

## **General Development Applications**

**(5/i) Application Nos: PAP/2021/0261 and PAP/2021/0265**

**The Homestead, 82 Main Road, Austrey, CV9 3EG**

**Dismantling of the existing grade 2 listed barn and re-build to form two new dwellings**

**and**

**Listed Building Consent for dismantling of the existing grade 2 listed barn and re-build to form two new dwellings,**

**Both for**

**Mr M Bevan - SaLaBe Ltd**

### **Introduction**

These applications are presented to the Board in light of the circumstances of the proposals given the statutory protection of the listed building (barn) which is proposed to be dismantled and re-build.

### **The Site**

The site is located along Main Road, in the centre of the village of Austrey and close to the junction with The Green. The listed building consists of a linear range of timber framed and brick buildings running along the street frontage. The range consists of a one and a half storey timber framed farmhouse (previously rendered and timber framed with brick and wattle and daub infill panels) attached to a single storey run of outbuildings referred to in this report as the barn, faced in brick with surviving timber framed sections. The site is prominent with a frontage along Main Road. The context of the site is illustrated at Appendix A.

### **The Proposal**

The proposal requires the dismantling of the barn end range of the listed building and to re-build it to form two new dwellings. It is proposed to re-build the original structure and not the later extensions to the rear. Asbestos removal has already been carried out on the barn with the extent of asbestos being limited to the roof covering. The modern rear extensions to the barn have also been removed.

The proposal covers the re-use of existing sound materials from the barn which will be incorporated on a like for like basis. The building will be re-constructed using traditional solid masonry wall construction with a lime mortar, a timber cut roof and with the timber framed features re-incorporated into the re-build of the barn. New external doors and windows will be installed where the existing openings are located and new openings are to be made. A rear extension is proposed which would re-configure that of the previous rear extension to the barn. The re-build of the barn will then form two dwellings with

associated parking and provision for garden space and thus bringing the site back into use.

The existing elevations to the barn and the proposed elevations are illustrated at Appendix B for comparative purposes. The use of the re-build will have a floor plan configuration for two dwellings as indicated by the layout at Appendix C. The parking is proposed to cover sufficient parking for three dwellings, being for that of the existing listed farmhouse and for the two new dwellings, with bin storage and private rear amenity spaces, all illustrated on the site layout plan at Appendix D.

## **Background**

Planning Permission and Listed Building Consent have previously been approved for the restoration of the farmhouse and the conversion of the barn end range for one dwelling, under applications PAP/2016/0529 and PAP/2016/0531. These applications were partially taken up in that works had started to the farmhouse in preparation for restoration over two years ago and soft stripping occurred with the removal of modern 20<sup>th</sup> century fabric, which were inappropriately applied to the farmhouse and the barn during the 1970's and 1980's.

However, the extent of stripping out had gone beyond soft stripping and resulted in the removal of the roof across the entire building. The roof had been upgraded to the farmhouse range in previous years and the clay tiles removed and palleted on site in readiness for inspection of the roof timbers. The roof of the barn was unfortunately a corrugated asbestos, which was propped up on the existing poor roof structure to the barn and so its removal was necessary because not only was it insecure but a danger to passing pedestrians and road users. The removal of the roof across the entire building has caused water ingress as the tarpaulin is not a suitable system for weather protection.

The modern rear extension to the barn which formed a 1960's garage block and modern interventions such as block work within the barn have also been removed. Though the extent of stripping out has gone beyond a soft strip the main significant architectural features within the barn still remain.

Structural issues were identified within the barn and the farmhouse and following several structural surveys (one of which was carried out by a conservation accredited structural engineer) an informed approach to structural repairs could be advised. Structurally the entire listed building requires serious remedial work and the barn end range has been repaired with highly cementitious materials, which has harmed the fabric of the barn overall.

Required structural works have been carried out to the farmhouse. To complete this, the adjoining wall to the barn also requires serious structural intervention, such as dismantling and rebuilding as the gable end of the cottage also forms the adjoining wall to the barn. As a consequence, one bay of the barn is proposed to be removed to assist with the final structural repairs to the farmhouse under application PAP/2021/0057.

Details of the planning history have been provided in the supporting document submitted with the application entitled: 'Historic Building Survey', which assess the condition of the building highlighting areas of harm on significance and provides a

limited justification on the reasons for the proposed works. A further statement has been provided in a revised format.

For completeness about the understanding of the main features of the grade 2 listed farmhouse and its attached barn, the list entry follows:

*Farmhouse. C17 with mid/late C20 alterations. Timber-framed with C20 colourwashed pebbledash. Late-C20 plain-tile roof. brick ridge and right end stacks. Attached former outbuilding to left, now part of the house, is partly timber-framed with brick infill and partly of brick. Corrugated asbestos roof. Originally 2-unit plan. One storey and attic; 2-window range. C20 studded door on left has flanking lead-latticed small windows. 2 old 3-light windows with glazing bars have painted rendered lintels with keyblocks. Mid/late C20 dormers have 3-light casements. Small one-storey range on right has C20 casement in return side. Left range is of one storey. Stable and 2 plant: doors. Late C20 three-light casement on right. Left return side has timber-framed gable. Rear is irregular. Interior has exposed framing. Open fireplace has rough bressumer. Stop-chamfered joists. Room to left has flagged floor. Queen strut roof.*

## **Development Plan**

North Warwickshire Local Plan 2021 - LP1 (Sustainable development); LP2 (Settlement Hierarchy), LP8 (Windfall), LP15(Historic Environment), LP16 (Natural Environment), LP29 (Development Considerations), LP30 (Built Form), LP34 (Parking) and LP35 (Renewable Energy and Energy Efficiency)

Austrey Neighbourhood Plan – AP10 (New Housing)

## **Other Relevant Material Considerations**

National Planning Policy Framework 2021 (NPPF).

Planning (Listed Buildings and Conservation Areas) Act 1990

## **Representations**

Representations received expressing the following:

- Any development within the grounds would be inappropriate as any modern structure erected within the curtilage would look totally out of place.
- Full support as the current building is unsafe and an eyesore
- There is a lack of parking
- The access is poor close to a bend
- No provision has been made for cycle storage
- The Homestead and its outbuildings are a really important part of the character of Austrey. In a small village overwhelmed by new development it represents part of a cluster of heritage buildings which show the original character and history of the village.
- The Homestead plot has already been the subject of extensive development, with a set of brand new homes built on the original grounds behind the cottage, despite the historic significance of the site.

- Demolishing the Grade II listed low level agricultural buildings which form part of the property, and replacing them with new homes, would not only completely alter and detract from the appearance of the main street, it would also damage the setting of the Homestead itself.
- This property has now been empty for some 5 years and in that time has deteriorated considerably. It is really sad to see such a lovely old building not being lived in and falling down before our eyes.

Austrey Parish Council – It approves the refurbishment of the main house but strongly objects to the demolition of the attached barns for the following reasons:

- need to preserve an historic listed building

The Homestead is a listed building steeped in history clearly shown by the applicant in some of the photos from many years ago. It fronts the road and is highly visible, forming the character of the area with other listed buildings in close proximity. The barns are an important and integral part of the building and make up half of the property's frontage to the road. They should remain intact and should be restored sympathetically. The property would probably not have been in the state it currently is if the applicant had not removed the roof many months ago, leaving the property to the elements, without adequate protective covering.

- commercial gain at the expense of a listed building

The Historic building survey attached to the application states they require "to demolish the barn range to allow the construction of two new residential units which will help fund the works to restore the farmhouse". The desire to demolish the barns and build 2 more properties to "fund the restoration of the main house" is a clear disregard for this historic property at the expense of commercial gain and should not be allowed under any circumstances. If the applicant cannot afford the restoration he should sell it to someone who can. The simple matter is that building 2 new properties will make him more money. To allow this application to go ahead on this basis sets a very dangerous precedent. Listed buildings by nature are usually expensive to maintain/renovate. They are listed because they have "special architectural or historical interest" and should never be demolished simply because the builder/ owner can make more money by demolishing them. To assess a listed buildings viability based on financials alone would make almost all listed buildings unviable.

- negative effect on the street scene

The proposal to demolish the attached barns would effectively remove fifty percent of the frontage of this building and would therefore have a very detrimental impact on the street scene. The huge change in street scene proposed will also have a detrimental impact on the view out from those properties. The OS maps provided clearly show the whole building dating back to 1886 which indicates the street scene has been such since at least that date. To allow the barns removal now would have a negative impact on the character of this historic area within our village. It was resolved to object on the grounds of over-intensification.

## **Consultations**

Historic England – It objects. The full response is at Appendix E.

National Amenity Societies (historic buildings and places) - There is an objection to the original application and to the revised supporting information. The full consultation response is recorded at Appendix E

Society for the Preservation of Ancient Buildings – It objects as recorded in Appendix E.

The Council for British Archaeology - It objects as set out in Appendix E.

County Planning Archaeologist - There is no objection, but some archaeological work should be required if consent is forthcoming through planning conditions.

Warwickshire County Council as Highway Authority – It objects as the visibility splays from the vehicular access to the site do not accord with guidance. Parking areas are considered remote from the pedestrian accesses to the properties.

## **Observations**

### **a) Introduction**

The Homestead is a Grade 2 Listed building: As such the Local Planning Authority has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. This duty is directed by Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Section 17 of the same Act provides that without prejudice to this general power, listed building consent may be granted subject to conditions with respect to:

- preservation of particular features of the building, either as part of it or after it is removed
- making good of any damage caused to the building by the works after work is completed
- reconstruction of the building or any parts of it following the proposed works, using the original materials as far as possible, and any alterations within the building as laid down in the conditions.

In addition, Section 17(3) provides that listed building consent for demolition of a listed building may also be granted, subject to a condition that the building shall not be demolished before an agreement outlining how the site will be redeveloped is made, and planning permission has been granted for such a redevelopment, has been granted.

The main consideration is therefore the impact of the proposed works regarding the dismantling of the barn range of the listed building on the significant architectural and historic character it possesses. Furthermore, the principle of providing two new dwellings needs to be assessed as well as the highways impact and amenity and design considerations.

## **b) Sustainability**

The site falls inside the development boundary for Austrey, a small, nucleated village to the north of the Borough and a Category 4 settlement as defined by policy LP2 of the Local Plan, where development will be supported in principle. Furthermore, category 4 settlements will cater for windfall developments of no more than 10 units. A windfall development of two units as here within the confines of Austrey, can be considered appropriate in principle in terms of housing numbers. The site is in a sustainable location with access to a local shop, village hall, public house and bus routes to the larger town centres in North Warwickshire.

## **c) Highway Matters**

Local Plan Policy LP29 (6) requires safe and suitable access to the site for all users and that proposals provide proper vehicular access, parking, and manoeuvring space for vehicles in accordance with adopted standards. Policy LP34 does not change this requirement. Paragraph 111 of the NPPF indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposal improves the existing access to the site and the best visibility splays that could be achieved are shown on the submitted revised drawings - the proposed splay looking left from the access is marginally better than the existing splay. In mitigation, the grass margin strip footway fronting the site will be removed and resurfaced with tarmac, thereby providing some improvement for pedestrians. The bin collection point would be moved closer to the public highway footway and would be satisfactory. The highways layout plan is illustrated at Appendix D.

However, the Highway Authority could not agree to three dwellings (the existing farmhouse and the two new dwellings to be created by the re-building of the barn) using the access unless mitigation outweighed the risks. The highways authority has concluded the existing access would be intensified as a result of the proposal. The nature of the highway objection is that the visibility splays from the vehicular access to the site do not accord with guidance and that the parking area is considered remote from the pedestrian accesses to the properties.

The consideration here is therefore whether there are any other overriding issues that outweigh the highways objection.

The parking area is suitably laid out for six vehicles with sufficient space for manoeuvrability and the ability to enter the highway in a forward gear. The visibility looking right on exit from the site is good, however the visibility looking left is short of the required distance. The visibility splay cannot physically be made better, but it is an improvement on the existing situation. The re-build to the barn would be set back marginally into the site, which has improved visibility to the left. Furthermore, the occupier of the existing farmhouse would have had to walk a fair distance from the existing parking area at the site in order to access the farmhouse and so this situation does not change. If anything, the new barn development benefits from parking on the doorstep without any undue walking distance. The occupiers of the farmhouse would walk the same distance.

It is not perceived that the creation of two additional units, which in addition to the existing farmhouse would be detrimental to how the site operates or cause unacceptable levels of intensification in terms of vehicle use to the site. The site will benefit from six dedicated, off-road parking spaces and would not lead to a material increase in on-street parking to the detriment of highway safety or therefore prejudice the use of adjacent accesses. As such, it is not considered that the development, a development which provides for parking in accordance with adopted standards, would materially affect the use of the access or harm pedestrians using the footway given that vehicles from the site can enter the highway in a forward gear.

The overriding consideration here is very much considered to be that the site must be secured for re-occupation of the listed building otherwise the site will fall into further disrepair. Highway safety is important but equally the use of the access for parking is essential for the development to safeguard the future of the listed building, which is an important asset and would be considered to override a highway objection.

#### **d) Design**

Local Policy LP30 sets out general principles for new development, requiring harmony with the immediate and wider surroundings and reflection of characteristic architectural styles and predominant materials. This is in accordance with paragraph 130 of the NPPF which encourages well designed places.

The existing building is of a traditional construction characteristic of a timber framed building attached to a former historic farmhouse. The vernacular building is essentially a barn predominantly brick built with partial timber framing to its front elevation and attached to the farmhouse.

By its very nature the re-development of the barn will invariably produce a slight visual change in the street scene, given that the barn would be re-built. The new development would take on the same type of characteristics of the barn in terms of its scale and seeks to echo architectural features. However, it will have an overall greater massing than the existing barn to the rear, although that does replace the modern extensions to the barn which have been since been removed. In terms of design considerations - then the appreciable impact of such a change is considered to be acceptable for the following reasons:

- - The width of the existing barn would be reflected in the new build barn across its frontage and would be slightly set back from the edge of the public footway/highway.
  - The appearance would re-create the barn, which would continue to be 'read' as a barn – albeit with additional and re-configured openings. It retains the terrace run with the adjoining farmhouse.
- The access to the side of the site remains in the same location, but made slightly wider and it retains the sense of openness to the side of the site.
- The resulting development would be no taller than the existing barn and would retain existing materials where sound to be reused in the barn re-construction subject to a working methodology.
- The development will be no taller than the existing or adjoining dwellings.

Notwithstanding the issue about dis-mantling the barn, it is considered that the design presented in the revised plan for the re-build of the barn does assimilate with its immediate and wider setting and retains the terrace row with the farmhouse. Any re-construction of the barn should be agrarian in character because it should re-create the barn in the context of the farmhouse using all of its sound materials that would be retrieved from dismantling. The local character would not be unduly altered in terms of the design proposed by the revised plan and it assists in preserving the local character attributed to the restoration of the farmhouse according with policy LP30 of the North Warwickshire Local Plan.

#### **e) Amenity**

Local Plan Policy LP29(9) seeks to avoid unnecessary impact of development upon the neighbouring amenities. As the site is already built then the like for like impact on new build such as the barn does not impact upon the amenity of the nearby occupiers of the site. No objections have been made to the proposal regarding loss of light or loss of privacy. The layout of the site provides private amenity space for future occupiers of the site and there are long separation distances to the site at the rear.

Revised plans have indicated parking provision to the side of the site for six vehicles. The siting of the access is historical but should nor cause undue general disturbance from vehicle movements to the nearest house at 96 Main Road, beyond how the existing site would have operated with traffic movement. The separation from the parking area to the neighbour is well screened with existing landscaping.

The one and a half storey rear projections proposed to the barn re-build are not considered to breach any 45-degree guidance to habitable rooms within adjacent dwellings, preserving the passage of light. The re-built barn would not lead to any shadowing and loss of sunlight, given the development remains as a terrace row and is well separated from the immediate neighbours at Numbers 80 and 96 Main Road.

The amenity space provided for the re-built barn – which comprises two residential units - is acceptable given garden spaces are provided. Overall therefore, the proposal does accord with policy LP29(9) of the North Warwickshire Local Plan.

#### **f) The barn and its current condition**

The survival of the barn and in particular its supporting structure is fragile. The corrugated roof sheeting has been removed and the structure has been covered with sheeting. However, the condition of the barn is very poor with years of neglect. The elevations to the barn and the interior are a mis-match of materials and harmful interventions dating from the 1980's. There is evidence of cement having been used which has contributed to damp ground conditions and spalled brickwork on the interior of the walls.

The gable end of the barn element to the building is of timber framing with panels of infill brickwork all of which is of considerable age and in poor condition. The gable appears to lean outwards and there are cracks in the masonry at the rear wall return. The front elevation of the barn was inspected and again this elevation is in part of timber framing with infill panels of brickwork the remainder being brickwork built off a stone base at the right-hand section and brickwork down to ground level at the left-hand section.

Some areas of brickwork show signs of lateral movement to the right-hand side of the stable type door where there appears to be a horizontal projection of the upper brick courses over the lower section. The area of masonry to the right-hand side of the doorway appears to have moved to the right. A fabricated steel bracket had been fixed between the timber roof purlin and the gable rafter.

The vertical propping supporting the timber purlins is considered inadequate and is lacking in overall stability there being no bracing of any description to the roof structure. The roof structure to the barn could fail at any time and so in the very least - intervention to the elevations, gable end and roof will be required to secure the remains of the barn.

Overall, the existing roof is in a very unstable condition and the timbers contribute very little to the strength of the roof. Some elements of the original roof structure were in evidence although these have been altered. Surveys have identified that the barn is likely to fail in the near future.

The significance of the barn is important and in the context of the farmhouse is a good example of 17<sup>th</sup> century architecture, albeit harmful intervention has occurred over the years. Both the Barn and the Farmhouse were originally constructed with thatched roofs and both subsequently replaced in the 20<sup>th</sup> Century with a tiled roof in the case of the Farmhouse and asbestos sheeting with the Barn. The two roofs were also raised significantly from their original ridge line in an unorthodox fashion. Exactly how this was achieved is not completely clear in respect of the farmhouse without closer inspection from a scaffold.

Experience of previous works to these buildings has given cause for concern as to the adequacy of any of the roof or other works undertaken. Indeed, there have been a number of instances where the original frame has been cut through, and structural members replaced with an assortment of dubious solutions (eg. scaffold boards as purlins, trusses removed and propped with tree branches as well as upper floor loadbearing walls without support), thought to have been carried out in the 1980's.

The Barn is a multi-bay timber frame structure with only one real original truss and almost no lateral restraint at the upper level. Whilst access could be afforded to repair the truss from the lower level, the issue here is accessing the upper part of the gable to the southern end of the farmhouse where the roof has been artificially raised in a form not yet known and needs to be addressed to ensure the safe re-instatement of the existing plain clay tiling and construction work required to the gable.

The matters relating to the general condition of the farmhouse and the barn are covered in the Historic Building Survey which forms part of the application submission documents.

A full schedule of the works and methodology for dismantling the barn would be required by condition or further evidence provided during the application process through a conservation accredited structural surveyor to justify the dismantling of the barn. It would also be worthwhile justifying the enabling development here, such as balancing the future conservation of the asset, or in this case part of the asset as a result of departing from conflicting planning policies. The poor state of the barn is illustrated in the photographs at Appendix F.

The significance of the Heritage Asset needs to be assessed to understand whether the works are harmful and whether that harm is considered substantial harm or less than substantial harm and whether any public benefit is identified.

### **g) Significance**

The barn has interesting elements of original features and fabric which have and will be compromised by the existing and proposed works. The building as a whole appears to have been constructed in several phases most of which are of historic interest. Some original trusses and earlier purlins survive (all of which appear to date from at least the 18th Century). The significance of the building lies in a number of factors including its historic, aesthetic and evidential value with some elements date from 17th Century. The barn has been altered throughout time, though the timberwork that remains to some sections of the barn is worthy of continued preservation.

The building holds potential physical evidence of many past configurations. Whilst modern interventions over the last 30 years are viewed as being harmful to those of previous alterations, they do have value in terms of understanding the evolution of the present buildings on site (farmhouse and barn). Significant physical elements of the building include its surviving timber framed elements such as walls and trusses and its historic planform which is evidential in regard to past uses. Historic alterations and adaptations evident in brickwork within the walls are also of high significance.

### **h) Impact of proposed works on significance**

The barn has not fared well after the corrugated roof (asbestos covering) had been removed, though there were many phases of intervention evident and some modern blockworks and brickwork with cementitious pointing having occurred. The key feature is that the farmhouse needs to be completed and restored and urgent works finished to enable the building to be watertight over winter. It would be harmful for the building to remain without a roof or without further action for another winter. In summary all the principal elements of the Barn are in such a poor state they would have to be completely replaced.

- The roof is only capable of supporting lightweight corrugated sheeting
- The walls comprise multiple types and sizes of bricks without any lateral restraint and suffering from settlement
- Foundations are inadequate and impacted by tree roots contributing to settlement
- The only remaining window is of an inappropriate 20<sup>th</sup> Century style and size

The present owner is committed to finalising the restoration of the farmhouse, though it is becoming more apparent that this must be financed through the re-development of the barn. Considerable investment would be required to finalise the repairs to the farmhouse and to address the issues associated with the barn. However there has already been a level of refurbishment to the farmhouse subject to previous conservation informed repairs and approach to structural interventions.

The NPPF advises at paragraph 199, that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight

should be. Furthermore paragraph 200 advises that ‘Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.’

The total dismantling of the barn would remove half of the listed building which amounts to substantial harm on the significance of the heritage asset. The issue is whether this harm is sufficiently justified and can be outweighed by public benefits.

It is presently considered that further information is required to justify total loss of the barn, which might then accord with the NPPF and a further survey would be required from a conservation appointed surveyor with an expertise in this type of work. The requirement for additional information is required by Historic England and the Amenity Groups.

#### **i) Balancing the Public benefit**

The dwelling has been vacant for around eight years and it is unlikely that the dwelling with the barn would appeal as residential use to any potential buyer in the present circumstances with the elevated cost of materials and the need for continuing with a conservation-led approach to secure the future of the farmhouse element of the listed building.

Paragraph 201 of the NPPF advises that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, “unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss’.

In this regard, it is acknowledged that the proposal would provide some economic benefits via supporting the construction industry, and local economy due to an increase in residents using the local services. It is also acknowledged that the proposal would add to the supply of market housing of two units in Austrey and the development of two houses would help to pay for the cost of restoration to that of the host farmhouse, which retains much of its historic fabric to the upper floor. The public benefit of bringing the site back into use, with the farmhouse fit for habitation and the provision of two dwellings within the settlement has the benefit of meeting the housing needs of the settlement as well as securing the future for the asset with a preferred use.

However, these benefits are not yet considered to outweigh the substantial harm brought about on the total loss of the barn and without further evidence the proposal cannot be supported in terms of the overall loss to half of the listed building. As such the proposal would be considered contrary to section 16 (2) of the Planning (Listed Building and Conservation Areas) Act 1990 and to section 16 of the NPPF and Policy LP15 of the North Warwickshire Local Plan.

#### **j) Other matters**

The site once formed a site for wildlife in the centre of the village including bats roosts and nests for several species of birds. The removal of the roof back in early 2019 has removed the potential for a roosting site for bats. It is therefore unlikely that any protected species remain within the farmhouse or within the barn at this present time, given the roof has been removed for some time.

Whilst the proposal does not provide for any renewable at this stage, it is possible that alternative sources of energy are possible such as a ground source heat pump. It is possible that these type of installations can be provided within the re-build of the barn.

The site will retain garden and hardstanding in its existing configuration and no loss of vegetation is known at this stage. Given the condition of the building then there are no known habitats within the building or within the grounds. There is no net gain to biodiversity here but at the same time there is no net loss and if a scheme were forthcoming then additional landscaping would be required that would assist in providing habitats.

### **k) Conclusion**

Drawing the above factors together, the proposed works harm the significance of The Homestead as a listed building. The evidence provided during the application points to the matter that harm had already occurred to the listed building through 1970's and 1980's intervention on parts of the building. Whilst significant elements also remain that will continue to be preserved in the farmhouse itself.

Conflict arises with the overarching statutory duty as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990, which must be given considerable importance and weight, along with the National Planning Policy Framework. In addition, the scheme would fail to comply with Policy LP15 of the North Warwickshire Local Plan 2021, insofar as it seeks to conserve heritage assets.

It is clear that significant resources have already been put into the restoration and repair of the farmhouse, such that structural works are near to completion. The remainder of the works to be done here very largely await the outcome of the barn applications before further conservation works can be progressed on the farmhouse. This is because they essentially need to involve partial removal of the barn. A delay in the determination of the barn application could imply that the farm-house roof will not be installed soon and thus the site will never be completed. As explained above, officers together with Historic England cannot yet agree to the dismantling of the barn as essential information is still needed.

It is therefore proposed that that information is formally requested with an indication that if it is not, then the current applications be refused. In order to protect the farm-house, the Board should consider the issue of an Urgent Works Notice requiring at the very least, the covering of the farm house in an proper way so as to make it wind and water tight. The recommendation below allows the applicant a month in which to outline how he proposes to move forward. At that time the Board would then receive a full report explaining the need, if appropriate, for an Urgent Work Notice together with the implications of any such service.

## **Recommendation**

- a)** That the Board is minded to REFUSE both applications unless further information is submitted relating to the matters as outlined in the report. In this regard the applicant is requested to engage immediately with the Council's Heritage Officer and to provide a timetable for the submission of further information. A further report is to be prepared for the next Board meeting scheduled for 7 February 2022 outlining progress in this regard with further updates to be provided to subsequent Planning and Development Boards.
  
- b)** That the applicant be notified that, should no progress be made in respect of recommendation a) prior to its meeting on 7 February, the Planning and Development Board is minded to serve an "Urgent Works" Notice under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This will require scaffolding to be erected such that the building can be made watertight with a suitable cover. Members are advised that, if such a notice is ultimately served and the applicant does not undertake the necessary works to protect the building specified in it, the Council may do so and recover the costs of doing so from them.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2021/0261

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26/4/21
2	WCC Archaeology	Consultation reply	9/9/21
3	Ancient Monuments Society	Consultation reply	16/9/21
4	SPAB	Consultation reply	22/9/21
5	Council for British Archaeology	Consultation reply	22/9/21
6	Historic England	Consultation reply	23/9/21
7	Austrey PC	Representation	27/9/21
8	Historic Buildings and Places	Consultation reply	03/12/21
9	WCC Highways	Consultation reply	8/12/21
10	WCC Highways	Consultation reply	28/10/21
11	STW	Consultation reply	2/12/21
12	Neighbour	Representation	6/9/21
13	Neighbour	Representation	10/9/21
14	Neighbour	Representation	10/9/21
15	Neighbour	Representation	13/9/21
16	Neighbour	Representation	21/9/21
17	Case Officer to Agent	E-mail Correspondence	27/9/21
18	Case Officer to Agent	E-mail Correspondence	23/9/21
19	Case Officer to Agent	E-mail Correspondence	13/10/21
20	Case Officer to Agent	E-mail Correspondence	28/10/21
21	Case Officer to Agent	E-mail Correspondence	28/10/21
22	Case Officer to Agent	E-mail Correspondence	1/11/21
23	Case Officer to Agent	E-mail Correspondence	2/11/21
24	Case Officer to Agent	E-mail Correspondence	10/11/21
25	Case Officer to Agent	E-mail Correspondence	11/11/21
26	Case Officer to Agent	E-mail Correspondence	16/11/21
27	Case Officer to Agent	E-mail Correspondence	17/11/21
28	Case Officer to Agent	E-mail Correspondence	22/11/21
29	Case Officer to Agent	E-mail Correspondence	22/11/21
30	Case Officer to Agent	E-mail Correspondence	22/11/21
31	Case Officer to Agent	E-mail Correspondence	2/12/21
32	Case Officer to Agent	E-mail Correspondence	8/12/21
33	Case Officer to Agent	E-mail Correspondence	17/12/21
34	Agent to Case Officer	E-mail Correspondence	23/9/21

35	Agent to Case Officer	E-mail Correspondence	27/9/21
36	Agent to Case Officer	Revised site plan	28/9/21
37	Agent to Case Officer	Revised plans	13/10/21
38	Agent to Case Officer	E-mail Correspondence	13/10/21
39	Agent to Case Officer	E-mail Correspondence	28/10/21
40	Agent to Case Officer	Revised site plan	29/10/21
41	Agent to Case Officer	E-mail Correspondence	10/11/21
42	Agent to Case Officer	Dismantling plans and Supporting Document	10/11/21
43	Agent to Case Officer	Revised site plan	17/11/21
44	Agent to Case Officer	E-mail Correspondence	22/11/21
45	Agent to Case Officer	E-mail Correspondence	22/11/21
46	Agent to Case Officer	E-mail Correspondence	22/11/21
47	Agent to Case Officer	Revised site plan	14/11/21
48	Agent to Case Officer	E-mail Correspondence	2/12/21

*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.*

## BACKGROUND PAPERS

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

Planning Application No: PAP/2021/0265

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	27/4/21
2	Ancient Monuments Society	Consultation reply	22/9/21
3	SPAB	Consultation reply	22/9/21
4	Council for British Archaeology	Consultation reply	22/9/21
5	Historic England	Consultation reply	27/9/21
6	Council for British Archaeology	Consultation reply	30/11/21
7	SPAB	Consultation reply	10/12/21
8	Historic England	Consultation reply	13/12/21
9	Neighbour	Representation	16/9/21
10	Historic Buildings and place (working name for AMS)	Consultation reply	3/12/21

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

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

**APPENDIX A**

79.9m



**APPENDIX B**

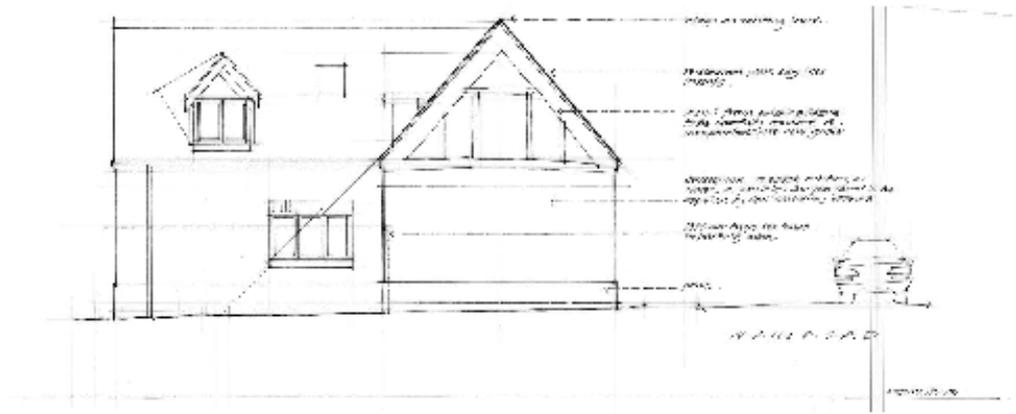
**Proposed Elevations**



Proposed Front Elevation  
*[Scale 1:100]*

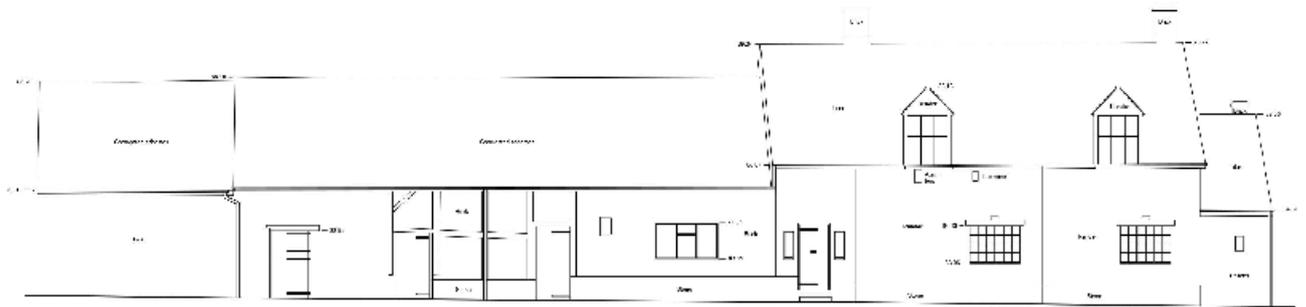


Proposed Rear Elevation  
*[Scale 1:100]*

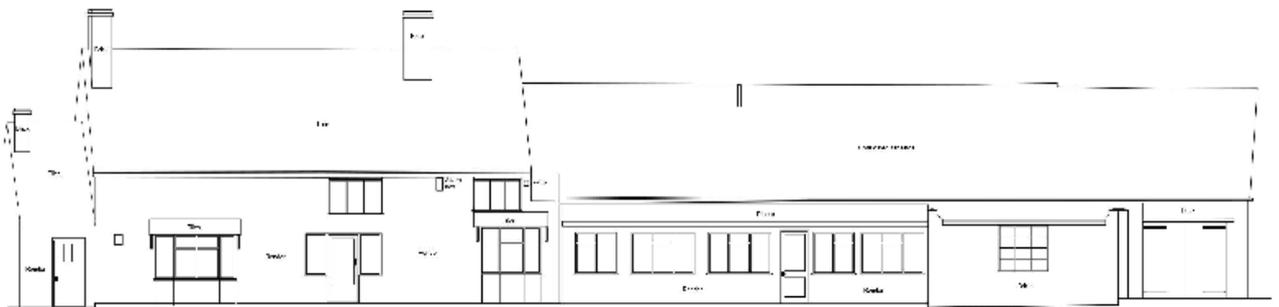


Proposed Side Elevation  
 (Scale 1:100)

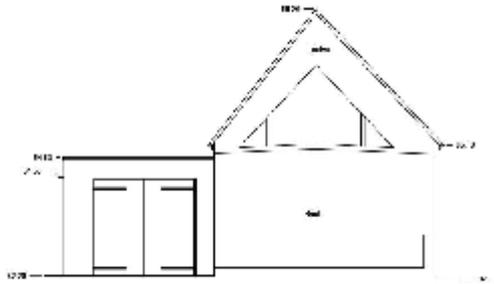
**Existing Elevations**



Existing Front Elevation



Existing Rear Elevation



Existing Side Elevation  
[Scale 1:100]

## APPENDIX C

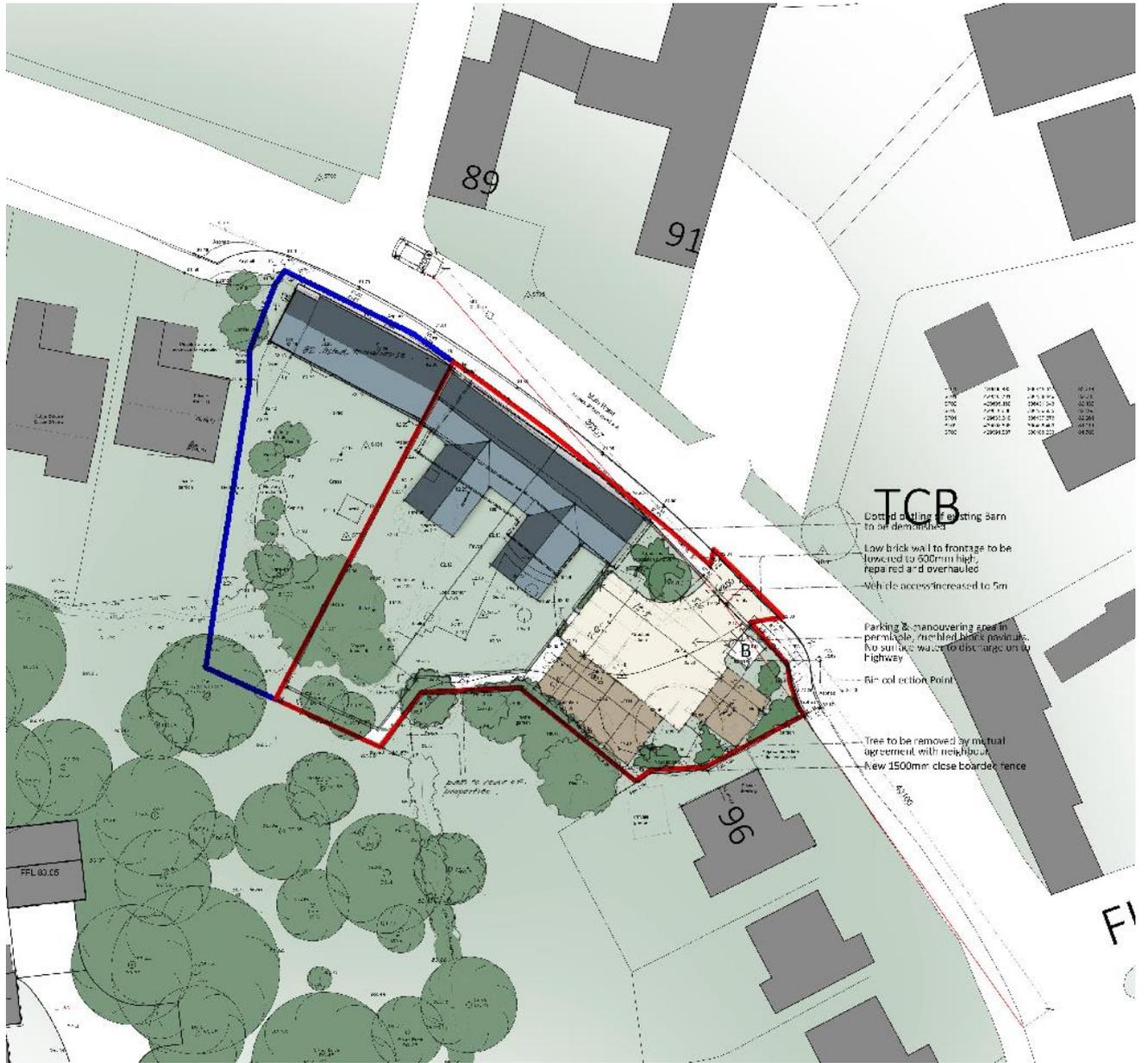
### Proposed floor plans



Proposed Ground Floor Plan  
[Scale 1:100]



APPENDIX D



## APPENDIX E

### Responses from Historic England and Amenity Groups:

#### ***Historic England Consultation Replies:***

#### **THE HOMESTEAD, 82 MAIN ROAD, AUSTREY, CV9 3EG Application No. PAP/2021/0265**

Thank you for your letter of 10 September 2021 regarding the above application for listed building consent. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

#### **Historic England Advice**

##### **Significance**

The Homestead is listed at Grade II, as a brick cottage with attached outbuilding which contains substantial remnants of a timber frame which is probably 17th century, or possibly 16th century in part from the information available.

##### **Impact**

We wrote recently concerning the planning application for this scheme and would refer you to that letter which lays out our concerns regarding this scheme.

We remain concerned that despite the reference in the Heritage Statement to a building survey undertaken in March 2021 that does not appear to be a part of the documentation included on your authority's web site.

We remain at puzzled at the inadequacy of the Heritage Statement with respect to the understanding of the development of the building and the understanding of the list entry, and hence the level of harm. We cannot agree with the conclusion in that report as to the very low impact in heritage terms of the current application.

The survey referred to (of which have seen a copy) is disappointing in not being very thorough in terms of understanding the history of the site or the building.

No adequate measured survey has been undertaken of significant elements of the

existing building (see the letter re the planning application).

We understand that there is an unfortunate planning history here and that there is a desire on the part of the local authority to ensure that the historic character of the site should be retained as far as that is possible.

There are no detailed drawings to understand how the proposed demolition will be undertaken and the making good of the Cottage. There is reference in the Heritage Statement to the need to rebuild the gable end of the Cottage but there is no clarity of the nature the demolition required, or of the new end elevation of the Cottage.

### **Policy**

There is a requirement in the NPPF to understand the building and to justify the proposals when they are as extensive as this. If the barn is a part of the listed building as appears to be the case then that justification will need to be robust and realistic.

### **Position**

There is no objection in principle to the conversion of the barn to residential accommodation but the scheme needs to pay more attention to the existing historic structure, and to retain some of it if at all possible.

There is as yet insufficient information to permit this scheme to proceed. Even if you consider that it is not part of the listed building (which is unlikely) the demolition of this structure will clearly require works to the remaining listed building which will require listed building consent. Further and better supporting documents are required, including a proper survey of the building as it now stands, accompanied by an understanding of the historic development of the structure.

We understand the difficulty of the planning history, but it should be possible to assemble adequate of documentation to provide a proper justification for demolition and reconstruction.

### **Recommendation**

Historic England has concerns regarding the application on heritage grounds.

We consider that the application might be able to meet the requirements of the NPPF, but the issues and safeguards outlined in our advice above need to be addressed in order for the application to be acceptable.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

**THE HOMESTEAD, 82 MAIN ROAD, AUSTREY, CV9 3EG**  
**Application Nos PAP/2021/0265 & PAP/2021/0261**

Thank you for your letters of 17 November 2021 regarding further information on the above applications for listed building consent and planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the applications.

**Historic England Advice**

**Significance**

The Homestead is listed at Grade II, as a brick cottage with attached outbuilding which contains substantial remnants of a timber frame which is probably 17th century, or possibly 16th century in part from the information available.

**Impact**

We wrote regarding the planning application on 22 September 2021 and the listed building consent application on 27 September. Since then two tranches of further information were added in November 2021.

We are puzzled at the inadequacy of the information supplied to date, particularly the lack of a detailed measured survey of the significant elements of the structure to be demolished, particularly the timber framed structure. At the bare minimum that should include a detailed measured survey to the wall framing and of the each of the trusses forming the remains of the timber framed structure. This should be accompanied by an appropriate analysis of what information that reveals about the development of the building.

The survey does not provide an understanding of the building with no measured survey having been undertaken of significant elements. Drawings of the trusses drawings and a longitudinal section would considerably enhance that. There has been proper consideration of the construction taking note of such elements such as the upper faces of the trusses: a key to understanding any timber-framed structure. In addition, the framing of the barn seems to be associated with a very substantial stone plinth.

We understand that there is an unfortunate planning history here and that there is a desire on the part of the local authority to ensure that the historic character of the site should be retained as far as that is possible. However, although there a brief structural condition report survey indicating that the building is undoubtedly in poor condition, that does not demonstrate the state of the timbers.

There are no detailed drawings to understand how the proposed demolition will be undertaken. For example, the 'as-existing' shows that despite an identifiable truss line there is apparently solid masonry which extends beyond that line in the gable end of the house that will be left in situ following the proposed demolition.

How will the remaining building which was the house most recently be finished pending the rebuilding the structure being demolished as a part of this application?

### **Policy**

There is a requirement in the NPPF to understand the building and to justify the proposals when they are as extensive as this. If the barn is a part of the listed building, as appears to be the case, then that justification will need to be robust and realistic.

### **Position**

The is no change in our overall view of the proposals from September when wrote previously. We have no objection in principle to the conversion of the barn to residential accommodation but the scheme needs to pay more attention to the existing historic structure, and to retain some of it if at all possible.

There is as yet insufficient information to permit this scheme to proceed. The proposed necessitates to the remaining section which need to be resolved and included in an application.

Further and better supporting documents are needed, including a measured survey of the building as it now stands, accompanied by an understanding of the historic development of the structure. That will need an appropriately experienced consultant to deliver a more complete understanding of the historic fabric.

We that there is a difficult planning history, but it should be possible to assemble adequate of documentation to provide a justification for at least partial demolition. At

the same time there needs to be a convincing scheme for the reconstruction of the section to be demolished. That could help to justify what is now being described as dismantling prior to a scheme for a new building incorporating some of the historic fabric.

### **Recommendation**

Historic England has concerns regarding the applications on heritage grounds.

We consider that the application might be able to meet the requirements of the NPPF, but the issues and safeguards outlined in our advice above need to be addressed in order for the application to be acceptable.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Consultation replies:

***Ancient Monument Society (working name is historic buildings and places)  
consultation reply***

**Re: The Homestead, 82 Main Road, Austrey, CV9 3EG**  
**Application Ref: PAP/2021/0265**

Thank you for consulting us on this application. The Ancient Monuments Society **objects** to this application for the demolition of the existing grade 2 listed barn attached to The Homestead, and construction of two new dwellings. We have objected to the associated full planning application (PAP/2021/0261).

The application fails to adequately recognise and consider the significance of the single storey barn element which is described in the [listing description](#) as “*Left range is of one storey. Stable and 2 plant: doors. Late C20 three-light casement on right. Left return side has timber-framed gable. Rear is irregular.*”

Given this is an integral part of a listed building, the AMS strongly disagrees with the assertion on p4 of the Heritage Statement that the complete loss of the barn would be ‘*less than substantial (lower end of range) harm to the heritage significance of the Homestead (Grade II) and its setting*’. Nor the claim that the ‘*existing barn does not currently positively contribute to the setting of the nearby listed building*’ – which we assume is referring to the other half of the building described in the listing description. We also dispute the claim in Section 2.4 – Historical Significance that the original external brickwork and timber framing of this C17 building are considered to be of low or neutral significance.

Clearly the loss of half a listed building would result in substantial harm. Photos available online show it is a characterful part of the overall building, with its exposed timber frame making quite a contribution to the streetscape. We also note that the barn end of the building has been allowed to fall into a poor state of repair since photos available on Google Streetview in 2012.

The justification for demolition is due to mid-C20 works which removed part of the structural timber framework at ground level within the cottage to provide for a bathroom and the need to rebuild the eastern end gable to the cottage to make it stable.

While a structural statement has been provided, there is no evidence the structural framework cannot be repaired/ reinstated without demolishing the half of this listed building, or if it can be repaired with only minor demolition, which is much more likely. It certainly has not been demonstrated that the barn itself is beyond repair and that it cannot be restored and adapted for a new viable use.

We also find that the application has failed to demonstrate that saving the domestic half of this listed building would result in a greater public benefit than repairing and restoring the whole listed building.

Further, should the barn be demolished, the two replacement cottages are significantly larger than the existing barn, and this – on top of the impact caused by the loss of the barn – and this over dominance of

what is currently a subservient end of the building, would greatly harm the significance and setting of the remaining half of The Homestead, as a former small holder farm.

The NPPF (2021) at paragraph 199 states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”* Paragraph 201 states *“Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss...”*

We therefore recommend this application is refused for failing to meet the requirements of Section 16 of the NPPF (2021) and the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

I would be grateful if the AMS could be informed of the outcome when this becomes available.

**Re: The Homestead, 82 Main Road, Austrey, CV9 3EG**  
**Application Ref: [PAP/2021/0261](#) (Amended plans November 2021)**

Thank you for re-consulting Historic Buildings & Places. We objected to the initial application for this site in September 2021 under our former name - the Ancient Monuments Society. We have reviewed the amended documentation and continue to **object** to the application.

In our view, there still appears to be a fundamental lack of understanding in the additional documentation provided that this application involves the demolition of one half of a grade II listed building, which would result in substantial harm to a designated heritage asset.

The application continues to assert that the cottage that forms the northern half of the building is more important than the barn that forms the other half, with no clear justification for this statement.

Part of the public value of heritage assets is the contribution they make to our understanding and interpretation of the past. The structure as a whole is listed and its architectural characteristics, historic building fabric, and the historic relationship and significance of the barn and cottage as part of a former agricultural smallholding are at the heart of its overall significance as a heritage asset.

We note the brief two-page statement provided by civil engineers Diamond Wood and Shaw recommends demolition of the entire barn on structural grounds, despite the Design and Access Statement and accompanying plans identifying the compromised gable and truss between the barn and cottage and the barn as the primary reason for the structural issues in this building.

A full survey and structural assessment by a suitably qualified conservation specialist with accreditation for working on listed buildings is required, particularly given the recommendation provided will result in substantial harm.

We also reject the suggestion that demolishing the barn to construct two new dwellings is necessary as enabling development. This does not meet Historic England's guidance on enabling development, as the new housing doesn't seek to secure the conservation of the heritage asset, rather it seeks to replace half of it.

The NPPF (2021) at paragraph 199 states that "*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*" Paragraph 201 states "*Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss...*"

We therefore recommend this application is refused for failing to meet the requirements of Section 16 of the NPPF (2021) and the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

I would be grateful if we could be informed of the outcome when this becomes available.

Consultation Reply:

### ***Council for British Archaeology consultation reply***

**The Homestead, 82 Main Road, Austrey, Warwickshire, CV9 3EG. Application No. PAP/2021/0261 and PAP/2021/0265.**

Thank you for consulting the Council for British Archaeology (CBA) on the above case. Based on the information supplied with this application, we offer the following observations and advice to assist your authority in determining the application.

#### **Summary**

The CBA object to this application which would result in a substantial level of harm to a Grade II Listed building without the requisite justification. This application fails to meet the requirements of Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 194, 195, 199, 200 and 201 of the NPPF. We strongly recommend that this application should be withdrawn and revised or otherwise refused.

#### **Significance**

The national importance of Homestead is established by its designation as a Grade II Listed building (NHLE List number 1365187). It dates from the 17th century and takes the form of a modest agricultural small holding with attached barn. The listed building has historical and evidential values relating to the development of agricultural holdings and the historical development of the village, to which it makes a positive contribution in terms of character.

The basis for any demolitions within a designated site should be an assessment of the significance of those aspects of the site which will be directly impacted on by the proposals, as well as any implications for the setting of other listed building from the proposal. Demolition equates to total loss, or substantial harm in the terms of the NPPF. This requires clear and convincing justification as well as the application evidencing that “great weight” is attributed to the conservation of the site’s significance within any proposals.

#### **Comments**

The CBA note the detailed and authoritative comments made by the SPAB and the Ancient Monument Society (AMS) in regard to this application. As these tally closely with our own view of these proposals, we do not propose to comment separately in detail. However, we would like to

add our support to the comments made by the SPAB and the AMS, in particular with reference to the fact that the barn proposed for demolition is an integral part of the Listed building. Its demolition would therefore amount to substantial harm, in the terms of the NPPF. Such demolition is not justified within the associated documentation and would in fact be contrary to paragraphs 199, 200 and 201 of the NPPF as well as Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. We further echo the SPAB's observation that paragraph 196 of the NPPF may be pertinent to this application.

A detailed structural survey should be sought to establish how minimum intervention into the historic fabric could stabilise the eastern gable of the domestic end of the listed building without the currently proposed level of demolition. An alternative scheme for the conjoined barn should seek to repair and adaptively reuse the existing structure in order to meet the requirements of planning legislation, policy and guidance for the appropriate management of listed buildings. Proposals should be set out in a level of detail that demonstrates a conservation led methodology towards the listed building, which looks to preferentially repair rather than replace historic fabric.

### **Recommendations**

The CBA object to this application due to the substantial level of harm that would be caused to the grade II listed building. This stems from a lack of assessment of the significance of the conjoined barn as an integral component of the listed building. As such we believe this application to be contrary to the requirements of Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 194, 195, 199, 200 and 201 of the NPPF. We strongly recommend that this application should be withdrawn and revised. Failing that we believe your LPA should refuse this application.

I trust these comments are useful to you; please keep the CBA informed of any developments with this case.

**The Homestead, 82 Main Road, Austrey, CV9 3EG. PAP/2021/0265**

Dear Ms Wallace,

Thank you for re-consulting the Council for British Archaeology (CBA) on the above application.

The CBA have previously registered a strong objection to this application which entails the demolition of the conjoined barn at the Grade II Listed The Homestead. Whilst we acknowledge that revisions have attempted to reuse some elements of the historical building fabric from the barn within the proposed new build elements, it remains the case that Listed Building Consent is sought for the demolition of 50% of a listed building. The loss of the agricultural barn, which evidences The Homestead as a small holding dating from the 17<sup>th</sup> century, would amount to substantial harm in NPPF terms. The CBA fundamentally disagree with the associated Heritage Statement and maintain our strong objection to this application.

Proposals are led by a need to repair / rebuild a gable wall between the domestic and agricultural ends of the listed building, following harmful 20<sup>th</sup> century building works that have compromised its structural integrity. As we stated in our previous letter of 22/9/21 an alternative means of rectifying this damage should be explored. This should seek to repair the wall without requiring the demolition of the barn. A structural engineer with experience of historic buildings and conservation techniques for their repair is essential in assessing this work. It would also only be the informed opinion of a structural engineer with these specialisms that could justify the proposed quantity of demolition as being necessary and meet the requirements of paragraph 200 of the NPPF. This states that *“Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of: a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional.”* At present a brief assessment of the barn structure has been carried out by Diamond Wood and Shaw, whose professional expertise and interest as structural and civil engineers is in *“the behaviour of reinforced concrete and steel structures, multi-story construction, the development of public buildings, offices, schools and hotels on inner city and brownfield sites.”* [Text taken from their website].

To be clear, The Homestead’s designation as a Grade II Listed building identifies it as nationally important. The statutory duty to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess is legislated in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The impact these proposals would have on the historic interest, and significance in NPPF

terms, makes them unacceptable for a listed building. The structural integrity of the barn is clearly heavily compromised, however appropriate professional expertise has not demonstrated that the structure is beyond repair. As previously stated, the barn element constitutes 50% of the Listed building. Preferential repair of the structure represents a considerably less harmful alternative to its demolition and must be adequately explored. The photographic record of the building shows a marked deterioration in the site since 2017. The CBA therefore reiterate that paragraph 196 of the NPPF may be pertinent to this application, which states that “Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.”

In principal the CBA would support the adaptive reuse of this conjoined barn into a separate dwelling from the farmhouse. This could be justified as a means by which the structure’s sustainable future would be secured. This adaptive reuse should be informed by an understanding of the barn’s significance as a multi-phased agricultural unit and embrace the archaeological interest in its historical repair whilst adding a contemporary phase of repair and reuse. To minimise harm to the barn’s significance a conservation led methodology should inform all works to the historical structure. The CBA would be sympathetic to the need for a modest extension in order to achieve a proportionate living space to the area of the plot. However, demolishing the extant listed 17<sup>th</sup> century barn for the construction of two new build dwellings is contrary to the requirements of the of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as multiple paragraphs in section 16 of the NPPF. We therefore strongly object to the proposed scheme and recommend that this application should be either withdrawn by the applicants or refused by your LPA.

The CBA believe that two new units would be an over development of the site. We also feel that the overtly domestic design of the proposed western elevation is inappropriate for a listed agricultural building. It would be at odds with the site’s significance as a historic small holding.

I trust these comments are useful to you; please keep the CBA informed of any developments with this case.

Consultation reply:

## ***SPAB consultation reply***

Re: Dismantling of the existing Grade II listed barn and re-build to form two new dwellings.

Dear Fiona

Thank you for consulting the SPAB regarding the proposed works to the Grade II listed property The Homestead in Austrey. This case was taken to our Casework Committee earlier today and we are now writing to convey their opinion.

### **The Proposals (taken from the Heritage Statement)**

The assertion from the applicant is that the single storey barn attached to the cottage is not part of the listing nor is it curtilage listed. The intention is therefore to demolish the 'dilapidated' barn and to replace it with two new 'barn-style' terraced cottages.

The reasoning given is that in the mid-20<sup>th</sup> century the existing cottage was poorly converted to accommodate a new ground floor bathroom which is within the end of the barn attached to the cottage. These works included the removal of part of the structural timber framework at ground level to provide a larger bathroom. This part of the cottage now needs to be rebuilt to provide for a structurally sound eastern gable end. The dismantling of the barn will provide access to allow the eastern end of the cottage to be rebuilt to safely carry the weight of the cottage roof and be rebuilt as an end gable.

### **The extent of the listing**

We strongly disagree with the assertion that the single storey barn is not listed. Not only is it physically attached to the listed cottage, sitting very comfortably as part of the group, but it is also quite clearly identified within the listing description. Therefore this application is actually for the demolition of a very significant part of a Grade II listed structure and consequently we assume that Historic England have also been consulted. This also means that the incorrect answers have been given by the applicant on the application form to the questions in sections 6 and 7.

The applicant may wish to look at Historic England's guidance on Listed and Curtilage Listed Buildings: <https://historicengland.org.uk/images-books/publications/listed-buildings-and-curtilage-advice-note-10/>

### **The current condition of the barn and cottage**

Photographs of the property on Streetview in 2012 show the buildings in what appears to be reasonable condition, and it is also evident what an attractive property it is and how the group contributes to the local street scene. However, the Heritage Statement includes images taken in 2021 which show the barn's roof and much of the interior to now be

missing, with a blue plastic sheet over parts of it and the whole structure appearing to be in a very sorry state of repair. There is no explanation as to what has happened or why the roof has been removed, but this has clearly contributed to the decay of the surviving timber frame as very little effort appears to have been made to protect it. We noticed applications in 2017 relating to repairs to the cottage and presumably the barn, so was the removal of the roof the start of these works which were never completed? With no other information, the Committee questioned whether paragraph 196 of the NPPF (July 2021) should be taken into account here?

Although the proposals state that the gable end wall of the cottage needs to be rebuilt, no evidence is provided to show there are structural issues, nor that the demolition of the barn is the only way in which to address this. There are no plans / photographs of the cottages interior, and no specification for the proposed repairs.

### **The Heritage Statement**

The Heritage Statement is a very poor document with a lot of information missing and it clearly does not meet the requirements of the NPPF, July 2021, paragraph 194. There are very few photographs (only one of the barn's interior), no statement of significance, no assessment of the historic fabric, and absolutely no justification for the proposals which goes against the NPPF, July 2021, paragraph 200. We would have expected the various options to have been clearly discussed, and if the structure is considered to be beyond repair, this needs to be fully justified by a comprehensive report from a conservation accredited structural engineer. No report has been provided apart from a brief two page letter, which is unsuitable.

Historic England have produced guidance on writing a Heritage Statement which can be found here: <https://historicengland.org.uk/images-books/publications/statements-heritage-significance-advice-note-12/>

On pg 4 of the Heritage Statement it says that the proposals '*will not significantly adversely affect the heritage significance of the Listed Building*' – how can this be the case if over half of the heritage asset is proposed to be demolished? We also utterly disagree with the comment, again on pg 4 of the Heritage Statement, that says '*it is accepted that the loss of the barn range is regrettable. However, the proposed works, therefore, whilst resulting in 'less than substantial (lower end of range) harm to the heritage significance of the Homestead (Grade II) and its setting, are balanced by the public benefit gained through the conservation of the key element of the heritage asset – the timber framed cottage.*' Unjustified demolition on this scale must be classed as substantial harm and has to be measured against the tests in the NPPF, July 2021, paragraph 201. A scheme of recording is not considered to be appropriate mitigation against the loss of a significant portion of a designated heritage asset.

From all the information available, there is absolutely nothing to suggest that this barn cannot be sensitively repaired and potentially converted into a single dwelling, subject to details. Therefore there is no justification for its total demolition.

### **Proposed replacement properties**

We strongly disagree with the Heritage Statement (pg 4) that says '*the existing barn does not currently positively contribute to the setting of the nearby listed buildings and heritage assets and so the replacement of this barn range with the two terraced barn-style cottages will not adversely affect the settings of these heritage assets.*' The current arrangement of the cottage and attached barn is a very pleasing and positive addition to

the streetscape. Although the proposals show some consideration has been given to retaining a semblance of a 'barn like' appearance to the front elevation, they would be a very poor replacement for the historic barn. The rear elevation is entirely unsuitable and would have a negative impact on the adjacent historic cottage. The scale of the proposed houses is far too large and the overall composition would be very detrimental to the street scape. It is very unlikely that we would support this scheme independently even if no demolition were involved.

### **Summary**

We **very strongly object** to this application which contravenes many aspects of the NPPF, and recommend that it is **refused**. Should an application for the sensitive repair and conversion of the barn while retaining as much of the existing historic fabric as possible be submitted, accompanied by an appropriately detailed Heritage Statement and report from a conservation accredited structural engineer, we will be happy to look at it and provide further comments.

We hope these comments are helpful to you. We would appreciate it if you would inform us of the council's decision regarding this application.

Re: Listed Building consent for dismantling of existing barn and construction of two dwellings and parking. Amended plans / amended description of development.

Dear Fiona

Thank you for re-consulting the SPAB regarding the proposed works to the Grade II listed property The Homestead in Austrey. We first commented on this application on the 21<sup>st</sup> September 2021 when our Casework Committee strongly objected to the proposals. The revised application was taken to our Casework Committee on Tuesday 7<sup>th</sup> December 2021 for further discussion and their comments are as follows:

**The Proposals**

We are pleased to see that the barn is now being recognised by the applicant as part of the listing but the documentation makes it clear that the applicant still considers it to be of very minimal significance when compared to the attached cottage, although no supporting evidence is provided. However, it is clear that the barn is considered to be of national significance by virtue of the fact that it is included in the listing description for The Homestead. Therefore, the application is still requesting consent to demolish half of a listed structure, although we note the intention to reuse some parts of the existing timber framing and roof structure.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that: *'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'*

As opposed to the first application, this revision is very clear that the applicant considers the cottage to be of greater significance than the barn and is therefore repairing it, which is to be welcomed. However, the costs of doing this are higher than expected, and therefore the demolition of the barn and the redevelopment of the site into two cottages as an enabling development is considered necessary in order for the repairs to the cottage to be completed. The income from the enabling development would be used to cover the costs of the works to the cottage.

**Enabling Development**

The Committee noted that the test for enabling developments is high and that in their opinion it was very unlikely that these proposals would be able to meet them. In the NPPF, 2021, paragraph 201 notes that:

*208. Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which*

*ownership is demonstrably not possible; and  
d) the harm or loss is outweighed by the benefit of bringing the site back into use.*

The structural engineers that are involved at present do not appear to have experience working with historic and in particular timber framed buildings. Therefore, it is imperative that a full structural report from a Conservation Accredited Structural Engineer should be provided giving their recommendations along with a detailed repair specification before any decisions can be made about the future of the barn.

### **Summary**

The SPAB maintain their **very strong objection** to these proposals which are still to demolish half of a listed structure. Although some attempt has been made to incorporate parts of the salvaged barn into the new design for the cottages, we do not consider that the proposed demolition is justified nor has it met the tests laid out in the NPPF, 2021 regarding substantial harm or suitability as an enabling development.

The SPAB encourages the applicant to securely support the barn, protect it from the weather and to engage the services of a Conservation Accredited Structural Engineer to inspect it and provide a detailed repair specification. Consideration should be given to sensitively converting the barn into a single-storey dwelling, and we would be happy to consider a small extension to the rear, subject to details.

**As it stands we are unable to support this application and strongly recommend that it is withdrawn or refused.**

We hope these comments are helpful to you.

Appendix F





5i/327





## **General Development Applications**

**(5/j) Application No: PAP/2021/0653**

**17, Norton Road, Coleshill, B46 1ES**

**for**

**Mrs Karrina Evans**

### **Introduction**

This application is referred to the Board as any refusal of planning permission here could result in enforcement action.

### **The Site**

The application site is a terraced property located on Norton Road at the northern end of Coleshill. It is located on a hill with the adjoining property - number 15 - at a lower ground level and number 19 on the other side to the west being at a higher ground level. The property had a small, pitched roof kitchen extension at its rear but sited close to number 19.

Appendix A illustrates the location with Appendix B showing the existing ground floor plans and Appendix C the existing elevations.

### **The Proposal**

Planning permission is sought for the removal of the existing extension and its replacement by a full width single storey rear extension extending out 4.15 metres from the rear elevation of the property. Its width would be 6.07 metres. The proposed extension has a flat roof at a height of 2.67 metres.

Appendix D shows the proposed ground floor plan and Appendix E illustrates the elevations.

This application is retrospective. The Background section below explains the situation giving rise to this application.

### **Background**

This application is a resubmission of a previous application referenced PAP/2020/0592 That was granted in January 2021 and was for a very similar rear extension as described above. However once work had commenced it was clear that it was not being constructed in accordance with the approved plans. The current application has been brought about through discussion with the applicant as a consequence of the investigation into the unauthorised works. In short, it retains the principle of the rear extension but has modified some of the detail.

The 2021 planning permission came out 4 metres from the rear elevation, extending across the full width of the house and had a height of 2.81 metres. The difference in levels between the application site and the adjoining property (no. 15) was shown at 0.4 metres.

There was an objection received from the occupiers of number 15 due to impact of the proposal on light entering the rear ground floor windows of his property.

Members will be aware that permitted development rights enable rear extensions to be constructed without the need for the submission of an application. In this instance, the “fall-back” position of these rights is for a rear extension extending back three metres and up to four metres tall. These dimensions would provide a lesser depth to the extension proposed but a much taller one. Officers considered that when all of these matters were considered together – the proposal, the fall-back, the levels difference and the position of the windows in the neighbouring property – that on balance the proposal could be supported. The officers report was circulated as required by the Scheme of Delegation, but it was not “called-in” by Members for referral to the Board. The permission was thus issued.

Work commenced, but it became clear that this was not in accordance with the approved plans. It was being built with a parapet wall extending the height to 3.125 metres (0.3 metres taller) and extending it by 4.15 metres (0.15 metres further). Moreover, the difference in ground levels was discovered to be 0.65 metres and not 0.4. The height difference was thus further increased to 3.7 metres.

The applicant has decided to submit this amended scheme retaining much of what has been built and indeed permitted. It retains the 4.15 metres depth but now has a flat roof of 2.67 metres in height. The difference to the next door ground level is 3.32 metres.

## **Representations**

At the time of preparing this report, one letter of support had been received but this was not from an immediate neighbour. The notification period expires between the date of preparing this report and the date of the Meeting. Any further representations will be reported at the Board meeting.

## **Development Plan**

North Warwickshire Local Plan 2021 - LP29 (Development Considerations) and LP30 (Built Form)

## **Other Relevant Material Considerations**

National Planning Policy Framework (NPPF).

Supplementary Planning Guidance: A Guide to the Design of Householder Developments, adopted September 2003.

## Observations

There is no issue with regards to the design and appearance of the extension. The main issue is the impact of the extension on the adjoining property at 15 Norton Road.

Local Plan Policy LP29 states that developments will be expected to avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, fumes or other pollution.

The main issue with regards to neighbouring amenity is the impact on number 15 due to a drop in ground levels of 0.65 metres. This is a matter of balance as there is now also a reduction in the height of the proposal itself to 2.67 metres; the dimensions that could be used under the fall-back position and the dimensions already approved. Additionally, the rear elevations of the properties here face to the south, the preferred aspect when shadowing and light impacts are to be considered. Bearing in mind all of these matters it is considered on balance that the amended scheme can be supported.

## Recommendation

That planning permission be GRANTED subject to the following conditions:

1. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered ED20-055-03-E, ED20-055-03-E and ED20-055-PB-E received by the Local Planning Authority on 26th November 2021.

### REASON

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

2. The reduction in the roof height of the rear extension shown in the drawing numbered ED20-055-04 received by the Local Planning Authority on 26th November 2021 shall be completed no later than six months from the date of this permission.

### REASON

To protect the amenities of nearby residential property.

3. The approved works shall be carried out with painted render, single ply flat roofing and windows and doors to match the existing building.

### REASON

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

## Notes

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>
3. The developer is reminded that the Control of Pollution Act 1974 restricts the carrying out of construction activities that are likely to cause nuisance or disturbance to others to be limited to the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays, with no working of this type permitted on Sundays or Bank Holidays. The Control of Pollution Act 1974 is enforced by Environmental Health.
4. Before carrying out any work, you are advised to contact Cadent Gas about the potential proximity of the works to gas infrastructure. It is a developer's responsibility to contact Cadent Gas prior to works commencing. Applicants and developers can contact Cadent at [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) prior to carrying out work, or call 0800 688 588
5. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal, meetings and negotiations and 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

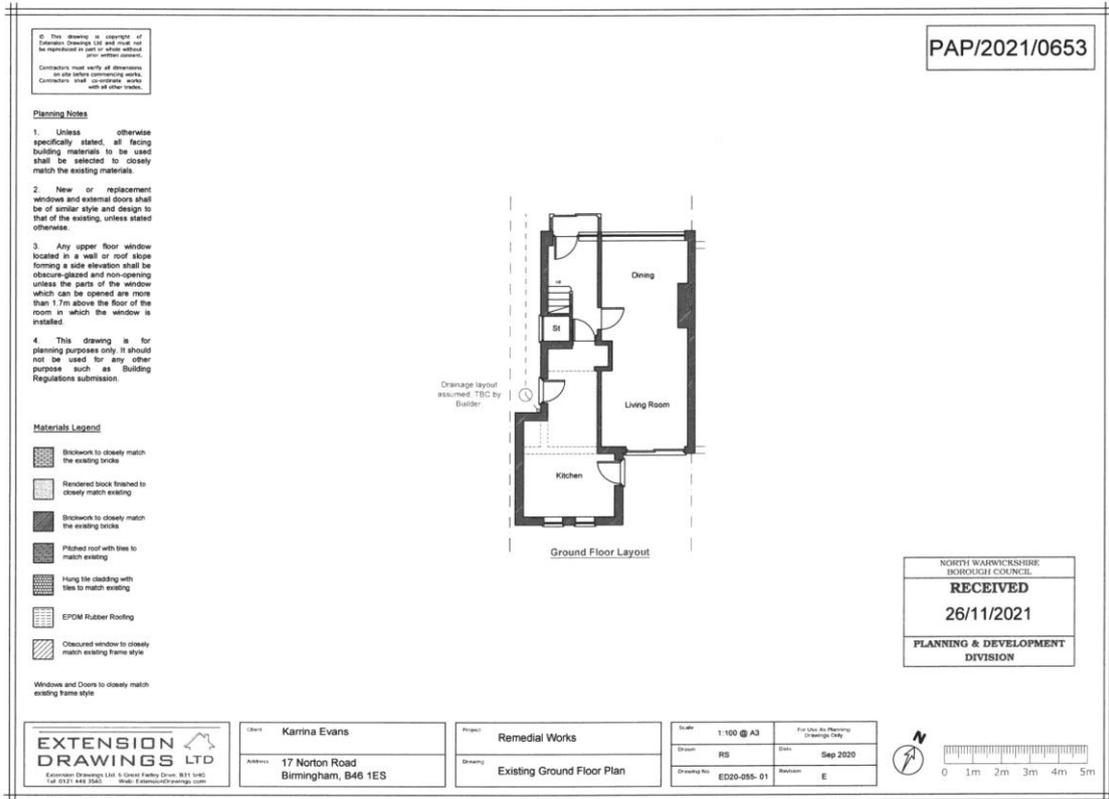
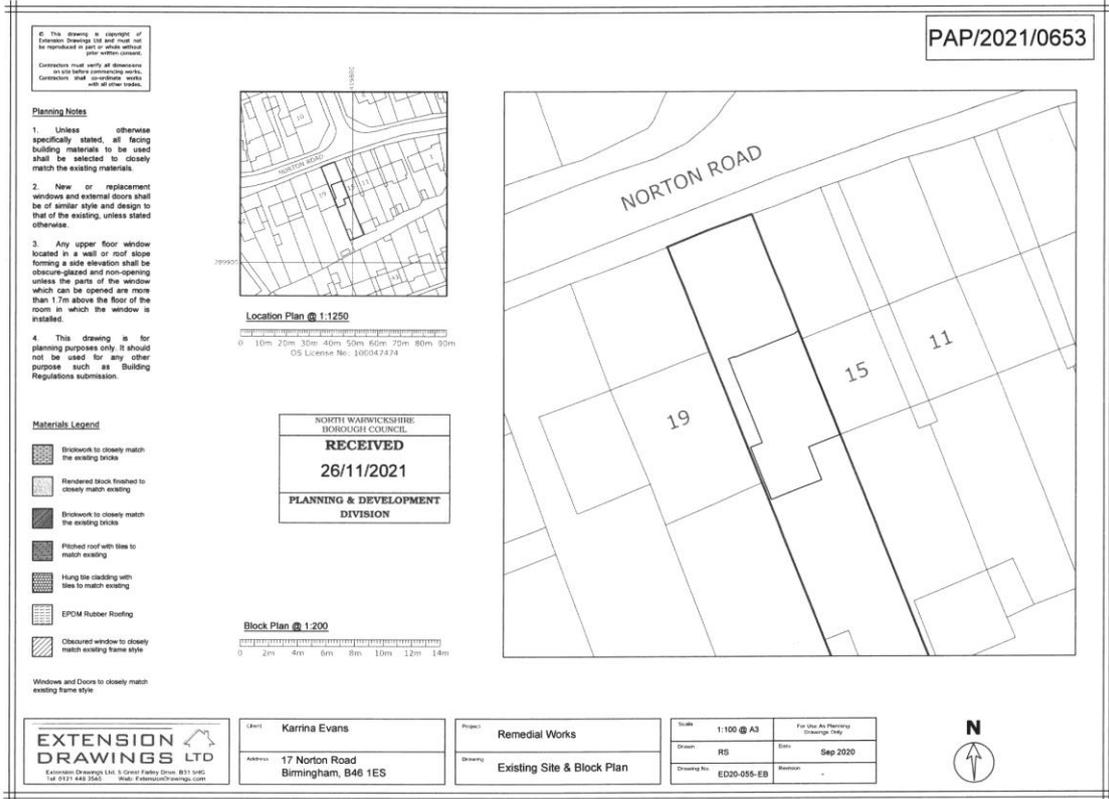
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2021/0653

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26/11/2021
2	Neighbour	Representation	03/12/2021

*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.*



PAP/2021/0653

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**Planning Notes**

- Unless otherwise specifically stated, all facing building materials to be used shall be selected to closely match the existing materials.
- New or replacement windows and external doors shall be of similar style and design to that of the existing, unless stated otherwise.
- Any upper floor window located in a wall or roof slope forming a side elevation shall be obscure-glazed and non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.
- This drawing is for planning purposes only. It should not be used for any other purpose such as Building Regulations submission.

**Materials Legend**

- Brickwork to closely match the existing bricks
- Rendered brick finished to closely match existing
- Brickwork to closely match the existing bricks
- Pitched roof with tiles to match existing
- Hung tile cladding with tiles to match existing
- EPDM Rubber Roofing
- Obscured window to closely match existing frame style

Windows and Doors to closely match existing frame style.

NORTH WARWICKSHIRE  
BOROUGH COUNCIL

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26/11/2021

PLANNING & DEVELOPMENT  
DIVISION

**EXTENSION DRAWINGS LTD**  
Extension Drawings Ltd, 5 Green Ferry Drive, B11 1SR, UK  
Tel: 0121 449 2545 Web: ExtensionDrawings.com

Client: **Karina Evans**

Address: **17 Norton Road Birmingham, B46 1ES**

Project: **Remedial Works**

Drawing: **Existing Elevations**

Scale: **1:100 @ A3**

Drawn: **RS** Date: **Sep 2020**

Drawing No: **ED20-055-02** Revision: **E**

PAP/2021/0653

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Address: **17 Norton Road Birmingham, B46 1ES**

Project: **Remedial Works**

Drawing: **Proposed Ground Floor Plan**

Scale: **1:100 @ A3**

Drawn: **RS** Date: **Sep 2020**

Drawing No: **ED20-055-03** Revision: **E**

PAP/2021/0653

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 Contractors must verify all dimensions on site before commencing work. Contractors shall coordinate works with all other trades.

**Planning Notes**

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3. Any upper floor window located in a wall or roof slope forming a side elevation shall be obscure-glazed and non-operating unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.
4. This drawing is for planning purposes only. It should not be used for any other purpose such as Building Regulations submission.

**Materials Legend**

-  Brickwork to closely match the existing bricks
-  Rendered brick finished to closely match existing
-  Brickwork to closely match the existing bricks
-  Pitched roof with tiles to match existing
-  Hung tile cladding with tiles to match existing
-  EPCOM Rubber Roofing
-  Obscure window to closely match existing frame style

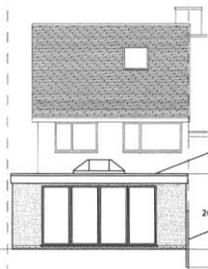
Windows and Doors to closely match existing frame style.



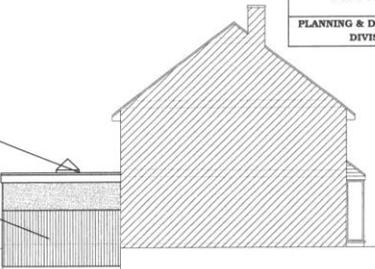
Front Elevation



Side Elevation



Rear Elevation



Side Elevation

Take ceiling and whole roof off, re-build at lower height so overall height is 2.57m externally from natural ground (150mm below dpc). Change to a fascia roof from a parapet on all sides.

Add a 2m high fence against side elevation to break up the visual effect of the side elevation for the neighbour if they desire it.

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 26/11/2021  
 PLANNING & DEVELOPMENT DIVISION

**EXTENSION DRAWINGS LTD**  
 Extension Drawings Ltd, 3 Great Ferry Street, B11 1AQ, UK  
 Tel: 0121 448 3565 | Web: ExtensionDrawings.com

Client: **Karrina Evans**  
 Address: **17 Norton Road, Birmingham, B46 1ES**

Project: **Remedial Works**  
 Drawing: **Proposed Elevations**

Scale: **1:100 @ A3**  
 Drawn: **RS** Date: **Sep 2020**  
 Drawing No: **ED20-655-04** Revision: **E**

**N**  
  
 0 1m 2m 3m 4m 5m

## **General Development Applications**

**(5/k) Application No: PAP/2019/0451**

**Blackgreaves Farm, Blackgreaves Lane, Lea Marston, Sutton Coldfield, B76 0DA**

**Extension to existing shooting club house, for**

**Mr G Breeden - Slowley Hall Properties**

### **The Site**

The site lies within the Green Belt and is accessed from Blackgreaves Lane. It is situated adjacent to Blackgreaves Farm. The lane runs along the northern boundary of the site, with a cricket ground and a golf course to Lea Marston Hotel on the northern side and agricultural land to the south. There are residents to the west in converted barns of the original Blackgreaves Farm. The site is well established for clay pigeon shooting. The context of the site is illustrated at Appendix A.

### **The Proposal**

This is a single storey extension to the existing building, to be constructed in timber, with timber windows and slate tiles to the roof. The proposal would extend the existing building and would provide an opportunity to remove the existing storage containers and lorry backs on the site.

The proposal will allow for multiple space provision. At present there are only toilet facilities, a small office/reception area with a bar café at the site together with a small covered area next to a small lake.

The proposal includes the following space, indicated in the plans at Appendix B with the elevations at Appendix C.

- a) Formal reception space;
- b) Training/de-briefing room;
- c) Storage area for clays and traps
- d) Storage area for guns;
- e) Storage area for ammunition
- f) Changing, lockers and showers;
- g) Enlarged office;
- h) Bar/Café;
- i) Workshop; and
- j) Machinery/quad bike Storage.

Along with the application the following documents have been submitted:

- a) A planning, design and access statement
- b) An assessment of other shooting clubs
- c) Containment of Fire Arms statement
- d) Transport Statement
- e) Footpath Risk assessment

## **Background**

The existing shooting lodge was approved in July 2012. An application to extend to the building was refused by the Board in March 2017. The applicant appealed this decision, but this was dismissed. This application has been submitted to address the issues raised by the decision which is attached at Appendix D. The refused plans are at Appendices E and F.

Both the fishing pools and clay pigeon shoot are lawful uses. A number of steel storage containers and structures still exist at the site without the benefit of planning permission. These appear to have been present for a number of years. The reason for the extension is to provide additional accommodation for facilities and space which are considered to be essential to the health and safety of the use and for the secure storage for equipment.

## **Development Plan**

North Warwickshire Local Plan 2021 - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP3 (Green Belt), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP18 (Tame Valley Wetlands NIA including Kingsbury Waterpark), LP23 (Transport Assessment and Travel Plans), LP27 (Walking and Cycling), LP29 (Development Considerations) LP30 (Built Form), LP33 (Water Management), LP34 (Parking) and LP35 (Renewable Energy and Energy Efficiency)

## **Other Relevant Material Considerations**

Planning Practice Guidance (PPG)

National Planning Policy Framework 2021 (NPPF)

## **Consultations**

Sport England – It supports the proposal incorporating comments from the Clay Pigeon Shooting Association. It says that the clubhouse is quite small compared to many grounds that operate seven days a week. The proposal will result in an enhancement of an existing well used sports facility. The proposal would improve disabled access which will encourage more participants into the sport. The site provides training and also opportunities for elite athletes on the GB pathway and performance programme.

Warwickshire County Council as Minerals Planning Authority – No objection

Warwickshire County Council as Highway Authority – It objects because the proposal is likely to intensify use of the access and on the local highway network.

Environmental Health Officer – There is concern that the application will facilitate the growth of the club leading to a greater noise impact on nearby residents.

## Representations

Lea Marston Parish Council - It objects as objections as the proposal will lead to anti-social impact by way of noise nuisance for residents. The proposal is an unacceptable size and would have an adverse impact on the openness of the Green Belt. The proposal is inappropriate development. The application considerations do not substantiate very special circumstances. It is evident that justification and explanation of the additional floorspace is not satisfied. Also concerned proposed surface water discharge. Would allow further increase in noise and nuisance.

Nether Whitacre Parish Council – It too objects as the proposed extension represents a 450% larger footprint than the existing club house. The proposed extension would be erected to the south of the existing building, its impact on the openness is still apparent. Proposed would not comply with para 149 (b) of the framework and is therefore inappropriate. The proposed is disproportionate compared to the original building. Removal of containers and portacabins which do not have planning permission should not be considered as part of the floorspace off setting. The health and safety reasons, security, storage of equipment and efficient functioning of the club do not amount to very special circumstances. If approved the extension would allow further growth of the shooting ground in terms of number and would increase noise nuisance to residents.

There have been six letters of objection to the proposal, raising issues in respect of following:

- Noise abatement conditions should be replicated on any decision.
- Noise created is a constant nuisance to residents
- Noise barriers should be provided
- Cartridges should be reduced in weight.
- Increase in the facility will increase usage of the shooting ground.
- The visual impact of the proposal is increased in Green Belt and is disproportionate to the existing building.
- The access to the facility is substandard

A petition of support has been received signed by 86 people.

There have been 25 letters of support to the proposal raising the following points of support:

- The facility will have improved facilities which can support corporate events and also community hub facilities.
- The club is too small at present and in need of larger facilities.
- The proposal will create more jobs for the community.
- There will be improved security and safety at the shooting ground.
- It will provide better disabled access and general access at the facility.
- It will tidy up the area through removal of container and temporary buildings.
- There is collaboration with businesses providing overnight stay, they proposal will help this further.

## Observations

### a) Green Belt

The site lies within the Green Belt and so any development proposal should accord with advice contained within Local Plan LP3 in the North Warwickshire Local Plan and the appropriate section of the NPPF. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework states that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt unless they fall under one of the listed exceptions. One of these exceptions and not therefore to be considered inappropriate development is the: 'provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.'

The key test here is thus whether the building is an appropriate facility for use in connection with existing outdoor sports and recreation. It is considered that the extensions will provide additional space and facilities for the shooting use at the site. This includes additional space for the provision for clay pallets, traps, a workshop and maintenance area equating to 21m x 7.5m of space; a gun room including safe, ammunition store and extended office measuring 10m x 7.5m, a bar/café, changing areas and a debriefing room measuring 19m x 7.5m. An atrium and reception area is also proposed linking parts of the extensions together measuring 14m x 4m - Appendices B and C.

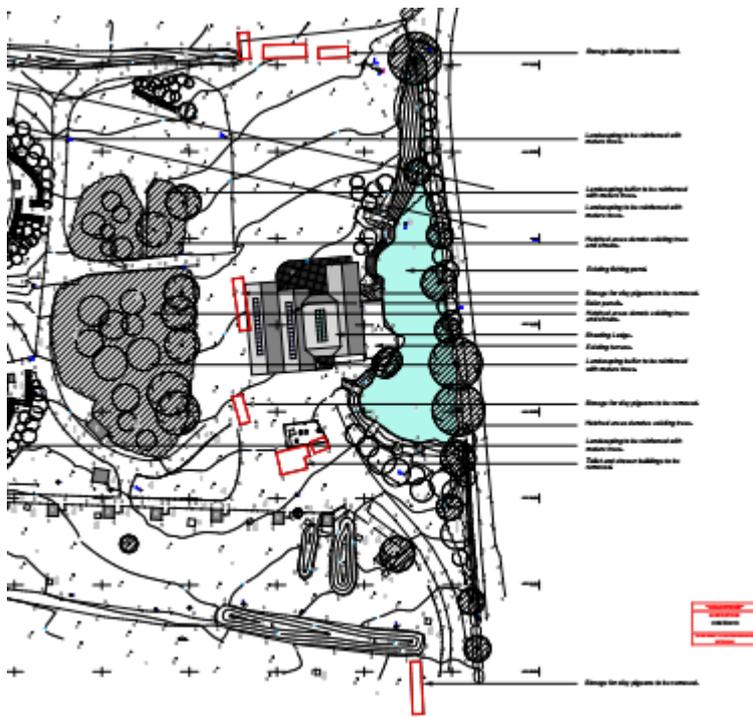
The proposal will provide a consolidation of existing space and the proposal will increase the amount of public area to improve facilities at the clubhouse to provide two briefing rooms, changing facilities and a bar area. At present the clubhouse provides a shared briefing and bar area with toilets and office. The proposal will provide much larger facilities for the public which are currently cramped and inadequate for the use. However, there are some doubts that the atrium and reception area are necessary. Officers have concerns that the development proposed is very large and the amount of space proposed now compared to the application in 2016 (Appendices E and F) is excessive and well beyond the scale of that proposal. In terms of other facilities, the proposal provides for clay storage (5 pallets), traps storage (38 in total), a workshop and quad bike maintenance room, gun rooms and ammunition store. Based on the information submitted it is not clear that all of the development proposed would be appropriate and essential for the outdoor recreation.

The building would widen and extend the use to enable whole year use of the site even when inclement weather currently restricts the usage. It is considered that there is a reasonable connection here with an established outdoor recreation use. However, there is concern of the extent of the scale of proposal. In this regard the proposal has to meet the conditions of the NPPF - whether the proposal would preserve the openness of the Green Belt, or conflict with the purposes of including land within it.

There is no definition of “openness” in the Green Belt, but in planning terms it is generally taken to mean the “absence of development”. There will thus be a spatial impact on the openness of the Green Belt by fact and by degree. The size of that building will also mean that it would have a visual aspect which would affect the perception of openness. Whether any change would cause harm to the openness can depend on factors such as locational context, its spatial or visual implications, as well as scale. In considering the scale of the proposal in its locational context, the proposal introduces a significantly sized building. The existing lodge is set back from and elevated slightly above Blackgreaves Lane. There is also a footpath (M23) (Appendix A) that runs south west of the site and runs eastwards across the site. There is a pond and a narrow belt of deciduous trees between the lane and the current building. The proposed extension would be clearly visible from the footpath and from Blackgreaves Lane, particularly in the winter. Although the length is shorter than the previous appeal application, the length and width of the extension are significantly longer than the existing building and would extend the footprint of the building. The building would be submerged slightly into the ground as it extends southwards which would reduce its prominence. The three-ridge approach to the design also reduces the extent of the building when viewed directly next to the lane, however it will still increase the visible elevation by nearly 100% to 21m in length rather than the existing 11m. The three-ridge design also increases the bulk of the proposal and the width of the building by extending it from 7.5m to 26m.

Spatially, the cumulative volume of the proposal would extend from around 300 cubic metres to nearly 1800 cubic metres and the floor area from 73 metres squared to 476 metres squared. The appeal decision reflects on the impact on the openness and albeit a different design, the size of the proposal is significantly larger in massing and scale. The appeal application only measured around 250 square metres in total, whereas the proposal is much larger, measuring 476 metres in total.

As part of the scheme, it is proposed that existing storage containers and portable buildings would be removed from the site which currently house clay pigeons, provide toilet and shower facilities. Some of these are depicted in red on the plan below and equate to around 176 square metres – see also Appendix A. These structures do not have planning permission and may be immune from enforcement action. The overall height of these structures is relatively low at around 2.5m high, and they have cubic capacity of around 440 cubic metres. A planning condition could be used to require the removal of these containers which would be enforceable and precise. The weight attributed to these is limited as no formal permission currently exists. The permanence of the facility is much greater than that of the existing building and structures, such that the proposal will have an lasting impact on the Green Belt. Overall, it is therefore considered that the proposed will not preserve the openness of the Green Belt.



Paragraph 138 of the Framework outlines the five purposes of including land within the Green Belt. The second condition of 149 (b) requires consideration of the five purposes outlined in the NPPF. The one purpose most affected here is whether the proposal would safeguard the countryside from encroachment. The proposal would have moderate conflict with this purpose.

So, in conclusion the part of the application scheme would be an appropriate facility for outdoor sport and outdoor recreation. However, it is considered the scheme would not preserve the openness of the Green Belt and would conflict with one of the purposes of including land within the Green Belt as required by paragraph 149(b) of the Framework. As a result of this the proposal would be inappropriate development within the Green Belt and would conflict with the Framework and Local Plan policy LP3. Substantial weight is given to this Green Belt harm.

In conclusion therefore, the proposal is considered to be inappropriate development in the Green Belt causing substantial definitional harm and moderate actual Green Belt harm.

**b) Other harms**

**i) Landscape Harm**

The landscape character of the area is defined by open countryside being set within the Tame Valley Wetlands, generally regarded as a low-lying landscape visually contained by wetland vegetation. This flat highly modified river corridor landscape has been worked in the past for sand and gravel, resulting in a new wetland landscape. Slightly elevated above the flood meadows is the settlement of Lea Marston and Marston. The area contains scrub and wetland vegetation, elsewhere land uses include infrastructure links such as the M42 and rail lines pass through the area, which means that urbanising

influences occur locally rather than throughout the landscape, there is the small ancient woodland of Dunton Woods to the south west of the application site.

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." 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.

Following gravel extraction, few areas of traditional landscape remain and further pressure from HS2 approximately 600 metres 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.

The site is relatively self-contained visually, assisted by existing landscaping along the northern and eastern boundaries. As a consequence, the impacts from further afield are considered to be minor and there is considered to be only a limited impact on the landscape of the surrounding area by the extension proposed. Further landscaping can be considered as the design and management of new and enhancement of existing recreational facilities should reflect the character of existing landscape features and hence more planting can be achieved around the site.

The proposal is visible from public vantage points along the Haunch Lane, Blackgreaves Lane and the public footpath which cross the site. Its finish would be in timber 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 hedgerow. 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 these existing urbanising influences, the actual impact on the landscape character of this additional development is considered to be local in extent and limited in scale.

## ii) **Noise**

The current use is lawful and operates with limited planning restrictions. It could continue to operate without the proposal for an extension. However, Officers consider that the proposed extensions to the club house may be able to accommodate more patrons due to the increased floor area and thus leading to more shooting taking place.

However, controlling this will be difficult for three reasons. Firstly, the use of the land is immune from planning enforcement action as a shooting club and in such circumstances and there are no planning conditions controlling the use. Secondly, the present operational hours are controlled under the Environmental Protection Act. This is because of a Noise Abatement Notice which was served after submission of the planning application. This restricts the shooting to:

- a. *Mondays to Fridays 9:30am to 5:30pm with a maximum cumulative duration of 5 hours*
- b. *One of the Mondays to Friday's session per week can run between 2:30pm and 8:30pm with a maximum cumulative duration of 4 hours*
- c. *Saturdays 9:30am to 6pm with a maximum cumulative duration of 5 hours*
- d. *Sundays 9:30am to 3:30pm with a maximum cumulative duration of 4 ½ hours*

*For the avoidance of doubt "maximum cumulative duration" means the maximum number of hours shooting in any one day.*

Thirdly, given these two matters, numbers and patronage could still rise without control, provided that the terms of the Agreement above are adhered to.

Complaints have been received about noise emissions, and continue to be submitted, but as indicated above, this is controlled under separate legislation and the Council has the option of pursuing this through separate legislation. The question of whether the Council could impose planning conditions relating to noise issues or to shooting hours is not within the remit of this application. The application before the Board is solely for a club house extension and it would thus not be possible to impose such "controlling" conditions. The Inspector in the 2017 appeal decision made this perfectly clear – "Conditions should only be imposed which are directly related to the development, fairly and reasonably related in scale and kind to it and are necessary to make it acceptable. Consequently, although conditions could be imposed to address the impacts arising from this proposal, they should not be imposed to address pre-existing issues" – para 18 of Appendix D.

Notwithstanding this, discussions have been had with the applicant to try to resolve on-going noise complaints through the planning process. The applicant has indicated that the existing noise bunds on the site could be increased in size and provided with an additional length to help attenuate the noise at source. However, it is likely that an earth bund would have to be high to take any effect, which would also have to be weighed against its impact on the openness of the green belt. Additionally, extra bunding has to be evidenced through full noise assessments which have not been forthcoming and the bunding has to be on land within the applicant's control. As such it is not considered that this option has been thoroughly advanced such that it can form part of this application.

It is in all of these circumstances therefore that the Board is asked to determine the application that it has before it.

### **iii) Highways**

With regards to highways implications, Local Plan policy LP29 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 109-111 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.

The applicant has submitted a transport statement following discussions with the Highway Authority. It has concerns that the new facilities could allow for a larger number of visitors to the facility and the new club house could be attractive to corporate clients as well as existing members. Given the previous refusal and the large extension now submitted, the County Council considers that its objection carries more weight. Complaints have been also received about the number of vehicles visiting the site and the damage to the verges as a result of there not being enough room to pass on the public highway.

Like the noise implications, it is very difficult to control visitor numbers via the planning process. It is also recognised that due to the restricted nature of Blackgreaves Lane which has no pedestrian refuge and limited passing places, there is the potential of damage to the highway and for increased road safety concerns. However there County Council has not provided evidence to support its objection which is based on an “assumption” and neither has it clearly shown that the highway concerns here would be “severe” which is the test in the NPPF for a refusal. In these circumstances only limited weight can be given to its objection. However, it is agreed that more hard surfacing, white lining and potentially increase car usage would add to the adverse impact on the openness of the Green Belt and thus support the level of harm identified above.

#### **iv) Heritage Impact**

The site lies in close proximity to the Grade 2 Blackgreaves Farm. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory obligation on local authorities 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. Paragraph 199 of the NPPF advises that great weight should be given to an assets’ conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 states that any harm to or loss of the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) requires clear and convincing justification. Paragraph 201 states that where there is substantial harm to a designated heritage asset, such cases the harm should be weighed against the public benefit of the proposal.

The heritage impact of the proposal is on Blackgreaves Farmhouse and its associated listed buildings - which are 120 metres due west of the site. The significance of the Farmhouse complex is that of the retention of large imposing farmhouse. The impact on the setting of the farmhouse is limited due to the limited intervisibility between the two sites due to the intervening landscaping and lower land levels of the club house. Therefore, it is considered that there would be less than substantial harm caused to these heritage assets.

## **v) Ecology**

The new Environment Act as well as the NPPF require there to be bio-diversity gain as a consequence of new development proposals. A comprehensive landscaping scheme that includes the improvement of hedge-lines to reduce the prominence of the extension could be submitted. In this instance it is likely that any biodiversity net gain can be provided within the ownership of the site.

## **vi) Footpath**

Public safety is necessary and it is understood that training of safety officers is paramount to the safety of the members and the general public, users of the shooting ground and surrounding facilities. As there is a footpath that crosses the site, a risk assessment for this has been provided by the applicant. In terms of the wider area and community, then the site is nearby a golf course on Blackgreaves Lane and near the North Warwickshire Cycle Way along Haunch Lane and footpaths. Though regard is given to public safety by non-users, given the proximity of the golf course and public footpath, the use is already operational regardless of the proposal for an extension. The position of the shooting stands do face south and in the direction of the footway, but this is presently operational. A note reminding the applicant relating to the safety of users of the public footway can be added as a note on the permission. The applicant should erect signs and flags to indicate shooting days.

## **vii) Other Matters**

In respect of the drainage and the lighting impacts, it is considered that suitably worded conditions can be used to secure the approval of details so as to mitigate against any adverse impacts.

### **c) Harm Side of the Planning Balance**

This report concludes that the cumulative harms caused by the proposal on the harm side of the final planning balance are the substantial definitional Green Belt harm; the moderate actual Green Belt harm caused, the limited landscape and visual harm as well as the limited harm on highway grounds.

### **d) The Applicants Considerations**

It is now necessary to identify the considerations put forward by the applicant in support of the proposals.

The applicant has put forward a number of considerations which when taken together are considered to carry sufficient weight to clearly outweigh the cumulative level of harm found and they consider provide the very special circumstances that clearly outweigh the harm to the Green Belt in support of development (outlined in Appendix F). Each of these will be looked at in further detail They are as follows:

- (i) The Need for Development
- (ii) The space requirements, including training/induction space
- (iii) Security and crime

- (iv) Accessibility for all users
- (v) Other considerations

## **i) The Need for the Development**

The need for this type of facility has not been quantified in terms of actual demand from members of the public for a clay pigeon shooting club. The applicants have provided an assessment of other facilities within 60 miles of the site and the numbers of the club have grown over the years. Shooting clubs need to be carried out in the countryside rather the existing urban area so there are limited opportunities for such facilities across the midlands. The provision of these facilities is supported within the development plan. The need for the facility is echoed by the consultation response from Sports England which includes comments from the British Shooting and Clay Pigeon Shooting Association (CPSA) which states the following:

### *British Shooting*

*Our 2014 research into Shooting Club and Ground facilities highlighted issues pertaining to the quality of storage, changing and training facilities across our sport and as such we will always support developments designed to improve participant experience and retention.*

*Lea Marston is one of only a few grounds across the UK with the facilities and layouts required for the Olympic Skeet discipline. And as such this makes it an appropriate and central venue for the hosting of talent pathway activity moving forwards – dependant on improvements to the grounds ancillary facilities.*

*Firstly, Lea Marston Shooting Club is a CPSA Registered Club which means it has been through an audit process and inspected by a Senior Ground Inspector on behalf of the CPSA. The shooting ranges are registered to hold official competitions in multiple disciplines including Olympic Skeet which could prove beneficial for British Shooting's elite athletes on the GB pathway and performance programme.*

*The existing Clubhouse is quite small compared to many grounds that operate 7 days a week. We currently run CPSA training courses there for Safety Officers and Referees and wish to hold our L1 Instructor Training Courses there which are 4 days long and the addition of separate training rooms to the building would be ideal to enable us to do this. The location of this Club is ideal with Lea Marston Hotel nearby enabling candidates to stay over locally to attend the longer courses.*

Sport England indicate that “the proposal will result in the enhancement of an existing well used sports facility, addressing a number of issues at the site as highlighted within the submitted Design & Access Statement. The proposal would also improve disabled access which in turn will help to encourage more participants into the sport. Further to this, as identified by the national governing bodies, the site plays an important role for the respective sports offering a range of training courses (which could be extended) which will run more effectively following improvements to the site and the proposal could also prove beneficial for elite athletes on the GB pathway and performance programme.”

The Club has grown over the years, and whilst it originally had 700 members, that number has increased to over 1,400, with an estimated 18,000-20,000 visitors a year.

The provision of sport/recreational facilities within the Green Belt finds support in the development plan and the Framework, including at paragraph 84. As well as providing recreational and social benefits for its members, the Club's activities also contribute to the local economy.

This consideration carries limited weight overall. The facility is not of national importance, and although there are limited numbers in the vicinity and region it is not considered that it is such a finite resource that it carries moderate or significant weight.

## **ii) Space within the facility**

It cannot be denied that this use will continue to operate to the limits of the existing arrangement at the site with or without the proposal for an extension. It is argued that the extension is necessary for a number of reasons. There is limited space within the existing building which is acknowledged by both British Shooting and CPSA.

The safety and operational procedures require users to be signed in and licenses to be inspected. Additionally there has to be de-briefing and training. As a consequence there can be an overlap between sessions and so when users have finished with equipment, the next group of users will be waiting to start their session. There is a maximum of 7 users per session. The use employs instructors and office clerks who take the bookings. There is a minimum of 15 employees in full and part time positions. At present the office/reception, training, toilets and café are within a limited space.

The proposal will provide two training room and debriefing rooms which will be for up to 75 people with training and health and safety videos being played prior to commencement of shooting. The requirement for a de-briefing space and additional toilets is a fundamental requirement so that debriefing can be held at the same time as training. Current changing facilities are in portable buildings to the east of the current club house. The proposal will provide male and female changing facilities of sufficient size.

This consideration carries limited weight overall. Not all of the space required is an essential requirement and some of the space required could provide dual usages at times.

## **iii) Security and storage space**

One of the main elements for the proposal is to ensure that clays and fire- arms can be stored securely at the site. Lea Marston Shooting Club Limited has affiliated with the CPSA. They provide a number of guidelines and safety practices which have been adopted by the club. One of these relates to the Storage of fire-arms and ammunition, which requires that these are kept in accordance with the Firearms Security Handbook.

Further to this on 8 August 2018, the club was the victim of a break in, where the steel shutters protecting the containers were mechanically ground through. Goods and machinery were stolen including crossbows, air rifles, air pistols, site maintenance equipment, eight televisions, batteries and transformers plus other ancillary items. The value of the stolen items totalled approximately £15,000. It cannot be denied that the area is subject to potential countryside crime and the area is at risk. The storage containers and other temporary buildings are not ideal for storage of clays and fire-arms. In order to address the requirements of the firearms licensing authority and in

accordance with police advice secure storage for firearms and ammunition is needed. Storage for targets and traps which cannot be kept outside would also be provided.

The site is a high security area. Car park lighting is only used when the car park is in use. The lighting around the building could act as a deterrent, along with the security cameras preventing any break-ins or attempted robberies. The high level of security is a requirement of the firearms licensing authority and police.

This consideration carries moderate weight as security risk is an issue, however an assessment of other security improvements has not been provided, neither has an assessment of other more secure buildings in the vicinity of the site which could be used.

#### **iv) Accessibility**

The demand for the leisure pursuit of clay shooting has given rise to the need for facilities and the site works closely with the governing bodies of clay shooting in the UK (CPSA and The Disabled Shooting Group) for which the improved facilities are essential to meet DDA regulations. Therefore, the space required within the extension and exterior footways will help to meet DDA regulations. Evidence has been provided which indicates that the club is one of the few fully wheelchair and disabled accessible shooting grounds with low level shooting traps accommodating shooting from wheelchairs with suitably surfaced and accessible walkways to and between the stands. The current clubhouse does not offer adequate or sufficient facilities to accommodate this important user group. The current facilities only offers one disabled toilet which incorporates our baby changing facilities. This area is cramped and extremely difficult to access easily.

This consideration carries limited weight as there are only minor improvements in the overall building in respect of accessibility for all. External routeways are not covered by this application.

#### **v) Other considerations**

The NPPF, Part 6, seeks to promote a strong rural economy by supporting economic growth. Paragraph 84 states that to promote a strong rural economy, plans should support the sustainable growth and expansion of all types of business and promote the development and diversification of agricultural and other land-based rural businesses. Policy LP13 is consistent with the NPPF which states that the Council will give full consideration to proposals to diversify the economic base of farming and the rural economy. The use of the site does allow for employment opportunities and so has an economic advantage for the rural economy.

The NPPF, Part 8, seeks to promote healthy communities. Paragraph 93 requires access to open spaces and opportunities for sport and recreation can make a contribution to the health and well-being of communities. Though the use is not a conventional sport, it does promote access to recreation and the outdoors and therefore complies with the notion of promoting healthy communities.

Policy LP35 of the Local Plan requires that scheme provide energy efficient. although the scheme would include internal and external refurbishment of the existing lodge, which could result in greater energy efficiency. The plans indicates the provision of solar panels to the roof and electric charging points can be provided in the car parking area. A condition can be placed on the approval requiring consideration of climate change mitigation including sustainable urban drainage improvements.

#### **e) The Applicant's Side of the Balance**

This report concludes that moderate weight should be given to the applicant's considerations based on security provision and limited weight to the need and space accessibility. Economic and recreational provision and energy efficiency also have limited weight in the overall balance.

#### **The Green Belt Balance**

Members are therefore now asked to assess the final balance. The "test" for that assessment is that the considerations put forward by the applicant should "clearly" outweigh the cumulative level of harm caused if the development is to be supported.

The harm side of the balance has been set out in section (a, b and c) above with the other side of the balance set out in section (d and e above).

As the scheme would not preserve the Green Belt's openness, by virtue of its visual, spatial, associated activity and permanence it would be inappropriate development. That, by definition, is harmful to the Green Belt and is a matter which is given substantial weight. The proposal also leads to limited harm in respect of highway safety.

In its favour, the scheme would provide secure storage and enhanced indoor facilities for outdoor sport/recreation, and the Club clearly contributes to the local rural economy. Those are matters which find support from the development plan and the Framework. The combined weight of the other considerations in this case constitute only a moderate and limited benefit in the scheme's favour. Overall, it is not considered that they therefore clearly outweigh the substantial harm by reason of inappropriateness. In conclusion the greater public benefit lies in the protection of the Green Belt.

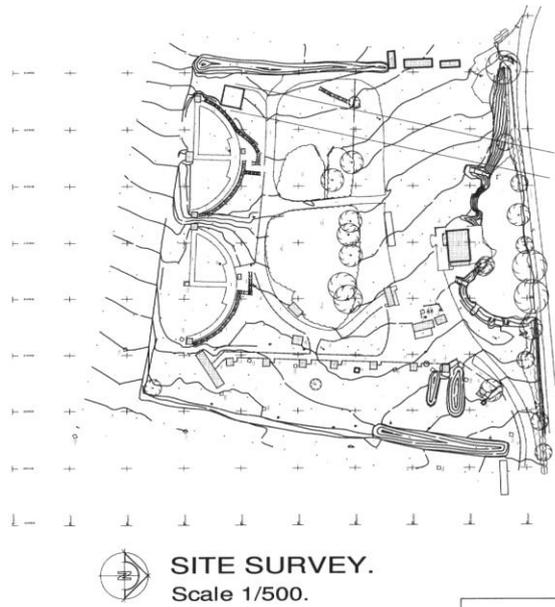
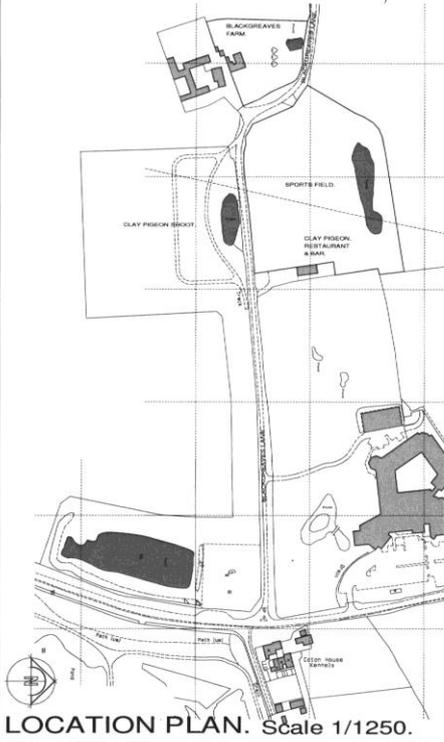
The very special circumstances necessary to justify the proposal do not therefore exist. Whilst the scheme finds support from some national and development plan policies, it would conflict with the development plan and the Framework when considered as a whole.

## **RECOMMENDATION**

That planning permission be REFUSED on the following grounds:

The application site is located within the Green Belt and the extension to existing shooting club and its associated development are considered to represent an inappropriate form of development. This is therefore harmful to the Green Belt by definition. It also causes significant harm to the Green Belt because of its impact on the openness of the Green Belt. It is considered that the applicant's planning considerations do not amount to very special circumstances needed to clearly outweigh the harm caused, because it has not been shown that the size of the extension is the minimum required for the safe and efficient operation of the use on the site. Additionally, safe and secure vehicular access from the site has not been demonstrated. The proposal is thus not in accord with Policies LP1, LP3, LP13, LP29 and LP30 of the North Warwickshire Local Plan 2021 nor Section 13 of the National Planning Policy Framework.

LEA MARSTON SHOOTING CLUB, BLACKGREAVES FARM, BLACKGREAVES LANE, LEA MARSTON.



SITE SURVEY.  
Scale 1/500.

RECEIVED  
31/07/2019  
PLANNING & DEVELOPMENT  
DIVISION

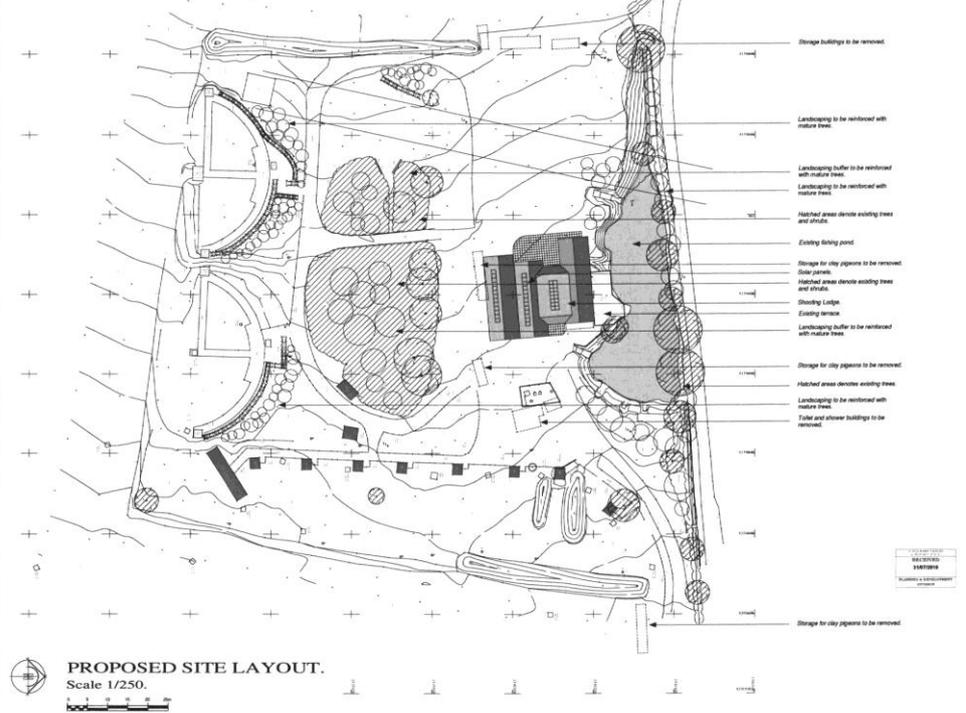
**BAILEY DESIGN LIMITED**  
ARCHITECTURAL, PLANNING & DEVELOPMENT CONSULTANTS  
10, WITCHFIELD COURT UPPER GROVES PARKWAY  
WITCHAMPTON, SOUTHAMPSHAM, RG40 3JH  
Tel: 01493 764444

LEA MARSTON SHOOTING CLUB  
BLACKGREAVES FARM, BLACKGREAVES LANE,  
LEA MARSTON, SOUTHAMPSHAM, RG40 3JH

SITE SURVEY & LOCATION PLAN

SCALE	DATE	ISSUE NO.	NO.
1/500	April 19	1	9493.10

LEA MARSTON SHOOTING CLUB, BLACKGREAVES FARM,  
BLACKGREAVES LANE, LEA MARSTON.



PROPOSED SITE LAYOUT.  
Scale 1/250.

- Storage buildings to be removed
- Landscaping to be retained with mature trees
- Landscaping buffer to be retained with mature trees
- Landscaping to be retained with mature trees
- Highland areas denote existing trees and shrubs
- Existing fishing pond
- Storage for clay pigeons to be removed
- Solar panels
- Hatched areas denote existing trees and shrubs
- Shooting Lodge
- Existing tennis
- Landscaping buffer to be retained with mature trees
- Storage for clay pigeons to be removed
- Hatched areas denote existing trees
- Landscaping to be retained with mature trees
- Taller and narrower buildings to be removed
- Storage for clay pigeons to be removed

The client shall be responsible for obtaining all necessary planning and building regulations consent for the proposed development. The client shall be responsible for obtaining all necessary consent for the proposed development. The client shall be responsible for obtaining all necessary consent for the proposed development.

Existing Trees

Proposed Trees

NO.	DESCRIPTION	DATE
1	PROPOSED SITE LAYOUT	2019/04/19

**BAILEY DESIGN LIMITED**  
ARCHITECTURAL, PLANNING & DEVELOPMENT CONSULTANTS  
10, WITCHFIELD COURT UPPER GROVES PARKWAY  
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LEA MARSTON SHOOTING CLUB  
BLACKGREAVES FARM, BLACKGREAVES LANE,  
LEA MARSTON, SOUTHAMPSHAM, RG40 3JH

PROPOSED SITE LAYOUT

SCALE	DATE	ISSUE NO.	NO.
1/250	April 19	1	9493.11





## Appeal Decision

Site visit made on 4 December 2017

by **Chris Couper BA (Hons) DipTP MRTPI**

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

Decision date: 28<sup>th</sup> December 2017

**Appeal Ref: APP/R3705/W/17/3183562**

**Blackgreaves Farm, Blackgreaves Lane, Lea Marston B76 0DA**

- 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 Guy Breeden (Lea Marston Shooting Club Limited) against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2016/0278, dated 12 May 2016, was refused by notice dated 7 March 2017.
- The development proposed is a single storey extension to the shooting lodge.

### Decision

1. The appeal is dismissed.

### Procedural matter

2. The description of the proposal on the application form includes a single storey storage building. However, by reference to parts E and H of the appeal form, that was removed from the scheme, and the description was amended accordingly. I have therefore determined the appeal on the basis of the amended description and drawing numbers 9118.20 Rev B and 9118.21 Rev B which show no separate storage building.

### Main Issues

3. The main issues are:
  - Whether or not the proposal would be inappropriate development in the Green Belt, having regard to its effect on openness and the purposes of the Green Belt, and with regard to the National Planning Policy Framework and any relevant development plan policies; and
  - If the proposal is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, such as to amount to the very special circumstances necessary to justify the development.

### Reasons

*Whether or not inappropriate development in the Green Belt*

4. The site lies within the Green Belt, where the National Planning Policy Framework ('Framework') states that inappropriate development is, by definition, harmful, and should not be approved except in very special circumstances. Whilst it regards the construction of new buildings as

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

inappropriate, at paragraph 89 it cites various exceptions to that approach. Those include, at the second bullet point, the provision of appropriate facilities for outdoor sport and recreation as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it; or, at the third bullet point, the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. North Warwickshire Local Plan Core Strategy 2014 Policy NW3 refers to national Green Belt policy and the need to protect openness.

5. The use of the site for clay pigeon shooting and fishing is established, with the shooting lodge having been approved in 2012. Beyond the car park there are a number of stands from where outdoor shooting takes place. This is clearly an outdoor sport or recreational activity. Consequently, whilst the Council's reason for refusal states that the scheme would be a disproportionate addition to the building, in my view, and in accordance with its officer report, the scheme should be assessed against Framework paragraph 89's second bullet point.
6. At paragraph 8.10.4 of its appeal statement, the Club has provided a list of the minimum desired floorspace sizes for indoor storage, and other facilities to meet current needs. However, that list bears little resemblance to the facilities or floor areas on the proposed drawings. Moreover, there is little explanation as to how those desired minimum sizes or the depicted floor areas on the plans were derived. From the limited and somewhat contradictory evidence before me, I cannot therefore be certain whether the amount of the proposed storage, induction, training and office space on the drawings constitutes appropriate facilities for this outdoor sport or recreational activity.
7. Turning to the Green Belt's openness, the existing lodge is set back from, and elevated above, Blackgreaves Lane. As a result of this scheme it would be extended to the west by continuing the ridgeline of the existing building and adding a projecting gable on the end to create a roughly 'T' shaped plan form. That would at least double the overall length of the building.
8. There is a pond and a narrow belt of largely deciduous trees between the lane and the lodge. However, the proposed extension would be clearly visible from the lane, particularly in the winter months. Moreover, it would greatly extend the lodge's length and footprint and, with its front and rear gables, its built form. Notwithstanding any additional landscaping, the proposed extension's scale, bulk and footprint would not preserve the Green Belt's openness.
9. As part of the scheme Lea Marston Shooting Club ('Club') states on the one hand that existing storage containers on the site would be removed, although paragraph 8.10.1 of its appeal statement indicates that the number of storage units would be reduced. At paragraph 8.10.3 the area of outdoor storage and containers is calculated at 2,602sqm, with a volume of 5,984.6 cubic metres.
10. The containers are not depicted on the drawings. I observed that there is a small group just south of the access, and further containers south-east of the lodge. Without plans I cannot be certain which of the containers are proposed for removal; and a condition requiring their removal would not meet the tests of precision and enforceability. Moreover, according to the Council, it was a requirement of a previous planning permission that they be removed, and at section 7.0 of its statement it considers them to be unlawful. I have no

substantive evidence to counter that view. For all those reasons, I give very little weight to any mitigation arising from their removal.

11. In any event, the Club's outdoor storage and containers volume and area calculations greatly exceed the combined size of the containers that I observed, some of which are identified in photographs at Appendix B of the Council's officer reports. On the basis of the available evidence and that of my visit, the containers have a more limited height and bulk than the proposed extension. Consequently, even if they are lawful, their removal would not mitigate the harm that I have identified to the Green Belt's openness.
12. Whilst development in the wider area includes existing and proposed transport routes, sites of minerals extraction, a large hotel and golf course, and pylons, those features do not alter my conclusions regarding this proposal's impact on openness.
13. The site's use for clay pigeon shooting is established, and the extension would be at the edge of a car park. However, the site is located in the countryside, and the proposal would increase the amount of built development on it, in a fairly prominent location close to Blackgreaves Lane. Consequently, there would also be a limited conflict with one of the purposes of the Green Belt, which is safeguarding the countryside from encroachment.
14. Summing up on this issue, it is unclear from the evidence before me whether the amount of development proposed is appropriate for this outdoor sport or recreational use. However, as the scheme would not preserve the openness of the Green Belt, and would conflict with one of its purposes, it would be inappropriate development. It would therefore conflict with the Framework, and with Core Strategy Policy NW3. As required by the Framework, I give that harm substantial weight.

*Other considerations*

15. The Club has grown over the years, and whilst it originally had 700 members, that number has increased to over 1,400, with an estimated 18,000 visitors in 2017 predicted to nearly double by 2022. Given safety and amenity considerations, I agree that this controlled sport, which is established on this site, could not be carried out in an urban area. The provision of sport/recreational facilities within the Green Belt finds support in the development plan and the Framework, including at paragraph 81. As well as providing recreational and social benefits for its members, the Club's activities also contribute to the local economy. Those are limited benefits in the scheme's favour.
16. The principal parties state that this is a high security area. Instead of the current containers, in order to address the requirements of the firearms licensing authority and in accordance with police advice, I understand that secure storage for firearms and ammunition is needed. Storage for targets and traps which cannot be kept outside would also be provided. However, in the absence of detailed evidence of the licensing or other requirements, and the deficiencies of the current storage arrangements, that is only a limited benefit.
17. If it were to be secured as part of this scheme, there would be some benefit to the area's appearance as result of the removal of the storage containers. However, as the listed Blackgreaves Farm is about 100 metres away, having

regard to the distance involved and the low profile of the storage containers, I am not persuaded that the setting of that designated heritage asset would be enhanced by their removal.

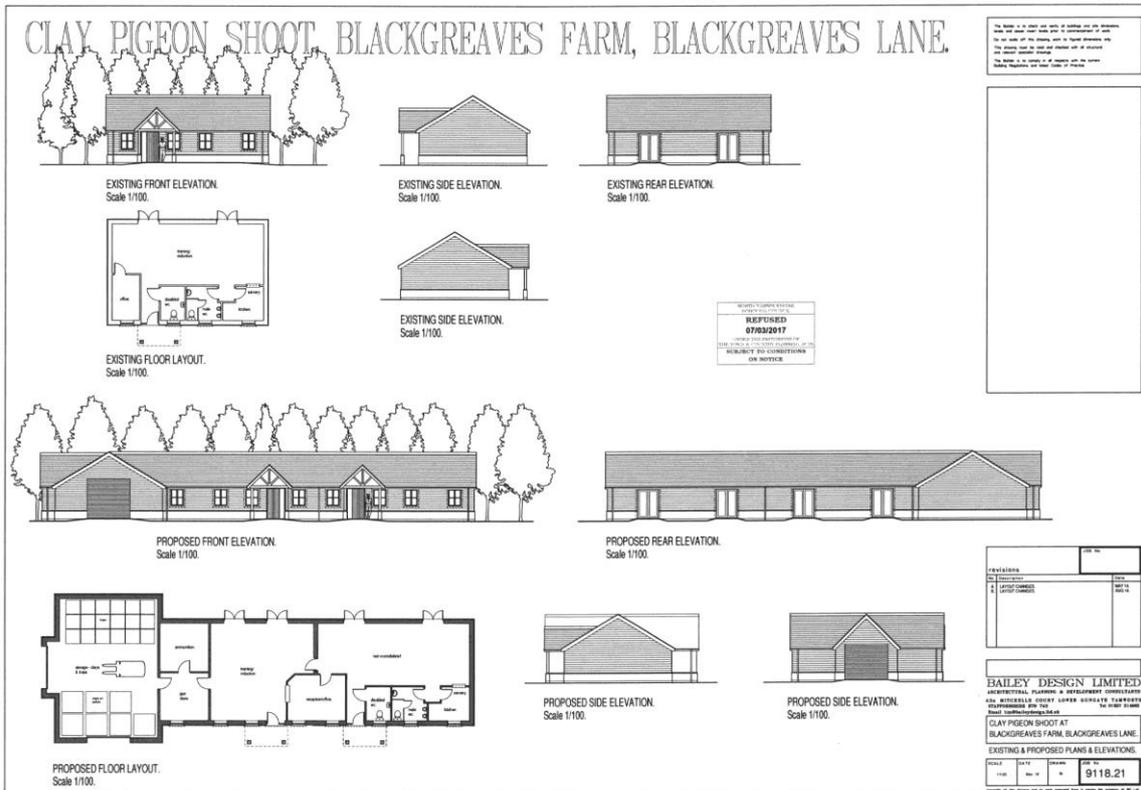
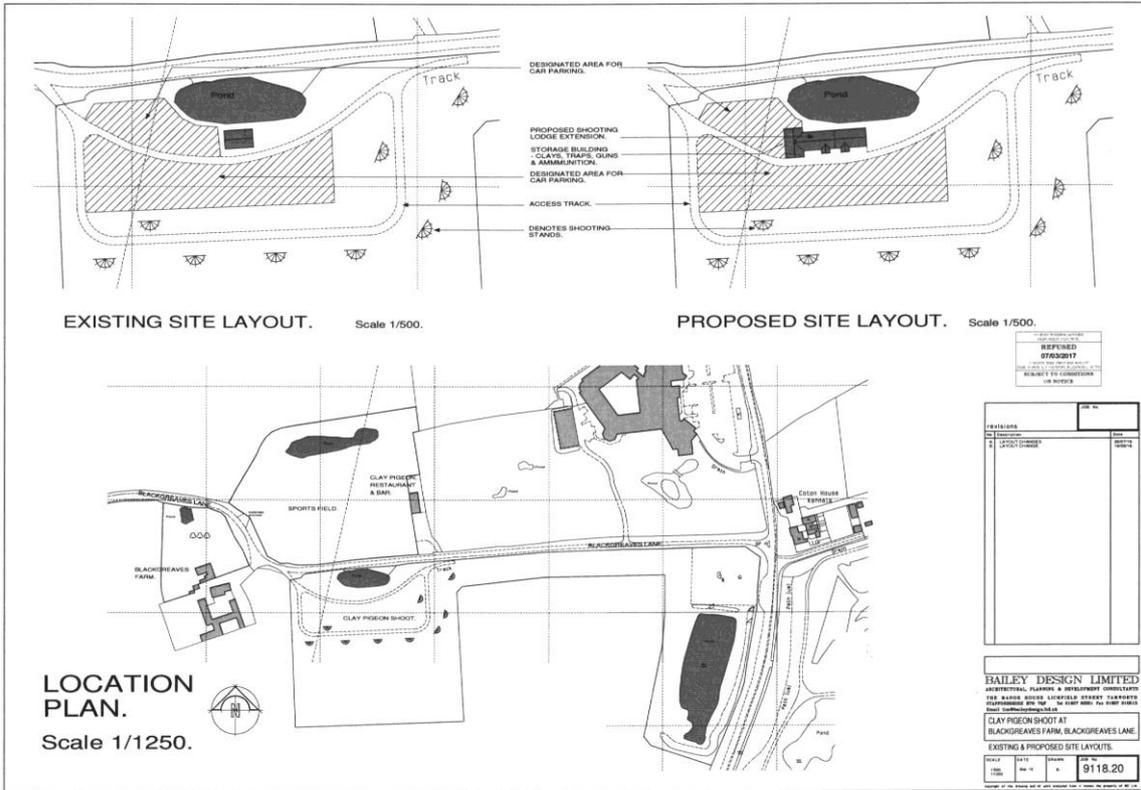
18. Whilst the officer report refers to benefits accruing from 'bringing the site under planning control', it also states that the current use is lawful. Conditions should only be imposed which are directly related to the development, fairly and reasonably related in scale and kind to it, and are necessary to make it acceptable. Consequently, although conditions could be imposed to address the impacts arising from this proposal, they should not be used to address any pre-existing issues. In any event, I am not satisfied that conditions to bring the use of the site under planning control as suggested by the Council justify allowing inappropriate development in the Green Belt.
19. Finally, although the scheme would include internal and external refurbishment of the existing lodge, which could result in greater energy efficiency, I have no evidence that the proposal is the only way in which that could be achieved, and I therefore give very little weight to that benefit.

#### **The Green Belt Balance and Conclusions**

20. As the scheme would not preserve the Green Belt's openness, and would cause limited harm to the purposes of the Green Belt, it would be inappropriate development. That, by definition, is harmful to the Green Belt, and is a matter to which I give substantial weight.
21. In its favour, the scheme would provide secure storage and enhanced indoor facilities for outdoor sport/recreation, and the Club clearly contributes to the local rural economy. Those are matters which find support from the development plan and the Framework. However, the submitted evidence does not provide detailed justification or adequate explanation for the amount of space that has been proposed, and I cannot be certain that the Club's needs could not be addressed by an alternative scheme with a more limited impact on the Green Belt's openness.
22. From the evidence before me, the combined weight of the other considerations in this case constitute only a limited benefit in the scheme's favour, and do not therefore clearly outweigh the substantial harm that I have found by reason of inappropriateness. The very special circumstances necessary to justify the proposal do not therefore exist. Whilst the scheme finds support from some national and development plan policies, it would conflict with the development plan and the Framework when considered as a whole. Consequently, although the scheme was recommended for approval by officers, having considered it on its merits, and with regard to all other matters raised, the appeal is dismissed.

*Chris Couper*

INSPECTOR



**Agenda Item No 6**

**Planning and Development Board**

**10 January 2022**

**Report of the  
Head of Development Control**

**Appeal Update**

**1 Summary**

1.1 This report brings Members up to date with recent appeal decisions.

<p><b>Recommendation to the Board</b></p> <p><b>That the report be noted.</b></p>
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**2 Appeal Decisions**

**a) Corley**

2.1 This was an appeal relating to gypsy and traveller accommodation and the site is in the Green Belt. The Inspector noted that there was little impact on the openness of the Green Belt or visual intrusion because of the existing range of buildings on the site which was formerly used for agricultural purposes. He disagreed with the Council concerning the suitability of the location of the site in respect of alternatives to the use of private vehicles. Whilst the Council was credited with having a programme for the assessment of new sites through the forthcoming DPD, he says that this “is in its infancy and not likely to bear fruit for at least two or three years” (paragraph 12). He usefully summarises his findings in paragraph 15, but the main issue that led to the grant of a personal permission in this case is the substantial weight given to the “best interests of the children” on the site (paragraph 16).

2.2 This decision will be taken into account in respect of the Council meeting its gypsy and traveller accommodation requirement set out in Policy LP5 of the Local Plan.

... 2.3 The decision letter is at Appendix A.

## **b) Cliff, Kingsbury**

- 2.4 This is another gypsy and traveller appeal decision on a site within the Green Belt. In this case though the appeal was dismissed. The key difference with the previous case is that there was a significant impact on the openness of the Green Belt here, unlike at Corley where the site was a former agricultural/equestrian yard with existing buildings. This harm was far more significant in this case and thus the personal circumstances and best interests of the children had to carry more weight. The Inspector found that they did not.
- 2.5 The Inspector also pointed out that there was no timetable for the publication of the DPD and thus there was no weight attached to it. So even had he been minded to support the appeal on planning grounds, the lack of precision about the timing of the DPD would not have lessened the weight that he would have given to that support.
- 2.6 This site is the subject of a Court Order and the consequences of this dismissed appeal will now have to be considered by the Council. A further report will be prepared in due course.
- ... 2.7 The decision letter is at Appendix B.

## **3 Report Implications**

### **3.1 Environment, Sustainability and Health Implications**

- 3.1.1 Both of these decisions point to the need to adopt the Gypsy and Traveller DPD as quickly as possible such that the Council is in a strong position in respect of showing that there are alternative sites.

### **3.2 Links to Council's Priorities**

- 3.2.1 Whilst the sites here are in the Green Belt, the difference of the impacts on openness was clearly a strong factor in the different outcomes.

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

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

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>



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## Appeal Decision

Hearing Held on 30 November 2021

Site visit made on 30 November 2021

**by Philip Major BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 December 2021**

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**Appeal Ref: APP/R3705/W/20/3255527**

**Wishing Well Farm, Breach Oak Lane, Fillongley, Coventry CV7 8DE**

- 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 John Mason and Mr Michael Newbury against the decision of North Warwickshire Borough Council.
  - The application Ref: PAP/2019/0529, dated 14 September 2019, was refused by notice dated 3 March 2020.
  - The development proposed is the change of use of land from agriculture to use as a residential caravan site for 2 gypsy families, each with 2 caravans including no more than one static caravan/mobile home.
- 

### Preliminary Matters

1. I carried out an unaccompanied pre-hearing site visit of the wider locality on 29 November and an accompanied visit to the appeal site on the day of the hearing. There is no dispute that the Appellants fall within the definition of Gypsies as set out in Planning Policy for Traveller Sites (PPTS). Based on the information provided and the representations made at the hearing I have no reason to find otherwise. Since the planning application was determined the Council has adopted the North Warwickshire Local Plan (LP), and the Fillongley Neighbourhood Plan (NP) has been made. These documents form part of the development plan for the Borough.

### Decision

2. The appeal is allowed and planning permission is granted for the change of use of land from agriculture to use as a residential caravan site for 2 gypsy families, each with 2 caravans including no more than one static caravan/mobile home at Wishing Well Farm, Breach Oak Lane, Fillongley, Coventry CV7 8DE in accordance with the terms of the application, Ref:PAP/2019/0529, dated 14 September 2019, subject to the conditions set out in the schedule attached to this decision.

### Main Issues

3. At the hearing the Appellants accepted that the proposed development fell to be considered as inappropriate development in the Green Belt. Consequently the main issues in the appeal are:
  - (a) The impact of the proposed development on the openness of the Green Belt and the purposes of including land within the Green Belt;

- (b) Whether the site is located in an acceptable location in relation to services and transport;
- (c) Whether the harm by inappropriateness, and any other harm, is clearly outweighed by other considerations sufficient to amount to the very special circumstances necessary to justify the grant of planning permission (the planning balance).

## **Reasons**

### ***Openness and Purposes***

- 4. The appeal site is located in a rural area to the east of Fillongley and to the north of Corley and Corley Ash. Development in this rural area between villages and larger settlements is principally made up of scattered farms and sporadic dwelling houses either singly located or in small groups. The M6 bisects the area from east to west. The outer edges of the large urban area of Coventry are further to the south.
- 5. Within this overall context the introduction of the appeal development would have an impact on the openness of the Green Belt. However, the impact would be modest in scale, related mainly to 2 touring caravans and 2 static/mobile home structures. When seen alongside the existing large agricultural building and stables on the site they would be minor intrusions into openness. Activity associated with the use would be of a different character to that associated with a purely agricultural use but would be unlikely to be materially more intensive, if at all. The Council has fairly recognised these matters in its assessment of the proposals.
- 6. Similarly the Council has realistically assessed the extent to which the development would impact on the purposes of the Green Belt. I agree with the judgement that there would be no different impact on the 5 purposes of including land within the Green Belt given the existing lawful use fallback position. Taken overall the actual harm to openness and purposes of the Green Belt is minimal. There would be a visual implication of the proposed development, and the Council has rightly, in my judgement, assessed this as being limited. Indeed the site is remarkably well screened, and dominated by the existing buildings. Nonetheless, the fact that the development falls within the definition of being inappropriate development in the Green Belt (the definitional harm) attracts substantial weight, as set out in the National Planning Policy Framework (NPPF). There is clear conflict with Policy LP3 of the LP and the objectives of the NP. Other harms are minor and carry little weight against the proposal. As such I find no material conflict with landscape based Policy LP14 or the relevant criteria of general development Policy LP29.

### ***Location***

- 7. Fillongley and Corley have limited services, and it is likely that for many day to day needs the Appellant families would have to travel further afield. Given the location of the appeal site that is almost certain to involve the use of private motor vehicles. However, I accept that the NPPF recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In addition PPTS acknowledges that there will be instances where traveller sites are located in rural areas, albeit that it is anticipated that local planning authorities should very strictly limited new traveller sites in open countryside that is away from existing settlements.

8. In this case the site is a relatively modest distance from both Fillongley and Corley and in my judgement should not be seen to be away from existing settlements in PPTS terms. In other words the site is not remote from the settlements. In this I agree with the Inspector who determined the case at Corley Ash<sup>1</sup>. Travel to and from those settlements other than by private car is possible. Breach Oak Lane itself is narrow, as is Square Lane, which links with Tamworth Road to the south. These are not lanes which lend themselves to regular walking, especially in inclement weather or darkness, but because of the limited traffic flows on these lanes, and the presence of verges, they can be walked in reasonable safety during daylight hours. As such it is possible to access the bus stop on Tamworth Road for journeys further afield. In addition Tamworth Road/Coventry Road has a paved pedestrian footpath linking Fillongley with Corley. Pedestrian traffic between the appeal site and local villages, or access to the modest bus service, is therefore possible.
9. Even if the Appellants and their respective family members were to rely almost wholly on private vehicles, which I do not rule out, it is likely that many journeys would be of modest length. For example, the school attended by children is not far away. Although Policy LP10 does not directly apply to this site (it applies to sites outside the Green Belt only) it provides a useful guide to the criteria which are commonly used to assess traveller proposals. Despite emphasising its lack of applicability here the Council does accept that 4 of the 5 criteria are met. Given my findings above relating to walking to services or the bus stop it is my judgement that the site would be consistent with all 5 criteria. It is also my judgement that the proposal is acceptable when assessed against the spatial policies of the LP, notably Policies LP1 and relevant parts of LP29.

### ***Other Considerations***

10. PPTS is clear that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the Green Belt and any other harm so as to establish very special circumstances. Clearly that does not mean that there are no circumstances in which a Green Belt site can be permitted, but the bar has been raised to a considerable height.
11. In this case there are children of school age on the site. It is common ground that the best interests of the child are a primary consideration, and that no other consideration can be of greater weight. This is a substantial factor in favour of the proposal. I note here in passing that the Council had misunderstood the fact of the attendance of the children at a local school, which resulted from a typographical error in submitted documentation. That misunderstanding, to which no blame attaches, led to a judgement on weight applicable to the needs of the children with which I disagree. The needs of the children attract substantial weight.
12. There is no agreement on the actual level of unmet need in this locality and surrounding districts, and it is apparent that there has been significant in-migration which was not anticipate at the time of the preparation of the Gypsy and Traveller Accommodation Needs Assessment. I have no reason to doubt that the site where the Appellants formerly resided is no longer available to them because of this in-migration in large part. However, the Council does accept that there is a general need for sites, and to its credit has a programme

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<sup>1</sup> APP/R3705/W/18/3199149

in place to assess and address the need. But this is in its infancy and is not likely to bear fruit for at least 2 or 3 years.

13. In the meantime the Appellants have no alternative site or sites on which they could reside and made it clear at the hearing that their only recourse in the event of this appeal failing would be to revert to a roadside existence. I accept that this would have a negative impact on the schooling of their children, and potentially on access to healthcare. I therefore have no difficulty in accepting that there is a general need for sites, and that the Appellants have particular needs for accommodation. This is a significant factor in favour of the proposal.
14. I accept that the majority of the Borough is in the Green Belt, and that this limits the scope of search for appropriate sites. But this fact alone does not weigh in favour of the proposal.
15. In this case the planning balance is relatively straightforward. First there is substantial weight attributed to the harm to the Green Belt, by definition, and conflict with Policy LP3. Secondly there is minor harm resulting from the impact on openness and visual amenity. As I have explained above, I disagree with the Council that this is a locationally unacceptable site in transport terms. Thirdly there is also substantial weight which must be attributed to the needs of the Appellants' children. A return to a roadside existence would not be in their best interests. Fourthly, I also give significant weight to the fact that there is an acknowledged unmet need for traveller sites, and that there are no alternatives available to the Appellants. Any future policy for meeting need is some years away.
16. Taking these matters in the round, and bearing in mind that the needs of the children are a primary consideration, the balance in this case falls in favour of granting planning permission.
17. In reaching this judgement I have also given consideration to whether a time limited planning permission should be granted. However, because of the particular attributes of the appeal site, and the lack of physical harm to the locality, I have decided that it is suitable for a permanent site notwithstanding that it is definitionally inappropriate. However, because my overall conclusion depends in part on the needs of the children, I have also decided that it would be reasonable to restrict occupation to these particular families by the imposition of a suitable condition. I deal with other conditions below.

### **Other Matters**

18. Access to the site was previously approved for the benefit of agricultural vehicles. The access is wide and enjoys sufficient visibility to enable its safe use. I have noted the comments made in relation to water supply and sewage disposal but have no substantive evidence that there would be unacceptable impacts from this proposal.

### **Conditions**

19. A list of suggested conditions was prepared by the Council and is largely agreed by the Appellants. Where necessary I have changed wording for clarity and precision. Apart from specifying occupants of the site it is also necessary to limit occupation to those meeting the definition of gypsies and travellers. In order to protect the amenities of the area conditions are necessary to restrict commercial development on the land, and to require details of landscaping,

drainage, site layout and lighting. A condition requiring maintenance of landscaping is also reasonable. It is necessary to require the access to the site to be surfaced in a bound material in order to preserve highway safety, and to require gates to open inwards only. I do not consider that it is necessary to configure the access sight lines beyond what currently exist, but it is reasonable to require the sight lines to be kept clear in the interests of highway safety.

### **Overall Conclusion**

20. As I have set out in this decision it is my judgement that there are other considerations in this case which are sufficient to clearly outweigh the harm by inappropriateness, and other harm, such that very special circumstances have been demonstrated.

21. For the reasons given above I conclude that the appeal should be allowed.

*Philip Major*

INSPECTOR

### **CONDITIONS**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site location plan
  - Site layout plan

As stamped received by the local planning authority on 16 September 2019.

- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (2015) (or its equivalent in replacement national policy).
- 3) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants:  
Mr Michael and Sarah Newbury  
Mr John and Channel Mason
- 4) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 2 shall be static caravans) shall be stationed on the site at any time.
- 5) No commercial activities shall take place on the land, including the storage of materials, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

- 6) The use hereby permitted shall cease and all caravans, mobile homes, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
- i) Within 3 months of the date of this decision a scheme for the landscaping of the site; the disposal of foul and surface water drainage; the internal layout of the site, including the siting of caravans if different from the site layout plan; and any external lighting (herein after referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
  - ii) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained whilst the use remains.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) If within a period of 5 years from the implementation of the site development scheme, any trees or plants which formed part of the approved site development scheme die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.
- 8) The development shall not commence until the vehicular access to the site has been surfaced with a bound material, in accordance with details to be submitted to and approved in writing by the local planning authority, for a distance of 12 metres as measured from the near edge of the public highway carriageway. The vehicular access to the site shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto the public highway.
- 9) No gates shall be hung within the vehicular access to the site so as to open within 12.0 metres of the near edge of the public highway carriageway.
- 10) Existing visibility splays at the site entranced shall be retained as currently configured, and no structure, tree or shrub shall be erected, planted or retained within the existing visibility splays exceeding, or likely to exceed at maturity, a height of 0.9m above the level of the public highway carriageway.

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Philip Brown	Managing Director, Philip Brown Associates
Mr Michael Newbury	Appellant
Mr John Mason	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Ian Griffin	Planning Officer North Warwickshire Borough Council
Mr M Ditton	Policy Planning Officer North Warwickshire Borough Council

### INTERESTED PERSONS:

Local Residents	4 local residents attended and contributed at the hearing
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## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Appeal Decision APP/R3705/W/18/3199149 from Mr Brown
- 2 Extracts from Fillongley Neighbourhood Plan, from the Council



## Appeal Decision

Site Visit made on 13 October 2021

by **JP Sargent BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 13 December 2021**

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**Appeal Ref: APP/R3705/W/20/3260829**

**The Willows, Tamworth Road, Cliff, Kingsbury B78 2DS**

- 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 & Mrs J Doherty against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2020/0341, dated 1 July 2020, was refused by notice dated 6 October 2020.
  - The development proposed is Material change of use of land for stationing of caravans for residential use for Gypsy-Traveller family with associated development (relocated access, hard standing and package treatment plant).
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are
  - a) whether this is inappropriate development in the Green Belt,
  - b) what its effect would be on the landscape, and
  - c) if it would be inappropriate development, whether its harm by reason of inappropriateness and other harm is clearly outweighed by other considerations so as to amount to very special circumstances.

### Reasons

3. The *Planning Policy for Traveller Sites* (PPTS) states without qualification that '*traveller sites (temporary or permanent) in the Green Belt are inappropriate development*'.
4. Moreover, the *National Planning Policy Framework* (the Framework) says that keeping land permanently open is a fundamental aim of the Green Belt. It confirms that inappropriate development is, by definition, harmful. Criterion (e) of Framework paragraph 150 accepts that material changes in the use of land are not inappropriate, provided they preserve openness and do not conflict with the purposes of including land in the Green Belt. Under Policy LP3 in the *North Warwickshire Local Plan 2021* schemes will be considered in line with the Framework apart from where more specific, localised criteria are applicable, none of which have been identified as relevant in this instance.
5. It appears to be accepted that the appellants and their children accord with the definition of gypsies and travellers found in the PPTS. I understand they now

- live immediately adjacent to the appeal site, and it is their intention to move onto it if the appeal is successful.
6. The site is part of a field that lies in the countryside outside any settlement boundary. The surrounding area has a generally rural appearance comprising fields and woodlands with a scatter of farm properties and dwellings. This proposal would be introducing a caravan with associated hardstandings and paraphernalia onto this land, a little away from other built form, and the development would be visible not just from Tamworth Road but also from in the surrounding landscape. As a result, I share the view of the Inspector who dismissed an appeal on the site for a similar development in 2020 (the 2020 decision) and consider it would erode the sense of openness currently experienced in the locality. Moreover, the site would acquire a more developed character, and so the proposal would conflict with the purpose of safeguarding the countryside from encroachment (Framework paragraph 138).
  7. Local Plan Policy LP10, which concerns Gypsy and Traveller provision, states sites will be permissible outside of the Green Belt. It does not expressly say that such uses would not be permitted in the Green Belt. However, for the reasons given above concerning openness and encroachment, in my opinion the development would also not be assimilated into the surroundings and landscape without any significant adverse effect. Therefore, I consider it to be contrary to the final bullet point of the policy.
  8. In coming to these findings, I accept that planting is to be introduced to soften the impact of the development. I also recognise that the amount of built development on the site would be reduced when compared to that proposed under the 2020 decision, as a day room is no longer intended and the static caravan would not be raised up. However, these points would not be sufficient to overcome my view that there would be a harm to openness and a sense of encroachment.
  9. Accordingly, having regard to the PPTS and paragraph 150 in the Framework, I find this scheme would be inappropriate development in the Green Belt, failing to preserve openness and conflicting with one of the Green Belt's purposes.
  10. The Framework states that inappropriate development should not be approved except in very special circumstances. These circumstances will not exist unless the development's harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this regard I have had a number of different considerations put before me.
  11. Firstly, the appellants' personal circumstances were highlighted. I have noted their health issues as submitted, and appreciate an on-going need for regular medical care that is provided locally. Moreover, I accept that these issues would be more readily tackled if the appellants had a fixed address allowing the care to be delivered in a consistent manner. These health matters are therefore something to which I afford significant weight. I understand too that being here means the appellants can look after relatives nearby, but I have little information about the nature of this care or where they live, and so the weight it can be afforded is limited.
  12. Coupled with this is the second consideration of the effect of the COVID pandemic. I recognise that this must have significantly impacted on sectors of the Gypsy and Traveller community in a number of different ways, concerning

employment opportunities, limited social contacts, the ability to move to new sites and the effects of living in crowded touring caravans. On the evidence before me the proposal would not alter the first 2 of these. In theory moving to new sites occupied in part by others could still be affected because, although restrictions are now less than they were, social distancing is still an issue and so moving onto somewhere another family already lives could be mutually unacceptable. As a result, with alternative sites being harder to find, increased travel would occur, meaning living in touring caravans could be more likely.

13. However, little firm evidence has been put forward to show it has in reality been a difficulty in finding other sites due to the pandemic, and I would expect that maintaining general standards of amenity would ensure social distancing was achieved to a great extent on a shared site. Moreover, if more travel results, it is reasonable to assume those living together in this way would form a 'bubble' for the purposes of social distancing. The weight I afford this is therefore not significant. Furthermore, the pandemic will pass in time, and so whilst the limited weight from these points could be used in favour of a temporary permission, it adds little in support of a permanent permission on the site.
14. A third area is the appellant's view that there is a shortfall in Gypsy and Traveller provision in the Borough. Under the *Public Sector Equality Duty* I am to have due regard, amongst other things, to the need to take steps to meet the needs of persons who share a relevant protected characteristic that is different from the needs of persons who do not share it, and in relation to this I appreciate the appellants' cultural heritage. The most recent *Gypsy and Travellers Accommodation Assessment (GTAA)*, the *Report on the Examination of the North Warwickshire Local Plan* and the subsequently adopted version of the Local Plan all post-date the 2020 decision and so create a different planning context to that before the previous Inspector.
15. In the Local Plan there is a commitment to bringing forward a Gypsy & Traveller Development Plan Document (DPD) that will include allocations informed by the GTAA and any subsequent review. Notwithstanding the Council's contentions, it is therefore reasonable to assume that the need for gypsy and traveller sites in the Borough is not currently resolved. This scheme if granted permanently, would make a contribution to addressing such a need. However, no specific timetable for the DPD has been given, but rather it is to be forthcoming '*as soon as practicable*'. The vagueness of this timescale means I cannot assume it will be in the near future, and so I am unable to treat its production as justifying a temporary permission. Rather, if persuaded by the arguments of need, I would have to favour the grant of a permanent permission.
16. Related to this point I recognise too that a Court Order requires the appellants and their children to leave their existing adjacent site if I dismiss this appeal. With such a shortfall, they say they would have nowhere to go and would face a roadside existence, and I have no reason to question this.
17. However, the PPTS in Policy E says, in relation to traveller sites,  

*'subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.'*

This policy accepts that there could be some occasions where such harm was, in fact, outweighed by personal circumstances and unmet need. However, as it anticipates such occurrences would be 'unlikely', it is reasonable to assume they would be improbable and would not be expected. Given this, although I have had full regard to the appellants' submissions, I find that their personal circumstances, the unmet need and the prospect of a roadside existence (exacerbated by the pandemic), even if taken together, are not so sufficient as to constitute one of the 'unlikely' instances where an exception to the general thrust of this guidance is justified.

18. Outside of settlements much of the Borough is designated Green Belt, but that situation is found in many authorities. Consequently, it cannot be a basis to justify a gypsy and traveller site in the light of the PPTS policy quoted above.
19. I therefore turn to be best interests of the children. At the outset I have regarded no other consideration as more important or, in advance of the assessment of the circumstances of the case, I have given none greater weight. However, these best interests will not always outweigh other considerations including those that impact negatively on the environment. I have nonetheless kept the best interests of the children at the forefront of my mind in reaching my decision.
20. I have relatively little information concerning the appellants' children. However, it can be assumed they would benefit from the opportunity this proposal offers to provide a settled base for their health, educational and social needs. This is demonstrated by the way 2 are currently doing well in their schooling, progressing with their learning and making friends. I appreciate too that a settled base can assist in home-schooling, whether that be by having easier access to tutors or by allowing time to be spent on education rather than travelling. However, such benefits of a settled base could apply to most if not all Gypsy and Traveller children. On the evidence before me, and acknowledging the appellants' children also have certain specific health issues, I am not satisfied that their needs are adequate to justify remaining in this immediate area. Given this, even if taken with the other considerations above, the best interests of these children are not sufficient to clearly outweigh the harm to the Green Belt so as to establish very special circumstances. As such, a permanent permission is not justified.
21. I now turn to consider whether a temporary permission would be acceptable. However, as there is only a vague timeframe for the production of the DPD, I cannot be confident that circumstances around this site or gypsy and traveller provision in the Borough will change in the foreseeable future to justify a permission for a shorter period. I have accepted that the granting of a temporary permission until the passing of the pandemic has the potential to be beneficial for this family given the difficulties of accessing other sites. However, there is little evidence to support this difficulty. I have been told no other sites are available anyway but, even if there was, this need not be a problem that would prevent occupancy. Consequently, I can only afford this limited weight. I therefore find that, again when taken with the other considerations listed above, a temporary permission would not be justified.
22. I accept that dismissing this appeal would cause some interference with the appellants' rights and those of their children under Article 8 of the First Protocol to the *European Convention on Human Rights*, as incorporated by the *Human*

*Rights Act 1998*. This is because this site would not provide the home they would need having been required to vacate their existing settled base under the Court Order. However, such rights are qualified, and interference may be permissible when the rights of the individual are balanced against those of the community. In this instance such interference on the rights of the adults and the best interests of the children would be proportionate given the public aim of safeguarding the Green Belt.

### **Conclusion**

23. Accordingly, I conclude that this would be inappropriate development in the Green Belt that would harm openness, conflict with one of the purposes of the Green Belt, and would not be assimilated into the surroundings and landscape without any significant adverse effect. In the absence of any other considerations that clearly outweigh the harm by reason of inappropriateness, and any other harm, very special circumstances to approve this inappropriate development do not exist, and the proposal is contrary to Policies LP3 and LP10 in the Local Plan, the PPTS and the Framework. The appeal is therefore dismissed.

*JP Sargent*

INSPECTOR