall within an exemption category under these Schedules.
- 8.31 The applicants' BNG report is considered to be satisfactory from the County ecologists point of view. There is a biodiversity net gain of 14.23% in habitat units which meets the 10% mandatory BNG requirement. This is predominantly to be provided on the adjacent site, within the blue line boundary of the application and a condition will be imposed to secure this habitat creation, management and monitoring. There is thus no conflict with the relevant Local Plan policy – LP16.

h) Flooding

- 8.31 Local Plan policy LP33 requires amongst other things that new development within Flood Zone Three includes a number of mitigation and precautionary measures. As the site is predominantly within Flood Zones 1, the NPPF states that “less vulnerable” development is compatible within this Zone without the need for exception testing. It is agreed with the applicant that the proposal would be a “less vulnerable development”. The proposed swales around the southern boundary of the site will make improvements to the flooding issues experienced in the area.
- 8.32 There are existing surface water flooding issues on the blue edged area of the site, however maintenance and management of ditches around the site should help to reduce this impact. It is in the applicant's interest to provide and mitigate this.
- 8.33 There is no objection from the Local Lead Flooding Authority, subject to conditions which would be replicated if recommended for approval. As such there is no conflict with Local Plan policy LP33.

i) Minerals

- 8.34 The proposed buildings and facilities lie within a Mineral Safeguarding Area for sand and gravel. It is also 1.2 kms northeast of an existing minerals, minerals infrastructure and waste management site at Dunton Quarry and adjacent to a site allocation in the adopted Minerals Plan 2018-2032, known as Site 9 at Lea Marston.

- 8.35 Local Plan Policy LP 29 (13) Plan says that development should “not sterilise viable known mineral resources”. The County Council as Minerals Planning Authority has no objection to the reduced scheme here subject to conditions. As such there is no conflict with this Local Plan policy.

j) The Final Planning Balance

- 8.36 Overall, it is considered that the “harm” side of the final planning balance comprises the definitional Green Belt harm of the proposal being inappropriate development in the Green Belt, but that there is limited actual Green Belt harm and no other harms caused. On the other side of the balance is the support given in Local Plan LP32 to new equestrian facilities in countryside locations; the support given by Local Plan policy LP13 for rural and tourism based development, the fact that buildings associated with outdoor sport and recreation uses as well as agricultural buildings erected on this site would be appropriate development in the Green Belt and that on two previous occasions the Council has supported the applicant’s similar enterprises in Green Belt locations.
- 8.37 In respect of an assessment of this balance, then the NPPF expects there to be a clear difference between the support side over the harms caused. Here there is considered to be a difference and that would lend support to the grant of a planning permission. However, in light of the Agricultural Consultant’s concern about the longer term viability of the business it is considered that that reduced scheme could be supported with limits in terms of numbers of animals on the site.

RECOMMENDATION

That planning permission be **GRANTED** subject to the following conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the approved plans:

HL-2024-PL03- Rev D_Proposed Site Layout
HL-2024-PL04_Rev D-Proposed Site
HL-2024-PL05-Rev C_Proposed Elevs-n-Sects
HL-2024-PL07-Rev C_Proposed Road Access-n-Visibility Splays
HL-2024-PL010-Rev D_Proposed Site Landscaping
HL-2024-PL010-Rev D_Proposed Site Landscaping_Surfaces
received by the Local Planning Authority on 10/07/2025.

REASON

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

Defining permission

3. The development hereby approved shall provide shall only be used within sui generis equestrian use (including donkeys and reindeer) of the Town and Country Planning (Use Classes) Order (as amended) or for no other purpose.

REASON

To define the permission granted. To restrict the development land and buildings to only be used for equestrian (including donkeys and reindeer) use only.

4. Notwithstanding the provisions of Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) no development falling within Schedule 2, Part 5 shall be carried out unless express planning permission for such development has been granted by the Local Planning Authority.

REASON

To define the permission and to ensure sufficient justification is submitted to justify a residential use on the site. To ensure noise and air quality is assessed. To enable the Local Planning Authority to assess the impact of such proposals on the openness of the area and to ensure that the proposal does not have an impact on the landscape.

5. The total number of horses, reindeer and donkeys to be kept on the site at any one time must not exceed 12 horses, 6 reindeer and 20 donkeys respectively.

REASON:

In the interest of the amenity of the area to ensure that the size of the land can support the number of animals proposed without impacting on the countryside.

Details

6. No development other than the creation of vehicle and pedestrian access shall take place (including demolition, ground works and vegetation clearance) until details of the materials to be used in the external appearance of the development including buildings, menage, fencing, hard and soft landscaping have been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the soft landscaping carried within the first planting season following the creation of the vehicle and pedestrian access

REASON:

To protect the visual amenities of the area and ensure that the openness to the Green Belt is limited by design.

7. No development other than the creation of vehicle and pedestrian access shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of “biodiversity protection zones”.
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities of an ecological clerk of works (ECoW)/similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

REASON:

To ensure that protected, important and priority species and their habitats are not harmed by the development and to safeguard biodiversity in accordance with the Local Plan Policy LP16.

9. Notwithstanding the submitted details no lighting shall be erected until details of all external lighting (to include location, height from ground level, lux level contour plan, and hours of operation) have been submitted to and approved by the Local Planning Authority. External lighting proposed should conform to the protocols set out in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). The development shall be carried out in full accordance with such approved details. In discharging this condition, the Local Planning Authority expects lighting to be restricted in proximity to key habitats, trees, hedges, and the proposed bat boxes and to be kept to a minimum at night across the whole site to minimise impact on emerging and foraging bats. This could be achieved in the following ways:
- Narrow spectrum lighting used to avoid the blue-white wavelengths ,
 - Lighting directed away from vegetated areas ,
 - The brightness of lights will be as low as legally possible,
 - Lighting timed to provide some dark periods ,
 - Connections to areas important for foraging will contain dark corridors. ,
 - Lighting shielded to avoid spillage onto vegetated areas

REASON:

In accordance with NPPF, ODPM Circular 06/2005 and to safeguard the rural character and appearance of the area and ecology.

10.A Habitat Management and Monitoring Plan (HMMP) for a minimum 30-year timeframe shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development including site clearance. The content of the HMMP shall include the following:

- a) A statutory Biodiversity Gain Plan including a Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including annual work plan capable of rolling forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.
- i) The completed statutory metric applied to the application site to demonstrate that a biodiversity net gain will be achieved.
- j) Locations and numbers of bat and bird boxes, and hedgehog shelters.
- k) Details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where results from monitoring show that conservation aims and objectives of the HMMP are not being met) how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

REASON

To ensure a mandatory Biodiversity Net Gain in accordance with the Environment Act, the NPPF and to safeguard biodiversity in accordance with the Local Plan Policy LP16.

10. The proposed vehicular access to the site shall not be used unless a public highway footway/verge crossing has been laid out and constructed in accordance with a section 278 agreement with all standard specifications of the highway authority and in general accordance with drawing no. HL/2024/PL04, Rev. C, titled "Proposed Site Layout Plan", all costs to borne by the applicant.

REASON:

In the interests of highway safety.

11. The development shall not be brought into use until the access, parking and manoeuvring areas have been laid out in general accordance with the approved details, including surfacing, drainage and levels, and such areas shall be permanently retained for the parking and manoeuvring of vehicles.

REASON:

In the interests of highway safety.

12. The access to the site shall not be constructed in such a manner as to reduce the effective capacity of any drain or ditch within the limits of the public highway.

REASON:

In the interests of highway safety.

13. The development shall not be brought into use until visibility splays have been provided to the vehicular access to the site with an 'x' distance of 2.4 metres and 'y' distances of 108m to the south, and 128m to the north, as measured to 1m away from the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

REASON:

In the interests of highway safety.

14. The development hereby approved shall not be brought into use until pedestrian crossing facilities have been installed to link the existing public highway footway.

REASON:

In the interests of highway safety.

15. The development shall be built in accordance with the approved Flood Risk Assessment and Drainage Strategy (as detailed below) and in particular the following mitigation measures detailed 1. Limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus climate change) critical rain storm to 3.1l/s upon completion of the full works. 2. Implementation of the proposed surface water drainage strategy including swales, permeable paving, flow control device and proprietary vortex separator. 3. Maintenance activities are to be carried out in accordance with the approved maintenance plan detailed in the approved Flood Risk Assessment and Drainage Strategy (as detailed below).

REASON:

To secure the satisfactory drainage of the site in accordance with the agreed strategy, the NPPF and Local Planning Policy.

16. The development hereby permitted shall not be brought into use until a Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment (052C12-DS/01 Rev 2, dated 1/8/25) has been submitted in writing by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority. The details shall include:

1. Demonstration that any departure from the agreed design is in keeping with the approved principles.

2. Any As-Built Drawings and accompanying photos
3. Results of any performance testing undertaken as a part of the application process (if required / necessary)
4. Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
5. Confirmation that the system is free from defects, damage and foreign objects

REASON

To secure the satisfactory drainage of the site in accordance with the agreed strategy, the NPPF and Local Planning Policy.

17. There shall be no bonfires or burning of waste on the site.

REASON


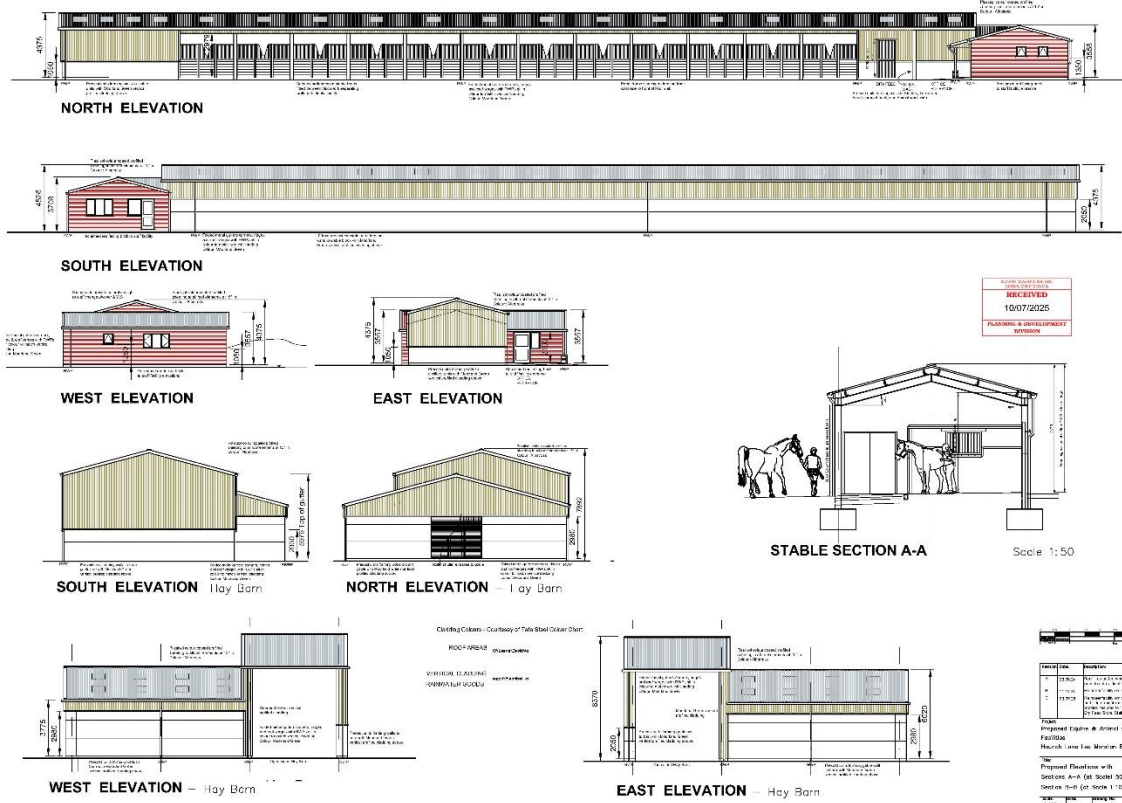
To safeguard the amenities of the area and accord with the smoke control area



PAP/2024/0363

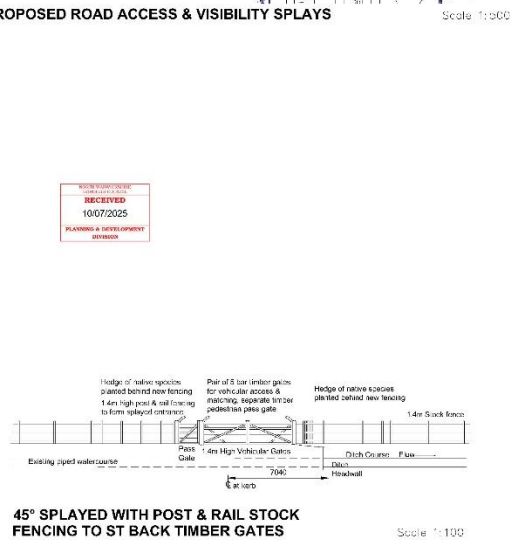


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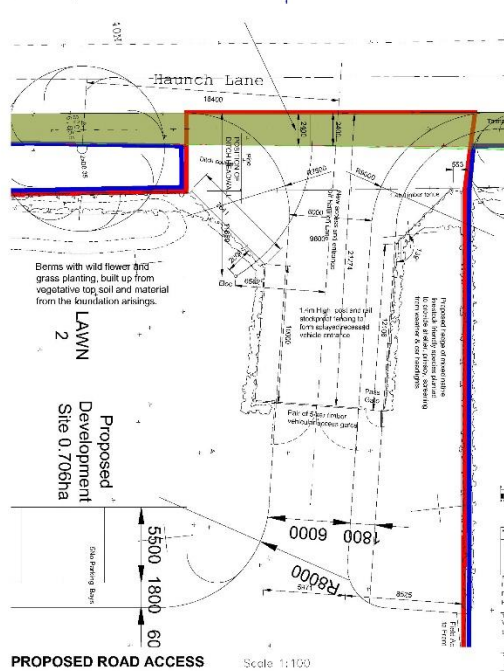


PROPOSED ROAD ACCESS & VISIBILITY SPLAYS

This diagram illustrates the proposed road access and visibility splays for the intersection of Highway 101 and Highway 102. It shows the layout of the roads, including the intersection, and the proposed splay areas for the new road access. The diagram includes labels for the roads and the splay areas, and a scale bar indicating distances in feet.



PROPOSED ROAD ACCESS & VISIBILITY SPLAYS



PROPOSED ROAD ACCESS

General Development Applications

(6/k) Application No: PAP/2025/0090

College Farm, Dingle Lane, Nether Whitacre, Coleshill, Warwickshire, B46 2ED

Demolition of existing building and erection of a single two storey dwellinghouse, for

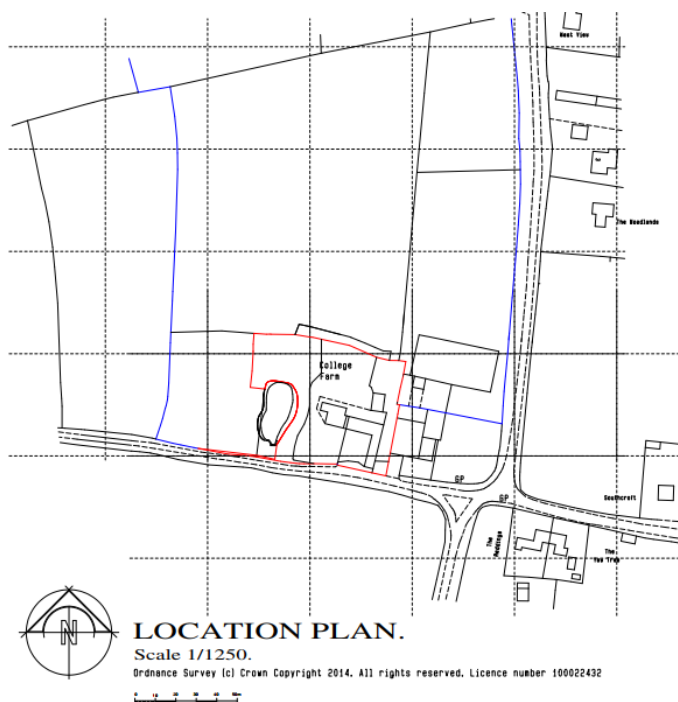
Mr J Rivers - Mr & Mrs J Rivers

1. Introduction

- 1.1 The application is reported to Board for determination in light of it being accompanied by a Unilateral Undertaking legal agreement.

2. The Site and Proposal

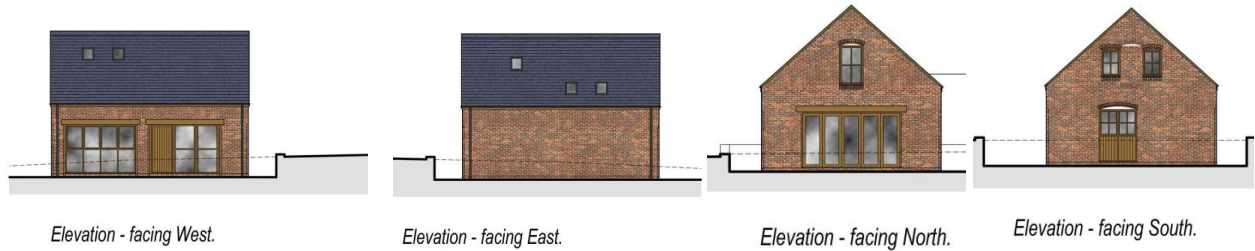
- 2.1 The application seeks the demolition of an existing building (authorised for conversion to a dwelling) and the erection of a one two storey dwellinghouse.
- 2.2 The property is located on the northwestern quadrant of the junction of Dingle Lane, Reddings Lane, Ridley Lane and Old Farm Lane (shown by the red line in the map extract below). The site is in the Green Belt and outside of any defined settlement. The site would be accessed from Dingle Lane via a proposed new vehicular access.



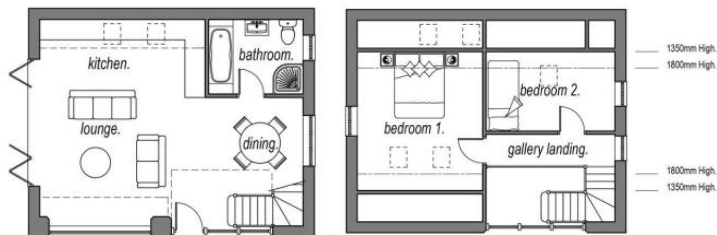
- 2.3 The site is located Flood Zone 1 which means it has a low probability of flooding from rivers and the sea.

2.4 The proposed dwelling takes the form of a low-level single storey structure with rooms in the roof space. It is to be set at a level lower than the surrounding land as a consequence of excavation. The proposal would include the creation of a new access to Dingle Lane, at a position west of the existing dwelling. It is shown in the plans and sections below:

Proposed dwelling:



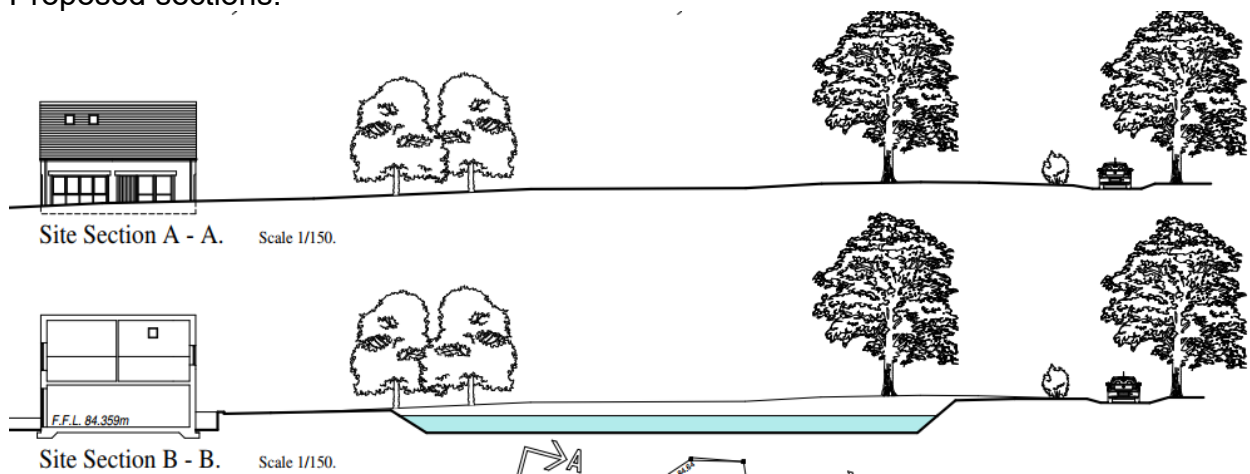
Proposed Floorplans:



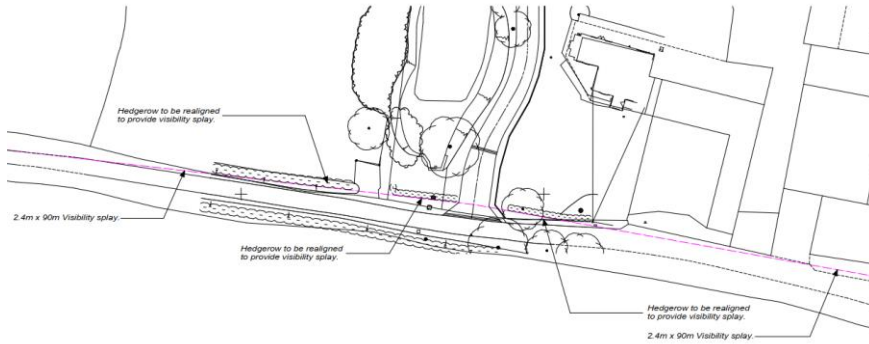
Ground Floor Plan.

First Floor Plan.

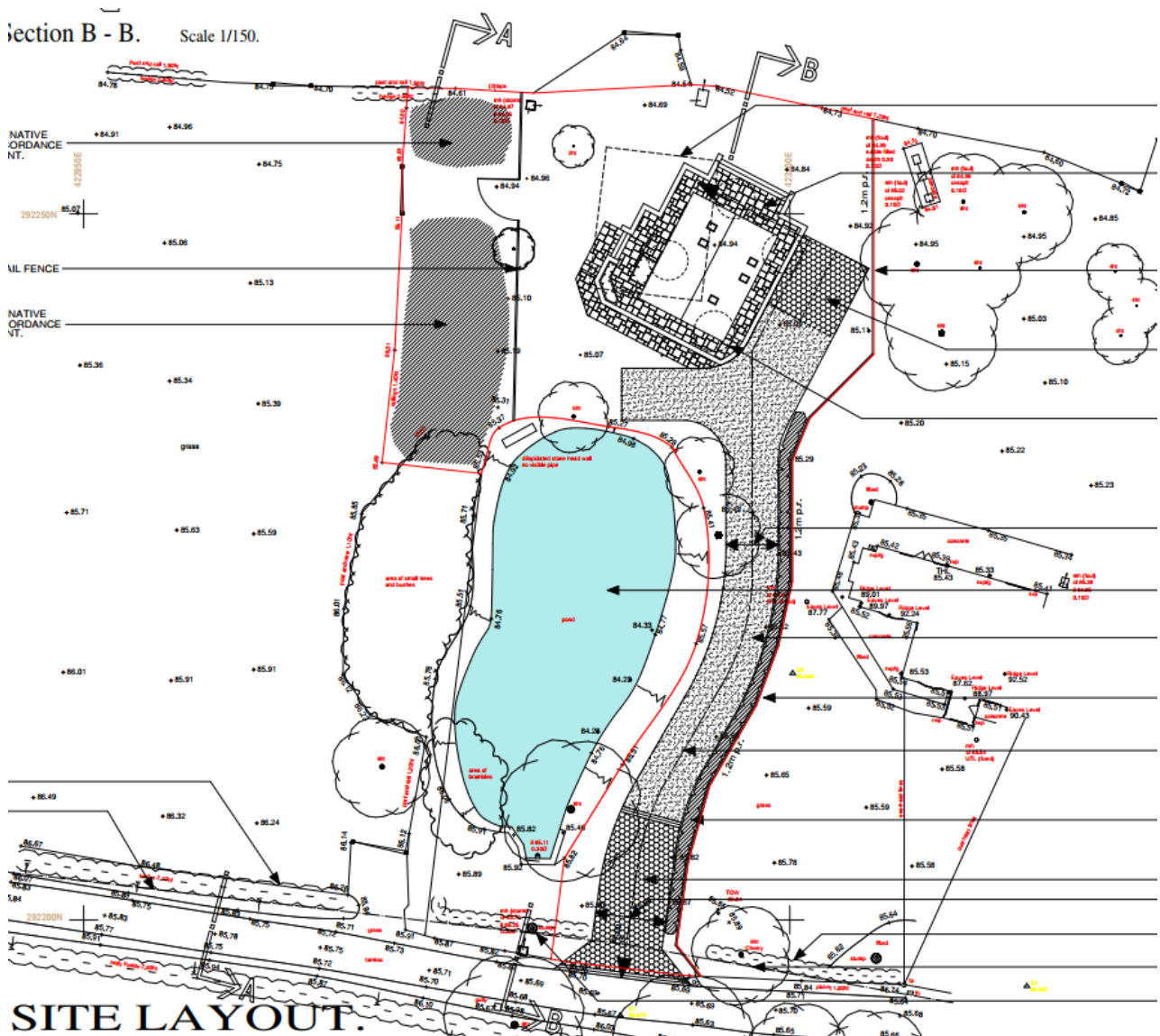
Proposed sections:



Proposed new access:



- 2.5 The proposed site layout is below, showing the incorporation of a new tree planting to the western boundary of the application site, north of the existing pond. The woodland would comprise 27x small, native broadleaf trees of field maple or rowan or fruit species:



- 2.6 The site of the proposed dwelling is at the rear of College Farm, within an existing residential curtilage. There are stables and other residential properties in the immediate neighbourhood, but otherwise the site is within a wholly rural environment. To the west of the proposed dwelling is an existing pond.
- 2.7 The applicant has provided a Unilateral Undertaking which provides a commitment to not implement the 2023 Permission (PAP/2022/0538) and demolish the existing building (the subject of the 2023 permission) in the event that the current application is approved and implemented. It further commits to the demolition of the building consented for conversion and will secure the construction of the dwelling on a 'self-build' basis.

3. Background

- 3.1 In 2021 (PAP/2020/0493) planning consent was given for the change of use of an agricultural building to a dwelling with associated parking.
- 3.2 In 2022 (PAP/2020/0491) a proposed outbuilding was granted a lawful development certificate. The outbuilding would be in a location west of the proposed dwelling.
- 3.3 In 2023 (PAP/2022/0538) the demolition and relocation of the building which benefitted from the 2021 consent was approved. The new site was slightly to the north of its existing footprint, in order to better accommodate associated amenity and parking areas. The design, appearance, footprint, height and materials to be used would be consistent with that on the earlier approval.
- 3.4 In 2023 (PAP/2023/0255) planning permission was refused for the demolition the building which benefits from approval of a change of use to residential dwelling (PAP/2020/0493) and non-implementation of the consent for a replacement dwelling (PAP/2022/0538) and the erection of a new dwelling to the same location as the outbuilding approved by the Certificate of Lawfulness (PAP/2022/0491). The rationale for the movement of the proposed building was to increase the degree of separation and autonomy of the new dwelling from the existing farmhouse, due to the future third party occupants. The application was refused for the following reason:

The site is located within the Green Belt where the construction of new buildings is considered to amount to an inappropriate form of development. The proposal is not considered to accord with any of the exceptions defined in the National Planning Policy Framework which would make this proposal appropriate development. Moreover, the proposal would introduce built form into a presently open area materially reducing openness from both a spatial and a visual perspective. The matters raised by the applicant are not of sufficient weight to clearly outweigh the harm caused. The proposal does seek to replace two buildings approved in 2022, however neither are in place, and Local plan policy sets out that replacement buildings should be located on the same footprint as the existing building unless there are material benefits to the openness of the Green Belt or, when environmental and amenity improvements indicate otherwise. The inappropriate development conclusion remains. Accordingly, the proposals do not accord with Policy LP3 (c) of the North Warwickshire Local Plan 2021 and Section 13 of the Framework.

- 3.5 The applicant argues that the current application proposes the erection of a dwelling, which is not materially different in form to that approved under planning permission PAP/2022/0538 in January 2023, albeit in a different location within the residential curtilage of College Farm.

4. Development Plan

North Warwickshire Local Plan 2021 - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP3 (Green Belt), LP8 (Windfall), LP16(Natural Environment), LP29 (Development Considerations), LP30 (Built Form), LP34(Parking) and LP35(Renewable Energy and Energy Efficiency)

Nether Whitacre Neighbourhood Plan 2024

5. Other Relevant Material Considerations

National Planning Policy Framework December 2024 (NPPF).

Supplementary Planning Document: Provision of Facilities for Waste and Recycling for New Developments and Property Conversions (2023).

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

6. Consultations

Warwickshire County Council Highways Authority – No objection subject to conditions.

Warwickshire County Council Ecology – Highlights the potential for the presence of bat and great crested newt protected species.

7. Representations

- 7.1 Eleven letters of support have been received, arising the following reasons for support:

1. Representations of support have been received from those who self-describe as near neighbours and longstanding residents in the area.
2. It is for a modest dwelling sympathetic with the surroundings. As such it will not greatly impact the visual amenity of the site. The proposed new dwelling will blend into the neighbourhood.
3. The new dwelling would be unobtrusive and a welcome addition to the community.
4. One dwelling would not cause traffic issues.
5. Planning permission already exists to convert the stables next door to a bungalow, however substituting this to the new proposed site is much more preferable to near neighbours. The alternative siting would not result in any overlooking or loss of view.
6. The impact on the green belt would be exactly the same as the existing site.
7. The specification of the dwelling would be sustainably excellent.

8. The position of the proposed dwelling is better than the position of the approved dwelling. Relocating a building within a garden should have a null effect on the greenbelt.
9. There is a need locally for small houses of this type, particularly as they would be suitable for existing older residents to down-size and remain in the area.
10. The development would align with the local neighbourhood plan's acknowledgement of acceptance of windfall development, particularly where it presents opportunities for local people to remain within the Parish. This is in the spirit of promoting and steadily growing a thriving rural community whilst preserving its style, feel and character as the Parish develops into the future.
11. There have been quite a number of similar development approvals in the last few years.
12. Significant mitigation will be employed as evidenced by the BNG report and the Unilateral undertaking.

7.2 Nether Whitacre Parish Council objects to the application for the reasons set out below:

Demolition of existing building and erection of a single two storey dwellinghouse.

There have been a few planning applications which have culminated in this application for a single storey dwelling house.

PAP/2020/0493 – Change of use of agricultural building to a dwelling – **Granted, no renovation**

PAP/2022/0491 – Lawful development certificate for outbuilding which was positioned behind the pond to the left of the house. **Granted, never built**

PAP/2022/0538 – Conversion of stable building to a dwelling. This was for the demolition of the same agricultural building in PAP/2023/0493 and rebuild 8m to the north but close to the existing buildings where the planning officer stated - Whilst the new building is not on the same footprint it is around 8 metres distant to the north. This is immaterial given the setting within the range of other buildings in the area and that the site is within an established residential curtilage where Class E buildings of the same size would be permitted development. The proposal is thus appropriate development in the Green Belt. **Granted, never built**

PAP/2023/0255 – erection of a dwelling, new access and car parking. The applicant proposed to shelve the plans to renovate the stable block and erect the workshop, using the volume from these buildings to create a new dwelling set to the west of College Farm. The dwelling proposed in the current application is in close proximity.

This application was **REFUSED**. The planning officer's reasons for refusal were: -

The site is located within the Green Belt where construction of new buildings is considered to amount to an inappropriate form of development.

The proposal is not considered to accord with any of the exceptions defined in the National Planning Policy Framework which would make this proposal appropriate development.

Moreover, the proposal would introduce built form into a presently open area materially reducing openness from both a spatial and a visual perspective.

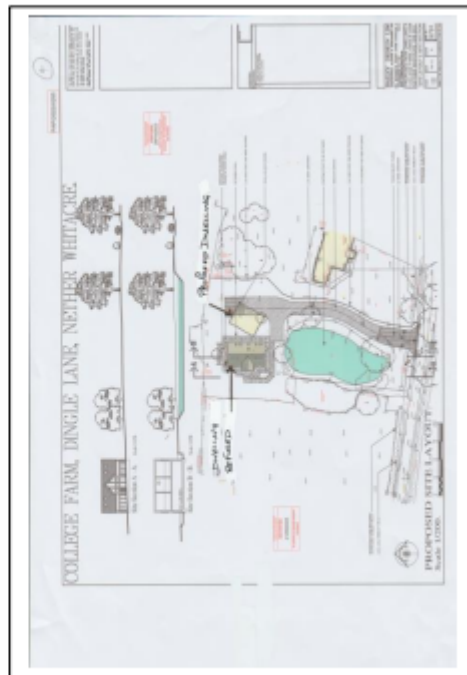
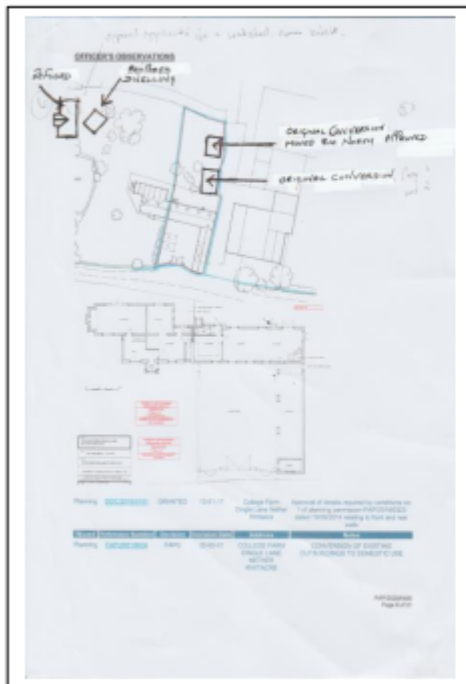
The matters raised by the applicant are not of sufficient weight to clearly outweigh the harm caused.

The proposal does seek to replace two buildings approved in 2022, however neither are in place, and Local plan policy sets out that replacement buildings should be located on the same footprint as the existing building unless there are material benefits to the openness of the Green Belt or, when environmental and amenity improvements indicate otherwise.

The inappropriate development conclusion remains. Accordingly, the proposals do not accord with Policy LP3 © of the North Warwickshire Local Plan 2021 and section 13 of the Framework.

The dwelling proposed in this current application would be similar in design to the original barn renovation, set lower into the ground and positioned slightly closer to the main house than the REFUSED dwelling. Pictures below show the position of the original barn and the repositioned agricultural building 8m north and the position of the current proposal against the REFUSED

application. The applicant plans to sign a UU to prevent the implementation of the change of use of the barn and the rebuild of it 8m north. The barn will be demolished.



The proposed site currently benefits from a pleasant rural aspect devoid of any built form which would be spoilt by the introduction of a dwelling with all the associated paraphernalia generated by a modern lifestyle.



The introduction of a new driveway would cause further harm to the green belt, and the rural character of Dingle Lane would be adversely affected by the loss of 9m of hedgerow necessary to form a new access with the required visibility splays.

In our view this is inappropriate development, effecting the openness of the Green Belt and causing significant harm as previously determined by the planning officer on PAP/2023/0255.

NPPF Para 153 – states that inappropriate development is harmful to the Green belt and should only be approved in very special circumstances.

The exception – NPPF Para 154d – replacement of a building provided the new building is in the same use and not materially larger. The building originally proposed close to this site was a workshop/store. The original authorised dwelling was set within the cluster of buildings to the east of College Farm not effecting the openness of the green belt. Neither development have materialised.

NPPF 154g – limited infilling or partial/complete redevelopment of previously developed land. This is currently garden land.

Local plan policy LP2 – category 5 settlement; not a rural workers dwelling, a heritage asset, not the re-use of a redundant building, not sub division and not an innovative design. Therefore does not comply with LP2

Local plan policy LP3 c – a replacement building should be on the same footprint as the existing building unless there are material benefits to the openness of the greenbelt. The site currently benefits from an open aspect with no built form away from the cluster of buildings associated with College Farm

We respectfully request this application is REFUSED.

8. Observations

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning proposals must be determined in accordance with the statutory development plan unless material considerations indicate otherwise.
- 8.2 The Local Plan 2021 is material and adopted. The proposal is for a new dwelling in the Green Belt. The report will consider the relevant planning policies and consider the recent approvals on the site, against the proposal.

i) Principle and Green Belt.

- 8.3 The site lies in the Green Belt and outside of any settlement boundary.
- 8.4 The application is presented, in essence, as a proposal for a replacement dwelling. There are a number of factors that are material to the consideration of this application, not least, how that application compares to a recently refused dwelling at the same site. The comparison will be in terms of the characteristics of the proposed development, but also in terms of any material changes in planning policy since the earlier decision.
- 8.5 The changed characteristics of the development include:
- A proposed dwelling of reduced volume, with reduced length and the omission of a west facing gabled two storey projection.
 - A dwelling which satisfies the definition of a self-build unit
 - An altered siting which moves the position of the dwelling closer to the existing grouping of dwellings in the immediate locality.
 - The provision of a Unilateral Undertaking which secures the non-implementation of the extant planning permission (PAP/2022/0538), the demolition of the building previously consented for conversion and the construction of the dwelling on a 'self-build' basis.
 - The incorporation of a small belt of woodland to the western edge of the application site.

8.6 The scheme comparisons are illustrated below:

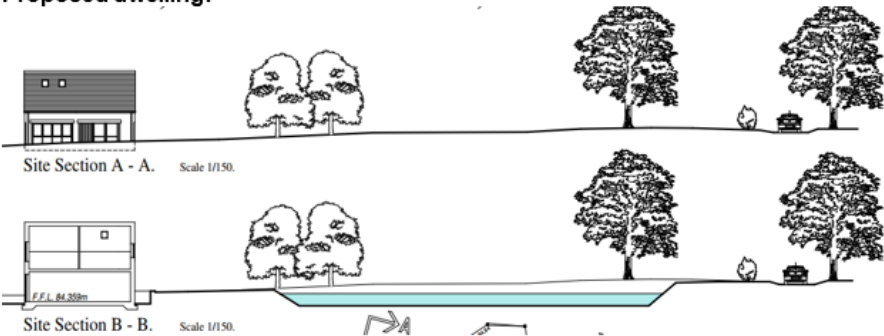
Proposed dwelling:



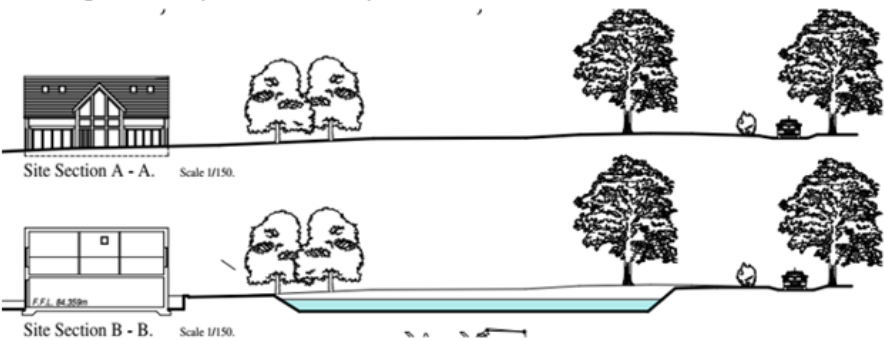
Dwelling Refused (PAP/2023/0255):



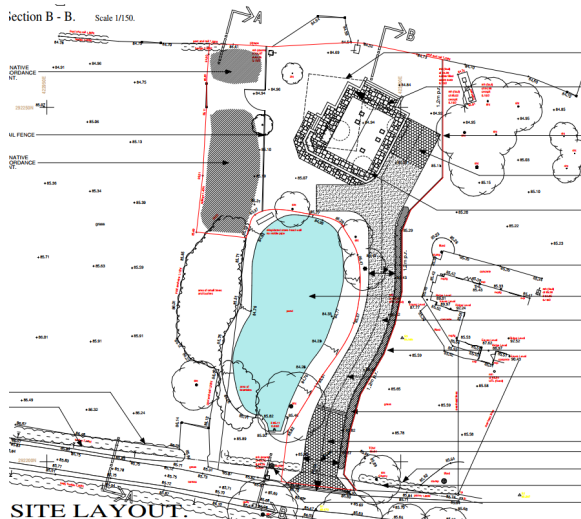
Proposed dwelling:



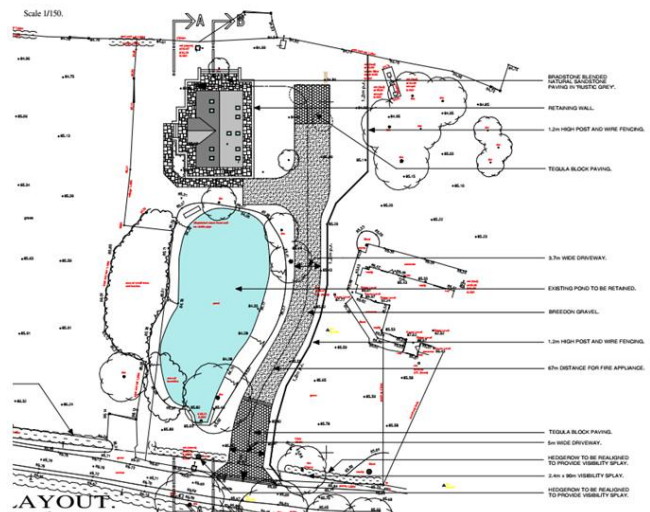
Dwelling Refused (PAP/2023/0255):



Proposed Site Layout:



Refused Site Layout (PAP/2023/0255):



- 8.7 Collectively, these revisions result in a proposal with a reduced impact on the openness of the Green Belt, from both a spatial and a visual perspective.
- 8.8 Paragraph 155 of the Framework identifies further circumstances where development is not inappropriate in the Green Belt. Paragraph 155 states the development of homes should not be regarded as inappropriate where: (a) the development would utilise Grey Belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; (b) there is a demonstrable unmet need for the type of development proposed; (c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework; and (d) where applicable the development proposed meets the 'Golden Rules' requirements set out in Framework paragraphs 156-157.
- 8.9 The proposed development would be contained within the existing boundaries of College Farm. It would not result in the unrestricted sprawl of large built-up areas, the merging of towns, nor affect the setting and special character of historic towns. It follows that the site does not strongly contribute to purposes (a), (b) and (d) of paragraph 143 of the Framework. In addition, the proposal would not affect areas or assets in footnote 7 of the Framework; they do not provide a strong reason for refusing or restricting development. The proposal would therefore utilise Grey Belt land.
- 8.10 The development would utilise Grey Belt land and would not fundamentally undermine the purposes, taken together, of the remaining Green Belt across the Planning Authority's area. The proposal would comply with criterion (a) of Framework paragraph 155. There is also a demonstrable unmet need for housing development, in that Footnote 56 states that, in the case of applications involving the provision of housing, this means the lack of a five-year supply of housing. In North Warwickshire the 2024 5YHLS was found to be 5.1 years, but the anticipated 2025 supply is 2.2 years. In such circumstances, paragraph 11d and footnote 8 of

the Framework require that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

- 8.11 Having regard to paragraph 110 of the Framework it is recognised that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The proposal would result in no net increase in the number of dwellings on the site given that it will effectively replace the dwelling approved under planning permission PAP/2022/0538. Therefore, the volume of traffic movements associated with the proposed development would be small. The proposal has an acceptable vehicular access and there would be space for the parking and turning of vehicles within the site. The local Highway Authority does not object and the proposal would not have significant impacts on the capacity of the transport network, congestion, or highway safety. Within the context of its rural location, the proposal would be in a sustainable location, as required by criterion (c) of Framework paragraph 155, that fulfils the requirements of paragraphs 110 and 115 of the Framework.
- 8.12 The proposed development is not major development and therefore the requirement of paragraph 155(d) of the Framework to satisfy the 'Golden Rules' is not applicable to the application proposal.

ii) Previously Developed Land

- 8.13 Paragraph 154(g) of the Framework (December 2023) previously indicated that "limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings)," was to be regarded as not inappropriate development where it would "not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority."
- 8.14 Paragraph 154(g) has now been amended and the criteria much simplified; it advises that the limited infilling or partial or complete redevelopment of PDL is not inappropriate development where it would not "cause substantial harm to the openness of the Green Belt."
- 8.15 The proposed development would be wholly within the existing residential curtilage of College Farm. College Farm, a plot (circa 0.4 hectares), containing a large, detached, two-storey dwelling, outbuildings, and garden. Dartford Borough Council v The Secretary of State for Communities and Local Government & Ors [2017] EWCA Civ 141 (14 March 2017) established that it is only private residential gardens in built-up areas that are excluded from the Framework's definition of 'previously developed land'; private residential gardens outside of built-up areas fall within the definition of previously developed land. The site does not constitute a 'built-up area'.

- 8.16 In so far as there is no material difference between the size of the dwelling proposed and that approved in January 2023, and that the siting is now not materially more isolated, the impact upon openness from the proposed dwelling would be relatively neutral. Though the development would include the provision of a new vehicular access, the access would be wholly within the established residential curtilage and of a low level of intrusion (following the establishment of replacement hedgerow). In terms of paragraph 154(g) the proposal would not constitute 'limited infilling' on the outer edge of this plot in a non-settlement, isolated location, however, it could reasonably be regarded as the partial redevelopment of PDL which will not cause substantial harm to the openness of the Green Belt.

iii) Self Build

- 8.17 As the dwelling is being designed by and built for the applicants to live in once the development has been completed, the dwelling is also classified as a self-build. LP7 (Housing Development) states 'Development proposals should make serviced plots available for self-build to address relevant demand identified in the Council's Self and Custom Build register'. Paragraph 70 (b) of the NPPF states local planning authorities should 'seek opportunities, through policies and decisions, to support small sites to come forward for...self-build and custom build housing'. The Local Planning Authority therefore supports the provision of serviced plots for self-build opportunities for individuals.

iv) Characteristics and Appearance and Neighbour Amenity

- 8.18 Local Plan Policy LP30 (Built Form) states 'All development in terms of its layout, form and density should respect and reflect the existing pattern, character and appearance of its setting. Local design detail and characteristics should be reflected within the development.'
- 8.19 Local Plan Policy LP29 (Development Considerations) point 9 states that development should 'avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution'.
- 8.20 The design and appearance of the proposed dwelling is fitting in this rural location, utilising appropriate materials and small in scale. The siting of the building would not cause any issue in respect of overlooking or loss of privacy and would not be divergent from the prevailing built form.
- 8.21 The proposal is supported by a significant number of local resident's, including occupiers of the nearest dwellings.

v) Number of Bedrooms

- 8.22 Nether Whitacre Neighbourhood Plan Policy HP1 (Housing Policy 1) states that 'New dwellings should consist of units of 1-3 bedroom houses'.
- 8.23 The proposed development would be compliant with this policy.

vi) Vehicular Access and New Entrance

- 8.24 Local Plan Policy LP29 point 6 states that development should 'provide safe and suitable access to the site for all users'. LP34 (Parking) says 'adequate vehicle parking provision commensurate to a proposed development will be expected, as guided by the standards in the Document 'Parking Standards''. For a 2 bedroom, the parking standards therefore require 2 car parking spaces for the dwelling.
- 8.25 Nether Whitacre Neighbourhood Plan Policy HP3 (Housing Policy 3) says 'Subject to safeguarding the appearance of the street scene, two parking spaces of an adequate size shall be included within schemes for all new dwellings or one space per bedroom where space allows'.
- 8.26 Though the proposed vehicular arrangements would necessitate the loss of some hedgerow for the formation of visibility splays, it is proposed to establish new replacement hedgerow. The scheme provides for adequate off street car parking. The Highway Authority offers no objection on matters of highway safety or capacity.

vii) Biodiversity and Ecology

- 8.27 Local Plan Policy LP16 (Natural Environment) states that the 'quality, character, diversity and local distinctiveness of the natural environment will be protected and enhanced as appropriate relative to the nature of development proposed. This policy seeks to minimise impact on protected species and matters of nature conservation interests, and provide net gains for biodiversity where possible.
- 8.28 Though the proposal is exempt from a requirement to provide Biodiversity Net Gain (because it meets the criteria of being a self-build dwelling), the scheme nevertheless makes provision for biodiversity and landscape/visual screening enhancement/compensation on the form of woodland planting within the site. This woodland and new hedging will offer a compensation for the established hedgerow lost through the formation of visibility splays for the new vehicular access. It is considered that the establishment and maintenance of the proposed woodland can be a conditional requirement of any planning permission.
- 8.29 An updated Ecological Appraisal was submitted with the application. This concluded that there was conclusively no evidence of bat presence. The structure to be demolished presents negligible opportunity in respect to potential bat roosts. There was some evidence former nests of woodpigeon (1 nests) and 1 jackdaw nest (former, not recent). It would be appropriate to attach a note to the decision to caution against disturbance to nesting birds.
- 8.30 The Appraisal concludes that the site is of low to negligible ecological value, comprising mainly buildings and the hard-standing of access roadways, paths and the improved grass dominated by perennial ryegrass, Canadian fleabane, White clover, Rough meadowgrass, Cocksfoot and Stinging nettle.

8.31 The site contains a large pond, however, the appraisal concludes the following:

Reptiles and Great Crested Newts: low opportunities for presence/negligible impacts from works due to habitats present, precautionary methods for herpetiles recommended.

The report recognises that if any protected are discovered at any time during processes involved with the development, work should cease immediately and the advice of a licensed ecologist sought. Reasonable Avoidance measures and site cautions are detailed.

viii) Permitted Development

8.32 Given the location of the site within the Green Belt and the particular circumstances of this site, the previous planning history and the background to the proposal relating to the replacement of a small scale existing building, to ensure that further extensions and alterations are not added to the dwelling in the future under permitted development, which would have an adverse impact on the openness of the Green Belt, it is proposed to remove permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015. To ensure the Local Planning Authority have control on the extent of further buildings on site, having regard to the location of the dwelling and its encroachment towards open countryside, it is within the interests of visual amenity and the maintenance of green belt openness, to remove permitted development rights relating to Classes A, AA, B and E.

ix) Conclusion

8.33 The application proposal would utilise PDL without causing substantial harm to the Green Belt. In addition, the site falls within the definition of Grey Belt land and satisfies the criteria of paragraph 154 of the Framework. This change in planning policy guidance, the revisions to the proposal and the planning objectives secured by the Unilateral Obligation present circumstances sufficient to conclude that the proposed development would not be inappropriate development within the Green Belt and may be supported subject to the controlling conditions set out above. The concerns expressed by the Parish Council cannot be substantiated in light of the scheme revisions, the commitments of the Unilateral Undertaking and the shift in planning policy since the previous refusal of planning permission at the site, for the reasons set out above.

Recommendation

That, subject to the receipt of legal advice that confirms that the Unilateral Undertaking will effectively achieve the stated planning objectives of securing the non-implementation of the extant planning permission, the demolition of the building consented for conversion and will secure the construction of the dwelling on a 'self-build' basis, the application be delegated to the Head of Development Control for determination, and that it be **GRANTED** subject to the following conditions:

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

REASON

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

Defining Conditions

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans and drawings received by the Local Planning Authority on 3 March 2025 and titled:

9791-50a Site Survey and Location Plan
9791-51b Site Layout and Site Sections
9791-52 Floor Plans and Elevations
9791-53 Visibility Splays

REASON

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

Pre-commencement conditions

3. No development shall take place until, and unless, the development proceeds fully in accordance with the protected species 'Reasonable Avoidance' measures and 'Site Cautions' detailed in the Bat and Bird Survey by Dr. Stefan Bodnar BSc (Hons) PhD MCIEEM NE dated May 2025.

REASON

In the interests of the protection of great crested newt and reptile species, in accord with the provisions of Policy LP16 (Natural Environment) of the North Warwickshire Local Plan 2021.

4. The dwelling hereby approved shall be constructed using red brick and blue clay tiles to match the existing dwelling at College Farm in colour, texture and size.

REASON

In the interests of the amenity of the area.

Pre-occupation/ Pre-Use conditions

5. Prior to the occupation of the dwelling hereby approved, a bin storage facility capable of holding a minimum of 3 x 240 litre wheeled bins shall be provided within the curtilage of the dwelling. The storage facility shall remain permanently available for that purpose at all times thereafter. A hardstanding pick up point shall be provided adjacent to the public highway for bin collection days.

REASON

To ensure that there is adequate provision for access for domestic waste collections.

6. The proposed vehicular access to the site shall not be used unless a public highway footway/verge crossing has been laid out and constructed in accordance with the standard specifications of the highway authority, and the proposed access has been surfaced with a bound material for a minimum distance of 7.5 metres as measured from the near edge of the public highway carriageway.

REASON

In the interests of highway safety.

7. The development shall not be occupied until the proposed parking and turning facilities have been laid out and constructed in accordance with the approved plans and thereafter be set aside and retained for those purposes.

REASON

In the interests of highway safety.

8. The development shall not be occupied until visibility splays have been provided to the vehicular access to the site with an 'x' distance of 2.4 metres and 'y' distances of 90 metres measured to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

REASON

In the interests of highway safety.

9. The development shall not be occupied until details of a bin collection point for the storage of waste on collection days have been submitted to and approved in writing by the Local Planning Authority. The area shall be laid out in accordance with the approved details and thereafter be set aside and retained for those purposes.

REASON

In the interests of sustainable development.

10. Prior to the occupation of the dwelling hereby approved, 2 bat boxes or bat bricks and 2 swallow nest cups shall be provided. These nature conservation measures shall be retained and maintained at all times thereafter.

REASON

In the interests of enhancing and protecting bio-diversity, in accord with the provisions of Policy LP16 (Natural Environment) of the North Warwickshire Local Plan 2021.

11. Prior to the occupation of the dwelling hereby approved a detailed scheme for the planting of the replacement hedgerow and new woodland shall be submitted to and approved by the Local Planning Authority. The scheme shall include a planting plan, specification (including cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate, and implementation timetables. All landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced in the next planting season with others of species, size and number as originally approved.

REASON

In the interests of the visual amenity of the area.

Ongoing Conditions

12. No development whatsoever within Class A, AA, B and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.

REASON

In the interests of preserving the character of the area, protecting the openness of the Green Belt and to accord to the provisions of the Development Plan.

13. No gates, barriers or means of enclosure shall be erected across a vehicular access within 6 metres of the highway boundary. All such features erected beyond that distance should be hung to open inward away from the highway.

REASON

In the interests of highway safety.

Notes

1. Wildlife and Countryside Act 1981 - Birds. Please note that works to trees must be undertaken outside of the nesting season as required by the Wildlife and Countryside Act 1981. All birds, their nests and eggs are protected by law and it is thus an offence, with certain exceptions. It is an offence to intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built, or to intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed for an offence under the Wildlife and Countryside Act – in respect of a single bird, nest or egg - is a fine of up to £5,000, and/or six months' imprisonment. You are advised that the official UK nesting season is February until August.
2. Buildings of all ages and trees with suitable features even those that have been subject to a bat survey and found no evidence of roosting bats. Bats are mobile animals which move between several roosts throughout the year and can move into a building or tree with potential access at any time. Therefore, all works must proceed with caution, and should any bats be found, all works should stop, and a competent bat consultant and/ or Natural England contacted for advice. Bats and their 'roost' sites are fully protected under the 1981 Wildlife and Countryside Act (as amended) and the and The Conservation of Habitats and Species Regulations (Amendment) (EU Exit) Regulations 2019 and the Countryside and Rights of Way Act 2000. It is a criminal offence to intentionally, or recklessly disturb, harm, or kill bats or to destroy a bat 'roost', even if only occasionally used.
3. Works of demolition should be timed to avoid the bird breeding season (March to September) and April to September for swallow. If demolition is started within these months the buildings will require a pre-check by a suitably qualified and experience ecologist.
4. The applicant's attention is drawn to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £145 (at the time of this decision). Although the Local Planning Authority will endeavour to discharge all conditions within 21 days of receipt of your written request, legislation allows a period of 8 weeks, and therefore this timescale should be borne in kind when programming development.

5. Prior to the occupation of the approved dwelling(s), please contact our Street Name & Numbering officer to discuss the allocation of a new address on 01827 719277/719477 or via email to SNN@northwarks.gov.uk. For further information visit the following details on our website: https://www.northwarks.gov.uk/info/20030/street_naming_and_numbering/1235/street_naming_and_numbering_information
6. The proposed works will require building regulations consent in addition to planning permission. Building Control services in North Warwickshire are delivered in partnership with six other Councils under the Central Building Control Partnership. For further information please see Central Building Control - Come to the experts (centralbc.org.uk), and https://www.planningportal.co.uk/info/200187/your_responsibilities/38/building_regulations; guidance is also available in the publication 'Building work, replacements and repairs to your home' available free to download from <https://www.gov.uk/government/publications/building-work-replacements-and-repairs-to-your-home>
7. The submitted plans indicate that the proposed works may come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
8. Works required within the limits of the public highway will the applicant / developer to serve at least 28 days notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team before commencing such works.

This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of the works will be recoverable from the applicant/developer.

The Area Team may be contacted by telephone: (01926) 412515. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice.

Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten

days' notice will be required. For works lasting longer than 10 days, three months' notice will be required.

Section 163 of the Highways Act 1980 requires that water will not be permitted to fall from the roof or any other part of premises adjoining the public highway upon persons using the highway, or surface water to flow – so far as is reasonably practicable – from premises onto or over the highway footway. The developer should, therefore, take all steps as may be reasonable to prevent water so falling or flowing.

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Prior to commencement of the development, the applicant is required to enter into an agreement with the Highway Authority under Section 59 of the Highways Act 1980. Prior to works taking place on site and following completion of the development, a joint survey shall be undertaken with the County's Locality Officer to agree the condition of the public highway. Should the public highway be damaged or affected as a consequence of the works being undertaken during the development of the site, the developer will be required to undertake work to remediate this damage as agreed with the Locality Officer.

9. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning issues during the determining the application. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2025/0090

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	Representations	Third Parties	
3	Consultation Response	Warwickshire County Council Highways Authority	
4	Consultation Response	Planning Ecologist Warwickshire County Council	
5	Representation	Nether Whitacre Parish Council	

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

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

General Development Applications

(6/I) Application No: PAP/2025/0155

Land South Of Warton Recreation Ground, Orton Road, Warton,

Outline planning application for the construction of up to 110 dwellings, with access, landscaping, sustainable drainage features, and associated infrastructure. All matters are reserved except for primary vehicular access from Church Road, for

Briony Stenhouse - Richborough, Michael Ensor Caton and Andrew Norman Caton

1. Introduction

- 1.1. This application is presented to the Planning and Development Board following notification from the Planning Inspectorate that the applicant has lodged an appeal against the non-determination of the application. A Public Inquiry is scheduled for the beginning of December 2025.
- 1.2 Whilst this Council is no longer able to determine this application, it is necessary for Members to confirm the case that this Council will present to the Planning Inspector appointed by the Secretary of State to hear the appeal. This report sets out all the relevant planning policies and material planning considerations and invites Members to confirm the position that the Board would have taken, had it been able to determine the planning application. This will then become the Council's case in the forthcoming appeal.
- 1.3 A site visit has been arranged prior to considering this application and a note of that will be circulated to Members.

2. The Site

- 2.1 The application site comprises 6.37ha of land located directly to the west of the settlement of Warton in North Warwickshire. It is located approximately 4km to the east of Tamworth. The site is currently in agricultural use (arable) and is made up of one field parcel. The site is gently sloping with a gradual fall from the west and north towards the south-east. The site is defined by Church Road to the north and west, Orton Road to the south and the recently constructed 'Cornfields' development to the east. The eastern boundary meets the existing settlement edge of Warton.
- 2.2 The north-western boundary of the application site is defined by a hedgerow and hedgerow trees and runs alongside Church Road. There is an existing field entrance with a dropped kerb in the north of the site where agricultural access is gained into the field. On the northern side of Church Road there are several residential properties. The southern boundary of the field is defined by an existing hedgerow and a number of mature trees, particularly to the centre of the southern boundary. The hedgerow thins in the south-eastern corner where there is an existing field entrance with a gate. On the southern side of Orton Road are further agricultural fields.

- 2.3 The eastern boundary is adjacent to the recently built properties on the 'Cornfield' estate. This development was previously promoted by the applicants in 2018, with reserved matters consent achieved in 2019. There is no physical boundary marking the edge of this development. The northern part of the eastern boundary is adjacent to Warton Recreation Ground. Hedgerow and small hedgerow trees along with remnants of wire fencing separate the site from the recreation ground. Further east of the recreation ground and 'Cornfield' development is the village of Warton.
- 2.4 A small pond forms part of the eastern edge of the site, adjacent to the recreation ground. There are no Public Rights of Way (PROW) within the site. There is a PROW (AE15) on the top end of Church Road, to the east of the site which runs down to Stipers Hill.
- 2.5. The eastern boundary of the application site adjoins the residential edge of Warton at the 'Cornfields' development. There is also linear residential development running west out of Warton along Church Road. This part of the village is predominantly residential. Warton Recreation Ground is adjacent and Warton Holy Trinity Church is 150m from the north-eastern boundary. Allotments are provided off Waverton Avenue. 'The Top Shop', is in the village which provides a Post Office and convenience store. 'The Office at Warton's public house and the Village Hall are 350m from the north- eastern corner of the site along Church Road and Maypole Road. Warton Nethersole C of E Primary School lies further to the east along Maypole Road, 400m from the eastern site boundary. To the north, west and south is open countryside, predominately in agricultural use. Polesworth is located further west of the site.
- 2.6. Location plans are at Appendix A and Appendix B is an aerial photograph.

3. The Proposal and Applicant's Case

- 3.1 This application is in outline with all matters reserved with the exception of access. A parameters plan defines the proposal, with regards to housing, landscaping and recreation space. This is at Appendix C.
- 3.2 The application has set out that the "aspiration for the development of the site is to provide an opportunity to create a sustainable and attractive extension to the village, inspired by the context and local character of Warton. Embracing high quality and sustainable design principles the proposals are designed to sensitively integrate with the surrounding landscape and built form, providing a range of new homes that can respond to future needs." The overarching principles opportunities that underpin the proposal are said to be as follows:
- Vehicular and pedestrian access to Church Road,
 - Keeping a rural, landscape edge along the western boundary of the Site to define the edge of development whilst creating a buffer to blend with the wider landscape and surroundings,

- Protecting and enhancing existing trees and hedgerows along the boundaries of the Site, along with the existing pond, through the creation of ecological corridors,
- Offering an attractive central green focal space, providing opportunities for people to meet and socialise,
- Creating a network of pedestrian connections to facilitate active travel within the Site and to the wider area,
- Creating active travel links through to the recreation ground to the north-east to provide access to the local bus services via Red Marl Way, and
- Maximising views out from dwellings fronting the landscape edge to provide an attractive setting.

3.3 The application sets out with regards to access and parking, that the primary access to the proposed residential development is to be delivered in the form of simple priority junction with Church Road. This access will have a 5.5m wide carriageway and adjacent 2m wide footways proposed in accordance with the Warwickshire County Council's Design Guide. The access drawing can be viewed at Appendix D. The primary access road into the site would be designed to adoptable standards, connecting to a hierarchy of internal streets, including secondary streets (also designed to adoptable standards) and tertiary streets. Private drives serving up to 5 dwellings will typically feature to the edges of development. A separate pedestrian access is also proposed to be served from Church Road at the western boundary of the site, which is to connect with existing footways that directly lead to Polesworth. Off-site junction improvements at the Orton Road / Kisses Barn Lane / Stiper's Hill / Linden Lane junction are proposed in the form of providing larger, illuminated and overall, more visible give-way signs along Kisses Barn Lane and Linden Lane, both on approach and at the junction with Stiper's Hill and Linden Lane. Each new dwelling will have on-plot car parking with 1 space for 1-bedroom properties plus 0.5 for visitor parking and a minimum of 2 allocated spaces for every 2+ bed property. This includes the provision of garages for the 4 bed properties. All properties will have electric vehicle charging.

3.4 The residential use of the site is proposed to be up to 110 dwellings, including the provision of 40% affordable dwellings. The proposal is said to provide an opportunity to deliver a range of types, sizes and tenures that reflects local need. The built development area includes roads, footways, private drives, incidental open space and other associated infrastructure. The masterplan allows for a mix of dwelling types and sizes to assist in providing choice within the local housing market and contribute to creating a sustainable, mixed community. The application has assumed that development will, in the main, comprise 2 storey housing, consistent with the typical height of development seen in the surrounding residential areas of Warton. In key locations 2.5 storey dwellings could be used to create focal points, define primary vistas/entrances and add variation to the roofscape. 40% of all proposed dwellings will be delivered as affordable housing (85% affordable/social rent and 15% intermediate rent). The affordable housing will be secured through a Section 106 Agreement. The applicants would support the inclusion of Local Occupancy Criteria within the Agreement to ensure those with a connection to Warton are prioritised.

- 3.5 When considering open space, the masterplan shows the delivery of approximately 2ha of green infrastructure. This includes 0.83ha of amenity green space and 1.17ha of natural and semi natural green space. Existing boundary hedging and trees would be retained, unless needed for vehicle or pedestrian entrances. Open space is provided in the form of a central, focal green and a circular walk incorporating natural play opportunities. The site identifies a proposed link to the neighbouring recreation ground which includes equipped play. A financial contribution to improve existing equipped play has been identified. Orchard planting is proposed within the western extent of the public open space.
- 3.6 Members will be aware that there are substantial issues involved with this proposal and that an assessment will have to be considered in the final planning balance, which will take account of all of the material planning considerations affecting determination.
- 3.7 It is thus important that the Board understands the applicant's position on these issues. To this end, he has produced a Planning Statement. In order to assist Members, a Summary of this Planning Statement is attached at Appendix E. In particular, it addresses the main crux of the final planning balance which is the need for housing supply through a sustainable extension to the settlement. A range of technical and environmental assessments have been undertaken to inform the preparation of the development proposals and ensure appropriate mitigation is included to address any adverse impacts that may arise from the development. These are not considered to give rise to any unsurmountable constraints. The full Statement is available for Members to review online.

4. Development Plan

- 4.1 The Development Plan relevant to this application comprises the North Warwickshire Local Plan 2021 and the Polesworth Parish Neighbourhood Plan June 2025.
- 4.2 North Warwickshire Local Plan. The relevant policies of the Local Plan are: Policy LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP5 (Amount of Development), LP7 (Housing Development), LP8 (Windfall), LP9 (Affordable Housing Provision), LP14 (Landscaping), Policy LP15 (Historic Environment), LP16 (Natural Environment), LP17 (Green Infrastructure), LP21 (Service and facilities) LP22 (Open Spaces and Recreational Provision), LP23 (Transport Assessments), LP25 (Railway Lines), LP26 (Strategic Road Improvements A5), LP27 (Walking and Cycling), Policy LP29 (Development Considerations), LP30 (Built Form), LP33 (Water and Flood Risk Management), LP34 (Parking), LP35 (Renewable Energy and Energy Efficiency), LP36 (Information and Communication Technologies) LP37 (Housing Allocations) and LP38 (Reserve Housing Sites)
- 4.3 The relevant policies of the Polesworth Parish Neighbourhood Plan are - Policy PNP1 Protecting Local Green Space, PNP3 Sustainable Design and Construction, PNP4 Conserving and Enhancing the Landscape, PNP7 Sports Recreation and Leisure Facilities, PNP8 Transport and PNP9 – Preserving the Separate Identity of Polesworth's Villages.

4.4 Other Material Planning Considerations

The National Planning Policy Framework 2024 – (the “NNPF”)

National Planning Practice Guidance – (the “NPPG”)

MHCLG National Design Guide

Warwickshire Local Transport Plan 4 (July 2023)

Warwickshire Local Cycle and Walking Infrastructure Plan (Feb 2024)

North Warwickshire Landscape Character Assessment (2010)

Air Quality SPD (2019)

Provision of facilities for waste and recycling for new developments and property conversions SPD (2023)

Planning Obligations for Sport, Recreation and Open Space SPD (2023)

The Annual Monitoring Report March 2024

Settlement Sustainability Appraisal

North Warwickshire Infrastructure Delivery Plan 2020

Curlew Close Appeal – APP/R3705/W/22/3312660 June 2023

5. Consultations

Environment Agency – No comments.

Warwickshire Fire and Rescue Service – No objection subject to a condition.

Sports England – No objection

NWBC - Environmental Health – No objection subject to conditions

NWBC Housing – Affordable housing as proposed is acceptable.

National Highways – No objection

Warwickshire County Council (Forestry) – No objection suggest condition

Warwickshire County Council (Ecologist) – No objection subject to conditions

Warwickshire County Council Archaeology – No objection subject to conditions

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

Warwickshire County Council as Lead Local Flood Authority – No objection subject to conditions

Warwickshire Fire and Rescue Service – No objection subject to condition

6. Representations

- 6.1 Two letters of support have been received agreeing with the proposal and concerned that the objectors are seeking to get the developer to spend money to address objections, leading to unnecessary costs.
- 6.2 One hundred and ninety-nine representations have been received from local residents objecting to the proposal, objecting on the following grounds below:

Conflict with the Local Plan and Neighbourhood Plan and over development

- The proposed development is outside of the village's defined development boundary, which contradicts the principles of the adopted neighbourhood plan.
- Warton has expanded with new housing in recent years. Further expansion is not considered as sustainable growth. Warton is a category 4 settlement in the Local Plan.
- There is a Local over supply of housing. No proven need for further housing.
- The application would undermine the settlement hierarchy as covered by LP2.

Bio-diversity and wildlife

- The loss to Wildlife and natural habitats including trees and hedgerows is having a detrimental effect. New planting will not replace lost bio-diversity.
- The site and its surrounding fields are home to various protected species, including bats, birds and great crested newts, and other protected species.
- Light pollution could impact upon wildlife such as Bats.
- Further ecological surveys should be carried out.

Traffic and Highways Concerns

- The site is isolated without transport to services such as jobs and education. Limited public transport options in the area.
- Concern over the increase of traffic on the access off Church Road due to 110 dwellings. Congestion at key junctions during peak times, road safety concerns for vehicles and pedestrians, and road surface issues. The road is used by the church and planning field.
- In heavy rain surface water is a problem on Church Road.

Lack of Infrastructure

- Existing facilities such as GP surgeries and schools are already under significant pressure. Nearest GP is in Polesworth / Dordon.
- Limited Local facilities is Warton – 1 shop, 1 pub and 1 social club.
- Concern over impact of proposal upon existing utilities.

Change to Village Character

- This development would significantly alter the character of the village, and lead to urban sprawl.
- The development does not fit into the landscape of the area, which is made up of small hill top villages.

Statement of Community Engagement

- Concerns over the community engagement and how it was undertaken and presented in the document provided with the application. Covering - Flawed Methodology and Bias; Insufficient Consultation Period; Conflict with Neighbourhood Planning; Lack of Inclusive Engagement:
- The community engagement statement be rejected, and redone.

Other items

- Proposal is contrary to Councils Landscape Character Assessment
- Proposal does not align with the NPPF.
- Fire fighting capacity is being reduced impacting upon Warton and the proposal.
- Children's play area adjacent will not be able to cope with further use, leading to equipment needing to be replaced.
- Agricultural land will be taken permanently out of production.
- No details of how new homes would be energy efficient.
- Change of Use and Human Rights Concerns. Amenity impact. Article 8 of the Human Rights Act 1998 provides a broader legal context.
- Concern over flooding risk.
- Concern over nickel in the soil and risk to public health
- Noise Pollution from construction and from associated human activities when the site is occupied.

6.3 The Warton Residents Association refers to the following results from a survey it conducted.

1. Community Identity and Service Pressures - Concerns regarding loss of village identity and pressure on local services.
2. Local Opposition and Educational Infrastructure - Opposition centred on the impact on schools and increased traffic.
3. Infrastructure Overload and Traffic - Widespread concerns about overloaded infrastructure and increasing traffic.

4. Health Service Concerns - Concerns around increased strain on healthcare services.
5. General Infrastructure and Sustainable Development - Emphasis on sustainable growth and preserving community character.

6.4 Polesworth Parish Council objects on the following grounds:

1. Overdevelopment and Loss of Village Identity - The scale of development proposed is inconsistent with the character of Warton as a rural settlement. It undermines the principles of proportionate growth as articulated in the National Planning Policy Framework (NPPF) and the Polesworth Neighbourhood Plan, which places significant weight on preserving local identity and sense of place.
2. Infrastructure Deficiency and Capacity Constraints - The proposed development poses unacceptable risks to existing infrastructure. Roads in and around the area are already subject to congestion, with several residents citing safety issues during peak hours. There are no assurances within the application that such infrastructure deficits will be mitigated.
3. Educational and Healthcare Services - Local schools are currently oversubscribed, and health services are already stretched beyond capacity. The addition of further households would significantly impair access to statutory services.
4. We further submit that this objection should make reference to the overwhelming local opposition and the application's incompatibility with the adopted development plan, including the Neighbourhood Plan, and its failure to meet the requirements of sustainable and proportional growth in rural settlements

7. Section 106 Matters

- 7.1 The following requests for contributions towards infrastructure delivery have been received as part of the consultation process.
- 7.2 Warwickshire County Council has requested contributions of £2,038,958 towards both Primary Education within Warton and Secondary Education at the Polesworth School; £2,408 to improve, enhance and extend the facilities or services of a specified library service point, £6,303.83 to maintain public rights of way which fall fully or partly within a 1.5m radius of the site and £5,500 (£50 per dwelling) to support road safety initiatives within the community associated with the development.
- 7.3 The Warwickshire Police and Police and Crime Commissioner have requested £28,532.90 towards recruitment and equipping of officers and staff, police vehicles and office accommodation
- 7.4 The North Warwickshire Leisure and Community Development Officer has requested a total contribution of £374,414 for off-site open space and recreational internal and external provision. The site plan sets out a Local Area for Play (LAP) is provided on site and would expect the inclusion of natural play facilities on site.

If no play areas are to be provided on site, then an additional £86,.892.43 is sought for off-site play provision plus £86,803.45 for maintenance of that provision.

- 7.5 The George Eliot NHS Trust has requested £123,095 for the provision of additional health care services to meet patient demand arising from the development

8. Observations

a) Introduction

- 8.1. It is considered that the main issues are as follows:

- i) Whether this is a sustainable development in the context of Warton's status within the Borough's Settlement Hierarchy as defined by Local Plan policy LP2 by virtue of its scale, nature and location.
- ii) Whether it would cause significant harm to the character and appearance of the area or improve Warton's character and appearance as set out in Local Policies LP1, LP14 and LP30 and neighbourhood plan policies PNP3 and PNP4.
- iii) Whether there are adverse impacts that would significantly and demonstrably outweigh the application benefits such that planning permission should be refused as set out in the NPPF at para 11 (d) (ii) and its footnote 8.

b) The Harm Side of the Planning Balance

i) Settlement Hierarchy and Proportionately

- 8.2 The first consideration is Local Plan Policy LP2 which sets out that the distribution of new development will be in accordance with the Borough's settlement hierarchy as defined in this policy.

- 8.3 The policy says that development in the Borough will be proportionately distributed in accordance with the Borough's settlement hierarchy. Warton is identified as a Category 4 settlement in that hierarchy. In this regard the Policy says that in Category 1 to 4 settlements, development within development boundaries will be supported in principle. Development directly adjacent to settlement boundaries may also be acceptable, including that which would enhance or maintain the vitality of rural communities, provided such development is proportionate in scale to the relevant settlement and otherwise compliant with the policies in the Plan and National planning policy considered as a whole. In respect of Category 4 Settlements, then development will be supported in principle within Warton's development boundary. It continues by saying that development directly adjacent to the boundary may however also be acceptable. All development will be considered on its merits; having regard to other policies in the Plan and where development would enhance or maintain the vitality of rural communities provided it is proportionate in scale to the relevant settlement. In the case of Category 4 settlements then the policy says that this may also be for windfall housing usually on sites of no more than ten units at any one time depending on viability, services and infrastructure deliverability. Many of the representations recorded above cite the fact that this site is outside of the village development boundary and thus a refusal should follow. That is understood, but it is not a reason for refusal, given the full content of Policy LP2. The site is directly adjacent to the development

boundary - consistent with Policy LP2 - and thus it is necessary to assess the application against the “tests” set out in that Policy and other material planning considerations, before a refusal can be considered.

- 8.4 As test of LP2 is that the development should enhance or maintain the vitality of rural communities provided such development is proportionate in scale to the relevant community. In the case of Warton, this is “usually of no more than ten units at any one time, depending on viability, services and infrastructure deliverability”. In this case the proposal is for up 110 dwellings and thus it would appear that the proposal would not meet this test. However, the figure is not prescriptive and it is conditioned such that the development should, more importantly, depend on service and infrastructure deliverability.
- 8.5 The key theme running through the NPPF is the promotion and delivery of sustainable development. This is reflected in the identification of the settlement hierarchy in Policy LP2 of the North Warwickshire Local Plan 2021. Warton is a Category 4 settlement in that hierarchy. So, the issue here is whether the proposal harms the spatial strategy set out in LP2 and particularly the place of Warton within it. There has been growth recently in the village and there are permissions that currently are being completed. Together these amount to a significant number of additional dwellings. As a consequence, further development, even of the scale as now proposed in the current application would go beyond the capacity of the local services and facilities and cause harm to the settlement and to the standing of the spatial planning policy. Quantitatively there have been 310 dwellings approved since 2016 over a base of 517 thus giving a 58% increase. The current proposal would increase this to a 81% rise in the size of Warton since 2016.
- 8.6 The Local Plan describes Warton as a small village north-west of Atherstone and to the east of Polesworth. The village has a limited range of services and facilities with a primary school, a public house as well as a Working Men’s Club. There is one remaining shop/post office in the centre of the village with a small village hall opposite the shop. There are recreational facilities adjacent to the Church along Church Road, other than that the facilities in Warton are limited. Qualitatively the services within the village have not improved over this time since 2016. The Curlew Close appeal (Appendix F) concluded in 2023 that the village does offer a few services and facilities, they are insufficient to cater for the daily living requirements of the residents. Easy access to shops, services and job opportunities would heavily rely on the use of the private motor vehicle.
- 8.7 The adopted settlement hierarchy followed the submission of evidence to the Local Plan’s Examination in Public, in the form of a Settlement Sustainability Assessment. That has since been updated. This explains how the settlement hierarchy has been defined and how settlements have been placed within it. The hierarchy has not changed during this assessment period and as a consequence, the village remains within Category 4 of the present hierarchy.
- 8.8 Services and infrastructure delivery is such that the County Council has not objected to the proposal as well as the Public Health Authority or the George Elliot NHS Trust. They all seek contributions towards infrastructure improvements. Apart from the early year provision and primary school, all the contributions are for improvement to services located outside of the village and these rely on private

transport. It is therefore clear that while the village does offer limited services and facilities, but that they are insufficient to cater for the daily living requirements of residents. It could be acknowledged that the presence of additional residents could support and enhance the existing services and facilities, however this has not happened and recently the village has lost facilities (for instance the Fox and Dogs PH). Access to shops, services and job opportunities would be heavily reliant on the private motor vehicles. Also, whilst the proposal does include a policy compliant 40% affordable housing provision, such housing should ideally be located in settlements which have easy and ready access to local services, facilities and employment. Again, this is not the case here, as such access will still be dependant on private transport. There is a bus service to Tamworth running from 07:00 to around 17:00, however this has a frequency of around one every two hours and takes around 30 minutes. There are five buses on a Sunday from 10am until 6pm. There are more frequent services from Polesworth but this is some 2km away. The nearest Doctors surgery is Long Street Dordon with limited access to one in Polesworth and a Dentist on Bridge Street Polesworth. The nearest large supermarkets are in Tamworth or Atherstone. As can be seen qualitatively Warton does have limited facilities and the facilities lack the convenience of larger settlements.

- 8.9 It is concluded that the proposal is not proportionate to the status of the village in the adopted settlement hierarchy and that this constitutes unsustainable development. This is because of the scale of the proposal; the limited functionality of the settlement's services and because the overall status of Warton remains unchanged since 2021. The degree of conflict with Local Plan Policy LP2 is significant.

ii) Policies LP1 and LP14 Landscape

- 8.10 The NPPF requires new development to be sympathetic to local character and history, including the surrounding built environment and landscape setting; to create places that are safe and accessible, with a high standard of amenity and which will function well. This is reflected in policies LP1 and LP14 of the 2021 Plan. LP1 requires all development to demonstrate a high quality of sustainable design that positively improves a settlement's character and appearance as well as the environmental quality of an area. LP14 requires development to conserve, enhance and where appropriate restore landscape character. The application site is within the "No Mans Heath to Warton - Lowlands" Landscape Character Area. This describes a mixed open agricultural landscape with a scattering of small red brick nucleated hill-top villages of which Warton is an example. The Assessment identifies the need to conserve and strengthen the rural character and dispersed settlement pattern and recommends that new developments should reinforce the existing settlement pattern of the existing villages.
- 8.11 The applicants have submitted a Landscape and Visual Impact Assessment which describes the existing landscape and visual conditions of the site and its surroundings and provides a commentary on the impacts of the proposed development and appraises the likely effects of the proposal. The following sets out the applicant's case. The site is on the southwestern edge of Warton Village, which has a similar landform as the site. The centre of the village is found at approximately 91m AOD at the junction of Church Road and Maypole Road. The

Assessment says that the landscape context for this proposal is not simply open agricultural land, but it includes the “peri-urban” landscape of Warton and the wider built context of the village, which provide the setting for this proposal. It was considered that the site could successfully accommodate the proposed residential development with minor adverse impacts on the landscape resource, character and visual amenity of the site and surrounding area. From a landscape perspective, the Assessment concludes the proposals as now formulated, will deliver a coherent and logical development of new homes on the southwestern edge of Warton village providing a high quality new landscape with a new social landscape function, and would preserve the distinctiveness of the village, as well as the open countryside setting of the No Mans Heath to Warton – Lowlands Landscape Character Area, and its nucleated settlement pattern. The scheme will replace the site’s agricultural character, but a substantial degree of naturalness will remain, albeit in a different form to that which currently exists. A Landscape Strategy Plan has been submitted with the application setting out the proposed landscaping across the site. This includes strengthening of existing trees and hedgerows, the introduction of new native trees (including traditional orchard planting) and creation of dedicated habitats for biodiversity net gain including species rich grassland, tussock and wetland meadow planting. The Landscape Masterplan can be viewed at Appendix G.

- 8.12 Officers disagree with the applicant’s findings. The applicants have concentrated on the intervisibility of the scheme alone and not the impact of the proposal on the morphology of the village. Warton in general terms is nucleated, but it has a distinct linear form in the vicinity of the application site with the majority of the built development located along the frontage to Austrey Road and Church Road with small cul-de-sacs on either side. It is agreed that the proposal would introduce a “depth” of new built development along Church Road. It is agreed that the proposal’s landscape impact would be local in extent and impact, not affecting the overall character of the Landscape Area. However, in this case it is the nature of that local impact that is harmful. The proposal is a substantial impact to the village, well beyond its defined settlement boundary. The connection to the village is via the access to Church Road, there are two access/egress points for pedestrians, one to the open space to the north and one to the south west. There are no accesses proposed into Red Marl Way which is a private estate and none to Orton Road. Other than this its connection to the village is such that the proposal is spatially isolated and is an appendage to the existing settlement. There is no link to the Red Marl Way scheme to the north east either. There is no continuation of the existing development from Red Marl Way, currently there is open space around the fringes of the existing development with no access or linkages and a similar provision of open spaces around the proposed development without any positive integration.
- 8.13 In terms of overall effects on landscape character, harm from the scheme would be limited as the proposal has limited impact on the wider landscape due to the lack of intervisibility. There is however harm from the proposal due to the introduction of development on an agricultural field on the undeveloped edge of a settlement. The proposal will be visible from the road network in the vicinity of the site along Orton Road where the footpath is elevated and from Church Road. This does weigh against the scheme in the overall planning balance.

iii) Visual harm

- 8.14 As with the landscape character issue, it is agreed that visual amenity impacts would be local in extent. Both the amenity of residents and visitors travelling past the site will need to be addressed.
- 8.15 It is agreed that the number of “receptors” include the residential properties on the edge of Warton and the users of the network of the Public Rights of Way, vehicular users and those using the open space along Church Road. Pedestrians using the paths next to the site would experience adverse visual impacts because the proposal would be clearly visible as the paths adjoin or pass through the development. this also includes views from the development in Red Marl Way too.
- 8.16 At present the application site and the surrounding area has some landscape qualities associated with it being undeveloped open arable land, with hedgerows and hedgerow trees. The site itself is not accessible for people to see and enjoy, though it is visible from the views across this landscape from neighbouring areas. Despite the landscape around the site, it does form a sizable part of a visually undeveloped fringe to the village, it is clearly undeveloped land and has limited activity on it and therefore plays an important role in the quiet ambience of the area.
- 8.17 The visual harm of the proposal would be relatively localised in extent, but nevertheless important to those who will be affected, particularly the local communities who live adjacent to this stretch of undeveloped landscape.
- 8.18 It is the residual impacts and changes that will cause the harm – the built development, the road access and the lighting, as well as the permanent changes to the landform through the creation of blocks of residential development. The landscape and visual character and appearance of this wedge of land will materially change. As above, this would not accord with the requirements of Local Plan Policies LP1 and LP14 nor with Policy LP30 which says that development, “should harmonise with both the immediate setting and wider surroundings”.

iv) Quality of the development

- 8.19 The site is large, without substantial built development around it and with views both into and out of the site mainly from the east. Development from the Red Marl Way estate disperses and dissipates into the open space on the periphery of the scheme. The proposed development would be contained by the existing road layout. The proposal would not integrate with the existing built form. Furthermore, the site’s undeveloped open nature emphasises a transition from the built form to the rural context beyond.
- 8.20 There is a harm here in terms of the impact on the character and appearance of the settlement and lack of continuity and links to the existing village. This development will lead to an isolated community with limited connections to the existing community and divorced from the Warton as a settlement. The site would be seen as an incongruous appendage to the village., there would be no strong “sense of place”, no integration through limited connectivity or linkage with the village and no social cohesion as required by Local Plan policy LP1. The proposal will provide 40% affordable housing, on a site on the edge of the Warton with

limited links to existing community. Such that the proposal is likely to fail to provide a strong sense of community cohesion, especially for the affordable housing elements of the scheme. This would not result in the effective integration of the development into Warton.

- 8.21 The matters add weight to the non-compliance with Policy LP1, LP14 and LP30 of the adopted Local Plan by not proposing good quality development. There is no planning here for a “place” or a “community”. Even if there were connections to the site to the north, the combined area would still not connect to the village community visually, physically or spatially. The adopted Neighbourhood Plan adds further reinforcement to these local plan policies and policy PNP3 expects that development should promote or reinforces local distinctiveness of Warton, considering landscape setting and settlement pattern within this context. The Neighbourhood Plan also requires high quality residential design that respects local townscape and landscape character as part of policy PNP4. Here the development would be unrelated and unconnected to the village as a whole.

The NPPF has an increased emphasis on planning for “places” and “communities”. This site is spatially, visually and physically unconnected to the village and its built form. The recent Curlew Close appeal decision referred to above support this reasoning in paragraph 11-17. It is thus considered that the proposal does not accord with Policies LP1, LP14 and LP30 of the 2021 Local Plan and policies PNP3 and PNP4 of the Neighbourhood plan as supported by the NPPF. The harm caused here is similar to that of the Curlew Close appeal and the current proposal is substantially larger than that cause, the degree of conflict is significant.

v) Loss of Agricultural Land

- 8.22 Local Plan policy LP16 says that the quality, character, diversity and local distinctiveness of the natural environment will be protected and enhanced as appropriate relative to the nature of the development proposed. The NPPF says that planning decisions should contribute to and enhance the natural and local environment amongst other things by protecting and enhancing soils and recognising the economic and other benefits of the best and most versatile agricultural land – paragraph 187 (a and b). Where significant development of agricultural land is demonstrated to be necessary, the NPPF also states that areas of poorer quality land should be preferred to those of higher quality. The availability of agricultural land for food production should be considered alongside other policies in the NPPF, when deciding what sites are most appropriate for development – footnote 65.
- 8.23 The best and most versatile land (“BMV”) is defined as Grades 1, 2 and 3a in the Glossary to the NPPF. A Soils and Agricultural Land Report says that the soils within the survey area comprise a sandy clay loam topsoil overlying a similarly-textured upper subsoil. The field is grade 2 (72%) and grade 3a (26%) with the remainder being other land. This shows that 98% of the site is graded as BMV agricultural land with the remainder being non-agricultural land. Natural England has published guidance in respect of development and agricultural land quality. This development would likely to lead to significant permanent loss of BMV

agricultural land as a resource for future generations because the development is irreversible.

- 8.24 In this instance, it is clear that the proposal would lead to permanent and loss of 5.7 hectares of BMV agricultural land. This would lead to a permanent change, not just temporary loss, of this agricultural land and therefore weight is required to be attributed to this. The adverse impact of this loss is a material consideration that weighs against the proposal and needs to be weighed in the planning balance. It is also to be noted that the Government has sought to place more emphasis on the importance of retaining BMV and on the importance of agricultural production.

vi) Residential Amenity

- 8.25 A Grounds Investigation Desk Study Report concludes that any risks to human health could be reduced to an acceptable level by the use of mitigation measures including cover layers, gas resistant membranes and contaminant resistant water supply infrastructure at the proposed development. Additionally, the site is indicated to be in an area that may be affected by coal mining. However, given the anticipated depth to any worked coal and the anticipated thickness of competent solid geology above, the risk posed at the site is considered to be very low such that further assessment and/or investigation with regards to the risk associated with coal mining is not considered necessary. It is recommended that an intrusive ground investigation is completed ahead of any development works to determine the geotechnical properties of the underlying ground conditions and to determine the actual contaminative status of the site. The intrusive investigation should include an assessment of hazardous ground gases.
- 8.26 A Noise Assessment, relates to the potential impact of existing noise sources on the proposed external amenity areas and on the living rooms and bedrooms within the proposed development. The Noise Assessment demonstrates the feasibility of the site for residential use, assuming that the proposed dwellings are located a reasonable setback distance within the proposed developable area.
- 8.27 Environmental Health Officers have no objections to the proposed development. They recommend a condition be provided in terms of a Construction and Environmental Management Plan to protect the amenities of residents. They indicate the requirement for noise, air quality, contaminated land and lighting conditions. Overall, it is considered that there are no reason from an residential amenity perspective to refuse the application.
- 8.28 In the respect of the Human Rights Act, the concern refers to Article 2 (the Right to Life) and Article 8 (the Right for respect to a private life). Members are aware that the determination of this application is to be made under planning legislation – essentially this is about conformity with the Development Plan and whether there are other material considerations that indicate otherwise. As a consequence, the respect for a private and family life is fully represented by the Development Plan policies mentioned in this report – LP29 and LP30 of the Local Plan. It is considered that all the material consideration in terms of impact on neighbouring amenity impact on sunlight, daylight, noise and air pollution are covered through

consultation responses. As such it is not considered that the proposal would impact on the Human Rights Act.

vii) Historic Environment

- 8.29 Local Plan policy LP15 says that the quality, character, diversity and local distinctiveness of the Borough's historic environment will be conserved and enhanced. In order to do so, an assessment has to be made of the potential impact of the proposals on the significance of heritage assets that might be affected by the proposal as set out in Section 16 of the NPPF. It is acknowledged that there are no assets on the site and neither is there a Conservation Area nearby.
- 8.30 A Heritage Statement considers the potential impact of the proposed development on the setting and significance of those designated and non-designated heritage assets located in the vicinity of the application site. The assessment identified two Listed Buildings, and twenty-one potential non-designated built heritage assets located within a 1km search radius around the site. The report has also considered a Grade I Listed Building located outside of the search area. The statement established that only the Holy Trinity Church (Grade II) and St Edith Church (Grade I) have the potential for their significance to be affected by the site's development, through changes within their settings. The assessment concludes that the site comprises a neutral element within the setting of both of these designated heritage assets whereby it makes no contribution to their significance. The development will result in a small visual change within their settings, which will have no effect on how their significance is appreciated or understood. Officers agree that the proposal will have less than substantial harm to heritage assets and that this is at the lower end of that range.
- 8.31 An Archaeological Desk-Based Assessment looks at whether there are any likely archaeological constraints to development of the site and identifies whether there will be a requirement for any further archaeological investigation. It concludes that there are no archaeological constraints to the site's development, and it is unlikely that the site will contain any archaeological remains that will need to be preserved in-situ or to be designed around. In respect of any underground assets, it is of substantial weight that the County Planning Archaeologist has not raised objection subject to standard conditions requesting a written scheme of investigation. It is considered that the proposal would accord with Local Plan Policy LP15.

viii) Flooding

- 8.32 Local Plan policy LP33 requires water runoff from new development to be no more than the natural greenfield runoff rates and developments should hold this water back on the development site through high quality sustainable drainage arrangements which should also reduce pollution and flood risk to nearby watercourses. The NPPF at para 181 says that major developments should incorporate sustainable drainage systems and that these should take account of the advice from the lead local flood authority.

- 8.33 A Flood Risk Assessment and Drainage Strategy identifies the site as being located within Flood Zone 1 and is assessed as being at low or very low risk of flooding from fluvial and pluvial sources. With regards to surface water attenuation, the proposed development is accompanied by a draft drainage strategy which identifies a new SuDS attenuation pond located in the south eastern area of the site where the topography slightly falls. This SuDS attenuation pond will provide drainage attenuation for the proposed development. A Surface Water Drainage Strategy has been prepared to demonstrate that a sustainable drainage solution can be provided for the proposed development. The Surface Water Drainage Strategy has been designed in accordance with current sustainable development best practice. The proposed development will discharge to the local drainage network, at rates equivalent to existing conditions. The surface water drainage system is to be designed to ensure that flood storage volumes are retained onsite for critical storm events up to the 1 in 100-year return period plus an allowance for the effects of climate change. To further mitigate the flood risk to properties in the event of a failure within the drainage system, surface levels will be designed to ensure that flood flows are not directed toward dwellings. A SuDS attenuation basin is proposed to the south east of the site which will treat and store flows ahead of discharge. The development drainage system is to have a controlled outfall east beneath Orton Road, before ultimately discharging into the existing Seven Trent Water (STW) public sewer at the junction between Orton Road to the surface water sewer. The development proposals ensure that the nature and behaviour of the surface water drainage replicates that of the pre-developed site. A foul water drainage strategy has been prepared which implements measures to discharge foul water flow from the proposed development. Foul water will connect into an existing public foul water sewer located at the junction between Orton Road and Barn End Road. The Drainage Strategy is said to demonstrate that the proposed development will not result in any detrimental impact on existing surrounding properties.
- 8.34 It is of substantial weight that the Lead Local Flood Authority has not objected to the proposed drainage strategy. It is also of weight that the Environment Agency has not objected. It is thus considered that the proposal does accord with Local Plan policy LP33.

ix) Ecology

- 8.35 In respect of ecology, Local Plan policy LP16 seeks to protect and enhance the natural environment and to provide net gains for biodiversity where possible, reflecting the wording of the NPPF at paragraph 187. The passing of the Environment Act 2021 brings a mandatory condition for most development to achieve a 10% biodiversity net gain.
- 8.36 A Preliminary Ecological Appraisal shows that the site comprises arable land including a pond with willow scrub. Species rich hedgerows form the boundaries of the site. No statutory or non-statutory designated sites are present within the site boundary. The site falls within the risk zones of Birches Barn Meadow SSSI and Alvecote Pools SSSI. It is currently undetermined how many units the scheme will propose or the level of discharge. However, if it is above 100 units and/ or more than 5m³/day of water or liquid waste is discharged, then Natural England will need to be consulted. It was concluded that the development will not have a significant

impact on any Statutory Nature Conservation Sites. Four hedgerows are present within the application site. The vast majority of these will be retained. Habitat offering a low ecological value at the site level includes improved grassland, and dense/continuous scrub. Habitat offering higher ecological value includes hedgerows and mature broadleaved trees. The proposal would remove small sections of hedgerow to facilitate the development of the site through the provision of access. Mitigation and compensation for the loss of this habitat can be accommodated through the creation and enhancement of species-rich grassland within the proposed open space provision.

- 8.37 Specific habitats for biodiversity have been incorporated within the green infrastructure network including species-rich, meadow and wetland meadow grassland. Areas relied upon for the provision of biodiversity net gain are protected by proposed fencing. A small section of low-quality hedgerow is proposed to be removed to accommodate the principal vehicular access and pedestrian routes onto Church Road. However, all other existing hedgerows around the site and all other existing trees will be retained and strengthened. There will also be new tree and hedgerow planting throughout the new development.
- 8.38 A Biodiversity Net Gain Assessment concludes that based upon the illustrative proposals a net gain in biodiversity can be delivered as a result of the proposed development. Specifically, an increase in habitat units from 12.23 units to 13.97 units which equates to an 14.24% increase overall. An increase in hedgerow units has also been calculated, from 18.17 units to 20.59 units (which equates to a 13.3% increase).
- 8.39 The revised BNG report (Blade, July 2025) and revised Statutory Biodiversity Metric spreadsheet (E. Seaton, 14 July 2025) have provided the following minor amendments:
- i) The proposed area of created 'other neutral grassland' has increased from 0.91ha to 0.93ha.
 - ii) The proposed number of small trees to be planted has increased from 174 to 177.
- The above revisions will result in an overall 15.60% positive biodiversity net gain in habitat units.
- 8.40 The Preliminary Ecological Appraisal report provided a comprehensive protected species assessment and identified potential impacts to great crested newts (GCN), bats, breeding birds, and badgers.
- 8.41 The advice from the Warwickshire Ecologist is that the proposed development offers the opportunity to enhance the site for wildlife and to provide BNG gains greater than 10%. This judgement carries significant weight such that the development would accord with Local Plan Policy LP16 .

x) Highway Impacts

- 8.42 Local Plan policy LP29 (6) says that all developments should provide safe and suitable access for all users. The NPPF says that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe – paragraph 115.
- 8.43 A Transport Statement and Plan has been submitted with the application. The Statement has considered the proposed access and finds that a safe and suitable vehicular access to the site can be provided via Church Road. The additional traffic generation associated with the proposed development is forecast to be minimal and will not be noticeable across the highway network. The Statement finds that there are no existing highway safety issues in the vicinity of the site, nor will the proposed development have a material impact on highway safety. Warwickshire County Council have assessed the proposal and have requested that the applicant carry out a Road Safety Audit for the access that looks to see whether the vehicular accesses to the site would be acceptable and at the present time a formal response has not been received.
- 8.44 The proposal includes a vehicle access onto Church Road which measures 5.5 metres wide and includes 3 metres footways either side of the access, and a pedestrian access to the south-western corner of the site close to its junction with Orton road. The proposal also indicates a link to the adjacent recreational facilities to the north of the site. Along Church Road is proposed to include speed cushion 60 metres either side of the proposed junction. Warwickshire Highways comments so far have not raised fundamental objections to the scheme, and highway infrastructure improvements have not yet been concluded. As the highway authority has not formally responded to the details, any recommendation will have to take into account their response.

c) Conclusion on the Harm Side of the Planning Balance

- 8.45 Officers have identified the following harms which conflict with the relevant North Warwickshire Local Plan policies and the Polesworth Parish Neighbourhood Plan.
- a) The significant conflict with Local policy LP2,
 - b) The significant conflict with Local Plan policies LP1, LP14 and LP30 and PNP3 and PNP4 of the neighbourhood plan in terms of landscape visual harms and harm to settlement morphology of Warton
 - c) The moderate conflict in terms of social cohesion and effective integration of affordable housing into settlement conflict with Local Plan policies LP1, LP14 and LP30 and PNP3 and PNP4 of the neighbourhood plan.
 - d) The moderate conflict arising from the permanent loss of best and most versatile agricultural land contrary to policy LP1 of the Local Plan.
- 8.46 It is considered that the cumulative conflict is thus significant.

d) The Benefits Side of the Planning Balance

i) Housing Delivery

- 8.47 An initial matter of in support of the application is whether the Borough Council has a five-year supply of housing land. The appellants main case is that the Council only has a 1.1 year supply of housing.
- 8.48 The Council's last published monitoring report is dated March 2024 and that showed a 5.1 year housing supply. This figure used the Local Plan's housing trajectory as its basis as shown in para 7.32 of the Local Plan. The March 2025 report has not been published at the time of preparing this Statement and thus the Council reserves the right to inform the Inspector of the 2025 position at any forthcoming Inquiry. Without prejudice to the outcomes in the 2025 Report and for the purposes of this appeal, the Council acknowledges that the 2025 report will not show a five-year supply. It is anticipated that the figure will be 2.2 years. This includes a 20% buffer and a 3% non-implementation rate. If the recommendation below is agreed, then the Council will update the Inspector and the appellant when the 2025 report is published.
- 8.49 The North Warwickshire Local Plan was adopted in September 2021 and thus is not out-of-date. The Council draws attention to para 78 of the NPPF. Here it says that Local Planning Authorities should identify and update annually, a supply of specific deliverable sites to provide a minimum of five years' worth of housing against their housing requirement as set out in adopted strategic policies, or against their local housing need where strategic policies are more than five years old. As the strategic policies in respect of the housing requirement adopted within the last five years, therefore the latter option here does not apply. The five year supply is thus calculated against the housing requirement as set out in the Local Plan. That requirement is set out in LP5 of the Local Plan. The annual figure is 479 dwellings. The five year supply as calculated against that figure is 1.5 years which includes a 20% buffer.
- 8.50 The Council can provide the evidence behind the figures referred to above, but for the purposes of this Board Report, it acknowledges that it does not have a five year housing supply and the figure is within the range of 1.5 to 2.2 years. It accepts that this is materially below the five years as required.
- 8.51 On this basis, the Council acknowledges that the delivery of 110 houses is a benefit of the proposal in light of the housing supply of 1.5 to 2.2 years. The Council however would attribute significant weight to this benefit.
- 8.52 The applicant also says that has been an under provision of affordable housing completions in the last five years across the Borough. His proposal provides a policy compliant delivery on-site. It is acknowledged that this is a benefit of the proposal but it cannot be afforded significant weight because of the assessment above in that it is contingent on a greater number of houses being provided and as again as assessed above, the site is not in a sustainable location. Moreover as a whole, the recent housing permitted and constructed in Warton itself, has resulted in a 40% on-site provision within the settlement as a whole. The benefit thus only carries moderate weight at most.

ii) Bio-diversity net gain

- 8.53 The bio-diversity net (BNG) gain arrangements are of benefit, but the value of the open space and BNG within the scheme would have a limited extent to the whole community of Warton. This benefit carries limited weight.

iii) Economic Benefits

- 8.54 There would be an economic benefit in that local suppliers and contractors may become involved in the construction of the development, but this is temporary in nature. On the other hand, an increased population may contribute to increased numbers at the school and patronage for bus travel, However, these are not guaranteed and may fluctuate over time. As such they carry limited weight.

iv) Conclusion

- 8.55 Officers have attributed the following weights to these benefits;

- i) Significant Weight to the Delivery of Houses
- ii) Moderate Weight to the delivery of on-site affordable housing
- iii) Limited Weight to the Bio-Diversity Nett Gain
- iv) Limited Weight to the Economic Benefits

- 8.56 It is considered that the cumulative weight of these benefits is thus limited to moderate to significant in scale.

9. The Final Planning Balance

- 9.1 The main issues in this case were identified in para 8.1 above. Assessment of these against the relevant policies of the Development Plan and the NPPF has led to the conclusion that significant harms would arise in respect of the first two issues raised – sustainability/proportionality and character/appearance - paragraph 8.45.
- 9.2 On the other hand, there are acknowledged benefits arising from the development – particularly the delivery of new housing - paragraph 8.55.
- 9.3 The outcome of the final balance here is to be approached through paragraph 11 (d) (ii) of the NPPF because of the acknowledged lack of a five year housing supply. In this respect, it is considered that the harms caused, do significantly and demonstrably outweigh the benefits in this “tilted” balance, for the following reasons:
- a) Simplistically, the significant weight of the harms significantly and demonstrably outweighs the benefits.
 - b) The settlement hierarchy set out in the Local Plan is the Council’s strategic approach to delivering sustainable development in the Borough. The status of Warton in that hierarchy has been confirmed in updated evidence. It thus

carries weight. A breach of this spatial policy weakens the presumption in favour of sustainable development set out in the NPPF.

- c) There are very real harms caused to the character and appearance of this Warton and to its overall morphology, its social cohesion and its sense of place and community due to the scale of this proposal. This was found to be the case in the Curlew Close 2023 appeal decision, but with a far less amount of new development. These will be permanent harms on a much greater scale.
 - d) It is acknowledged that the weight to be given to the delivery of new housing has moved on since that Curlew appeal decision, but so too has the scale and location of the proposed development and thus the weight to be attributed to the combined harms.
- 9.4 On balance taking into account all of the factors for and against the proposal, it is considered that the proposal would be contrary to the Development Plan and to the NPPF when taken together as a whole.
- 9.5 In light of this assessment, and taking into account all other material planning considerations, had the Council been able to determine this application, Officers would have recommended that planning permission should have been refused for the reasons outlined below.

10. Section 106 Matters

a) Introduction

- 10.1 The applicant sets out that six matters are to be included within a Unilateral Undertaking, stating that in his view, these are compliant with the relevant Regulations and paragraph 58 of the NPPF. The Council will look at each in turn.

i) Education

- 10.2 Warwickshire County Council as Education Authority is requesting a sum of £2,038,958 based on the number of dwellings proposed. This contribution would go towards expansion of existing early years and primary education at the Warton Nethersole Primary School and towards Secondary and Post-16 school accommodation at the Polesworth School. This would also include the provision of Special Education Needs (SEN).
- 10.3 It is considered that this contribution meets all of the statutory tests. It is necessary to make the development acceptable in planning terms, because education provision was identified in the Infrastructure Delivery Plan 2020 (IDP), which accompanied the Local Plan. This identified projects that are necessary with particular residential allocations in the Local Plan, to ensure sustainable development. That Delivery Plan refers to additional places being needed throughout the Borough. Additionally, the contribution would satisfy Local Plan policies LP1 on sustainable development and LP21 on the provision of services and facilities. It would also comply with para 100 of the NPPF in particular. It is also considered that the contribution is directly related to the development in that

it has been calculated with reference to the up to date local evidence and the nature of the proposal. It also satisfies the final and third test as it has been calculated on the up to date Government Guidance on calculating pupil numbers in each Local Education Authority. As such the contribution is supported.

b) Recreation and Leisure

- 10.4 A request in total of £374,415.28 has been made for recreation and leisure provision. This request is made up from a request towards swimming, gym/fitness provision, studio, 3G pitch, sports pitches, play space, youth provision, parks and garden, greenspace and allotments. There is also potential for an additional amount if a local play area (LAP or LEAP) is not on-site.
- 10.5 The figure for indoor provision would go towards proposed provision at Polesworth with the balance coming to the Borough Council with its purpose being focussed on outdoor provision at Polesworth and locally enhanced play and youth provision.
- 10.6 The overall contribution is considered to satisfy the relevant tests. There is reference in the IDP to the need for the provision of play areas throughout the Borough; for the replacement and refurbishment of leisure facilities and in the Council's Playing Pitch Strategy of 2023, for additional outdoor sports facilities. It would also accord with Local Plan policies LP1, LP21 and LP29 (4). Of note amongst these is LP29 (4) which seeks to promote healthier lifestyles for activity outside of homes and places of work. This is reflected in the NPPF at paragraphs 96 (c) and 98. It is also soundly based on the evidence available in the Council's adopted documents and strategies and it has been calculated in line with the appropriate up to date 2023 "Planning Obligations for Sport, Recreation and Open Space". It thus satisfies the third test concerning being fairly and reasonably related in scale and kind. As such the contribution is supported.

c) Highways

- 10.7 The Warwickshire County Council as Highway Authority has asked for a number of contributions, however the detail of these has not yet been established. The Board will be updated verbally at the meeting. It is anticipated that these will include contributions towards:
- a) Streetlighting along Church Road between site access to connect with existing lighting to the east.
 - b) A Traffic Regulation Order to provide an extension of the 30mph speed limit on Church Road from the east, so as to include the proposed access through a Traffic Regulation Order.
 - c) A formal pedestrian crossing facility over the Church Road access (not just the existing dropped kerbs).
 - d) Route P12 in the County Council's WCC LCWIP so as to provide suitable cycle linkages and connections between Warton and Polesworth to involve the widening and surfacing of footways, improved crossings and possible speed limit changes.
 - e) Alterations to the junction geometry at Linden Lane to reduce the crossing width for pedestrians and /or cyclists.

- f) Towards a 3m shared footway/cycleway through Warton Recreation Ground connecting to Ivycroft Road, Church Road and Red Marl Way.
 - g) Bus infrastructure as yet unspecified.
- 10.8 Some of these are considered to be compliant in order to promote access to public transport facilities and improve cycle and pedestrian access set out in the Local Plan at policies LP27, LP29 (5) and in the NPPF at paragraph 109 (e) and 115. Some could be provided via a Grampian condition or through section 38 or 278 Agreements under the Highway Act. As indicated above, Members will be updated at the meeting if possible.
- 10.9 Rights of way improvements are sought to maintain the public rights of way in the vicinity of the site, there are a number and therefore it is considered that in this instance it is compliant and accords with Local Plan policies at LP27, LP29 (5) and in the NPPF at paragraph 109 (e) and 115
- 10.10 The Warwickshire County Council as Highway Authority has asked for a contribution towards sustainable travel packs it is considered that this can be dealt with by a planning condition.

d) Other Contributions

The applicant has included “affordable housing” in his table of Section 106 matters yet. the Council considers that the provision of affordable housing is best dealt with through a Section 106 Obligation. This is because recent experience with reference to an “affordable housing provider” has not always been successful and other options have had to be considered – e.g. off-site contributions in lieu of on-site provision and the possibility of “gifted” units to the Council. These potential transactions are inappropriate for the precision “test” required by a planning condition. The overall provision would accord fully with Local Plan policy LP9 and with paragraphs 63 to 66 of Section 5 of the NPPF.

The Warwickshire County Council has requested a contribution of £2408 towards library facilities. The closest Libraries are at Dordon and Polesworth. The contribution would satisfy the tests in respect of compliance with Local Plan policies LP1 and LP21.

The George Eliot NHS Trust has sought a contribution of £123,095 to assist in the provision of its services. However, there is now case-law which has established that contributions sought to close a funding gap that an Infrastructure provider may be experiencing, do not satisfy the Section 106 “tests”. It should not be included in the Heads of Terms in this case.

Warwickshire Police also sought contributions of £28,532 towards recruitment and equipment of officers this is similar to the NHS contribution in that it does not satisfy the Section 106 “tests”.

Recommendation

That the Council's position for the outstanding appeal against its non-determination of this application be planning permission is that it should be **REFUSED** for the following reasons:

1. The proposal would be contrary to the Council's spatial planning policy as represented in its settlement hierarchy as defined in the North Warwickshire Local Plan 2021. Warton is a Category Four Settlement within that hierarchy and owing to the limited services and facilities within it, the proposal would represent a wholly disproportionate and unsustainable addition to the settlement. It is considered that the benefits of the proposal, including the engagement of the titled balance as outlined by the applicant do not outweigh this significant harm. The proposal is thus contrary to Local Plan policies LP1, LP2 and LP30 together with policy PNP3 of the Polesworth Parish Neighbourhood Plan 2025 as supplemented by the National Planning Policy Framework.
2. The proposal would result in an unacceptable intrusion into the open countryside that would give rise to landscape and visual harm. Further, the scheme would give rise to harm to the settlement morphology of Warton, given the site reads as an adjunct to the settlement, rather than integrating with the settlement. The proposal is thus contrary to Local Plan policies LP1, LP14 and LP30 together with PNP3 and PNP4 of the Polesworth Parish Neighbourhood Plan 2025 as supplemented by the National Planning Policy Framework.
3. The proposal would give rise to harm to social cohesion. Warton has seen a considerable quantum of development in the recent past and an additional increase in 110 dwellings to the settlement would give rise to new residents failing to integrate effectively into the settlement. The proposal is this contrary to Local Plan policies LP1, LP14 and LP30 together with PNP3 and PNP4 of the Polesworth Parish Neighbourhood Plan 2025 as supplemented by the National Planning Policy Framework.
4. The provision of affordable housing at the edge of the settlement would not result in the residents of these units integrating effectively into the settlement and the creation of a balanced and integrated community.
5. The proposal would result in the permanent loss of an area of approximately 5.7 hectares of best and most versatile agricultural land. As such the application proposals would be contrary to policy LP1 of Local Plan and contrary to paragraph 187 of the National Planning Policy Framework 2024.

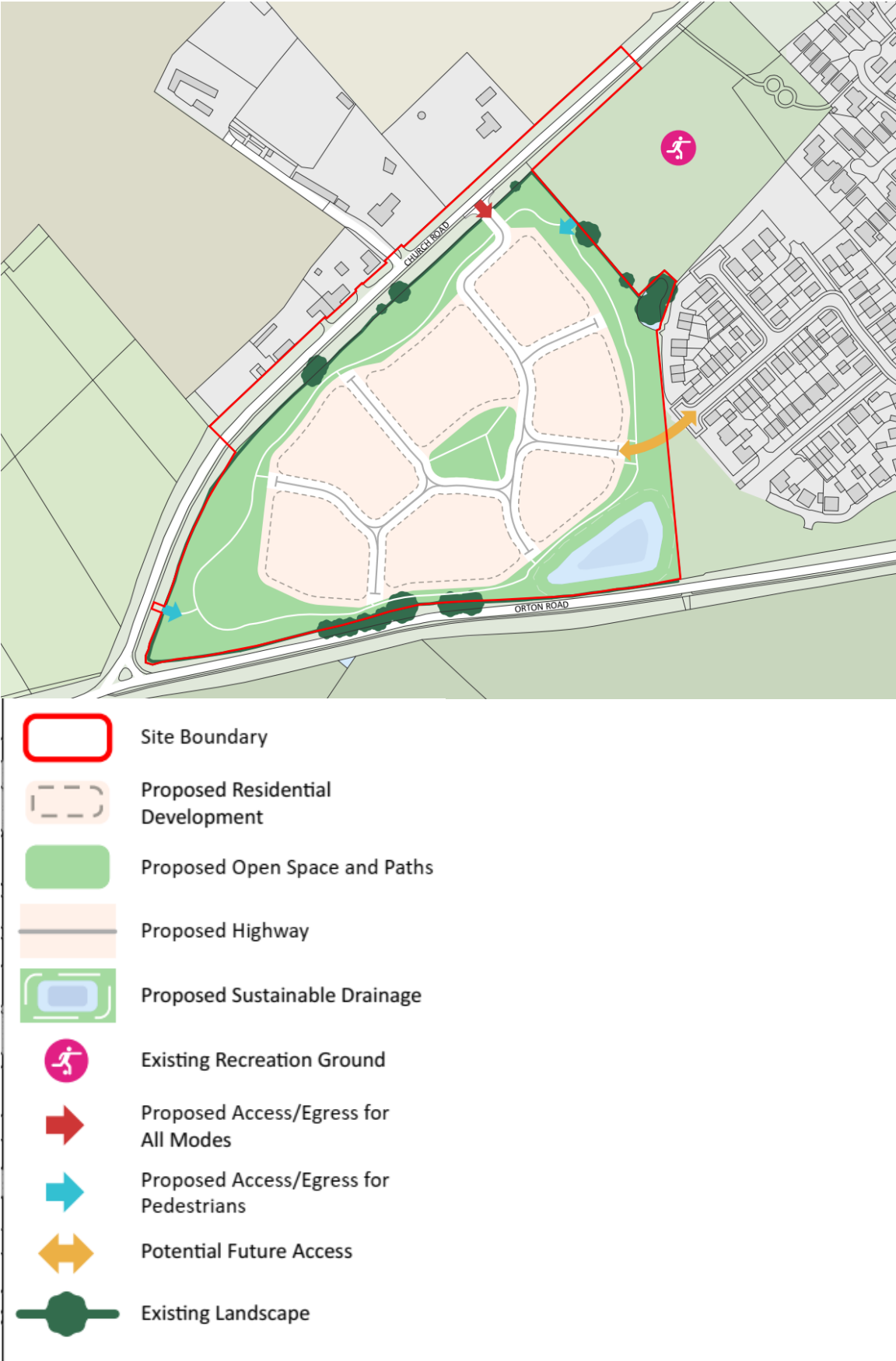
Appendix A – Site location Plan



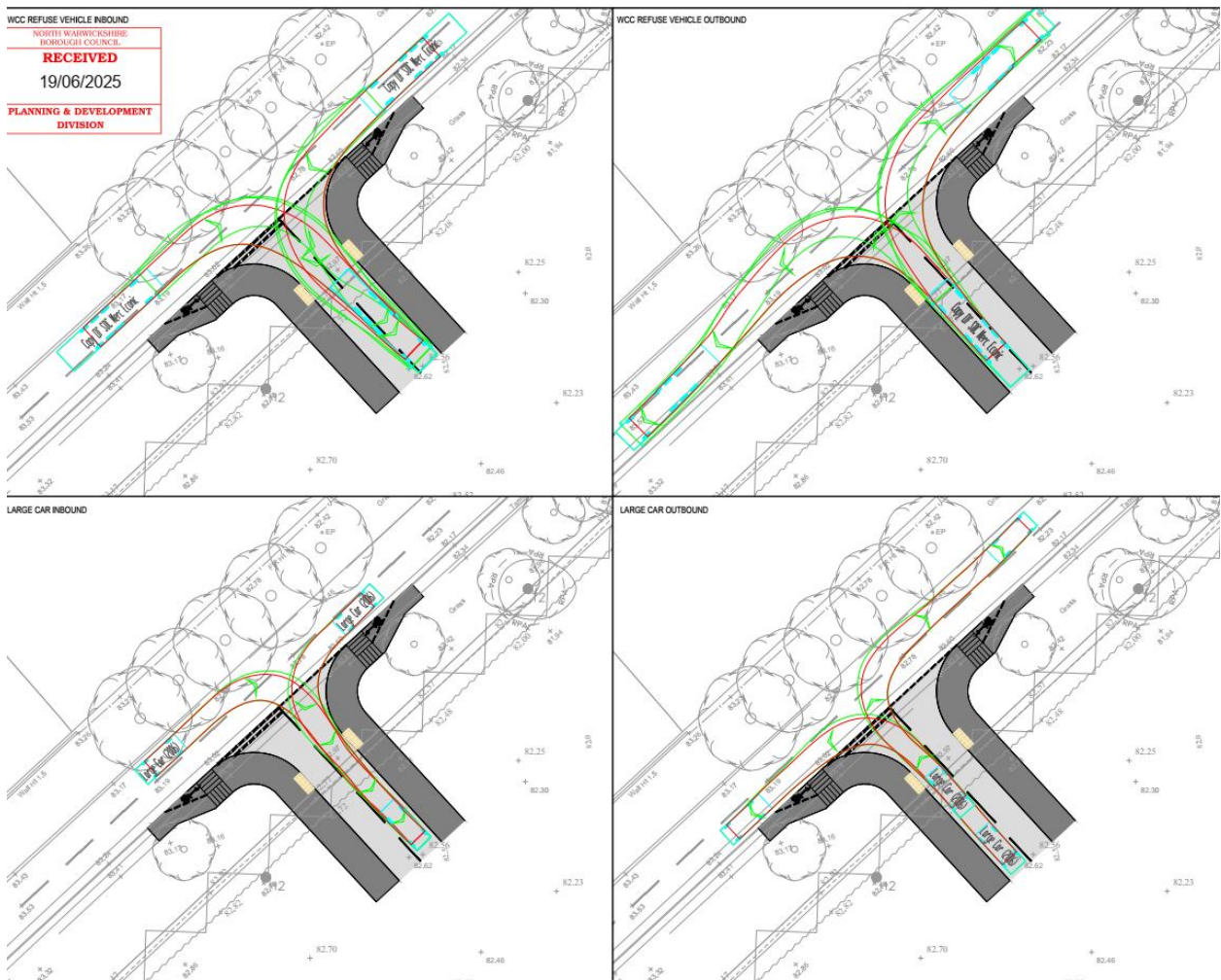
Appendix B – Aerial Image

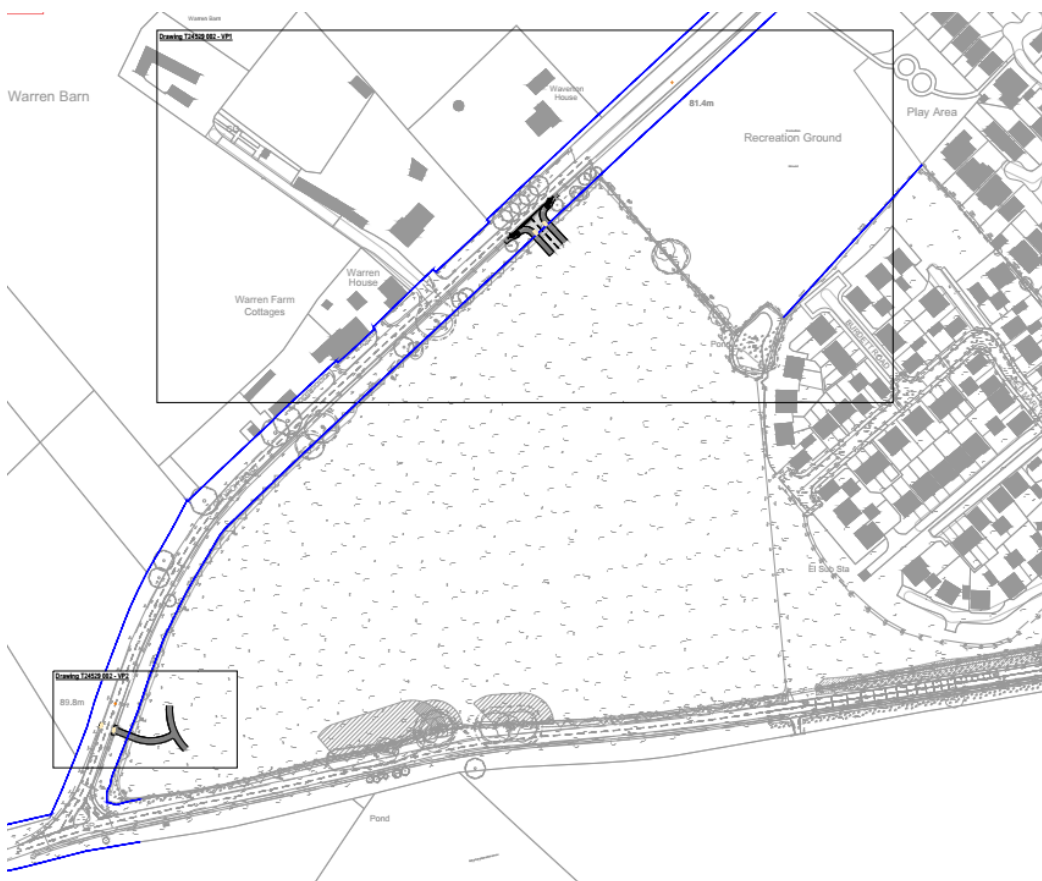
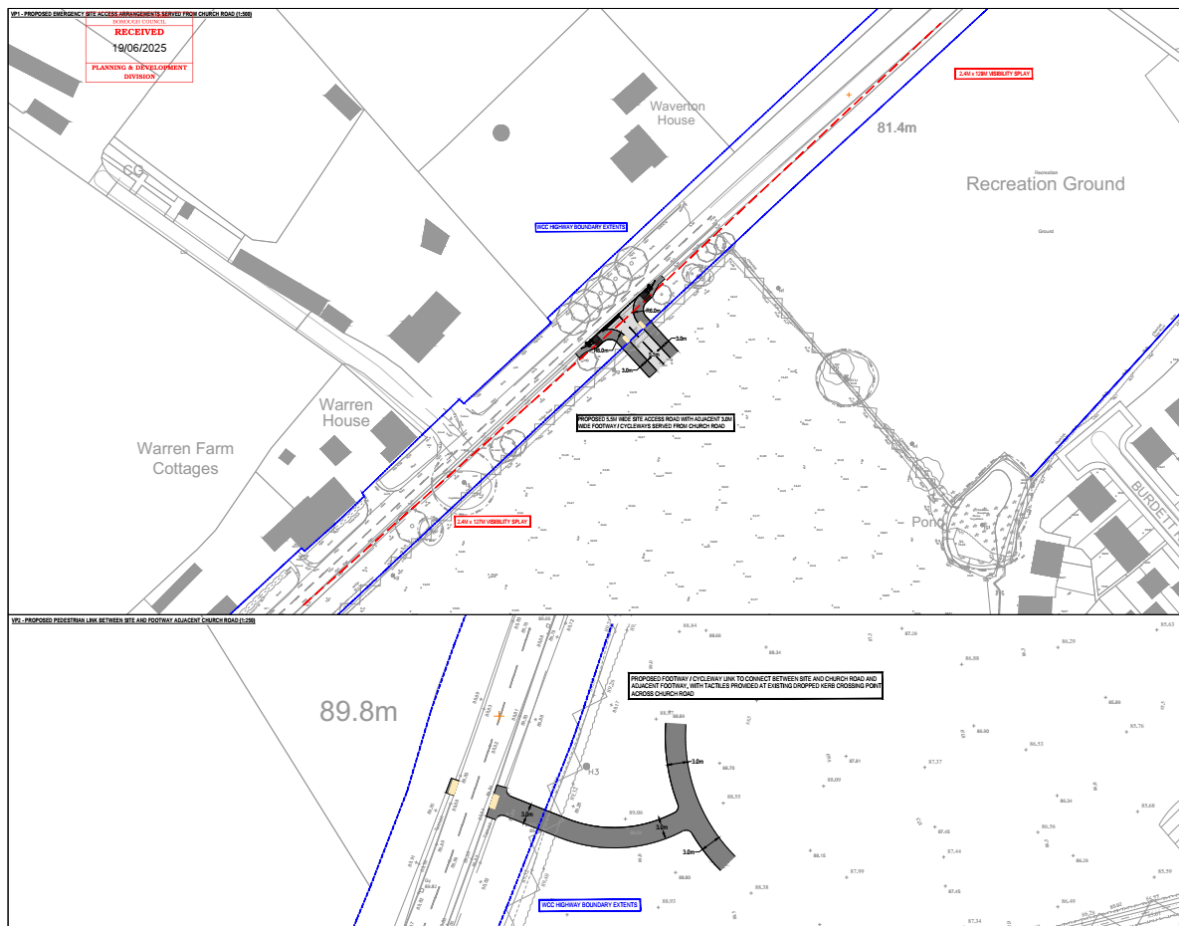


Appendix C – Parameters Plan



Appendix D – Vehicle access and pedestrian access





APPENDIX E

PAP/2025/0155

NORTH WAVERHAMPTON
BOROUGH COUNCIL

RECEIVED

01/04/2025

PLANNING & DEVELOPMENT
DIVISION

PLANNING STATEMENT

LAND NORTH OF ORTON ROAD, WARTON

MARCH 2025



8. PLANNING ASSESSMENT

Principle of Development

- 8.1 The application seeks approval from North Warwickshire Borough Council for outline permission with all matters reserved, save for access.
- 8.2 The adopted Local Plan Policy LP2 identifies Warton as a Category 4 settlement where development within development boundaries will be supported in principle. In addition, Policy L2 states that development directly adjacent to settlement boundaries may also be acceptable.
- 8.3 The site is contiguous with Warton's settlement boundary and therefore is in accordance with this policy. The site will make effective use of this site to help meet future housing needs.
- 8.4 Policy LP2 continues that all development will be considered on its merits; having regard to other policies in the Local Plan and will cater for windfall housing development usually on sites of no more than 10 units at any one time depending on viability, services and infrastructure delivery.
- 8.5 Whilst this site is for up to 110 homes the following planning assessment demonstrates that the site is in accordance with all other plan policies, providing a sustainable extension the village of Warton.
- 8.6 As set out in Chapter 7 of this Statement, whilst the Council maintain that they can demonstrate a five-year housing land supply against current local housing needs, the latest Housing Delivery Test result (2023) confirmed that North Warwickshire achieved a result of 81%. Therefore, this means that in accordance with paragraph 79 of the NPPF, a 20% buffer applies. The Council is now unable to demonstrate a five-year supply of housing land.
- 8.7 Accordingly in line with paragraph 11 of the Framework, the presumption in favour of sustainable development is now engaged and the tilted balance set out in paragraph 11d applies. This means that where the policies which are most important for determining applications are out-of-date (which includes situations where the local planning authority cannot demonstrate a five-year supply of housing) granting permission unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. This also includes having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

- 8.8 In this context it is imperative that the Council boost the supply of housing within the Borough. The Council is therefore reliant on sustainable locations coming forward now to help reduce this deficit and meet the Government's objective to boost the supply of housing as outlined in the recent planning reforms.
- 8.9 The site is in a sustainable location, with the proposal delivering up to 110 dwellings, making effective use of land and providing much needed affordable homes. In line with paragraph 11 dii of the Framework, these are all now factors which weigh in favour of the application in the tilted balance.
- 8.10 Material considerations therefore indicate that the principle of residential development on this sustainable site is acceptable, specifically the provision of up to 110 new dwellings proposed as part of this application.

Access & Highways

- 8.11 Proposed primary vehicular access to the site is to be provided in the form of simple priority junction formed off Church Road, with a 5.5m wide carriageway and adjacent 2m wide footways proposed in accordance with the Warwickshire Design Guide for a Link Road / Tertiary Road. A separate pedestrian access is also proposed to be served from Church Road at the western boundary of the site, which is to connect with existing footways that directly lead to Polesworth.
- 8.12 Paragraph 115 of the NPPF seeks to ensure that applications for development have taken opportunities to promote sustainable transport modes, achieve a safe and suitable access for all users, that the design of streets and parking areas reflect current national guidance and any significant impacts on the transport network or on highway safety can be cost effectively mitigated to an acceptable degree.
- 8.13 Paragraph 117 adds that applications for development should give priority to pedestrian and cycle movements, address needs of people with disabilities, create places that are safe, secure and attractive, allow for the efficient delivery of goods, and access by service and emergency vehicles and be including provision for EV and low emission vehicles.
- 8.14 Policy LP23 requires Transport Assessments & Travel Plans appropriate to the scale of development proposed to accompany development proposals. It elaborates that development will be expected to link with existing road, cycle and footpath networks. Developments that are likely to generate significant amounts of traffic and particularly larger developments will be expected to focus on the longer-term management of new trips; encourage the use of public and shared transport as well as appropriate cycle and pedestrian links.

- 8.15 Policy LP27 requires developments to consider what improvements can be made to encourage safe and fully accessible walking and cycling.
- 8.16 A Transport Assessment (TA) and Travel Plan (TP) has been submitted as part of the application. They find that the site is in a sustainable location in transport terms, with local facilities within a comfortable walking and cycling distance of the site, and bus services connecting the site to large settlements to the north and south of the village.
- 8.17 The TA has considered the proposed access and finds that a safe and suitable vehicular access to the site can be provided via Church Road.
- 8.18 The additional traffic generation associated with the proposed development is forecast to be minimal and will not be noticeable across the highway network.
- 8.19 The TA finds that there are no existing highway safety issues in the vicinity of the site, nor will the proposed development have a material impact on highway safety.
- 8.20 Active travel permeability has been provided through the provision of a further footpath/cycleway links to Church Road to the west and Worton Recreation Ground.
- 8.21 The number, format and layout of parking spaces for cars and bicycles will be agreed at the reserved matters stage, taking into account prevailing local standards at that time, however, all dwellings will be provided with an Electric Vehicle (EV) charging facility and meet parking standards contained within Appendix 5 of the Core Strategy.
- 8.22 In line with the NPPF, the development will not have a severe impact on the operation of the local highway network, nor an unacceptable impact on highway safety; as such, there are no reasons why the proposals should be resisted on traffic or transportation grounds. Furthermore, the proposals are in accordance with Local Plan Policies LP23 and LP27 and Neighbourhood Plan Policy PNP8.

Landscape & Visual Impact

- 8.23 Blade was commissioned by the applicants to carry out a non-EIA Landscape & Visual Assessment (LVA) to accompany this application.
- 8.24 The LVA provides a description of the existing landscape and visual conditions of the site and its surroundings, commentary regarding the impacts of the proposed development and an appraisal of the likely effects of the proposed

development on the landscape resource, landscape character and views from public viewpoints.

- 8.25 The site is on the southwestern edge of Warton Village, which has a similar landform as the site. The centre of the village is found at approximately 91m AOD at the junction of Church Road and Maypole Road. The landscape context for this proposal is not simply open agricultural land of the site; it includes the peri-urban landscape of Warton and the wider built context of the village, which provide the setting for this proposal.
- 8.26 Overall, it is considered that the site could successfully accommodate the proposed residential development with minor adverse impacts on the landscape resource, character and visual amenity of the site and surrounding area.
- 8.27 From a landscape perspective, the LVA concludes the proposals as now formulated, will deliver a coherent and logical development of new homes on the southwestern edge of Warton village providing a high quality new landscape with a new social landscape function, and would preserve the distinctiveness of the village, as well as the open countryside setting of the No Mans Heath to Warton – Lowlands Landscape Character Area, and its nucleated settlement pattern.
- 8.28 The scheme will replace the site's agricultural character, but a substantial degree of naturalness will remain, albeit in a different form to that which currently exists.
- 8.29 A Landscape Strategy Plan prepared by Blade has been submitted with the application setting out the proposed landscaping across the site. This includes strengthening of existing trees and hedgerows, the introduction of new native trees (including traditional orchard planting) and creation of dedicated habitats for biodiversity net gain including species rich grassland, tussock and wetland meadow planting.
- 8.30 The proposed development accords with relevant national and local policies and guidance, including Policy LP14 and LP16 of the adopted Local Plan and Policy PNP4 of the Neighbourhood Plan.

Public Open Space

- 8.31 The masterplan demonstrates the delivery of 2ha of open space, with 0.83ha of Amenity Green Space and 1.17ha of Natural and Semi Natural Green Space.
- 8.32 The open space is proposed in the form of a focal green space and a circular corridor that extends to all site boundaries, incorporating natural play

opportunities. A potential link through to Warton Recreation Ground is also identified, providing access to existing playing fields and equipped play.

- 8.33 The green spaces will integrate the development into its setting, providing a soft development edge to the open countryside, deliver a range of benefits for both people and nature and respond positively to the local context. Therefore, it enhances landscape character, local ecology and creates a space for people.
- 8.34 The proposed open space exceeds the Council's Green Space Strategy (2019-2033) in respect of amenity green space and natural and semi-natural green spaces as set out below:

OPEN SPACE REQUIREMENTS			
Type	Requirement (Ha per 1000 pop)	On-Site Requirement (Ha)	Provision (Ha)
Amenity Green Space	0.50	0.13	0.83
Natural & semi-Natural Green Space	0.50	0.13	1.17
Parks & Public gardens	0.50	0.13	-
Allotments	0.50	0.11	-
	Total:	0.50	2.00

- 8.35 Whilst the proposal does not provide additional allotment space, the landscape strategy plan identifies an area of traditional orchards which provides an alternative sustainable food production opportunity within the community.
- 8.36 The outstanding parks, public gardens and allotment requirements will be delivered through financial contributions secured through the Section 106 Agreement.
- 8.37 As the proposal provides green space in line with the Green Space Strategy, it is in accordance with Policy LP20.

Flood Risk and Drainage

- 8.38 Link Engineering was instructed by the applicants to prepare a Flood Risk Assessment (FRA) and Drainage Strategy to support this application.
- 8.39 The site is located within Flood Zone 1 and is assessed as being at low or very low risk of flooding from fluvial and pluvial sources.
- 8.40 A Surface Water Drainage Strategy has been prepared to demonstrate that a sustainable drainage solution can be provided for the proposed development. The Surface Water Drainage Strategy has been designed largely in accordance with current sustainable development best practice and meets the requirements

of North Warwickshire Borough Council and Warwickshire County Council (as the LLFA).

- 8.41 The proposed development will discharge to the local drainage network at rates equivalent to existing conditions. The surface water drainage system shall be designed to ensure that flood storage volumes are retained onsite for critical storm events up to the 1 in 100-year return period plus an allowance for the effects of climate change.
- 8.42 To further mitigate the flood risk to properties in the event of a failure within the drainage system, surface levels will be designed to ensure that flood flows are not directed toward dwellings.
- 8.43 A SuDS attenuation basin is proposed to the south east of the site which will treat and store flows ahead of discharge. The development drainage system is to have a controlled outfall east beneath Orton Road, before ultimately discharging into the existing Seven Trent Water (STW) public sewer at the junction between Orton Road to the surface water sewer. The development proposals ensure that the nature and behaviour of the surface water drainage replicates that of the pre-developed site.
- 8.44 SuDS Management Trains will provide suitable treatment of run-off by removing pollutants prior to discharge.
- 8.45 A foul water drainage strategy has been prepared which implements measures to discharge foul water flow from the proposed development. Foul water will connect into an existing public foul water sewer located at the junction between Orton Road and Barn End Road.
- 8.46 The FRA and Drainage Strategy report demonstrates that the proposed development will not result in any detrimental impact onto the existing surrounding properties. The proposed drainage scheme will neither result in nor cause an increase of flood risk to surrounding properties or the development site. The proposed development is therefore in line with NPPF requirements and Local Plan Policy LP33.

Ecology

- 8.47 Blade was instructed by the applicants to undertake a Preliminary Ecological Assessment of the application site.
- 8.48 The site comprises arable land and a pond associated with willow scrub. Species rich hedgerow form the boundaries of the site.

Designated Sites

- 8.49 No statutory or non-statutory designated sites are present within the site boundary. The site falls within the risk zones of Birches barn Meadow SSSI and Alvecote Pools SSSI. It is currently undetermined how many units the scheme will propose or the level of discharge. However, if it is above 100 units and/ or more than 5m³/day of water or liquid waste is discharged than Natural England will need to be consulted.
- 8.50 It is therefore concluded that the development will not have a significant impact on any Statutory Nature Conservation Sites.

Habitats

- 8.51 *Arable:* the land is utilised for arable purposes. Crop production dominates the site.
- 8.52 *Pond:* a pond is situated at the north-east of the site. It is overshadowed by goat willow scrub, reaching 4m in height, with minimal aquatic vegetation present. Common nettle dominates the banks.
- 8.53 *Hedgerows:* four hedgerows are present within the application site. Hedgerow was the only habitat identified as meeting the criteria to be classified as Habitat of Principle Importance criteria under the local and/or national BAP. The vast majority of hedgerow will be retained. Habitat offering a low ecological value at the site level includes improved grassland, and dense/continuous scrub. Habitat offering higher ecological value includes hedgerow and mature broadleaved trees.
- 8.54 The proposal would remove small sections of hedgerow to facilitate the development of the site through the provision of access.
- 8.55 Mitigation and compensation for the loss of this habitat can be accommodated through the creation and enhancement of species-rich grassland within the proposed open space provision.

Fauna

- 8.56 *Great Crested Newts (GCN):* It is unknown whether the on-site pond or those within 500m of the application site support GCN. Therefore, surveys will be required of all ponds within 250m to confirm presence / absence of newts. These surveys have been commissioned and will be submitted in due course.
- 8.57 *Birds:* The habitats on-site to be impacted (arable) are not unique or scarce in the context of the surrounding landscape. Furthermore, it is anticipated that

schemes with large biodiversity areas and retention of hedgerows holds the opportunity to provide a benefit for bird species at Site level post-development.

- 8.58 However, as Alvecote Pools (SSSI) located c.19km north-west supports a regionally important bird community, with over 100 species recorded annually and between 60 to 70 species breeding on-site, it is recommended that an initial scoping survey for birds is undertaken. These surveys have again been commissioned and will be submitted in due course.
- 8.59 *Bats:* all mature hedgerows and trees are to be retained and protected as part of the proposals. Should any mature trees be impacted (removal due to health and safety reasons, change of layout, post-development light spill etc.); tree inspections for bats will be required to identify any potential suitable roosting features (PRFs) and presence / absence of bats.
- 8.60 The Framework Plan indicates that large biodiversity buffers will be afforded around all boundary hedgerows. Maintaining these as dark corridors, incorporating 'bat friendly' planting and providing bat boxes would provide a benefit for bat species at Site level. As no loss or impact upon commuting / foraging routes is anticipated.

Conclusion

- 8.61 Subject to the adoption of the recommendations detailed in the Preliminary Ecological Assessment, the development proposals would fully accord with national, regional and local policy, including adopted policies LP14 and LP16 and Neighbourhood Plan Policies PNP4 and will avoid any significant impacts on any designated sites for nature conservation.

Biodiversity Net Gain

- 8.62 Blade was commissioned by the app[licants to undertake a BNG Assessment of the proposed development.
- 8.63 Following calculations based upon the illustrative proposals undertaken using DEFRA Biodiversity Metric Calculation Tool, it can be seen that a net gain in biodiversity can be delivered as a result of the proposed development. Specifically, an increase in habitat units from 12.23 units to 13.97 units which equates to an 14.24% increase overall. An increase in hedgerow units has also been calculated, from 18.17 units to 20.59 units (which equates to a 13.3% increase).
- 8.64 It has been demonstrated that the proposed development will achieve a 10% overall net gain in biodiversity over the existing situation in line with national requirements and Policies LP16 and LP17.

Arboriculture

- 8.65 Policy LP16 of the Local Plan seeks to protect the natural environment, including important woodland/trees/hedges. The policy encourages development which conserves, enhances, connects, restores or recreates natural assets.
- 8.66 A Tree Survey and Arboricultural Impact Assessment has been submitted with the application. It finds that the proposed development would result not result in any Category A, B or C trees being removed, however the proposed access from Church Road will result in the loss of 15m of low quality and declining hedgerow. A single tree is proposed to be removed; however, this will inevitably die and fall in a short time frame irrespective of whether the site is developed.
- 8.67 The small section of hedgerow removal required to facilitate the proposed vehicular access is not considered to result in a significant visual amenity impact and replacement tree and hedgerow planting is proposed within the site to mitigate any impact. There are extensive opportunities to deliver a net increase of hedgerow and trees on the site as a result of the proposed development. An illustrative planting strategy is shown on the submitted Landscape Strategy Plan.
- 8.68 The proposed development will not require any works to be completed within the Root Protection Areas of retained trees and all retained trees will be fully protected by the installation of tree protection barriers prior to the commencement of development. Tree protection measures are set out in the report.
- 8.69 The proposals are therefore in accordance with Policy LP16 of the Local Plan and PNP4 of the Neighbourhood Plan.

Cultural Heritage & Archaeology

- 8.70 RPS was instructed to by the applicants to prepare both a Heritage Statement and an Archaeological Statement in respect of the proposed development.
- 8.71 The Heritage Statement considers the potential impact of the proposed development on the setting and significance of those designated and non-designated heritage assets located in the vicinity of the application site.
- 8.72 The assessment identified two Listed Buildings, and twenty-one potential non-designated built heritage assets located within a 1km search radius around the site. The report has also considered a Grade I Listed Building located outside of the search area.

- 8.73 The statement established that only the Holy Trinity Church (Grade II) and St Edith Church (Grade I) have the potential for their significance to be affected by the site's development, through changes within their settings.
- 8.74 The assessment concludes that the site comprises a neutral element within the setting of both of these designated heritage assets whereby it makes no contribution to their significance. The development will result in a small visual change within their settings, which will have no effect on how their significance is appreciated or understood.
- 8.75 The proposed development will therefore not cause harm to the significance of these designated and non-designated heritage assets. In the determination of the planning application, the NPPF testing of paragraphs 214, 215 and 15 need not be engaged.
- 8.76 The Archaeological Statement assesses whether there are any likely archaeological constraints to development of the site and identifies whether there will be a requirement for any further archaeological investigation.
- 8.77 It concludes that, there are no archaeological constraints to the site's development, and it is unlikely that the site will contain any archaeological remains that will need to be preserved in-situ or to be designed around.
- 8.78 The identified activity on the adjacent site to the east was investigated through trial trenching post consent and there is no evidence that any of the features extend into this site. It would therefore be appropriate for any further archaeological works that the planning archaeologist might recommend, to ground-truth the geophysics results, to be secured by an appropriately worded planning condition.
- 8.79 Therefore, the proposed development accords with relevant national and local policies and guidance, including Policy LP14 and LP29 of the adopted Local Plan and Policies PNP4 of the Neighbourhood Plan.

Noise

- 8.80 Policy LP29 on development considerations seeks to avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution.
- 8.81 A Noise Assessment has been submitted in support of this application. The assessment relates to the potential impact of existing noise sources on the proposed external amenity areas and on the living rooms and bedrooms within the proposed development.

8.82 The Noise Assessment demonstrates the feasibility of the site for residential use, assuming proposed dwellings are located a reasonable notional setback distance within the proposed developable area.

8.83 The assessment finds that noise can be satisfactorily controlled by the design of the development. The proposals are therefore in accordance with local Policy LP29.

Sustainable Development

8.84 As discussed previously in Chapter 6 of this statement, the NPPF sets out three dimensions to sustainable development which the proposed development should be assessed against.

Economic Benefits

8.85 The Government has consistently attached significant weight to the need to secure economic growth and employment. Indeed, the NPPF states (para 85): 'Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'

8.86 The main economic benefits of developing up to 110 dwellings and public open space on Land north of Orton Road can be summarised as:

- Employment supported by the construction phase;
- Contribution of the construction phase to economic output;
- Growing labour force;
- Increased household spend and which a substantial proportion would be retained within North Warwickshire;
- First occupation expenditure linked to new properties; and
- Increased Council Tax income and New Homes Bonus.

Social Benefits

8.87 In terms of social benefits, the planning application will deliver a mix of market and affordable properties that are aligned to local need and demand.

8.88 The provision of market housing will also contribute towards meeting the wider housing needs arising within the district, contributing towards the Council's

housing land supply. The provision of affordable homes will contribute to meeting identified affordable housing needs within the district.

- 8.89 Delivery of new public open space provides new opportunities to support recreation and contribute towards healthy, safe and sustainable communities.

Environmental Benefits

- 8.90 The site is not subject to any specific environmental designations and there are few environmental sensitivities.
- 8.91 Moreover, as set out in detail above, a number of environmental and technical assessments have been undertaken, which confirm that the development of the site would not give rise to any unacceptable impacts in terms of landscape character and visual amenity, ecology, heritage, flooding, drainage and traffic. The technical assessments, together with the feedback from engagement with key stakeholders, have informed the preparation of the proposal to ensure that appropriate mitigation has been embedded to address any potential impacts that may arise from the development.
- 8.92 The proposed development seeks to make the most efficient use of this site that is well connected to the existing settlement of Warton and is sensitively integrated within the landscape.
- 8.93 The proposal would secure a Biodiversity Net Gain in excess of the 10% required, through on-site ecological enhancement.
- 8.94 The application includes measures to promote the utilisation of sustainable modes of transport such as walking and cycling and provides opportunity for local residents to access existing services, facilities and employers in close proximity to the site. All dwellings will have EV charging points.
- 8.95 The provision of SuDS through the inclusion of an attenuation basin fulfils a functional role to ensure flood risk is not increased as a result of the development whilst simultaneously enhancing and promoting biodiversity.
- 8.96 Overall, it can be demonstrated that the proposal will result in a net gain in biodiversity.

Planning Balance

- 8.97 The Policies most important for determining the application are out of date because the Council cannot demonstrate a five-year supply of deliverable housing sites under the terms of paragraph 78 of the Framework. Policies relating

to the delivery of housing, including Policy LP2 are now out of date and the weight to be attributed to them is reduced.

- 8.98 Under the provision of the presumption in favour of sustainable development the application should be granted unless there are protected areas or assets of particular importance that provide a strong reason to refuse the development (p11di) or any adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination (p11dii).
- 8.99 The harms associated with the proposed development are limited to the site's location outside of, but adjacent to, the settlement boundary and the minor adverse landscape impacts focused at the local level. In addition, the site represents best and most versatile agricultural land.
- 8.100 There are no protected areas or assets of particular importance that provide a strong reason to refuse the development.
- 8.101 The measurable benefits of the proposed development include:

Social Benefits

- Market Housing within the context of an increasing housing need and the provision of a housing mix to meet local needs – significant weight;
- 40% Affordable Housing within the context of a significant, and increasing, local need and shortfall in supply – very significant weight;
- Creation of new green space and play area publicly accessible to both new and existing residents – moderate weight.

Economic Benefits:

- The proposal would result in a number of economic benefits, notably job creation during construction, increased local spend at shops and facilities, increased Council Tax receipts and a New Homes Bonus payment. These economic benefits would accrue moderate weight in the planning balance.

Environmental Benefits:

- The ecological enhancement on site securing Biodiversity Net Gain above the required 10%.

- 8.102 It is the case that there are no adverse impacts of the development that significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.



10. CONCLUSIONS

- 10.1 This planning statement has been prepared on behalf of the applicants in support of an outline planning application for the delivery of up to 110 dwellings, public open space, landscaping and planting, associated infrastructure and enabling works. Primary vehicle access is to be constructed via Church Road.
- 10.2 Section 38(6) of The Planning and Compulsory Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 10.3 The policies relating to the delivery of homes are, however, now out-of-date in NPPF terms given that the Council is unable to demonstrate a five-year supply of deliverable land for housing.
- 10.1 Land north of Orton Road is continuous with the settlement boundary for Warton. Warton is identified as a Category 4 settlement within the adopted Local Plan. It therefore provides a sustainable extension to the settlement whilst also helping address the Council's housing shortage.
- 10.2 A range of technical and environmental assessments have been undertaken to inform the preparation of the development proposals and ensure appropriate mitigation is included to address any impacts that may arise from the development. These have been summarised in Chapter 8 and demonstrate that the site is not subject to any insurmountable constraints, that it is a suitable location for growth, and that any impacts that would arise from the development of this site are minimal.
- 10.3 There are, therefore, no adverse impacts that would (individually or collectively) 'significantly and demonstrably' outweigh the clear and substantial benefits of the proposed residential development of the application site and part (ii) of paragraph 11d of the NPPF is passed.
- 10.4 The application proposals constitute sustainable development and would contribute towards meeting the identified local housing needs of the district. Therefore, it is respectfully requested that the Council grant planning permission within the framework set by Section 38(6) of The Planning and Compulsory Purchase Act 2004.



Appeal Decision

Site visit made on 31 May 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Appeal Ref: APP/R3705/W/22/3312660

Land off Curlew Close, Warton, Tamworth, Warwickshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Piper (Barley Developments) against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2020/0246, dated 6 May 2020, was refused by notice dated 8 June 2022.
 - The development proposed is described as erection of 34 dwellings including associated landscaping, car parking and other ancillary works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development in the banner heading above is taken from the planning application form. However, during the application stage the number of proposed dwellings changed from 34 to 28 affordable dwellings. The above description therefore differs from that on the decision notice which is 'erection of 28 affordable dwellings including associated landscaping, car parking and other ancillary works.' My decision is based on this description from the decision notice, since it more accurately described the proposal. It is also shown on the appeal form, so the appellant would not be prejudiced by my use of it.
3. The Council's decision notice refers to Policy LP29(6), which relates to highways. However, the Council has confirmed that this was a typographical error, which should have referenced Policy LP29(9). The appellant is aware of this issue and referred to it in paragraph 74 of their statement of case. As such, I have proceeded on this basis, and no parties would be prejudiced by my use of Policy LP29(9).

Main Issues

4. The main issues are:
 - whether the site is a suitable location for the proposed dwellings having regard to the development plan policy;
 - the proposal's effect on the character and appearance of the area; and
 - the proposal's effect on living conditions of neighbouring occupiers.

<https://www.gov.uk/planning-inspectorate>

Reasons

Suitability of location

5. Policy LP2 of the North Warwickshire Local Plan (2021) (Local Plan) defines the borough's settlement hierarchy and steers most development to the main towns, with a cascade approach in other settlements and with very little development directed towards the countryside. This is to ensure that development is provided in accessible locations in accordance with its range of services and facilities, and to protect the countryside. Warton is identified by Policy LP2 as a Category 4 settlement where development adjacent to its settlement boundary may be acceptable. Policy LP2 goes on to state, 'All development will be considered on its merits; having regard to other policies in the plan and will cater for windfall housing developments usually on sites of no more than 10 units at any one time depending on viability, services and infrastructure deliverability.'
6. The appeal site comprises agricultural land, located off Curlew Close. The proposed development would result in an extension of the village beyond the development boundary into open countryside.
7. The reason for the limitation of 10 dwellings in Category 4 settlements is to ensure that small communities are not swamped by new developments but could grow organically and naturally to be sustainable. I accept that the policy states that windfall housing would be catered for *usually* on sites no more than 10 units at any one time and therefore allows for exceptions. Indeed, some of the allocations are in excess of this amount.
8. However, in this instance, the proposal of 28 dwellings would exceed the 10 units of housing by more than double. The proposed development would therefore result in a significant expansion on the outskirts of a small village. Furthermore, while the village does offer a few services and facilities, they are insufficient to cater for the daily living requirements of residents. Although I acknowledge that the presence of additional residents could potentially support and enhance the existing services and facilities, I find that easy access to shops, services and job opportunities would heavily rely on the use of private motor vehicles.
9. Although there is a bus service nearby, I have not been provided with a timetable and so cannot be certain that the routes of timings would be viable for the typical daily needs of future occupiers. In the absence of alternative sustainable modes of transport such as regular bus or train services, future occupants are more likely to rely on private vehicles to access services and facilities as well as employment undermining the development strategy.
10. Consequently, the proposal would be in conflict with Policies LP1 and LP2 of the North Warwickshire Local Plan (2021) (Local Plan). Amongst other things, these policies restrict development outside development boundaries and focus new development within a defined settlement hierarchy, and seek to secure sustainable development with access to a range of services and facilities. In addition, the proposal would fail to accord with the National Planning Policy Framework (Framework) in respect of achieving sustainable development.

Character and Appearance

11. The appeal site is located within the 'No Man's Heath to Warton – Lowlands' Landscape Character Area, as defined in the Council's Landscape Character Assessment (LCA). This describes the area as being a mixed open agricultural landscape, with a scattering of small red brick nucleated hill-top villages of which Warton is an example. The LCA identifies the need to conserve and strengthen the rural character and dispersed settlement pattern recommending that new developments should reinforce the existing settlement pattern of the existing villages. The undeveloped and rural character of the appeal site contributes positively to that landscape character.
12. The prevailing pattern of development near to the appeal site is characterised by residential properties with long private rear gardens positioned along and to either side of Austrey Road. There are also some small cul-de-sac developments leading off Austrey Road, with the existing dwellings fronting the road.
13. The proposal would be accessed off a small cul-de-sac known as Curlew Close, and therefore not directly from Austrey Road. This detached relationship would be a marked change from the existing built form fronting Austrey Road, and the existing cul-de-sac being accessed directly off Austrey Road. The proposal would therefore appear as an add-on to the village, rather than an integral component of it.
14. Although the proposal would be adjacent to existing development along Austrey Road and Curlew Close, most of the proposed development would abut long rear gardens of adjacent dwellings. It would extend deeper into the plot beyond the existing built form and into open countryside, altering the established linear built form and rear garden environment. As such, the proposal would not be contained by existing built form and would not infill a gap in an existing built-up part of the village. Furthermore, the site's undeveloped open nature emphasises a transition from the built form to the rural context beyond.
15. The proposal would provide a range of dwelling sizes and layout. Nevertheless, the siting and mass of the proposed development would be out of keeping with the prevailing pattern of the existing residential development in the area. The proposal would create an incongruous form of development adjacent to a well-established rear garden environment and would not respond positively to the overriding spacious character of the area.
16. During my site visit I observed open views across the site and from the surrounding area, despite the presence of some boundary vegetation. These included views from Curlew Close. Whilst landscape planting could be designed to provide some degree of screening, the proposal would nevertheless be visible from the site entrance, and in views from neighbouring properties. Therefore, the proposal would be a visually intrusive form of development that would unacceptably detract from the character and appearance of the surrounding area.
17. For the reasons given, the proposal would cause unacceptable harm to the character and appearance of the area. Accordingly, it would fail to accord with Policies LP1 and LP14 of the Local Plan. These policies, amongst other things, require development to conserve, enhance and where appropriate, restore

landscape character, and positively improve the individual settlement's character and appearance. Given these identified Local Plan conflicts, the proposal would not be supported by Policy LP2. In addition, the proposal would fail to accord with the design objectives of the Framework.

Living Conditions

18. Due to the sufficient separation distances between the proposed dwellings and the existing neighbouring dwellings, the proposal would not cause an unacceptable loss of privacy through overlooking to neighbouring residents. Similarly, adequate outlook for existing residents would be maintained, due to the scheme's layout and positioning of rear gardens adjacent to existing built form.
19. As such, for this main issue, the proposal would accord with Policy LP29(9) of the Local Plan. Amongst other things, this policy seeks to ensure new development avoids and addresses unacceptable impacts upon neighbouring amenities.

Planning Balance and Conclusion

20. Although the Council is able to demonstrate a five year supply of housing the proposal would contribute towards the Government's objective of significantly boosting that supply. In that context I give the provision of 28 units moderate weight.
21. It is proposed that the housing would be provided as 100% affordable. This would contribute to the social aspect of sustainability and the need for affordable housing within the area which has been confirmed by the Council. The appellant's Financial Viability Assessment states that it is imperative that only the policy compliant level of affordable housing be secured by a S106 agreement to allow the housing association to raise stronger capital on the homes over and above the 40%. However, I do not have any signed Section 106 legal agreement before me to secure any provision.
22. I have had regard to the advice in the Planning Practice Guidance on whether it would be appropriate to secure provision via a condition¹. It confirms that ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency. It goes on to state that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk.
23. I am not convinced that the development is complex or strategically important or that its delivery would otherwise be at serious risk. Furthermore, neither party has suggested such a condition. While the delivery of affordable housing would be a benefit of the scheme, given the overall shortfall, I cannot be sure that it would be delivered at 100%. I therefore attach only moderate weight to this benefit.

¹ Paragraph: 010 Reference ID: 21a-010-20190723

24. The proposal would deliver bungalows that would make a small contribution to a need for this type of accommodation and would enable housing choice in this respect. However, these benefits are modest relating to only a small number of proposed bungalows.
25. The proposal would make an economic contribution during the construction period and subsequently from future occupiers in terms of spending in the local area, which would help to support local businesses, facilities, and services.
26. The proposed scheme would not have an adverse impact with regard to residential amenity, highway safety, flooding and drainage. I also note the suggested biodiversity enhancements. However, these are neutral factors and do not weigh in favour of the proposal.
27. The proposal would be at odds with the spatial strategy in the development plan. It would also result in harm to the character and appearance of the area for the reasons given. It would therefore be contrary to the development plan as a whole. These matters I have outlined above, while of some benefit would not outweigh that conflict.
28. The appeal is therefore dismissed.









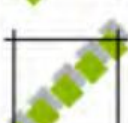



H Smith

INSPECTOR

Appendix G – Indicative Landscape Plan



LEGEND

	Boundary		
	Existing trees retained		
	Existing trees removed		Proposed species-rich native hedgerow undersown with EH1
	Existing hedgerows to be removed		Proposed traditional orchards
	Existing hedgerows to be retained (+ enhanced)		Proposed native trees
	Existing hedgerows recently planted		Proposed modified grassland
	Existing scrub retained		Proposed other neutral grassland (EM3 Species-rich grassland)



Proposed other neutral grassland
(EM10 Tussock meadow)



Proposed other neutral grassland
(EM8 Wetland meadow)



Proposed other neutral grassland
(EP1 Pond edge)



Proposed fencing



Existing pond



Proposed development parcels

Agenda Item No 7

Planning and Development Board

6 October 2025

**Report of the
Head of Development Control**

**Tree Preservation Order -
18 Overton Drive, Water Orton**

1 Summary

- 1.1 Confirmation of a Tree Preservation Order is being sought for a Lime tree located to the rear of this residential property at 18 Overton Drive, Water Orton, following the Board's meeting earlier this year.
- 1.2 Consultation has taken place with those parties that have an interest in the site and these are now reported.
- 1.3 The recommendation is that the Order be confirmed.

Recommendation to the Board

That, following consideration of the representations received, the Board confirms that the Tree Preservation Order in respect of the Lime Tree (T1), located at the rear of 18 Overton Drive, Water Orton, be made permanent for the reasons given in this report.

2 The Objection Received

- 2.1 The owners of the residential premises where the Lime tree is located have expressed an intent to undertake work to the tree. The extent of the proposed works is not known, although they have said in summary that they consider the tree to be a hazard and that it takes light from their property and garden. The objection states that, 'at the base of the tree there is a hole which appears to have a large amount of fungus growing inside, potentially weakening the tree'. A neighbour has also objected because of the loss of light to that property and expressing concerns about branches falling into the garden. The objector's photographs of the cavity in the tree and the unidentified fruiting fungal growth are shown below:



2.5 The aerial photograph below shows the tree in context together with the map at Appendix 3.



LIME TREE

3 Consultations

- 3.1 The County Tree Officer undertook an initial assessment in February 2025 and took a “precautionary” view as full access was not possible, concluding that an Order would be “defensible” - see **Appendix 1**. Given the receipt of the objection above, the County Forester was asked to re-visit the case. This later assessment is at **Appendix 2**. The Forester has confirmed that he has now been able to view the tree at close quarters and in its wider setting. He has also spoken with the owner. As a consequence, the Assessment scores have been reviewed – the Part One amenity scores have been reduced, but the Part Two potential threat has increased to there being a “foreseeable threat”. Whilst this leads to the overall assessment falling by one point from his earlier assessment, the tree is still within the “band” for there being a defensible case for an Order.

4 Observations

- 4.1 The tree is visible from the street and an adjacent footpath and is considered to be important to the character of the locality. As such, it adds to the visible public amenity of the area. Even with the Forester’s re-assessment, an Order is considered to be appropriate here.

5 Report Implications

5.1 Financial and Value for Money Implications

- 5.1.1 There are no implications in confirming this Order, but if confirmed, then there may be implications in that compensation may be payable, if Consent is refused for works to a protected tree.

5.2 Legal and Human Rights Implications

- 5.2.1 The Town and Country Planning Act 1990, only allows a Tree Preservation Order to be made if it is expedient to do so in the interests of amenity. If Members are satisfied that this remains the case having considered all the facts, the Order may be confirmed. Appropriate consultations with those with an interest in the land have been undertaken and representations received are included in this report. Once made, the owners of the land would have a legal responsibility to maintain the tree and protect it from harm. Applications will need to be made to the Local Planning Authority in order to carry out works to the tree.

5.3 Environment and Sustainability Implications

- 5.3.1 The tree to be protected exhibits an amenity value for both the present and the future amenities of the area, given its appearance and prominence in the street scene.

The Contact Officer for this report is Christina Fortune (719481).

Appendix 1 TEMPO dated 06/02/2025

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO SURVEY DATA SHEET & DECISION GUIDE

Date: 06/02/2024	Surveyor: Alex Plummer
Tree details TPO Ref (if applicable) Owner (if known)	
Tree/Group No: N/A Location: 18 Overton Drive, Water Orton	Species: Tilia sp.

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable |

Score & Notes

5 – Tree viewed from distance, appears to be in good condition, showing good vigour and vitality.

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes

5

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes

3 – mostly visible to surrounding properties only.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | | |
|--|---|
| 5) Principal components of formal arboricultural features, or veteran trees | Score & Notes
1 – no additional redeeming features. |
| 4) Tree groups, or principal members of groups important for their cohesion | |
| 3) Trees with identifiable historic, commemorative or habitat importance | |
| 2) Trees of particularly good form, especially if rare or unusual | |
| 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) | |
| -1) Trees with poor form or which are generally unsuitable for their location | |

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- | | |
|--|-------------------------------|
| 5) Immediate threat to tree inc. S211 Notice | Score & Notes
1 |
| 3) Foreseeable threat to tree | |
| 2) Perceived threat to tree | |
| 1) Precautionary only | |

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total:
15

Decision:
TPO defensible

Appendix 2 TEMPO dated 20/08/2025

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 19/08/2025	Surveyor: Alex Plummer
Tree details TPO Ref (if applicable) Owner (if known)	
Tree/Group No: N/A Location: 18 Overton Drive, Water Orton	Species: Tilia sp.

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable |

Score & Notes

3 – Lime tree showing good vigour and vitality, cavity present in base with internal decomposed fruiting body. Tree appears to be adapting sufficiently to cavity.

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes

4 – Tree is showing evidence of adaptive growth to cavity and overall good canopy vigour with no obvious signs of stress or decline.

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes

3 – Tree highly visible to surrounding properties, however limited view from the public highway.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes

1 – no additional redeeming features.

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. S211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes

3

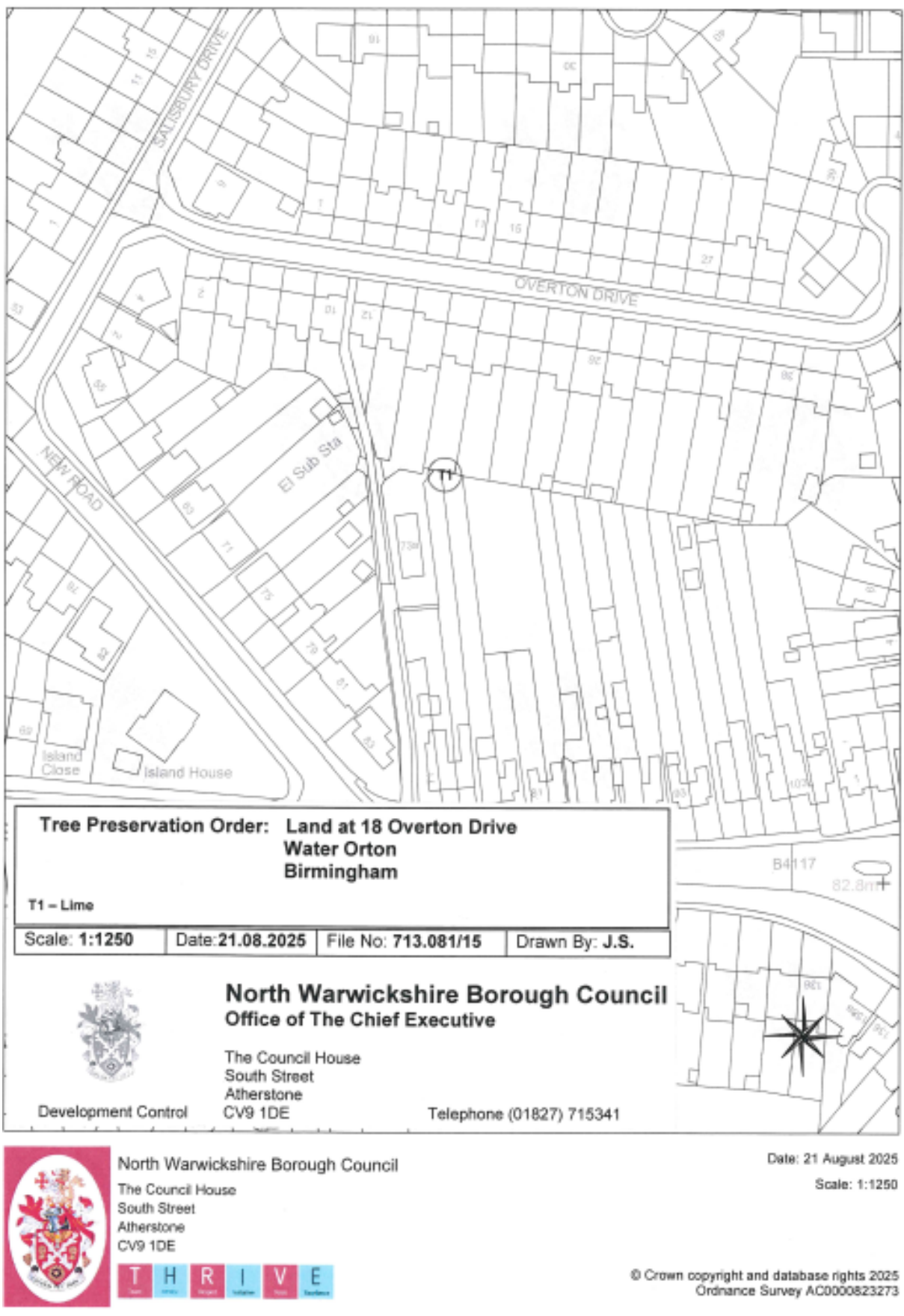
Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total:
14

Decision:
TPO defensible

APPENDIX 3 – TPO MAP



Agenda Item No 8

Planning and Development Board

6 October 2025

Report of the
Head of Development Control

Tree Preservation Order - Land
rear of 82-104 Spring Hill, Arley
Coventry

1. Summary

- 1.1. A temporary Tree Preservation Order was placed on a Group of trees to the rear of 82-104 Spring Hill Arley following consideration by the Planning and Development Board on the 4 August 2025, The Order was made on a temporary basis for a period of six months until the 5 February 2026. As part of the process of appraisal neighbours and landowners have been invited to comment on the Order and three representations have been received.
- 1.2. This report considers the representations received and seeks to confirm the Order, making it permanent.

Recommendation to the Board

That the Board confirms the Tree Preservation Order relating to land rear of 82-102 Spring Hill, Arley making the Order permanent.

2. Background and Statement of Reasons

- 2.1. This item relates to a group of trees on land rear of 82-104 Spring Hill, Arley.
- 2.2. In June 2025, a member of the public asked that we assess if several Beech trees located along the boundary of their property and an adjoining field were suitable for protection by a TPO. This request was made as the field has been purchased by a property developer.
- 2.3. The trees were assessed by Warwickshire County Council. Upon visiting the site, it was concluded that the trees formed part of a larger group of trees. The group of trees were subsequently assessed using the TEMPO methodology, which concluded they definitely merited protection by a TPO.

... A report was presented to the Board on the 4 August 2025, seeking to make a Tree Preservation Order. This Order was enacted and now stands for a period of 6 months, allowing members of the public to make representations. The report is attached at **Appendix A**.

3. Representations

- 3.1. Representations from neighbours and the Parish Council were invited in writing by the 12 September 2025. During this period, the Council received three responses and one request for additional information.
- 3.2. One representation supports the TPO along the boundary of his property and the field, but objects to a blanket TPO over the whole wooded area. The view of the County Forestry Officer who undertook the TEMPO assessment considered that the Group TPO was the best way forward to protect all the trees. The trees have visual and amenity value as a whole and thus have sufficient merit worthy of retention as a Group, rather than as individual trees. All the trees therefore merited the protection. Works such as dead wooding and crown lifting may be required once the trees have been protected, however these would be assessed on their individual merits and require a TPO application.
- 3.3. A further comment was received in support of the TPO. Whilst the representors do not own any part of the woodland, their property immediately adjoins it. The woodland has a significant positive impact on the area due to the wildlife and biodiversity it supports. It is a visible asset, in particular the mature beeches and pines. Securing the long-term protection of the woodland is in the interest of village residents.
- 3.4. The final comment says that from an environmental point of view, the trees are invaluable and should be protected at all costs. They are a natural way of fighting change and a habitat for a number of animals and birds, which warrant protection. As the adjoining field had been sold to a property developer, he was concerned that owners might sell their patches of woodland, which could be used to squeeze more houses into the area. Access to the field was difficult, therefore, he was concerned that a future developer might buy a property with the intention of demolishing it along with the woodland to construct a new access.
- 3.5. Officers have no comments to raise in respect of these representations received.
- 3.6. The request for information asked for information regarding the developer who had bought the adjoining field and whether the Council was aware of any proposed plans or intentions for the site. This query was addressed.

4 Report Implications

4.1 Financial and Value for Money Implications

- 4.1.1 There are no implications in making this Order, but if confirmed, then there may be implications, in that compensation may be payable if Consent is refused for works to a protected tree.

4.2 Legal and Human Rights Implications

- 4.2.1 The owners of the land and those with an interest in it, have the opportunity to make representations to the Council before any Order is confirmed. This report outlines those received such that the Council can consider them in its assessment of the case.
- 4.2.2 The Town and Country Planning Act 1990 only allows a tree preservation order to be made if it is expedient to do so in the interests of amenity.

4.3 Environment and Sustainability Implications

- 4.3.1 The trees to be protected exhibit value for both the present and the future public amenities of the area, given their appearance and prominence in the street scene and countryside.

The Contact Officer for this report is Jacob Baldwin (01827 719417).

NOT FOR PUBLICATION
by virtue of paragraph 6
of Part 1 of Schedule 12A to the
Local Government Act 1972

**Report of the
Head of Development Control**

Agenda Item No 8

Planning and Development Board

4 August 2025

**Tree Preservation Order - Land
rear of 82-104 Spring Hill, Arley
Coventry**

1 Summary

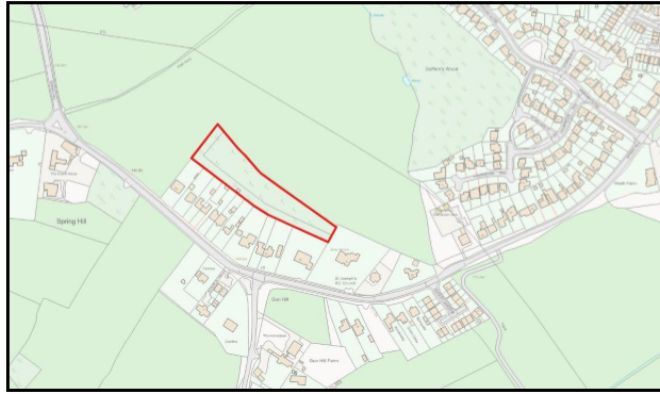
- 1.1 There is a group of significant trees at the land rear of 82-104 Spring Hill in Arley that are important to the character of Spring Hill and views from New and Old Arley.
- 1.2 A request has been received to consider whether the trees could be afforded protection. The resident has indicated that the adjacent land has been acquired by a housing developer and whilst the trees are not subject to any known imminent threat. However, any harm or loss of them would be detrimental to the visual amenities of the surrounding area.
- 1.3 The trees have been inspected and identified as worthy of a Tree Preservation Order (TPO).

Recommendation to the Board

That a Tree Preservation Order be made with immediate effect, in respect of one group of trees located at the land rear of 82-104 Spring Hill, Arley, Coventry for the reasons given in this report, and that any representations received be referred to the Board for it to consider whether to make the Order permanent.

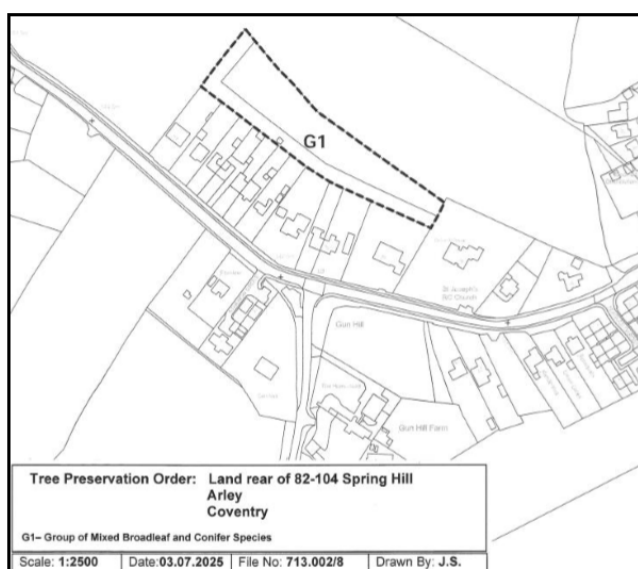
2 Background and Statement of Reasons

- 2.1 The group of trees that are the subject of this report are shown on the plan below, edged in red.



- 2.2 In 2017, a member of the public queried whether a group of trees behind their property should be protected by a TPO. When the trees were assessed, no threats were identified therefore it was not considered necessary to protect them.
- 2.3 In June 2025, the same individual queried whether the trees were worthy of protection and put them forward for TPO protection. In addition, they raised concerns that the land surrounding the trees had been sold to a property developer and should a planning application be made, the presence of a TPO would ensure they are protected.
- 2.4 The trees have since been assessed by the Arboricultural Area Manager, under the Tree Evaluation Method for Preservation Orders (TEMPO).
- 2.5 The assessment established that the trees formed part of a tree group, and scored 19 on the TEMPO assessment. A TEMPO score of 16 or above "Definitely Merits TPO". Accordingly, the group warrants protection by TPO.
- 2.6 The tree group proposed to be protected is shown on the map extract below and at **Appendix A**:

...



2.7 The group are good specimens in terms of their physiological and structural condition. There are no visible defects and have good longevity. The trees are large with limited visibility from public areas, meaning that they have an amenity value and are suitable for protection with a Tree Preservation Order. In terms of expediency, there is a perceived threat to the group.

... 2.8 The TEMPO Assessment, which supports this view, are shown in **Appendix B**. It is considered that an Order of the character described would be highly defensible.

2.9 Given the above, a Tree Preservation Order is recommended. The owners/occupiers of the property and the adjoining owners/occupiers will be served with copies of the TPO and will have an opportunity to make representations/objections.

2.10 A further report will be presented to the Planning and Development Board for Members to consider whether the TPO should be confirmed and made permanent.

3 Report Implications

3.1 Legal and Human Rights Implications

3.1.1 The owners of the land and those with an interest in it have the opportunity to make representations to the Council before any Order is confirmed.

3.1.2 The trees to be protected exhibit amenity value for both the present and the future amenities of the area, given their appearance and prominence in the street scene.

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
Appendix A	NWBC	Tree Preservation Order Plan	03/07/2025
Appendix B	WCC Tree Officer	TEMPO Evaluation	24/06/2025

The Contact Officer for this report is Jacob Baldwin (01827 719417)

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 24/06/2025	Surveyor: Alex Plummer
Tree details TPO Ref (if applicable) Owner (if known) House No's 82 - 104	
Tree/Group No: Location: Spring Hill, Arley	Species: Mixed Broadleaf and Conifer Species

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part1: Amenity assessment**a) Condition & suitability for TPO**

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable |

Score & Notes

5

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes

5

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes

3

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | | |
|--|-------------------------------|
| 5) Principal components of formal arboricultural features, or veteran trees | Score & Notes
4 |
| 4) Tree groups, or principal members of groups important for their cohesion | |
| 3) Trees with identifiable historic, commemorative or habitat importance | |
| 2) Trees of particularly good form, especially if rare or unusual | |
| 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) | |
- 1) Trees with poor form or which are generally unsuitable for their location

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- | | |
|--|-------------------------------|
| 5) Immediate threat to tree inc. S211 Notice | Score & Notes
2 |
| 3) Foreseeable threat to tree | |
| 2) Perceived threat to tree | |
| 1) Precautionary only | |

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total:

19

Decision:

Yes TPO

OFFICIAL

Agenda Item No 9

Planning and Development Board

6 October 2025

**Report of the Head of Development
Control**

Appeal Update

1 Summary

1.1 This report updates Members on recent appeal decisions.

Recommendation:

That the report be noted.

2 Appeal Decisions

a) Tralee Stables, Nether Whitacre

2.1 This appeal deals with proposals to extend gardens to approved houses beyond that shown on the approved plans. The houses replaced a stable yard and all of its associated buildings. The Inspector found that the extensions would be significant and that they would constitute inappropriate development in the Green Belt, and that they would have a harmful effect on the character and appearance of the area. He found that the applicant's case only carried no more than moderate weight, which was insufficient to override the Green Belt harm caused.

... 2.2 The decision letter is at **Appendix A**.

b) Brook Farm Cottage, Over Whitacre

2.3 This appeal dealt with the residential change of use of a building. The Inspector found this to be inappropriate development in the Green Belt which together with its curtilage would not preserve the openness of the Green Belt. He also found that the appearance of the conversion works would not be acceptable in the setting.

... 2.4 The decision letter is at **Appendix B**.

c) South of Newton Farm, Main Road, Newton Regis

2.5 This appeal relates to the erection of a house at the above address just outside but bounding the settlement boundary. The main issue however was the likely impact on the character and appearance of the area including the Conservation Area. The Inspector found that this proposal differed sufficiently from a recently previous dismissed appeal so as to allow this case, as the new house was smaller and with a design more in keeping with its immediate neighbours.

... 2.6 The decision letter is at **Appendix C**.

3 Report Implications

3.1 Environment and Sustainability Implications

3.1.1 The two cases that were dismissed clearly uphold the Council's policies of protecting the rural character of the Borough from encroachment. However the third is disappointing, as it appears to run contrary to the other two.

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

Appeal Decision

Site visit made on 27 August 2025

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th August 2025

Appeal Ref: APP/R3705/W/25/3367282

Tralee Stables, Tamworth Road, Nether Whitacre, Warwickshire B46 2PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Nicholas Bevan against the decision of North Warwickshire Borough Council.
- The application Ref is PAP/2025/0049.
- The development proposed is development of 3 detached properties.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has previously granted planning permission for the erection of 3 detached houses on the appeal site (hereafter referred to as the original planning permission). Dwellings have been constructed seemingly in accordance with the approved scheme. However, gardens larger than those permitted have been provided and marked out through the erection of fencing. In effect, this appeal seeks planning permission for the houses already approved and constructed but with the larger garden areas. The fencing is also shown on the appeal plans and so I have taken it into account in my assessment.

Main Issues

3. The main issues are (i) whether the scheme represents inappropriate development in the Green Belt, (ii) its effect on the character and appearance of the area, and (iii) if it is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other factors so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development in the Green Belt.

4. The site lies in designated Green Belt. Policy LP3 of the North Warwickshire Local Plan adopted 2021 (the LP) explains that inappropriate development is by definition harmful to the Green Belt. In these regards, it is generally consistent with the National Planning Policy Framework (the Framework).
5. Paragraph 154 of the Framework states development in the Green Belt is inappropriate unless it accords with specified exceptions. Sub-paragraph 154(g) defines the redevelopment of previously developed land as not inappropriate provided it does not cause substantial harm to the openness of the Green Belt.

6. The 3 houses have been constructed on land that was occupied by stable buildings. The development already allowed lies entirely on previously developed land as it does not extend beyond the eastern boundary of the former stables complex that was previously demarked by an electric fence and a hedge. However, this appeal seeks permission for gardens that extend a significant distance beyond the original eastern boundary onto land that previously formed part of a larger paddock. The appellant has not sought to dispute the Council's claim that the appeal development goes beyond the extent of previously developed land. As such, when considered as a whole, the development does not accord with the exception as set out in sub-paragraph 154(g) of the Framework.
7. The material change in the use of land is not inappropriate development in the Green Belt under the terms of sub-paragraph 154(h)(v) of the Framework. However, this is subject to the provisos that the change of use preserves openness and does not conflict with the purposes of Green Belt policy.
8. From the submitted information, it would seem the former paddock area now incorporated into the gardens was previously free of buildings and other structures. Most of the gardens are open lawn but allowing the appeal is likely to lead to domestic paraphernalia such as play equipment or typical garden items being placed on the land. Also, the close-boarded fencing has resulted in a new sense of enclosure to the former paddock land. The extended garden areas and the fencing are not prominent from the pavement on Tamworth Road due to roadside hedgerows. Also, new woodland planting in the field may provide additional concealment once mature. Nonetheless, the gardens and fencing can currently be appreciated from parts of the pavement over the roadside vegetation. Also, the extended gardens can be seen from private vantage points on the paddock and from the dwellings themselves. Consequently, the change of use of the paddock land to garden has had a harmful effect on openness, albeit at a fairly minor level given the amount of land affected and the visual extent of the gardens and fencing.
9. Furthermore, the extension of the gardens into the field is seen as a form of development encroachment into the countryside. As such, this element of the appeal development would conflict with the purpose of Green Belt as set out at sub-paragraph 143(c) of the Framework. It therefore follows that the appeal development does not accord with sub-paragraph 154(h)(v) of the Framework.
10. The Council considers the appeal site represents grey belt land. Development on such land is not inappropriate subject to compliance with criteria listed under paragraph 155 of the Framework. However, there is no evidence to show there is a demonstrable unmet need for the development. Also, the dwellings are set a significant distance away from any settlement and there is no realistic opportunity for residents to travel between the site and the nearest facilities by means other than the private car. As such, the development is not in a sustainable location when having regard to paragraphs 110 and 115 of the Framework and the aim to ensure sustainable transport modes are prioritised. It follows that the appeal development does not accord with criteria (b) and (c) under paragraph 155 of the Framework.
11. In summary, I find the appeal development when considered as a whole does not fall within any of the exceptions as set out under paragraphs 154 and 155 of the Framework. Also, the extension of the gardens when compared to the scheme allowed under the original planning permission does not accord with any of the

specified exceptions. Therefore, I conclude the scheme represents inappropriate development in the Green Belt.

Effect on the character and appearance of the area.

12. The local area is generally rural in character with fields, trees and roadside hedges being the predominant features. Properties in the area tend to be dispersed and low-key in terms of their visual influence.
13. Most elements of the appeal development are very similar to the scheme allowed under the original planning permission. However, the larger garden areas have had the effect of extending the domestic nature of the development onto land that previously was vegetated or open field. It is likely that any domestic paraphernalia placed on the land would emphasise this change in character. Also, the close-boarded fencing is more typical of features seen in urban areas and so it appears unsympathetic to the countryside setting. The gardens and fencing are not prominent but from where they are visible they are seen as harmful intrusions into a rural landscape. Painting the fence green and the provision of hedging around the gardens would not fully address the detriment caused to the intrinsic nature of the countryside.
14. For these reasons, I conclude the development has a harmful effect on the character and appearance of the area. In these regards, it does not accord with LP policies LP14 and LP30. Amongst other things, these look to ensure development conserves or enhances landscape character and includes boundary treatments that reflect the surrounding area.

Other considerations.

15. A listed building called The Ashes lies to the east of the appeal site. However, it is separated from the development by the adjoining paddock and intervening trees and bushes. As such, the development has no meaningful effect on the setting or the significance of the listed building. Acceptability in these regards is a neutral factor in my assessment.
16. The development allowed under the original planning permission provides a realistic fallback position in the event of this appeal being dismissed. However, the appeal scheme is significantly more harmful than the permitted development for the reasons as outlined above. Therefore, the fallback position attracts little weight in favour of allowing the appeal. Furthermore, the appeal scheme provides no additional houses over and above those allowed under the original planning permission. As such, allowing the appeal would bring no extra benefits in terms of the supply of new homes.
17. I am advised the 3 dwellings are occupied and allowing the appeal would provide residents with larger back gardens. However, the gardens as allowed under the fallback position could be provided in the event of the appeal being dismissed and these would be of a sufficient size to serve the typical needs of occupants for private outdoor space. Therefore, the benefits to living conditions as a result of the appeal development attract very limited weight.
18. The fencing has been provided for security purposes. However, I see no crucial need to secure the borders to the gardens as they do not adjoin any publicly accessible land and there is no obvious way of gaining entry onto the adjacent

paddock from the highway. In any event, there is no reason why boundary treatment that is more appropriate to the rural setting could not serve a similar security purpose. As such, the security advantages of the development attracts only modest weight.

19. Extensive woodland planting has been carried out on a large part of the field adjoining the appeal site. As this matures, it would more than compensate for the hedges and trees loss through the development on the appeal site. The Council has not sought to dispute the appellant's claim the planting would significantly enhance the biodiversity value of the field. However, it is unclear whether the planting is fairly and directly related to the appeal development and so it would be unreasonable to impose a planning condition that requires its retention in the event of this appeal being allowed. Therefore, the benefits of the planting attract limited weight in my assessment.

Green Belt balance.

20. The appeal scheme represents inappropriate development in the Green Belt. Under LP policy LP3 and paragraph 153 of the Framework it should not be approved except in very special circumstances. These only exist where the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. In this balancing exercise, the Framework dictates that substantial weight is to be given to any harm caused to the Green Belt.
21. The development impacts on openness and conflicts with a purpose of Green Belt policy. Also, it is harmful to the character and appearance of the area. The factors in support of the scheme collectively attract no more than moderate weight and they are insufficient to clearly outweigh the total harm caused by the development. Very special circumstances necessary to justify the scheme do not exist and so I conclude it conflicts with LP policy LP3 and the Framework.

Conclusion

22. For the reasons given above, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR



Appeal Decision

Site visit made on 20 August 2025

by **A. J. Boughton MA (IPSD) Dip. Arch. Dip. (Conservation) RIBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 September 2025

Appeal Ref: APP/R3705/W/25/3364043

Brook Farm Cottage, Atherstone Road, Over Whitacre, Warwickshire B46 2LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr A Jennings against the decision of North Warwickshire Borough Council.
 - The application Ref is: PAP/2024/0568.
 - The development proposed is Change of use of an agricultural building to form 1 no. dwelling with associated off street parking and external amenity space.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The plans sought to be approved show the proposed development would require use of land beyond the red line boundary of the land relating to the proposed development. Plan PL5, also confirmed by elevations, show an access door which opens from the side (east) elevation directly onto other land, the status of which appears to be subject to regulatory action and a requirement to restore land to its original condition. Although these are matters which are not before me to consider, an approval of such plans could be prejudicial and whilst this part of the proposal may arise from an error or oversight which could have been corrected at the appropriate time, given the significance attached to the effect of the proposed development on openness and the use of other land which might thereby be implied, I do not consider it would be possible to approve the plans submitted in their current form. However, given my overall conclusion on the appeal, this is a matter which is not determinative of my decision.

Main Issue

3. The main issue is, firstly, whether the proposed development would be inappropriate development in the West Midlands Green Belt, and, secondly, if so, whether other considerations exist that clearly outweigh the totality of harms which would arise from the development, including the non-Green Belt harms as to highway safety, access to services for users and harm to the character and appearance of the landscape.

Reasons

Whether the proposal would be inappropriate development

4. The appellant proposes to change the use of an existing building to a single dwelling house. The building, stated to be in agricultural use, sits within a parcel of pastureland at the rear of Brook Farm Cottage and its neighbouring houses which lie within the small settlement of Furnace End. This is washed over by the West Midlands Green Belt, although the application site (other than its access) falls outside the built-up area.
5. Furnace End consists of housing clustered around the crossroad junction of the B4116/B4098 (Atherstone Road and Tamworth Road), containing many houses of a suburban typology in well-defined rectangular plots. These are mixed with typically rural, older, house types in a less regular development pattern. Brook Farm Cottage lies at the northern edge of the settlement where land at its rear is in the ownership of the appellant although the residential curtilage of that dwelling and its neighbours sits within a clearly defined area of built development that is well related to respective road frontages and visually separate from the surrounding open land. The north-west quadrant of Furnace End is also enclosed by the tree'd watercourse of the River Bourne running through open land with grassed areas to both sides, and, at the rear of Brook Farm Cottage, a substantial pond or lake which access to the proposed dwelling would cross¹.
6. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence, consequently development in the Green Belt is by definition harmful and therefore inappropriate. However a permitted building² such as that which is the subject of appeal would benefit from Paragraph 154 (h) (iv) of the Framework which states that the reuse of a building of permanent and substantial construction would not be inappropriate providing the openness of Green Belt is preserved, and it is to the matter of openness I now turn.
7. The existing building is a brick-built structure of a design which lacks the simplicity and economy of a typical recently-constructed agricultural building, being to a design which is a hybrid of residential and commercial built form. It has a sheet metal roof and blank elevations on three sides but an unusual central gable in its principal elevation incorporating an entrance door and upper level window. These are both of domestic scale and appearance and visually obtrusive in an approach view of what is otherwise a predominantly rural setting.
8. Development may have both visual and spatial impacts on the Green Belt. The proposed conversion would introduce additional fenestration to elevations which are currently blank and create a garden area which would project into agricultural land³. I have noted the comments of the appellant and whilst the visual impacts of the existing building have characteristics more associated with residential than agricultural buildings and, notwithstanding the spatial effect of the building as an existing built form within the Green Belt⁴, these effects would be significantly

¹ The bridge or causeway currently exists and provides access to the appeal site and other land.

² The Council report various matters which suggest breaches of planning control in relation to the permitted use and compliance with approved plans, however such matters are not before me to consider.

³ As confirmed by the Council's officer report.

⁴ Even if permitted development rights were restricted as the appellant suggests

increased by the introduction of domestic activity and its associated paraphernalia, car parking and the associated coming and goings into an area which otherwise would be open land in some form of agricultural or equine use. The result would be an anomalous, if small, extension to the built-up area of Furnace End⁵. I therefore conclude the effect of the development proposed would be that the openness of the Green Belt would not be preserved such that the exception set out in Paragraph 154 at (h) (iv)⁶ is not available. I conclude the proposal would be inappropriate development in the Green Belt.

Other considerations

9. The Council's reasons for refusal include conflict with Policy LP2 of the North Warwickshire Local Plan 2021 which seeks to direct development to more sustainable locations. In that regard the introduction of one additional dwelling to the existing settlement, despite its lack of facilities and a small degree of conflict with the spatial strategy, would be insufficient to undermine the Council's spatial strategy.
10. The third reason for refusal refers to the effect of the development on landscape character. In that regard whilst it is clear that the Council's concerns arise from the design of the building and its position, some of that harm arises as a result of permitting a building which lacks the qualities of simplicity and economy usually found in agricultural buildings and exemplified in the examples provided at page 27 of the appellant's statement. The visual harm I have already identified as to the appearance of the building would conflict with the Development Plan in the way described resulting in detriment to the verdant landscape character which forms the setting of the north-western parts of Furnace End. The proposal would thereby contribute to the overall harms of the development which is currently found.
11. The fourth reason for refusal relates to the safety of the access. As an existing access already in use within an area of 30mph speed restriction my observations of traffic and use of accesses in the settlement indicate that the effect of the proposal in terms of movements arising from one additional dwelling would not present a risk to highway safety.
12. The appellant acknowledges that the benefits of the proposal are limited, relating to the provision of one additional dwelling. The lack of conflict with parts of the development plan are of neutral effect such that, overall, these do not amount to the very special circumstances which are required to clearly outweigh the cumulation of harms I have identified to the Green Belt and landscape character.
13. On that basis, for the reasons given and taking all matters raised into account, the appeal cannot succeed.

Andrew Boughton

INSPECTOR

⁵ The Courts have made clear that urban sprawl is not necessarily associated with additions only to large built-up areas

⁶ The appellant refers to (h) (i) presumably in error as this relates to mineral extraction.



Appeal Decision

Site visit made on 11 August 2025

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2025

Appeal Ref: APP/R3705/W/25/3366920

Land south of Newton Farm, Main Road, Newton Regis B79 0NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr T Smith (Sibson Mill Properties) against the decision of North Warwickshire Borough Council.
- The application Ref is PAP/2019/0619.
- The development proposed is the erection of one dwelling with associated landscaping.

Decision

1. The appeal is allowed and planning permission is granted for one dwelling with associated landscaping at land south of Newton Farm, Main Road, Newton Regis B79 0NE, in accordance with the terms of the application, Ref PAP/2019/0619, subject to the conditions on the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Newton Regis Conservation Area.

Reasons

Character and appearance

3. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, in respect of development affecting conservation areas, special attention shall be paid to the desirability of preserving or enhancing their character or appearance.
4. The National Planning Policy Framework 2024 ('Framework') states at paragraphs 212 and 213 that great weight shall be given to the conservation of designated heritage assets, such as conservation areas, and that harm to their significance, including from development within their setting, requires clear and convincing justification.
5. The Framework continues at paragraph 216 that the effect of an application on the significance of a non-designated heritage asset should be taken into account, and that in weighing applications that directly or indirectly affect them, a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the asset. North Warwickshire Local Plan 2021 ('NWLP') Policy LP15 takes a broadly similar approach to the Framework with respect to designated, and non-designated, heritage assets.

6. The Newton Regis Conservation Area ('NRCA') extends to the southern side of Main Road, such that the appeal site falls predominantly outside it, but that its frontage forms the boundary. I observed that the NRCA includes historic farms and St Mary's Church, and that it comprises a mix of architecturally interesting and attractive buildings, many in the local vernacular style, which are arranged in a fairly linear street form. These attributes, along with the presence of open spaces, trees, hedges and historic boundary walls, contribute to the NRCA's rural character, and to its significance as a designated heritage asset.
7. Opposite the appeal site, the traditional farmhouse, low level brick wall and former outbuildings at Newton Farm, along with undeveloped land to the west, are within the NRCA. Those structures, together with the similar brick wall on the boundary of the appeal site, contribute positively to the character and appearance of the NRCA, and are non-designated heritage assets.
8. The scheme would entail development on part of a larger field at the western edge of the village. The proposed plot would be spacious, but not unusually so in the context of the diverse plot sizes in the village. Its depth would be the same as the adjacent plots at Lime Grove, which are outside the NRCA, and the dwelling's set back from Main Road would broadly align with the siting of those semi-detached pairs. The scheme would therefore reflect the prevailing pattern of linear development.
9. The proposed dwelling's form, style, fenestration and materials would broadly reflect the elegant simplicity of Newton Farm. A garage would be sited between the dwelling and the highway, but its modest single storey size would make it a subservient feature, and it would be appropriately finished in red brick and plain clay tiles to closely match Newton Farm. As depicted on drawing no. 7645/150J, the locally distinctive brick wall along this part of the site's frontage would be retained behind the proposed visibility splay. Given the scheme's appropriate siting, form and appearance, the setting and significance of the nearby non-designated heritage assets would not be harmed.
10. The proposal would result in a small extension of the village's built form into part of a larger field. However, approaching along Main Road from the west, the dwelling with its narrow gable, and the small garage, would be fairly modest, appropriately designed features, in a spacious setting. Moreover, those structures, together with proposed landscaping, would help to obscure the bland rear face of the flat-roofed garage block at Lime Grove, thus providing a more attractive entrance to the village. I have no evidence that field patterns in the locality are particularly significant, and the scheme would not involve the removal of any boundary hedgerows.
11. Other than a substation, the space next to the carriageway in this location is fairly open in both directions. In that context, and as the proposal would include a relatively slight widening of an existing access point which serves the field and Lime Grove, neither the amended access, nor the required visibility splays as set out on plan No DWG-02 Rev A, would be prominent, or overly engineered features in the streetscene.
12. The site's planning history includes previously dismissed appeals relating to larger parcels of land and, most notably, a single dwelling on this part of the field in 2019¹.

¹ APP/R3705/W/18/3218660

However, in comparison to this scheme, that appeal proposal related to a much larger and more complex dwelling, with far bulkier flanks, a substantial linked triple garage with accommodation at first floor, and design features which that Inspector found to be uncharacteristic of the area.

13. Thus, whilst he found that that proposal would cause an unacceptable incursion into the countryside, and less than substantial harm to the significance of the NRCA, the combination of this scheme's much more modest scale, its limited and disaggregated bulk, and its appropriate design, is such that it would not harm the approach to the village, or the setting of the NRCA.
14. For these reasons, the scheme would not harm the character and appearance of the area. It would not therefore conflict with NWLP Policies LP1, LP14 and LP30. Amongst other things, and in general terms, these require development to be of high quality design, having regard to matters such as layout, form, style, detailing, and the local pattern of development, and to integrate appropriately with the natural and historic environment, including an individual settlement's character.
15. Having paid special attention to the statutory test, the character and appearance of the NRCA would be preserved. As the significance of designated and non-designated heritage assets would not be harmed, the scheme would not conflict with NWLP Policy LP15; and it would not conflict with the stance at paragraphs 212, 213 and 216 of the Framework.

Other matters

16. NWLP Policy LP2 sets out that development may be acceptable directly adjacent to settlement boundaries. Newton Regis is identified as a Category 4 settlement in the NWLP, and the eastern edge of the site abuts its boundary. Consequently, I agree with the Council that the broad principle of a single windfall dwelling accords with that policy.
17. Drawing No DWG-02 Rev A shows visibility splays at the proposed access. Subject to a condition requiring the provision and retention of those splays, and having regard to the consultation response dated 16 December 2024 from Warwickshire County Council (Highways), I am satisfied that the modest volume of traffic generated by a single dwelling in this location would not pose a significant risk to the safety or convenience of highway users.
18. Given the size of the site, and the proposed dwelling's spacious setting, with a significant distance to its nearest neighbours, the scheme would not harmfully impact existing occupiers' living conditions.
19. The appellant casts doubt on the Council's ability to demonstrate a five year housing land supply, as required by paragraph 78 of the Framework. The evidence before me on this matter is limited and inconclusive, but given my findings on the main issue in the appeal, and as I have found that the scheme would accord with the development plan, this matter is non-determinative in the appeal.
20. Finally, whilst concerns have been raised about planning precedent, and I have had regard to the history of this site and the adjacent land, I have dealt with the scheme before me on its planning merits.

Conditions and Conclusion

21. Turning to the matter of conditions, I have considered those suggested against the tests in the Framework, making minor amendments in the interests of clarity and precision. As well as the standard time limit, in the interests of certainty, I have imposed a condition requiring that the development be carried out in accordance with the approved plans.
22. Section 100ZA(5) of the Town and Country Planning Act 1990, sets out that if an Inspector is minded to grant planning permission subject to pre-commencement conditions, they may only do so with the written agreement of the appellant.
23. In this case, the Council has suggested a pre-commencement condition requiring the submission and approval of a scheme of landscaping. Given the prominence of the site, and that appropriate landscaping is necessary to assimilate the development into its surroundings, such a scheme is required. This is necessarily a pre-commencement condition given that the design and layout of proposed landscaping could impact other elements of the development from the outset, and I therefore first sought the appellant's agreement to it.
24. In the interests of good design, and to protect the character and appearance of the site and the area, a condition is necessary requiring the submission and approval of external surfacing and hard standing materials. However, given the typical sequencing of development, I am not persuaded that such details are required from the outset, and I have therefore re-phrased the suggested condition to require their submission prior to the construction of development above ground level.
25. Finally, my conditions 5 to 8 are imposed in the interests of the safety and convenience of highway users.
26. Subject to the above conditions, I have found that the scheme would be acceptable, and that the character and appearance of the area, including the NRCA, would not be harmed. The scheme would not conflict with the development plan and, having regard to all other matters raised, including representations by interested parties and Newton Regis, Seckington and No Man's Heath Parish Council, the appeal is allowed.

Chris Couper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 7645/250D, 7645/150H, 7645/150J, and DWG-02 Rev A (date stamped received by the Council 13/11/2024).
- 3) No development shall commence until a scheme of landscaping has been submitted to, and approved in writing by, the local planning authority. The scheme shall include details of landscape works and any earthworks. The scheme as approved shall be carried out in the first planting and seeding seasons following the occupation of the dwelling, or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 4) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces and hard standing areas of the development hereby permitted, have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling, and shall thereafter be retained.
- 5) The dwelling hereby approved shall not be occupied until the public highway verge crossing, and the access, driveway and turning area, have been laid out in accordance with drawing No 7645/150J, and constructed in accordance with the standard specification of the Highway Authority, and have been surfaced with a bound material for a distance of 7.5 metres as measured from the nearside edge of the public highway carriageway.
- 6) The dwelling hereby approved shall not be occupied until 2.4 metre x 43 metre visibility splays have been provided in accordance with drawing No DWG-02 Rev A. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway. The visibility splays shall be retained as such thereafter
- 7) Any gates erected at the entrance to the site for vehicles shall not be hung so as to open to within 6 metres of the nearside edge of the public highway carriageway.
- 8) The gradient of the access for vehicles to the site shall not be steeper than 1 in 20 for a minimum distance of 7.5 metres, as measured from the nearside edge of the public highway carriageway.

Agenda Item No 10

Planning and Development Board

6 October 2025

Report of the Chief Executive

Houses in Multiple Occupation – Planning Policy

1 Summary

- 1.1 This report provides an update to Members following an Executive Board report of 15 September 2025 with regards to considering the adoption of an Article 4 Direction to control Houses in Multiple Occupation in North Warwickshire. The Executive Board supported an Article 4 Direction in principle subject to the considerations of this Board.

Recommendation

- a That the Board consider whether an Article 4 Direction be made removing permitted development rights as set out in the report;**
- b That the Board confirm the geographical area to which the Direction relates;**
- c That the Board confirm the period of the consultation set out in paragraph 8.2 of the report; and**
- d That the Board delegate power to the Chief Executive to finalise the Direction Notice and other procedural matters.**

2 Introduction

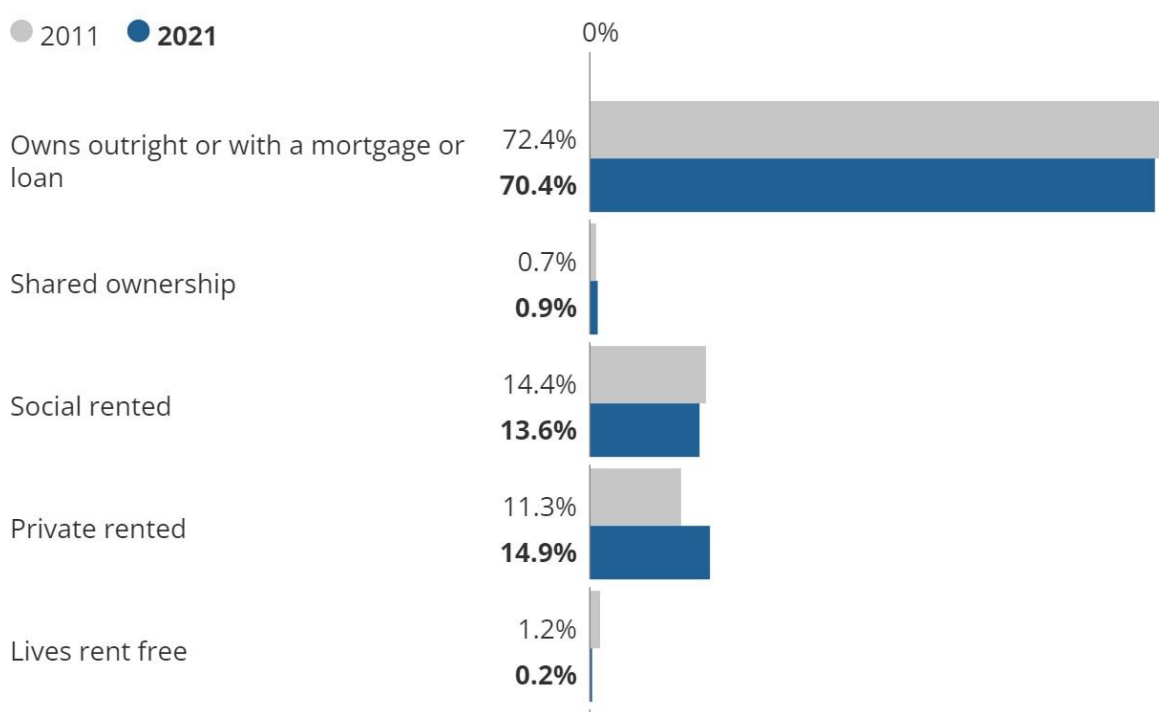
- 2.1 Officers and Members have been considering the issue of Houses in Multiple Occupation (HMOs) based on emerging queries about increased numbers and/or concentrations of HMOs. Whilst the numbers of HMOs in the Borough is not large numerically, it is suggested that the recent increases and some concentrations have reached a level where it is reasonable for the Council to consider whether action should be taken.
- 2.2 This report seeks to clarify the numbers and locality of HMO's within the borough including both licensed and unlicensed HMOs where these are known. A HMO is defined as a property with at least three tenants, forming more than one household and sharing certain facilities. The report provides comparison data both to neighbouring local authorities and those with a similar population, household number and area setting. Data is also provided

by Lower layer Super Output Areas (LSOAs) which comprise between 400 and 1,200 households and have an average resident population of 1500. Data sources relating to the numbers of HMO's nationally have been considered alongside local data which has proven to be the most accurate data held.

- 2.3 The Office for National Statistics (ONS) estimate that, on the 2021 census day, out of a total dwelling stock of 26,394,778 that 182,552 dwellings were HMOs. This represents 0.7% of England's total housing stock.
- 2.4 As per Table 1 below the size of the private rented sector has increased since 2011 overtaking the size of the social housing sector in the area and absorbing some of the housing stock that was previously owner-occupied.
- 2.5 Private rented housing plays an increasingly vital role in meeting the needs of residents with HMO's in particular providing low cost housing for young people and other groups. Table 1 shows the breakdown by tenure within North Warwickshire overall with HMO's forming part of the Private Rented Sector.

Table 1

Percentage of households by housing tenure, **North Warwickshire**



Source: Office for National Statistics – 2011 Census and Census 2021

3 Total extent of HMO Accommodation

- 3.1 North Warwickshire has seen a continual gradual increase in HMO numbers as has been the pattern nationally. There are more general reasons for this such as the affordability of rented housing forcing more into HMO's, housing

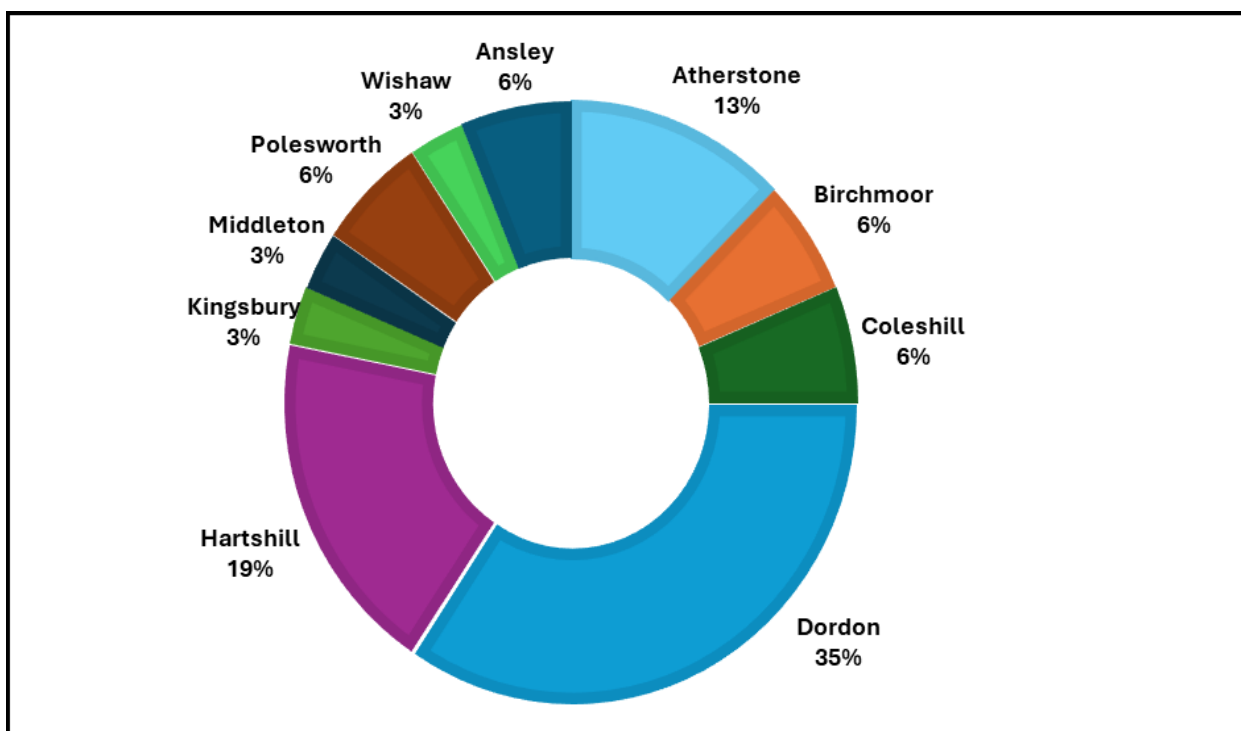
benefit for single under 35's only being entitled to the lower shared HMO room rate and more recently SERCO acquiring them as part of national Asylum Seeker Accommodation Dispersal. Some of these properties were already HMO's prior to SERCO managing them. There are also more local factors as exhibited in Dordon with Birch Coppice Business Park requiring more HMO's for its workforce.

- 3.2 The total number of HMO's within North Warwickshire is not larger numerically but does constitute 0.1% of housing stock. There is an absence of the some the key drivers of significant numbers of HMO's such as hospitals, universities or large population centres and so whilst there are pockets of HMO's, complaint data from Private Sector Housing and Environment Health does is low.
- 3.3 HMO Licences have been issued since 2006 and are issued by the Private Sector Housing team. Demand is the lowest in Warwickshire with just 29 HMO's having or requiring a licence currently which last for a period of five years. HMO standards are generally higher in licensed HMO's however where an unlicensed HMO becomes known it will also be inspected to ensure safe standards and suitable management.
- 3.4 Within Warwickshire, whilst being a different area and with a student population, Warwick District Council has circa 580 properties as being licenced HMO's currently or 3.9 HMO's per 1000 persons. North Warwickshire's comparative figure is much lower at just 0.44 and the lowest in Warwickshire. As a comparative example, Warwick District Council introduced an Article 4 Direction when known HMO's were 3% of their stock, North Warwickshire HMO's are well below this level at 0.1% of stock. Other authorities have bought in Borough wide Article 4 Directions when levels reached over 0.5% of stock. Rugby also introduced an Article 4 Direction on 23 February 2025 for certain wards only.

4 HMO Concentration by Area

- 4.1 Despite the largest population centres within North Warwickshire being Atherstone, Polesworth and Coleshill, the largest concentration of HMOs within the area is within the Dordon locality with 35% of HMO's. The larger population areas have a lower number of HMO's per person generally. However despite the % figures shown the numbers are still low compared to other local authority areas and levels at which they may significantly impact community cohesion.

Figures include both licensed and known unlicensed HMO's.

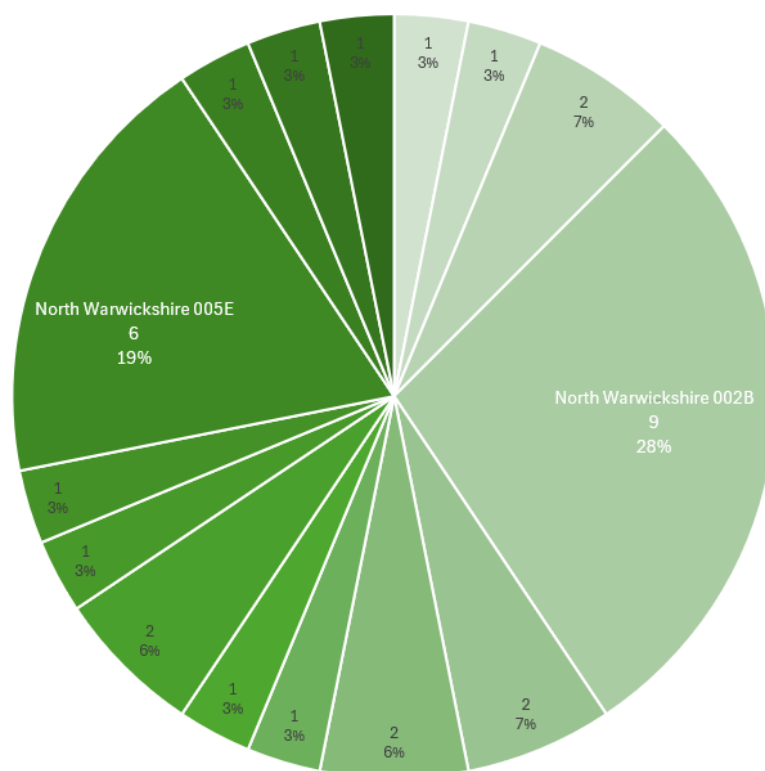


Area	Count of HMO's by Area
Atherstone	4
Birchmoor	2
Coleshill	2
Dordon	11
Hartshill	6
Kingsbury	1
Middleton	1
Polesworth	2
Wishaw	1
Ansley	2
Total	32

- 4.2 The higher proportion of HMO's in Dordon referred to above is largely as a result of Birch Coppice Business Park with HMO's within Dordon being close and of the type of accommodation required by workers. Whilst there is some uptake by SERCO within the Dordon area, the number of HMO's was largely similar prior to providers such as SERCO seeking to secure HMO accommodation for its users. The number of HMO's in Dordon has been higher compared to the rest of the area for over a decade due to the proximity of Birch Coppice Business Park with the tenant demand, type of housing stock and price of the area making HMO investment attractive.
- 4.3 There is also a smaller number of HMO's within the Hartshill area and these account for 16% of the total HMO number. However given Hartshill's relative

small size they are condensed within a smaller area with three of the five HMO's within Hartshill located within just one street which is 23% of the houses on the street.

- 4.4 The North Warwickshire LSOA data is confluent with the above with the two LSOA's covering Dordon, principally Long Street Dordon, showing the highest number of HMO's followed by LSOA 005E covering Hartshill. The maps showing these LSOA areas are shown in Appendix 1 with the pie chart below showing their HMO number by count and percentage. LSOA data is relevant as they allow comparison both regionally and nationally to other areas where required given their relative small number sample.
- 4.5 Within the Hartshill LSOA there is a concentration of four HMO's on a single street location of 13 houses. This and Long Street, Dordon are the areas with the largest number of HMO's.



5 Effect of Article 4 Directions

- 5.1 Some of the observed potential impacts on concentrations of HMOs include pressures on parking, noise, a loss of local character, changes to local retail provision and a decline in more settled population of an area. As previously reported to Executive Board it has not been widely reported to the Council that an increased number of houses in Multiple Occupation (HMOs) has altered the residential profile of neighbourhoods dramatically, led to

unsustainable communities or associated amenity issues. However Members may be able to add to that pictures as a result of their work in their Wards.

- 5.2 Local Planning Authorities can withdraw the permitted development rights that allow the conversion of Class C3 dwelling houses to Class C4 HMO's by issuing what is known as an Article 4 Direction, under the Town and Country Planning General Permitted Development Order 2015. As with all Article 4 Directions, this does not mean that HMOs are automatically unacceptable but allows the Local Planning Authority a measure of control over the number, concentration and location of them, and may allow the Council to include conditions on any permissions that serve a proper planning purpose. It would mean that any planned HMOs would require a planning application as per Table 2.
- 5.3 It is important to note that Article 4 Directions do not apply retrospectively so existing HMO's would not require permission and all types of 3-6 person HMO's would be covered, including those used by working age professionals such as those at Birch Coppice and three friends house sharing for example.

Table 2

Type of Development	Is permission required?	
	Within Article 4 Area	Elsewhere within Area
Change of use from Residential to large HMO	✓	✓
Change of use of residential property to a small HMO.	✓	✗
Change of use of a non-residential property to a small or large HMO.	✓	✓
Change of use from residential to a large HMO (Sui Generis) occupied by more than 6 residents.	✓	✓
Construction of purpose-built HMO regardless of the number of persons sharing.	✓	✓

- 5.4 Material considerations in the determination of planning applications may need to be supported by a Supplementary Planning Document (SPD) to assist in providing guidance to applicants.

As an example, other local authority areas with Article 4 Directions seek to manage HMO density based on matters such as:

- Preventing HMO clustering (such as three or more consecutive)
- Preventing HMO's sandwiching or surrounding family houses on more than one side
- Radius to other HMO's in the area (restrict HMO's exceeding 20% of houses within 100m for example).

5.5 For the vast majority of HMO's in North Warwickshire currently, these principles are unlikely to have been breached however.

Immediate Article 4 directions may be brought in to prevent a rush of conversions in the 12-24 months before the Article 4 direction comes into effect however councils could be liable to pay compensation in this scenario.

6 Comparison to other Local Authority areas

Comparable authorities have been selected based on a similar population or household number profile to North Warwickshire in grey. Local neighbouring

Authority	No. of HMO licences	Households	Population	Licensed HMO per 1000 population	Additional Scheme	Selective Licensing	Relevant Article 4
North Warwickshire	29	27,580	65,946	0.44	No	No	No
Ribble Valley	8	26,747	61,900	0.12	No	No	No
Adur	24	27,678	64,544	0.37	No	No	No
Oadby & Wigston	5	22,617	58,341	0.085	No	Yes	No
Broxtowe Council	312	39,849	112,110	2.78	No	No	Yes
Nuneaton and Bedworth	75	56,856	134,300	0.55	No	No	No
Tamworth	56	32,895	81,000	0.69	No	No	No
Warwick District	585	62,600	148,500	3.9	Yes	No	Yes
Rugby	N/A	47,000	116,400	N/A	No	No	Yes

authorities also included for reference shown in blue.

NB: the data source used is the most recent ONS data to ensure consistency.

6.1 As can be seen in the table above when reviewing the number of licensed HMO's per 1000 of population North Warwickshire does not have a significant number. Some of the comparable authorities above have brought in further

schemes to control HMO numbers however these have generally been brought in response to a much higher volume of HMO's than are seen within North Warwickshire, such as within Broxtowe and Warwick to control student HMO numbers affecting the community who may also leave empty properties during summer academic holiday periods. HMO's within North Warwickshire are generally occupied throughout the year so empty properties are not an issue affecting the area.

- 6.2 Those authorities shown with Selective Licensing schemes require all rented properties to receive a licence from the Council. These selective and additional licensing schemes are generally in place to control the numbers of HMO's and are instead seeking to control local housing conditions or reduce ASB. If a valid application is made in one of these areas a licence is likely to be granted therefore planning control remains the best method to control HMO numbers.
- 6.3 It should be noted that areas that introduced Article 4 or additional schemes do not appear to have resulted in additional HMO's within North Warwickshire. For example, Coventry City have in place an Article 4 Direction restricting HMO's in certain areas and have an Additional Licensing Scheme for small HMO's which took effect May 2025. This has not resulted in an increased number of HMO's in North Warwickshire to Officers' knowledge and its other neighbouring authorities, Tamworth and Nuneaton and Bedworth have not publicised or consulted on plans to introduce Article 4 Directions. It is therefore not considered at this stage there is likely to be a significant increase in speed of HMO development due to actions of direct neighbour authorities. It is likely the numbers will continue to be governed by market forces and the number of tenants seeking accommodation.

7 Recommendation

- 7.1 Based on the numbers of HMO's within the area currently an Article 4 Direction, North Warwickshire the numbers of HMOs in the Borough does not look dissimilar to similar Boroughs. However, it is the case that the numbers have increased recently and in two areas in particular a concentration has emerged.
- 7.2 It is open to Members to review the position. The upcoming Renters Rights Bill will lead to the creation of the Private Rented Sector Database which will require the registration of all landlords and enable improved visibility of the size of the private rented sector. Should this or other datasets lead to the discovery of HMO's in higher numbers than currently known members should be kept informed in line with the above timeframe. Similarly, should neighbouring authorities seek to introduce further schemes which may impact North Warwickshire, it should review its position.
- 7.3 However it is also open to Members to consider proactive action given the increase in cases and the concentrations that have emerged. The Council is not required to wait until the concentrations seen in other areas, such as Warwick or Broxtowe, happen and the problems reported in those areas

occur. It is suggested that it is a legitimate course of action for the Council to seek to address those issues and ensure planning applications are required in order for the position to be managed and hopefully problems avoided.

- 7.4 Whilst it is the case that not all areas are currently experiencing increased concentrations of HMOs, it is suggested that the nature of the Borough is such that a legitimate concern could be that restricting the operation of an Article 4 Direction just to, for example, Hartshill and Dordon, could result in increases to other areas. Members will want to consider therefore the geographical scope of the draft Direction.

8. Procedure

- 8.1 The Procedure for making Article 4 is set down in The Town and Country Planning (General Permitted Development) (England) Order 2015 ('the Order'):

If the Secretary of State or the local planning authority is satisfied that it is expedient that development described in any Part, Class or paragraph in Schedule 2, other than Class DA of Part 4 or Class K or M of Part 17, should not be carried out unless permission is granted for it on an application, the Secretary of State or (as the case may be) the local planning authority, may make a direction under this paragraph that the permission granted by article 3 does not apply to—

- (a) all or any development of the Part, Class or paragraph in question in an area specified in the direction; or
 - (b) any particular development, falling within that Part, Class or paragraph, which is specified in the direction,
- and the direction must specify that it is made under this paragraph.

- 8.2 Schedule 3 to the Order set out the steps that must be taken:

- Local advertisement
- At least two site notices in the Borough
- Service on properties affected unless it is impractical. In the event of a Borough wide Order it is suggested that this would be impractical
- a description of the development and the area to which this relates. It is suggested that the Order relates to development consisting of change of use of a building from a use falling within Class C3 (dwellinghouses) of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) to a use falling within Class C4 (houses in multiple occupation) of that Schedule, being development comprised within Class L(b) of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
- that the Direction is made under Article 4 (1) of the Order
- that the Direction and map of the area to which it relates can be viewed at the Council's offices

- specify a period of at least 21 days within which any representations concerning the Direction may be made to the Council
- specify the date on which it is proposed that the Direction will come into force, being at least 28 days but no longer than 2 years after the consultation period ends
- send a copy of the Direction to the Secretary of State and to Warwickshire County Council

8.3 The Direction can come into effect as early as 28 days following the end of the consultation period unless the Secretary of State specifies a longer period.

8.4 The Council can specify that a Direction comes into immediate effect if the Council consider that the development to which the direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area. If planning permission for any such development is refused in these circumstances, then compensation would then be payable by the Council

The Contact Officer for this report is Steve Maxey (719438).

Key LSOA's

North Warwickshire 002B - DORDON - (9 HMO's)

North Warwickshire 002C – DORDON - (2 HMO's)

North Warwickshire 005E – HARTSHILL - (6 HMO's)

**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT (ENGLAND)
ORDER 2015 (AS AMENDED)**

**DIRECTION MADE UNDER ARTICLE 4(1) OF THE TOWN AND COUNTRY PLANNING
(GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015 (AS AMENDED)**

**NORTH WARWICKSHIRE BOROUGH COUNCIL HMO ARTICLE 4 DIRECTION 2025 ("the
Direction")**

WHEREAS NORTH WARWICKSHIRE BOROUGH COUNCIL (hereafter called "the Council") being the appropriate local planning authority within the meaning of article 4(5) of the Town and Country Planning (General Permitted Development) Order 2015 ("the Order") are satisfied that it is expedient that development of the descriptions set out in Schedule 1 below should not be carried out within the Land and/or properties shown edged red on the attached plans at Schedule 2 ("the Land") *being the Borough of North Warwickshire* unless planning permission is granted on an application under Part III of the Town and Country Planning Act 1990 as amended.

AND WHEREAS the Council considers that development of the said descriptions set out in the Schedule below should not be carried out unless permission is granted by an application made under Part III of the Town & Country Planning Act 1990.

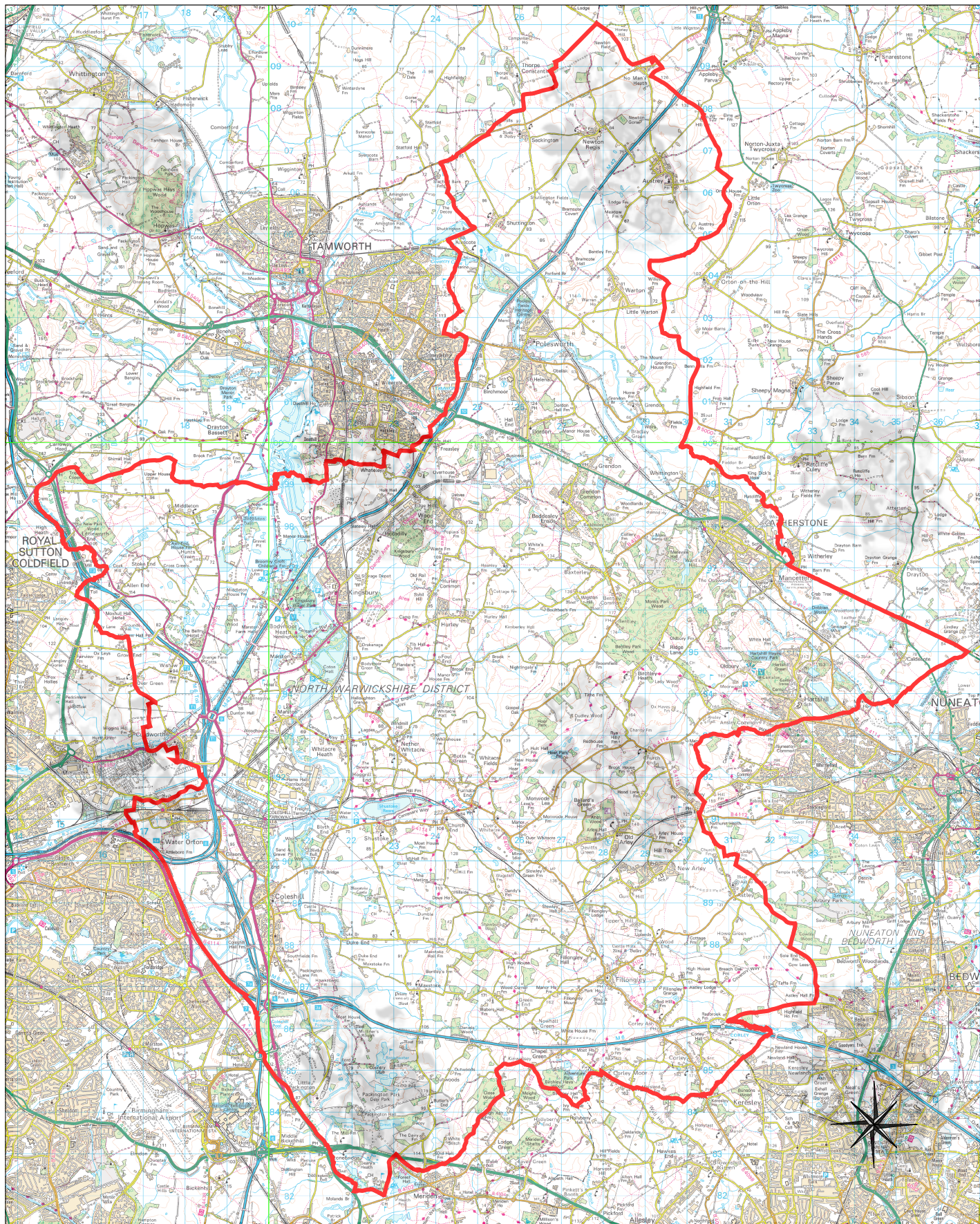
NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Order hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description(s) set out in Schedule 1.

THIS NORTH WARWICKSHIRE BOROUGH COUNCIL HMO ARTICLE 4 DIRECTION 2025 was made on 6th October 2025 under Article 4(1) Section 1 of the said Order.

In accordance with Paragraphs 1(11) and 1(12) of the Order, the Council confirmed the Article 4(1) Direction on _____ *and shall take effect on* _____

SCHEDULE 1

Development consisting of a change of use of a building from a use falling within Class C3 (dwellinghouses) of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) to a use falling within Class C4 (houses in multiple occupation) of that Schedule, being development comprised within Class L(b) of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).



North Warwickshire Borough Council

The Council House
South Street
Atherstone
CV9 1DE



Date: 23 September 2025

Scale: 1:125000

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Agenda Item No 11

Planning & Development Board

6 October 2025

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

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

Agenda Item No 12

Authorisation to be granted for Breach of Conditions Notice – Report of the Head of Development Control.

Paragraph 7 – Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

In relation to the item listed above members should only exclude the public if the public interest in doing so outweighs the public interest in disclosing the information, giving their reasons as to why that is the case.

The Contact Officer for this report is Marina Wallace (719226).