

**To: The Deputy Leader and Members of the  
Planning and Development Board**

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

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

## **PLANNING AND DEVELOPMENT BOARD AGENDA**

**20 MAY 2019**

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Monday 20 May 2019 at 6.30 pm.

### **AGENDA**

- 1 **Evacuation Procedure.**
- 2 **Apologies for Absence / Members away on official Council business.**
- 3 **Disclosable Pecuniary and Non-Pecuniary Interests**
- 4 **Minutes of the meetings of the Board**  
held on 4 March 2019 and 8 April 2019, copies herewith, to be approved as a correct record and signed by the Chairman.

## **ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)**

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

**Summary**

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

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

**6 Appeal Update - Report of the Head of Development Control**

**Summary**

A recent appeal decision is reported to Members for information.

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

**7 Confirmation of a Tree Preservation Order - Report of the Head of Development Control**

**Summary**

The report seeks confirmation to make a Tree Preservation Order.

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

**8 Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April – December 2018**

**Summary**

The report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April 2018 to March 2019.

The Contact Officer for this report is Robert Beggs (719238).

STEVE MAXEY  
Acting Chief Executive

## NORTH WARWICKSHIRE BOROUGH COUNCIL

### MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

4 March 2019

Present: Councillor Simpson in the Chair.

Councillors Bell, Clews, L Dirveiks, Hanratty, Henney, D Humphreys, Jarvis, Lewis, Morson, Moss, Phillips, Smitten, Sweet, and A Wright

Apologies for absence were received from Councillors Hayfield (substitute Hanratty), Reilly (substitute Moss) and Symonds (substitute Clews).

The Chairman opened the meeting with a tribute to Councillor Sweet. This was Councillor Sweet's last Planning and Development Board after 58 years as a Councillor. The Planning and Development Board unanimously endorsed the Chairman's comments.

#### 73 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

#### 74 **Minutes**

The minutes of the meetings of the Board held on 10 December 2018, 14 January and 4 February 2019, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

#### 75 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board.

##### **Resolved:**

- a That in respect of Application No 2019/0008 (Junction 6 of the M42 Motorway) the Borough Council raises no objection to the proposed improvements to the M42 Motorway and additional carriageways but is concerned to better understand the potential impacts on Junctions 9 and 10 of the M42 Motorway and the road network within North Warwickshire;**

- b** That in respect of Application No 2018/0538 (1 Yew Tree Cottages, Coton Road, Whitacre Heath, B46 2HD)
- i)** planning permission be refused for the reasons set out in the report of the Head of Development Control; and
  - ii)** authority be granted to the Corporate Director – Environment to issue an Enforcement Notice requiring the cessation of the refrigeration and air conditioning business use of the site with a compliance period of 6 months, for the reasons set out in the report;

- c** That Application No 2018/0570 (57 The Green, Shustoke, B46 2AT) be approved subject to the conditions set out in the report of the Head of Development Control;

**Speaker: Justine Brennan**

- d** That Application No 2018/0678 (15/17 New Street, Birchmoor, B78 1F) be granted outline planning permission subject to the conditions set out in the report of the Head of Development Control;

**Speakers: Jonathon Jenkin, Amanda Botham and Richard Heathcock**

- e** That Applications No 2018/0744 (Land South East of M42 Juntion 10, Trinity Road, Dordon) be deferred for a site visit;

**Speaker: Robert Barnes**

- f** That Application No 2018/0053 (83, 85, 97 and 89, Castle Road, Hartshill, CV10 0SG) be approved subject to the conditions set out in the report of the Head of Development Control;

- g** That in respect of Application No 2019/0066 (Land to north of, Overwoods Road, Hockley, B77 5NQ):

**i)** the draft Deed of Variation be agreed on the terms outlined in the report of the Head of Development

**Control and the Solicitor to the Council be authorised to complete the process; and**

**ii) further information be presented to the Board on the plan to use the off-site affordable housing contribution**

**76 Appeal Update**

The Head of Development Control brought Members up to date with recent appeal decisions.

**Resolved:**

**That the report be noted.**

**77 Confirmation of Tree Preservation Order – Baddesley Ensor**

The Board was invited to confirm action taken in the making of an Emergency Tree Preservation Order.

**Resolved:**

**That the making of an Emergency Tree Preservation Order, as detailed in the report of the Head of Development Control, be confirmed.**

**78 Neighbouring Local Plan Consultation – Solihull and Lichfield**

The Corporate Director – Environment reported that Solihull MBC and Lichfield DC had published, for consultation, Local Plan documents as part of the review of their Local Plan.

**Resolved:**

- a That the report of the Corporate Director – Environment be supported; and**
- b That the need for these Councils to make an increased contribution towards the shortfall in the Greater Birmingham Housing Area be emphasised, in particular with reference to the Inspector’s initial findings with regard to this Council’s draft Local Plan, and that in the case of Solihull the issue should be dealt with at this stage rather than at the pre-submission draft.**

**79 Corporate Plan Targets 2018/19**

The Head of Development Control detailed the actions taken on a number of targets as set out in the 2018/19 Corporate Plan.

**Resolved:**

**That the report be noted.**

80 **Building Control Partnership**

The Head of Development Control outline the progress made on moving towards the new Building Control Partnership.

**Recommended:**

**That the measures outlined in the report of the Head of Development Control be agreed and the appropriate changes be made to the Constitution by the Solicitor to the Council.**

M Simpson  
CHAIRMAN

## NORTH WARWICKSHIRE BOROUGH COUNCIL

### MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

8 April 2019

Present: Councillor Simpson in the Chair.

Councillors Bell, Clews, L Dirveiks, N Dirveiks, Hayfield, D Humphreys, Jarvis, Lewis, Morson, Phillips, Reilly, Smitten, and A Wright

Apologies for absence were received from Councillor Sweet (substitute Councillor N Dirveiks) and Councillor Symonds (substitute Councillor Clews).

Before the commencement of the meeting, the Chairman thanked retiring Councillors for their contribution to the Board over the last four years.

#### 81 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared

#### 82 **Planning Applications**

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

##### **Resolved:**

- a **That Application No 2017/0278 (Land at, Nuneaton Road, Mancetter) be refused for the reasons set out in the report of the Head of Development Control, together with the following additional reason:**

**“Warwickshire County Council, acting as the Lead Local Flood Authority has objected to the proposal on the grounds that the proposed surface water drainage proposals have not been shown to be sustainable and thus the proposal is not in accord with Policy NW 10 of the Core Strategy 2014 and Section 14 of the NPPF”**

**Speakers: Josh Ambrus, Paul Kelly and Deborah Dempsey**

- b** That Application No 2018/0140 (Land East of Castle Road & North of Camp Hill Road, Hartshill & Nuneaton) be deferred for further information to be provided in respect of the impact of the re-opening of the quarry on the development particularly in regard to air quality and whether there should be further mitigation measures in the proposed development as well as seeking confirmation on matters raised by the Hartshill Neighbourhood Plan.

and that after the election a Working Group of Members be established consisting of the Chairman, Opposition Spokesperson and Local Members

**Speakers: Neil Beards, Kate Szafranski, Michelle Pearson and Kashan Aslan**

- c** That Application No 2018/0687 and 2018/0689 (Land South Of Warton Recreation Ground, Orton Road, Warton) be determined as follows:

- i)** In respect of application PAP/2018/0689 that planning permission be granted so as to substitute plan number S0000/300/05B in condition 4;
- ii)** In respect of application PAP/2018/0687 that plan number S0000/100/01L and the house elevations, floor plans and soft landscaping proposals received on 19<sup>th</sup> November 2018 be approved in discharge of condition 1 of planning permission PAP/2018/0689;
- iii)** That Bellway Homes be asked to favourably consider Mr Clinton's request regarding the access at the rear of his property; and
- iv)** That Officers of this Council again approach the Warwickshire County Council with regard to moving the speed limit in this location

**Speakers: Kathy Else and Lee Clinton**

- d** That Application No 2018/0744 (Land South East Of M42 Junction 10, Trinity Road, Dordon) be approved subject to the conditions set out in the report of the Head of Development Control;

**Speaker: Robert Barnes**

- e That Application No 2019/0141 (St Marys Church, Friars Gate, Atherstone) be granted;
- f That Application No 2019/0153 (Land Rear of 1 to 6, St Benedicts Close, Atherstone) be approved subject to the Council's Green Space Officer (Trees) securing the planting of an appropriate replacement tree within 12 months; and
- g That Application No 2019/0154 (St Mary and All Saints Church, Coventry Road, Fillongley) be approved subject to the Council's Green Space Officer (Trees) securing the planting of an appropriate replacement tree within 12 months.

**83 Appeal Update**

The Head of Development Control reported on the receipt of two recent appeal decisions

**Resolved:**

**That the report be noted.**

**84 Consultations**

The Head of Development Control reported on a number of consultations

**Resolved:**

- a That in the Coventry case, the action taken be confirmed; and
- b That in the Birmingham case, the holding objection be removed subject to both Warwickshire County Council and Highways England confirming that they have no objections, but that the issue of lorry parking and the White Horse junction continue be raised with the applicant and Birmingham City Council.

**That the report be noted.**

**85 Submission of the Fillongley Neighbourhood Plan**

The Corporate Director – Environment reported on progress with the Fillongley Neighbourhood Plan.

**Resolved:**

**That the Fillongley Neighbourhood Plan be taken forward to referendum when the recommended changes detailed in the report have been made.**

**Prior to the commencement of confidential business the Chairman thanked the Head of Development Control and Officers for their contribution to the work of the Planning and Development Board.**

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

**87 Staffing Matters**

The Corporate Director – Environment on various staffing matters relating to the Planning Division.

**Resolved:**

**That the report be supported.**

**Councillor Simpson  
Chairman**

**Planning and Development Board  
8 April 2019  
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
4/5	PAP/2017/0278	Applicant	E-mail	5/4/19
		Applicant	E-mail	4/4/19
		WCC Flooding	Consultation	8/4/19
4/33	PAP/2018/0140	Resident	Objection	1/4/19
		Resident	Objection	1/4/19
		Resident	Objection	1/4/19
		Resident	Objection	1/4/19
		Resident	Objection	2/4/19
		Consultant	Objection	5/4/19
		Resident	Representation	8/4/19
4/66	PAP/2018/0687	Resident	Objection	26/3/19
		Resident	Objection	26/3/19
		Resident	Objection	29/3/19
		Applicant	E-mail	25/3/19
		WCC Highways	Consultation	5/4/19
4/75	PAP/2018/0744	Applicant	E-mail	29/3/19
		Applicant	E-mail	1/4/19

## **Agenda Item No 5**

### **Planning and Development Board**

**20 May 2019**

### **Planning Applications**

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

#### **1 Subject**

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

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

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

#### **3 Implications**

- 3.1 Should there be any implications in respect of:

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

#### **4 Site Visits**

- 4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.
- 4.2 Members are reminded of the "Planning Protocol for Members and Officers dealing with Planning Matters", in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

## 5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: [www.northwarks.gov.uk](http://www.northwarks.gov.uk).
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 10 June 2019 at 6.30pm in the Council Chamber at the Council House.

## 6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at:  
[https://www.northwarks.gov.uk/info/20117/meetings\\_and\\_minutes/1275/speaking\\_and\\_questions\\_at\\_meetings/3](https://www.northwarks.gov.uk/info/20117/meetings_and_minutes/1275/speaking_and_questions_at_meetings/3).

## Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
1	CON/2019/0014	5	<b>Countrywide Store, Watling Street, Caldecote, Nuneaton,</b> Demolition of existing building and erection of replacement	General
2	PAP/2016/0738 and PAP/2015/0692	8	<b>Land rear of Ansley United Reform Church, Birmingham Road, Ansley,</b>  Variation of a Section 106 Agreement	General
3	PAP/2018/0716	10	<b>Land Rear Of 1 To 6, Copeland Close, Warton,</b> Erection of 2 no: detached dwellings and 2 no: detached garages and associated works (regularisation of unauthorised increased finished floor levels by 650mm and variation in ground levels, contrary to reserved matters approval PAP/2017/0237)	General
4	PAP/2018/0765	22	<b>Land South of 5 To 9, Windmill Lane, Austrey,</b> Outline application for development of 7 no: dwellings (use class C3) with all matters reserved	General
5	PAP/2019/0078  PAP/2019/0079  PAP/2019/0080	36	<b>Land to the North of, Nuthurst Crescent, Ansley,</b> Approval of reserved matters for erection of 72 dwellings with details of layout,  Approval of reserved matters for 70 dwellings  Variation of condition 5 of APP/R3705/W/17/3189584	General
6	PAP/2019/0139	43	<b>Abbey Field, Castle Road, Hartshill, Nuneaton,</b> Two storey side extension and single storey rear extension	General
7	PAP/2019/0179	49	<b>82 The Homestead, Main Road, Austrey,</b> Erection of boundary fence	General

8	PAP/2019/0180  and  PAP/2019/0183	56	<b>Britannia Works, Coleshill Road, Atherstone,</b>  Planning and Listed Building applications -Erection of 70 apartments (use class C3) with extra care provision	General
9	PAP/2019/0224	65	<b>167, Long Street, Atherstone,</b> Works to trees in Conservation Area	General
10	PAP/2019/0225	72	<b>Cole End Park, Lichfield Road, Coleshill,</b> Works to trees in Conservation Area	General

## **General Development Applications**

**(1) Application No: CON/2019/0014**

**Demolition of existing building and erection of replacement.**

**Countrywide Store, Watling Street, Caldecote, Nuneaton,**

**for Hinckley and Bosworth Borough Council**

### **Introduction**

The Hinckley and Bosworth Borough Council has consulted this Council in respect of the above application as part of its determination.

### **The Site**

This is the now vacant premises at the junction of the A5 Watling Street and the A444 at Caldecote opposite the Redgate public house. The site was a retail and storage outlet comprising a single building, an outside storage area and associated car park.

### **The Proposals**

This is to redevelop the site within its established lawful use with a replacement building. This would be on the same footprint as the current building at the rear of the site. The building would essentially look the same as the existing using similar materials. The current footprint is some 715 square metres and the proposed would be slightly larger at 720 square metres. The height would be 8 metres to its ridge as opposed to 6 at present.

The proposed layout is at Appendix A and the elevations are at Appendix B.

### **Observations**

As this is more or less a straight forward replacement building within the same lawful use as the existing and using the same access arrangements, there is no objection as there would be limited if any impact on North Warwickshire.

### **Recommendation**

That the Council raises no objection

## BACKGROUND PAPERS

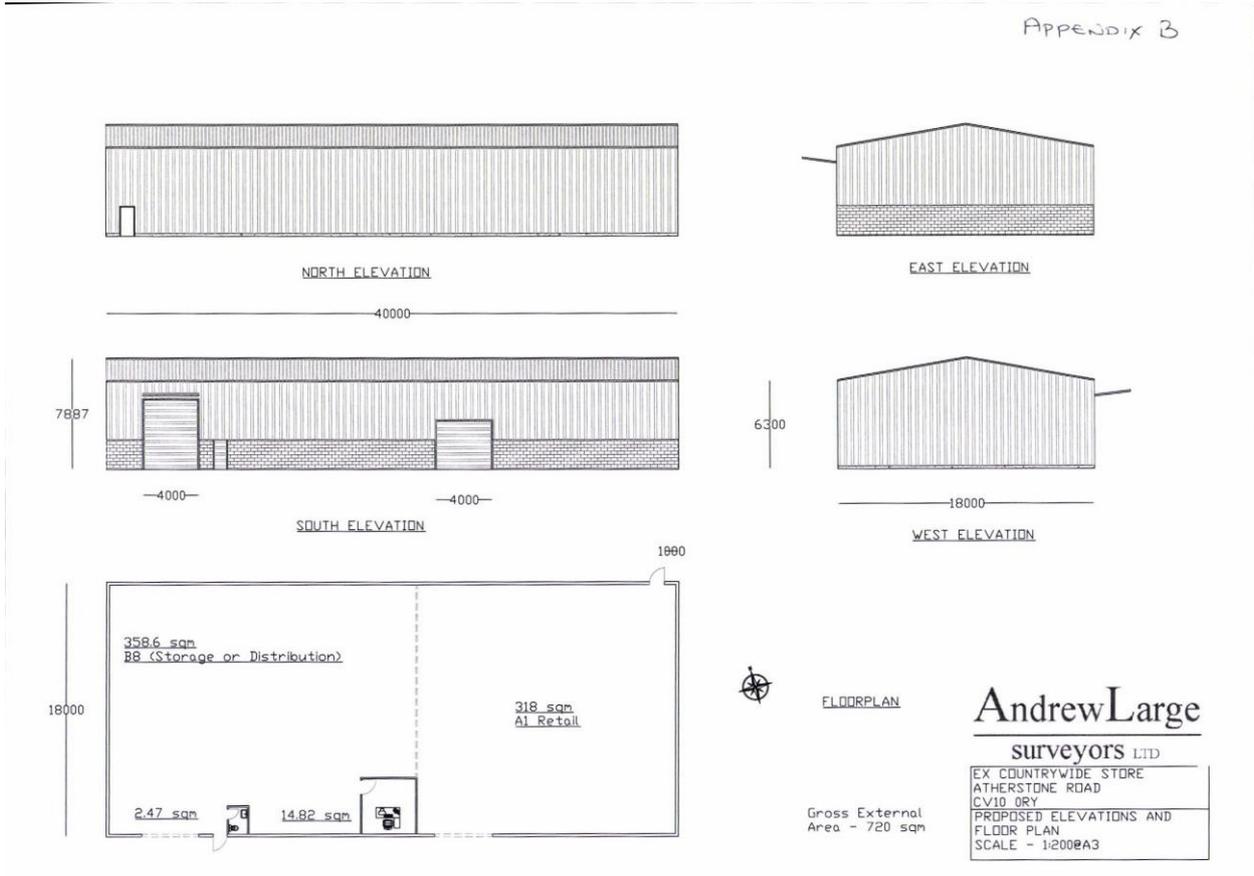
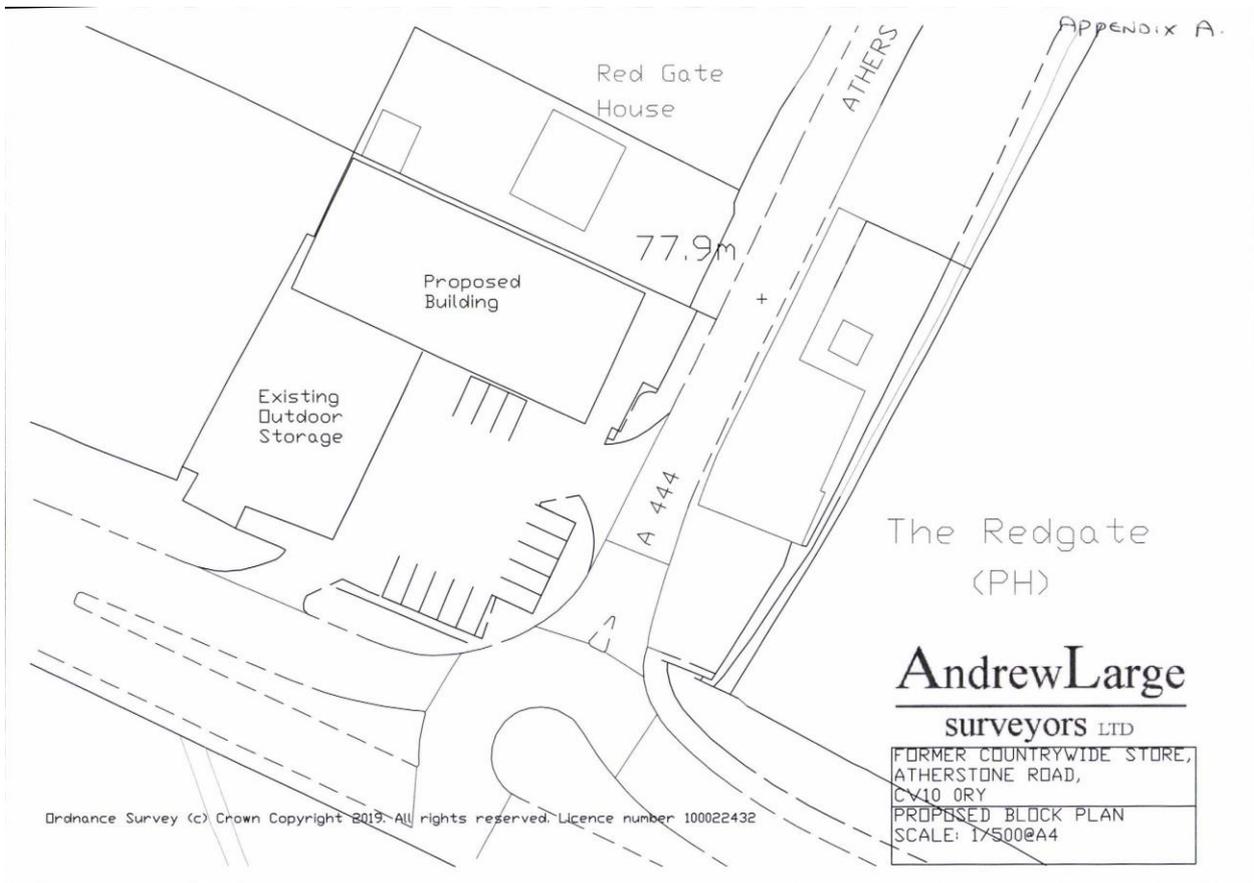
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: CON/2019/0014

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	Hinckley and Bosworth Borough Council	Consultation	26/4/19

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

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



**(2) Application No's : PAP/2015/0692 and PAP/2016/0738**

**Land rear of Ansley United Reform Church, Birmingham Road, Ansley,**

**Proposed Variation of a Section 106 Agreement for**

**Cartwright Homes Ltd**

### **Introduction**

Planning permissions have been granted here for 49 houses under the above references. The appropriate pre-commencement conditions have been discharged and work is well underway.

The permissions are accompanied by a Section 106 Agreement. Amongst its obligations is one related to the provision of affordable housing on-site. The developer, Cartwright Homes Ltd, is seeking a variation of this obligation.

### **The Proposed Variation**

The Agreement provides for the delivery of eleven affordable units on the site. The proposed variation does not seek to alter the number and a Registered Provider, Legal and General, is already engaged to manage these units. An issue has arisen with the wording in the Agreement. The clause being referred to says that the affordable units shall be built in line with a standard Government specification. It has been pointed out that this Specification has been replaced. The eleven units are under construction and it is confirmed that there is no breach of planning control as they are being constructed as set out in the approved plans. The requested variation is thus a "consequential" change in order to remove the clause from the Agreement referring to the out of date specification. This, along with the fact that the units are under construction as shown on the approved plans, would satisfy the Registered Provider as part of its "due diligence" requirements.

Because of the delay caused in resolving this issue, the developer - Cartwright Homes – is unable to sell the non-affordable units as the phasing of the market houses is dependent on the construction of the affordable units. They are therefore also seeking the removal of the clause in the Agreement such that the site be marketed in two rather than three phases. The second phase would start later than originally proposed, but still after the completion of the affordable houses.

### **Observations**

There is no objection here as the proposal is consequential on a change in circumstance outside of the control of the developer or the Council. The proposed phasing change would still mean that the affordable units would be available prior to completion of the whole estate, but just later than originally anticipated.

Subsequent Agreements involving affordable provision will need to ensure that specifications are still included, but allow for later alteration.

**Recommendation**

That the proposed changes be agreed

**(3) Application No: PAP/2018/0716**

**Land Rear Of 1 To 6, Copeland Close, Warton, B79 0JE**

**Erection of 2 no: detached dwellings and 2 no: detached garages and associated works (regularisation of unauthorised increased finished floor levels by 650mm and variation in ground levels, contrary to reserved matters approval PAP/2017/0237), for**

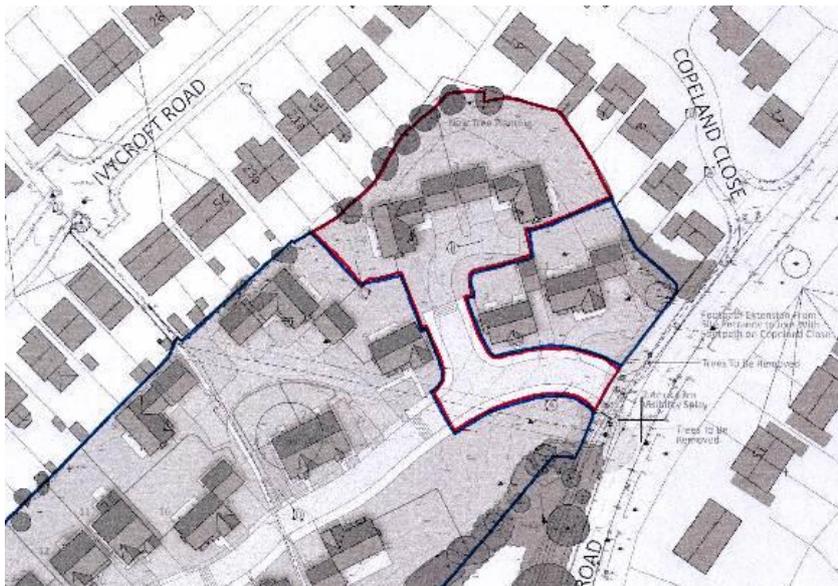
**Mr Lee Ellis - Cameron Homes**

**Introduction**

The application is reported to Board as a consequence of the request of the local member concerned about the impacts of the changes.

**The Site**

The site comprises two dwellings on the residential estate that is currently under construction on land to the south of Copeland Close and Ivycroft Road in Warton – shown below:



**The Proposal**

The application seeks planning permission for the erection of two dwellings. It is, in effect, an application to regularise the unauthorised construction of Plots 3 and 4, as approved under reserved matters approval (PAP/2017/0237), which have been built to a finished floor level 650mm higher than approved under that reserved matters approval.

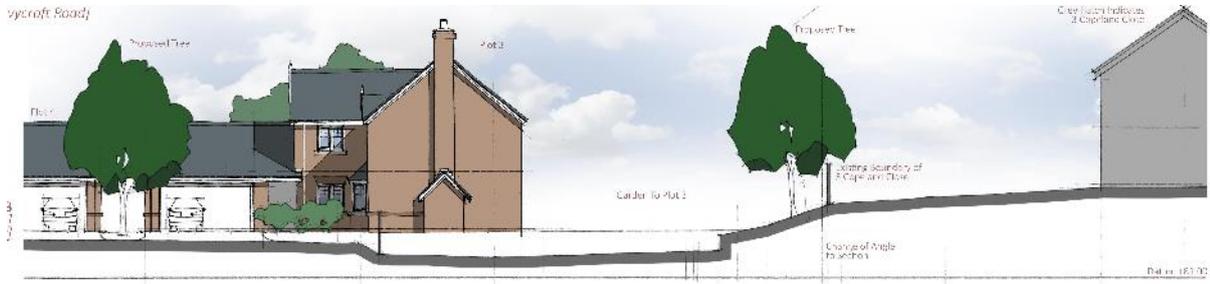
The differences are as follows:

Plot	Approved Level	As Built Level	Difference
3	83.25m	83.90m	0.65m
4	83.25m	83.90m	0.65m

Additionally, small elevational changes have been made to the dwellings approved under PAP/2017/0237, including the inclusion of patio doors at ground floor and the removal of the covered link between the dwellings and their respective garages.

The two plots in the context of their relationship to existing neighbouring dwellings is shown in the cross sections below in both the original approved form and the as built form that this application seeks to regularise.

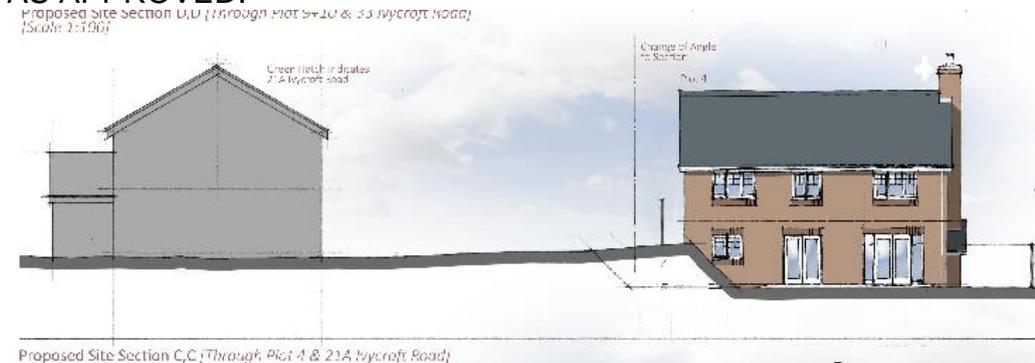
**AS APPROVED:**



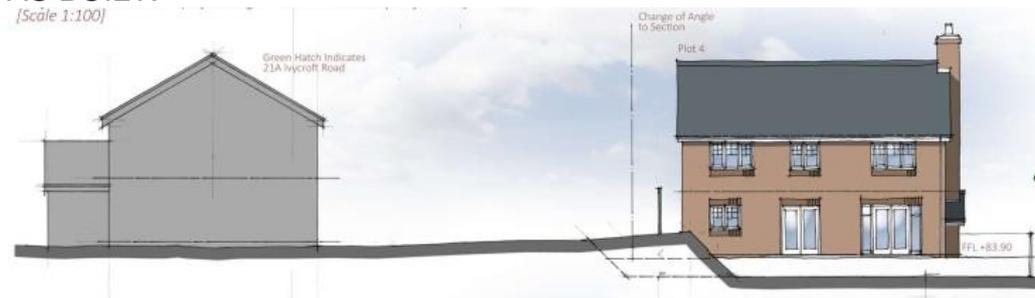
**AS BUILT:**



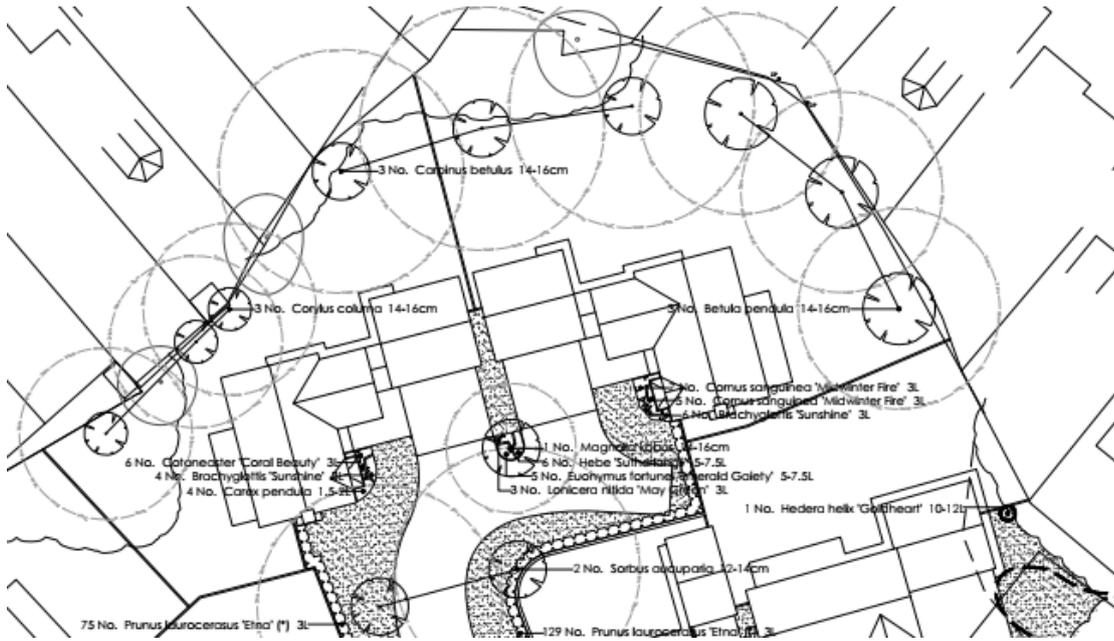
**AS APPROVED:**



**AS BUILT:**



The landscaping scheme is to be enhanced to provide tree planting along the rear site boundary:



There are consequential changes in ground levels and it is proposed that they be retained as built.

## Development Plan

The Core Strategy 2014 - NW10 (Development Considerations) and NW12 (Quality of Development)

## Other Relevant Material Considerations

National Planning Policy Framework (the "NPPF")

The North Warwickshire Local Plan Submission Version 2018 - LP31 (Development Considerations) and LP32 (Built Form)

## Representations

Representations have been received from seven households raising the following concerns:

- Plot 4 is right at the end of my garden and when I sit in my lounge all I can see is a huge brick wall.
- The applicant has not worked with neighbours to mitigate concerns about vegetation in our property and our fences falling.
- The development causes shadowing in adjacent gardens. The roof height being higher than was originally agreed it has blocked out natural light from the end of a garden and a huge shadow, the shape of a pitched roof across the entire width of my garden and up my garden. Sunlight could previously be guaranteed all day. Loss of light has especially noticeable during the last few months when the sun stays low to the horizon.
- Plants have died.
- Light is lost from bedroom windows.

- Occupiers of existing properties feel that they have to avoid looking out of bedroom windows for fear of looking at occupiers of new dwellings and that they will be overlooked in bedrooms, more than they would have been if the plots had been constructed to the original level.
- There is complaint about the conduct and motivation of the builder.
- There is concern that the developer has not built in accord with the approved plans and a general disapproval at the fact that he should be 'allowed' to address this retrospectively. There is concern about precedent for others following suit.
- The height difference of +650mm is not, slightly higher, as described by the applicant, but significantly high.
- There is concern that the Council did not stop the development when the deviation from the approved plan was first reported.
- Concern about compliance with Building Regulations if the developer has not complied with the planning approval.
- Proposed tree planting will produce an even greater issue with shading and will not have any benefit to the residents of Ivy Croft Road and Copeland Close.
- It is suggested that Councillors should visit the site.
- One occupier of one of the adjacent new dwellings raises a detailed query which attempts to define the adherence to the approved drawings in respect of external works, boundary treatments and engineering layouts, with particular regard to the effect on drainage. He suggests that this application makes no reference to the impacts on plots 5 & 6 that adjoin Plot 4. There are concerns that the increased height is contributing to the excess water drain off that is collecting in the rear garden of Plot 5, potentially plot 6, access driveway and ultimately plots 7 & 8. He considers that further work is required to assess whether or not this is the root cause.
- Two objectors have supplied photographs to illustrate concerns:



Figure 1:23a Bedroom 2 To Plot 4



Figure 5: 23a Living Room To Plot 4



To illustrate shadow cast on garden.

## Observations

The principle of residential development has been accepted here. The issue with this application is to assess whether the changes made are so materially different from that approved so as to warrant a refusal. If so, then the expediency of enforcement action would be needed to be considered, which could result in the demolition of the two buildings and their re-construction to the approved plans.

In respect of the elevational changes, including the addition of patio doors on ground level and the removal of the internal connection between the main dwelling and garage, then no change has been made to the shape, size or actual height of the two buildings (plots 3 and 4). The scale, massing and external appearance is therefore materially similar to that approved at the reserved matters stage and are not a cause for concern in the determination of the application. No objections have been expressly received concerning the elevational changes.

The key issue for consideration is therefore the impact of the increased finished floor levels (FFLs) on the amenity of neighbours living on Ivycroft Road and Copeland Close. This will be explored in some detail below.

Cross-sections have been submitted to show the relationship between Plot 3 and no.3 Copeland Close and Plot 4 and no.21A Ivycroft Road (reproduced above) and the photographs below also show current relationships.



The above images show the rear garden of the new dwelling (from Plot 3 looking towards Plot 4 and properties on Ivycroft Road) in the context of the relationship with existing dwellings on Ivy Croft Road. The separation distance between the two is relatively generous by modern housing estate standards.



The image above shows the elevation of adjacent properties on Copeland Close above the application premises.



The image above shows the elevation and separation distance of adjacent properties on Copeland Close above the application premises and the length of the rear gardens to the new properties.



The image above shows the relationship of Plot 4 side at a side angle to properties on Ivycroft Road.



These images (taken early on a winter/spring morning in an Ivycroft Road rear garden) show that the sun clears the height of the new dwelling, affording natural sunlight and daylight to the rear of properties on Ivycroft Road. The first image also shows that it is primarily only the roof of the dwellings in view and that the limited fenestration does not causing undue harm from overlooking.



Even with the sun low in the sky the new dwellings have no shade casting effect on the houses themselves (illustrated example above)

Much of the concern expressed in the representations is about the effect of having dwellings where there were formerly none. This should carry no weight as there is a planning permission here for the erection of two houses. The issue as indicated above is to assess the differences between that approved and that constructed in terms of the degree of any adverse impacts.

The separation distance between new and existing dwellings is adequate to ensure no undue dominance or levels of privacy that are beyond the norm. The difference in land levels also assists in ensuring that the new dwellings do not have an unreasonable degree of dominance, overlooking or loss of privacy. The occupiers of adjacent dwellings formerly enjoyed an outlook over an undeveloped field. It is unsurprising that the construction of dwellings is an unwelcome change. However, permission exists for dwellings to be constructed at this location. The issue here is not whether the new houses cause harm because of their very presence but whether the altered, slightly elevated dwellings tip the balance of them having an unacceptable impact. It is considered that they do not. They do not significantly affect light to properties, nor do they have any substantial impact on light to rear gardens sufficient to justify very significant alteration to return them to the original approved height. There is no significant consequence to overlooking as a consequence of the increase of 0.65metres in height.

The harm to amenity from shadowing is judged in terms of degree of harm. Harm caused by shadowing of rooms in dwellings is generally of significant concern or weight. Harm to frequently used parts of gardens immediately adjacent to dwellings (patios) is generally of more moderate weight. However, harm from the shadowing of rear parts of gardens is most commonly held to be of less significant harm, since these parts of gardens are often less well used. In this instance, the degree of shade cast is not great and confined primarily to the rear portions of rear gardens (given separation distances and levels). The additional 0.65 metres cannot be held to cause such significant loss of light to neighbouring dwellings as to suggest refusal and enforcement action.

The proposed landscaping scheme is considered an appropriate response to the partial screening and softening of the built form. The trees selected are suitable for small gardens. Any adjacent occupiers would have the rights to remove overhanging branches as the trees mature if they wish. It is also acknowledged that the inclusion of trees is a desirable measure to lessen impact, it is not considered essential to the acceptability or lack of acceptability of the dwellings in their new form. It is further acknowledged that, given the location of the trees in back gardens, they would not be afforded the protection of a tree preservation order. Thus, it is hoped that, by mutual agreement, if the retention of any of the trees were not desired at any future point, they could be removed as appropriate.

In respect of the levels and surface water drainage matters raised by an occupier of one of the adjacent newly constructed dwellings. There are some consequential changes to land form on the adjacent plot (Plot 5) the change is in the form of a slight elevation to the rear part of the garden (illustrated in the photograph below). Instead of a broadly flat rear garden, the garden now contains a relatively shallow slope towards the house.



The only plan approved relative to the reserved matters application containing levels information is the proposed cross sections. This drawing does not show specific slab levels but is to scale and shows a datum line from which the levels can be measured. The only plan approved that shows specific slab and garden levels is the RACE Engineering Layout Dwg No. 100 Rev P8 that was submitted and approved for the discharge of conditions 20, 21 and 22. Whilst these conditions are related to drainage it is reasonable to consider that the associated levels shown are also be deemed to be approved. In respect of the garden levels of plot 5, the levels shown on revision P8 of the engineering drawing verses the as built levels and these are identified below:

- Left hand corner (looking at the garden from the patio) – approved level 82.80 – as built level 82.66 – as built level therefore 140mm lower than approved.
- Change of direction at mid point of rear boundary – approved level 83.15 – as built level 83.18 – as built level therefore 30mm higher than approved.
- Right hand corner – approved level 83.30 – as built level 83.37 – as built level therefore 70mm higher than approved.

Though this is of acknowledged concern to the householder because it makes the mowing of the lawn a little more difficult and causes the garden to be a little less useable, the variation in levels is of minimal effect in the context of the development of the site and in terms of its effect (in planning terms it is considered de-minimis). The change in levels causes no difference to the visual appearance of the area or to the amenity of neighbouring dwellings. The developer is in discussion with the householder about measures to remedy his concerns, including measures to deal with surface water drainage matters and the re-profile of the garden. The wetness of the garden is believed, at least in part, to be as a consequence of compacted subsoil during the construction. The developer proposes that within Plot 5 he will remove the existing turf, loosen the sub-soil and prepare and lay new turf to the garden. He further proposes an additional gravel margin adjacent to the paving so that should there be any surface water run-off from the garden this will be intercepted before running onto the patio or path. This is a matter of ongoing dialogue between the developer and the householder but it is not considered to be a matter of substance to be resolved through this planning

application. It is not considered that there is any consequence here that would suggest a refusal for the levels as constructed.

The garden boundary fence is shown on the approved drawings as larch lap fencing however the fence erected is close boarded (see image above). This change is also considered to be a de-minimis change. Had permission been sought for this type of fencing in the first instance, permission would not have been denied.

Given the increased overall elevation of the dwellings and the sensitivity of the near neighbours to overlooking and loss of light it would now appropriate to remove permitted development rights for extensions, roof alterations or garden buildings. This would not preclude the prospect of such works but would ensure a continuing level of control over impacts. The condition is also appropriate given the former ground conditions in this part of the site.

Finally, the local residents express 'in principle' concern that the developer should not 'be allowed to get away with' carrying out development in an unauthorised manner and seeking permission retrospectively. Members are reminded that planning legislation allows for retrospective applications and enforcement action is also discretionary. It is not automatically unlawful to carry out unauthorised development. The developer takes a risk of formal enforcement action but the Planning Authority will only proceed to take action if it is deemed expedient to do so. For the reasons set out above, it is not deemed expedient to do so in this case and the retrospective application may be supported.

## **Recommendation**

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

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

### **REASON**

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 16-075-05E Landscape Proposals received by the Local Planning Authority on 30 November 2018, the 7503\_450D\_As Built Site Sections, As Built Plans and Elevations and BER\_ENG\_100 Rev P10 - As Built Levels received by the Local Planning Authority on 3 December 2018 and the Location Plan received by the Local Planning Authority on 7 December 2018.

### **REASON**

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

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

REASON

In the interests of the amenity of occupiers of neighbouring dwellings and in the interests of the amenity of the area and in recognition of the ground conditions in the locality.

4. No additional windows or door openings in all elevations and roof plains shall be made, other than as shown on the plans hereby approved, nor shall any approved windows or doors be altered or modified in any manner.

REASON

In the interests of the amenity of occupiers of neighbouring dwellings

## BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0716

<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)	Nov & Dec 2018
2	Various	Letters from occupiers of seven adjacent dwellings	Dec 2018 to April 2019

*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.*

**(4) Application No: PAP/2018/0765**

**Land South of 5 To 9, Windmill Lane, Austrey, CV9 3ES**

**Outline application for development of 7 no: dwellings (use class C3) with all matters reserved, for**

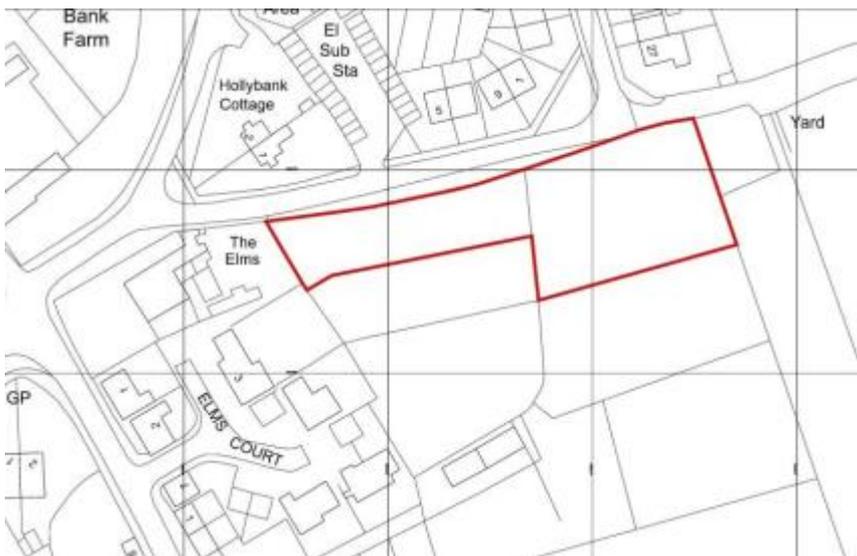
**B & S Aucott**

**Introduction**

The application is reported to Board at the request of the local member concerned about impacts.

**The Site and the Proposal**

The application site extends to 2454 sq m (0.60 acres) or thereabouts, situated to the south side Windmill Lane. Holly Bank residential Estate lies immediately opposite the site. To the east of the site is open countryside. To the south is land that has been used in association with a dwelling at Elms Court and to the west of the site lies residential properties fronting Windmill Lane, Appleby Hill and Main Road.



The site whilst bounded by trees and hedges along its northern boundary is generally grassland.

The southern part of the site is shown in the photographs below:



The northern part of the site is shown in the photographs below:



The land is elevated above Windmill Lane in part and so to achieve access the excavation of land and formation of retaining structures would be required. The photograph below illustrates this elevation.



The application is an outline application for seven dwellings with all matters reserved.

The application is accompanied by indicative drawings illustrating what might be achieved in the site. However, these plans are not for determination.

The illustrative layout is shown below. Illustratively, it suggests that three properties could be accessed directly from Windmill Lane and the remaining four would be served off a small cul-de-sac, also accessed off Windmill Lane.



Based on the illustrative layout, the street scene to Windmill Lane would be as shown below:



## Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW6 (Affordable Housing Provision), NW10(Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment) and NW14 (Historic Environment)

Austrey Neighbourhood Plan 2017 - AP10 (Windfall Development)

## Other Relevant Material Considerations

National Planning Policy Framework – (the “NPPF”)

The North Warwickshire Local Plan Submission Version 2018 - LP1 (Sustainable Development); LP7 (Housing Development), LP9 (Affordable Housing Provision), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP24 (Recreational Provision), LP31 (Development Considerations), LP32 (Built Form), LP35

(Water Management), LP36 (Parking), LP37 (Renewable Energy and Energy Efficiency) and LP39 (Housing Allocations)

## **Consultations**

Planning Archaeologist at Warwickshire Museum - No objection subject to conditions

NWBC Waste and Transport Manager - No objection subject to conditions

Environmental Health Officer - No objection subject to conditions.

Warwickshire County Council Highways Authority - No objection

## **Representations**

Austrey Parish Council does not object or support the application but does offer comment querying the accuracy of the extent of the site; points to a high potential for nesting birds to be disturbed during the clearance of this site between the period of March to August inclusive and points to the possible potential for the disturbance of nesting hedgehogs and requests that any works to this site be avoided during the periods of December to March when they are in hibernation.

Four letters have been received from local residents raising the following concerns:

- There would be too many houses on too small an area.
- The Core Strategy provided for 40 additional dwellings in Austrey. This has already been greatly exceeded and there are still properties not yet started.
- The Austrey village plan, which was formally adopted allows for the 40 additional dwellings which are considered sufficient to fulfill the village planning needs until 2029.
- Parking and access problems are already experienced on Windmill Lane. The majority of properties on Hollybank Estate do not have off road parking, as a result vehicles will use Windmill lane when the estate is congested as an over spill. The proposed parking on the site is insufficient and would result in congestion and parking issues within Windmill Lane as there isn't the capacity on the proposed development to support additional parking for properties which may accommodate growing families. This potential overspill into Windmill Lane will cause severe restriction of access for Emergency service vehicles, council vehicles and farm vehicle accessing farm land from the end of Windmill Lane.
- The Council is not repairing and re-letting nearby garages causing more conflicting on street car parking.
- The proposed development is outside of the settlement boundary for Austrey and there are no compelling reasons to change to the local authority policy on settlement boundaries.

## Observations

### a) The Principle

The site lies beyond, but immediately adjacent to the settlement boundary identified for Austrey in the 2006 Saved Local Plan and the 2014 Core Strategy. Policy NW2 of the 2014 Core Strategy indicates that Austrey is a Local Service Centre. In such settlements development will be limited to that identified in the Plan or that which has been identified through a Neighbourhood or other locality plan.

The site has existing residential development on two sides. Though the other sides border open countryside, the site would not extend beyond the development at Hollybank and would form a defensible, identifiable edge to development in the village. Elsewhere in Austrey in recent years' this type of relationship to the built up area has been held to be a sustainable location for development of a limited scale by both this Authority and by the Planning Inspectorate in appeal decisions.

Recent appeal decisions (Daw Mill and Ansley Phase 2) have established that Development Plan policy, in respect of development boundaries, is out of date. The Austrey Neighbourhood Plan does not define its own development boundaries, thus relying on those defined in the Local Plan/Core Strategy. It follows therefore that the Neighbourhood Plan is also out of date in respect of policy relating to development boundaries and the location of development.

Members are aware too from the recent Taylor Wimpey appeal south of the B5000 in Polesworth that the Inspector concluded that the Council only had a 4.75 year housing land supply. The housing policies in the Core Strategy are therefore also out of date.

As a consequence the NPPF is engaged in terms of the determination of this application. This says that in these circumstances the presumption is that planning permission should be granted unless there is demonstrable evidence of significant harm being caused.

In conclusion therefore there is a presumption to grant planning permission in principle unless there is significant and demonstrable harm caused. The report will now look at potential areas of harm.

### b) Amenity and Design

There is a reasonable prospect that each proposed new dwellings would retain adequate amounts of private amenity space and appropriate space standards in the accommodation.

Though some of the land is elevated above other properties in the locality, separation distances are such that it is likely that dwellings can be designed such that no significant loss of privacy, overlooking or overshadowing would result. Careful boundary treatment would be necessary.

### c) Highway Safety

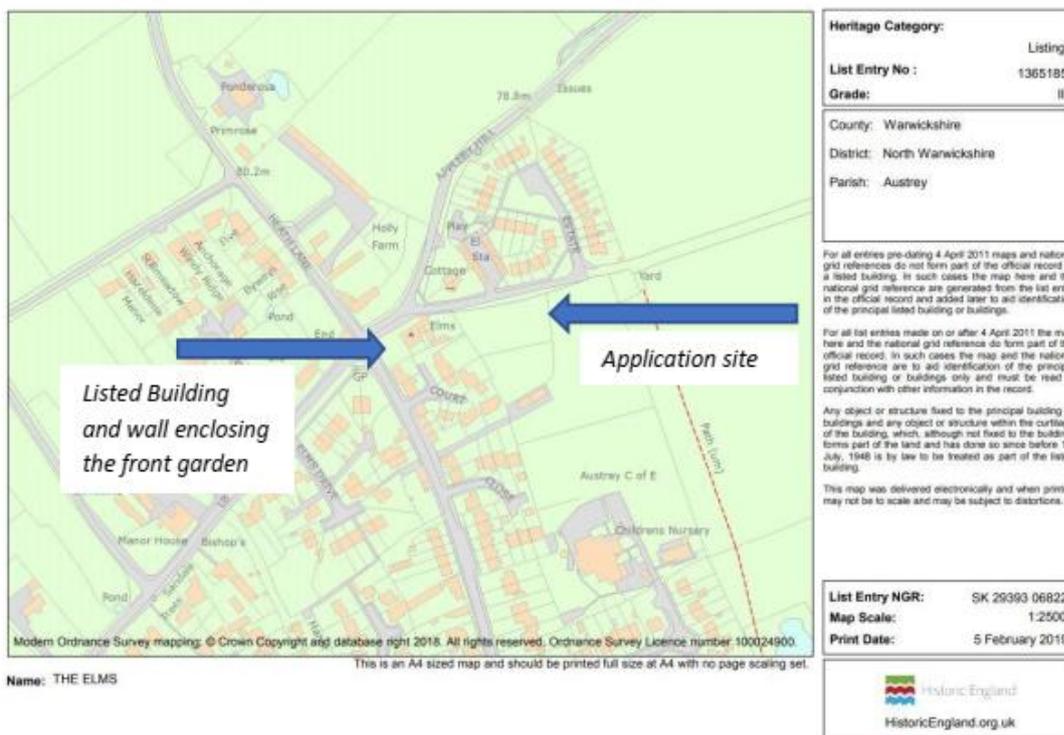
The Highway Authority comments that there appears to be enough room on the plot to provide seven dwellings together with space for on-site car parking. As the application is in outline with all matters reserved, there are no access proposals in the application.

The County Council does not object in principle. Any detailed matters will need to be addressed at the reserved matters stage and this would include addressing the parking concerns raised by the representations – i.e. ensuring that there is sufficient on-site space available. The County has made comments on the illustrative layout as submitted and these would be taken forward in any subsequent reserved matters application. In these circumstances given that there is no objection, a sustainable highway refusal reason could not be sustained.

d) Heritage

The planning archaeologist advises that the proposed development lies within an area of archaeological potential adjacent to the medieval settlement of Austrey (Warwickshire Historic Environment Record MWA9490). While few remains pre-dating the medieval period have been identified from the immediate vicinity of the site, this may reflect a lack of previous investigations across this area, rather than a lack of archaeological remains. There is therefore a potential for the proposed development to disturb archaeological deposits pre-dating the medieval and later periods. He therefore does not wish to object to the development but considers that some archaeological work should be required if consent is forthcoming. He envisages this taking a phased approach, the first phase of which would comprise an archaeological evaluation by trial trenching.

Though the site adjoins the curtilage of The Elms, a Grade II listed building



The Local Planning Authority is statutorily required 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. The proposal must be assessed against Sections 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16 of the NPPF and Policy NW14 of the North Warwickshire Core Strategy and saved policy ENV 16 of the current Local Plan (2006). Consideration should also be given to LP15 of the Draft Local Plan.

The proposed development will not impact upon or affect in any way the actual Listed Building or wall. The application site is outside of the curtilage of the Listed Building and so the only impact that would be possible impacts upon its “setting”.

The NPPF at section 16 paragraph 193 states that *when considering the impact of the proposed development on the significance of the 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.*

The setting of The Elms is considered to comprise two elements – the “immediate” setting of the building and its “extended setting”. From Main Road, the immediate setting of the building is considered to be formed by its frontage with the road and the domestic land in which it sits. The extended setting is considered to be formed by the adjacent new build at Elms Court. Neither the immediate or extended settings are considered to make a particularly good or high contribution to the significance of the building. The application site is physically and visually separated from the heritage asset. The setting of the Listed Building is considered to be primarily related to Main Road to the west of the application site. The physical redevelopment of the application site, which is to the rear of the Listed Building (and not related to its main setting) for seven dwellings as shown on the indicative site plan will, therefore, have a neutral impact on the its setting. It is therefore concluded that the proposals represent a less than substantial harm on the listed building and that the impact from the proposals have a neutral impact upon its setting.

The NPPF states at paragraph 196 that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

In this instance the development would have the public benefit of increasing the supply of housing.

It is considered that public benefit may be attributed by the provision of increasing the supply of housing and the less than substantial harm is outweighed by public benefit. The proposal would not be contrary to Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 or section 16 of the NPPF, or Policy ENV16 of the current Local Plan, or Policy NW12 of North Warwickshire Core Strategy. The proposal also accords with policy LP15 of the Draft Local Plan.

#### e) Other Matters

The Waste and Recycling service advises that it requires suitable locations for the presentation of bins within a reasonable distance of the highway and/or an indemnity against any damage caused to private/shared/un-adopted drives and roadways in pursuance of waste collection services. This can be addressed as a condition of any permission.

Conditions and informatives attached to any permission can secure that the reserved matters stage addresses policy requirements for no net biodiversity loss and seasonal protection of species.

The application is accompanied by a tree survey and levels information. Some concern exists about the effect of the dwellings shown on the indicative layout on trees on neighbouring land. However, it is clear that the submitted layout is not the approved layout and any subsequent scheme would have to be designed to ensure no long term harm to trees on third party land.

f) Conclusions

Given that there is no significant and demonstrable harm likely to be caused, the presumption outlined at the beginning of this report can be translated into a recommendation of approval.

### Conditions

The recommendation below includes the use of pre-commencement condition(s) (this is a condition imposed on a grant of planning which must be complied with before any building or operation comprised in the development is begun or use is begun). The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 provide that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition. In this instance the applicant has been sent notice of the intention to attach pre-commencement conditions but has not raised objection within the 10 day time limit. The proposed conditions may be attached in these circumstances.

### Recommendation

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

1. This permission is granted under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 on an outline approval, and the further approval of the Local Planning Authority shall be required with respect to the under-mentioned matters hereby reserved before any development is commenced:-
  - (a) access
  - (b) appearance
  - (c) landscaping
  - (d) layout
  - (e) scale

#### REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

2. In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission.

#### REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of all reserved matters.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

4. The development hereby approved shall not be carried out otherwise than in accordance with the site location plan received by the Local Planning Authority on 24 December 2018.

REASON

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

5. No development, including preparatory works, shall commence until details of the finished floor levels of the buildings hereby approved, and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

REASON

To protect the amenities of adjoining properties and the appearance of the area generally, recognising that site levels across the site as a whole are crucial to establishing safe access and parking and the protection of existing trees and hedgerow.

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

REASON

To ensure that drainage proposals are fully integral to the design of the site and to ensure the satisfactory drainage of the site.

7. No groundworks shall take place until:

- a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work shall be submitted to and approved in writing by the Local Planning Authority

- b) the programme of archaeological evaluative work and associated post-excavation analysis, report production and archive deposition detailed within the approved WSI shall be undertaken. A report detailing the results of this fieldwork shall be submitted to the planning authority.

c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) shall be submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

#### REASON

To enable potential archaeological remains and features to be adequately recorded, in the interests of the cultural heritage of the area, recognising that initial preparatory works could have unacceptable impacts.

8. Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

#### REASON

In the interests of amenity and the protection of the character and appearance of the area.

9. No works other than demolition shall take place until a preliminary assessment for contaminated land has been undertaken. If the assessment identifies potential contamination a further detailed investigation shall be carried out and details of remediation measures shall be provided where necessary. All works shall be carried out by a competent person and agreed in writing by the Local Planning Authority prior to commencement of development.

#### REASON

Sensitive end user and history of Agricultural Land and Electric Substation approx. 41m from proposed development.

10. In the event that contamination is found under condition 1, at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

#### REASON

Sensitive end user and history of Agricultural Land and Electric Substation approx. 41m from proposed development.

11. Where remediation works have been carried out in pursuance with the preceding two conditions, a post remediation verification report shall be submitted in writing to and approved by the Local Planning Authority before the development is first occupied.

REASON

Sensitive end user and history of Agricultural Land and Electric Substation approx. 41m from proposed development.

12. No removal of trees, hedges or shrubs shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, hedges or shrubs shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

REASON

In order to safeguard protected and/or priority species from undue disturbance and impacts.

13. No development, including preparatory works, shall commence until a scheme ('the offsetting scheme') for the offsetting of biodiversity impacts at the site has been submitted to and agreed in writing by the Local Planning Authority. The offsetting scheme shall include:

- (i) a methodology for the identification of receptor site(s);
- (ii) the identification of receptor site(s);
- (iii) details of the offset requirements of the development (in accordance with the recognised offsetting metrics standard outlined in the Defra Metrics Guidance dated March 2012, or any document that may update or supersede that guidance);
- (iv) the provision of arrangements to secure the delivery of the offsetting measures (including a timetable for their delivery); and
- (v) a management and monitoring plan (to include for the provision and maintenance of the offsetting measures in perpetuity).

REASON

In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain.

14. In the event that the development approved at the Approval of Reserved Matters achieves a combined gross floorspace of more than 1,000 square metres (gross internal area), the development shall not be commenced until a proposal for the delivery of affordable housing has been submitted to and approved by the Local Planning Authority in writing. In accord with the provisions of Policy NW6 of the North Warwickshire Core Strategy Adopted October 2014, 20% of the development shall be delivered as affordable housing, achieved through on site provision or through a financial contribution in lieu of providing affordable housing on-site.

Any scheme for on-site provision shall include the following details:

- i) details of how the affordable housing meets the definition of affordable housing in Annex 2 to the National Planning Policy Framework (or any future guidance that replaces it).
- ii) the tenure of the housing units;
- iii) the timing of their construction, and their phasing in relation to the occupancy of the market housing at the application site;
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing units; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

#### REASON

To make appropriate provision for the delivery of affordable housing in accord with the provisions of Policy NW6 of the North Warwickshire Core Strategy Adopted October 2014.

14. Prior to occupation of the dwelling(s) hereby approved a bin storage facility capable of holding a minimum of 3 x 240 litre wheeled bins shall be provided within the curtilage of each dwelling and a scheme for the provision of suitable locations for the presentation of bins for collection within a reasonable distance of the highway shall be submitted to and approved by the Local Planning Authority in writing. The storage facilities throughout the site shall remain permanently available for that purpose at all times thereafter.

#### REASON

To enable effective storage and disposal of household waste and in the interests of highway safety and the amenity of the area.

15. Prior to occupation of any of the dwellings hereby approved details of hedgehog friendly fencing within and around the site shall be submitted to and approved in writing by the Local Planning Authority. The approved fencing shall be installed and maintained as such at all times thereafter.

#### REASON

In the interests of nature conservation, thus achieving sustainable development objectives set out in the National Planning Policy Framework.

## 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 applicant/developer is reminded that it is an offence to damage or destroy species protected under separate legislation, which includes, but is not limited to, nesting birds which may be present in hedgerows, trees or ground habitats on the site. Planning permission for a development does not provide a defence against prosecution under wildlife protection legislation. You are advised that it may be necessary, shortly before development commences, to commission an ecological survey from suitably qualified and experienced professionals to determine the presence or otherwise of such protected species. If protected species are found to be present, reference should be made to Natural England's standing advice and/or the Warwickshire Wildlife Trust should be consulted for advice.
4. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and seeking to resolve planning objections and issues. 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/2018/0765

<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)	24/12/18 12/02/19
2	Warwickshire County Council Highways Authority	Consultation Response	14/01/19 15/04/19
3	Environmental Health Officer	Consultation Response	14/01/19
4	Waste and Transport manager	Consultation Response	15/01/19
5	Parish Council	Representation	16/01/19
6	Planning Archaeologist, Warwickshire Museum	Consultation Response	01/02/19
7	Various	Occupiers of 4 nearby dwellings	Various Jan 2019

*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.*

**(5) Application No's: PAP/2019/0078, PAP/2019/0079 and PAP/2019/0080**

**Land to the east of St Lawrence Road and north of Nuthurst Crescent, Ansley**

**a) PAP/2019/0078**

**Approval of reserved matters for the erection of 72 dwellings with details of layout; scale, appearance and landscaping in respect of development of up to 79 dwellings with vehicle access onto Tunnel Road under planning permission APP/R3705/W/16/3149572 together with the discharge of conditions 6, 7 and 9 of the same permission**

**b) PAP/2019/0079**

**Approval of reserved matters for erection of 70 dwellings with details of access, layout, scale, appearance and landscaping in respect of planning permission APP/R3705/W/17/3189584 together with the discharge of conditions 6, 7, 8, 9 and 11 of the same permission**

**c) PAP/2019/0080**

**Variation of Condition number 5 of planning permission APP/R3705/W/17/3189584 relating to the erection of 72 dwellings in respect of an outline permission for the erection of up to 70 dwellings with details of access, layout, scale, appearance and landscaping as reserved matters**

**all for Countryside Properties (UK) Ltd**

**Introduction**

The applications are reported to the Board in light of its previous interest in the two sites and the involvement of the two Design Champions in pre-application discussions on the general approach towards the design of the whole site.

**The Sites**

These are two sites which are adjacent to each other – one is at the rear of Nuthurst Crescent with a frontage to Tunnel Road and the second lies to the west at the rear of existing housing in St Lawrence Road. In total the two sites amount to 5.2 hectares in area.

The plan at Appendix A illustrate the combined sites.

**Background**

Members will recall the two appeal decisions in Ansley for a total of up to 149 dwellings on land to the east of St Lawrence Road and north of Nuthurst Crescent. The two plots of land have now been acquired by Countryside Properties and these applications relate to their detailed proposals for the whole site – to be developed as one estate.

The overall proposal is for 144 dwellings - 5 less than the maximum allowed for by the two outline permissions. The first two applications above set out the proposed layout, appearance and landscaping for the two outline consents. The two consents had 79 and 70 dwellings on their respective sites, but the detailed proposal shows 144 dwellings.

The third application above has therefore been submitted in order to provide the appropriate variation so as to provide consistency in the numbers.

## **The Proposals**

The overall layout is shown at Appendix B and is for a total of 144 dwellings. This is the original plan that was submitted with the application. As referred to below, there will need to be a series of minor amendments to this in order to satisfy the Highway Authority. That amended plan has not yet been submitted. Members are therefore asked to treat Appendix B as an outline of the approach that is to be taken for the layout, rather than a fully detailed proposal. All vehicular access is off Tunnel Road as approved at appeal and this cul-de-sac serves the whole site. Key elements of the layout are:

- Retention of large areas of open space including the land around the protected trees.
- Five bungalows at the rear of existing bungalows at Croft Mead
- The emphasis given to certain main junctions to give them a more importance in the design.
- No rear boundaries along the “open” side of the site to the north.
- Inclusion of a play area
- Design of houses reflecting a more rural setting

In addition to these matters the two applications have included details to discharge pre-commencement conditions. These relate to the landscaping details; drainage details as well as to footpath connections to Tunnel Road and Croft Mead.

Street scenes through the estate are at Appendix C.

## **Representations**

Ansley Parish Council – No objections

Seven letters have been received referring to:

- More detail of the landscaping at the rear of Nuthurst Crescent and the nature of the access here is needed.
- There are three storey buildings here despite the outline permission saying there shall not be.
- Additional pressure on existing services.

- Drainage issues at plots 36 and 37
- Additional traffic on the roads – particularly on Tunnel Road
- This is a large anonymous estate adding no community value and does not protect the rural character of the Borough or the village
- The environmental impact will be irreversible
- Is there archaeological interest in the land?
- This is contrary to the Local Plan

## **Consultations**

Environmental Health Officer – No objection.

Warwickshire County Council (Rights of Way) – No objection subject to conditions relating to widths and materials. These will be incorporated into amended plans as indicated above.

Warwickshire County Council as Highway Authority – It originally objected on a number of technical grounds mainly to do with the geometry of some of the dimensions; the specifications of construction and the detail of the emergency access arrangements. These matters will be addressed in amended plans as referred to above.

Warwickshire County Council as Lead Local Flood Authority – It has no objection in principle, but further details have been submitted to satisfy a number of detailed comments. The County is expected to remove its objection.

NWBC (Refuse and Waste) – There are concerns that some refuse will not be collected if drives remain un-adopted. The applicant will incorporate changes in the amended plans referred to above.

Warwickshire Police (Design) - No objection

## **Development Plan**

The Core Strategy 2014 – NW10 (Development Considerations)

## **Other Material Planning Considerations**

The National Planning Policy Framework

The Submitted Local Plan 2018 – LP31 (Development Considerations)

## **Observations**

Planning permissions have been granted here on appeal for up to 149 dwellings. As a consequence, the principle of developing this site together with an assessment of its potential impacts, are not matters for consideration at this stage. The Board is therefore asked to confine its comments to the detail of the proposed layout and appearance of the houses. As indicated above the two Design Champions have been engaged at pre-application stage and the submitted layout and house designs accord with the matters

raised at these meetings. It is also noteworthy that the Parish Council has not raised an objection.

In respect of the representations received then many of the matters carry no weight as planning permissions have already been granted in principle – there will be residential development here. On the detailed matters raised then:

- There are no three storey buildings proposed. There are two and a half storey houses included, but these are to be located along the Tunnel Road frontage and towards the northern side of the central spine road. These will not be out of place and there will be no material impact on the residential amenity of existing occupiers because of separation distances and because there is no direct “back-to-back” elevations. As a consequence the terms of relevant planning conditions are satisfied.
- Further information was sought on the landscape treatment along the rear of existing houses in Nuthurst Crescent and as a consequence the applicant has decided not to make any changes here to the existing arrangements. This is now shown on the landscaping plans.
- The County Council has confirmed its agreement to the one emergency access point into Croft Mead and this would be a locked gate. The access from the portion of the site at the rear of St Lawrence Road would be for pedestrian and cycle links only.

In respect of the responses from the technical Agencies, then it can be seen that their initial objections are very likely to be overcome with the receipt of amended plans.

## **Recommendations**

- a) That in respect of application PAP/2019/0080, condition 5 of planning permission APP/R3705/W/17/3189584 be varied to read, “No more than 72 dwellings shall be constructed on the site with all vehicular access obtained from Tunnel Road, Ansley” together with retention of all of the other conditions.
- b) That in respect of application PAP/2019/0078 and subject to the receipt of amended plans to overcome objections from the Highway and the Lead Local Flood Authority, the plans be approved, together with the following plan numbers, in discharge of conditions 2, 6, 7, 8, 9 and 11 of planning permission PAP/2019/0080.
- c) That in respect of application PAP/2019/0079 and subject to the receipt of amended plans to overcome objections from the Highway and the Lead Local Flood Authority, the plans be approved together with the following plan numbers, in discharge of conditions 2, 6, 7 and 9 of planning permission APP/R3705/W/16/3149572.

## BACKGROUND PAPERS

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

Planning Application No's: PAP/2019/0078, PAP/2019/0079 and PAP/2019/0080

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Applications	11/2/19
2	Ansley Parish Council	Consultation	22/2/19
3	Resident	Representation	23/2/19
4	Resident	Representation	28/2/19
5	Resident	Representation	2/3/19
6	Resident	Representation	11/3/19
7	Resident	Representation	21/2/19
8	Resident	Representation	11/3/19
9	Resident	Representation	12/3/19
10	Environmental Health Officer	Consultation	27/2/19
11	NWBC Refuse and Waste	Consultation	7/3/19
12	NWBC Refuse and Waste	Consultation	25/3/19
13	NWBC Refuse and Waste	Consultation	23/4/19
14	WCC Flooding	Consultation	28/3/19
15	Applicant	E-mail	26/4/19
16	WCC Footpaths	Consultation	15/3/19
17	WCC Police (Architectural Design)	Consultation	21/2/19
18	WCC Highways	Consultation	18/4/19
19	Applicant	E-mail	26/4/19
20	WCC Flooding	Consultation	29/4/19

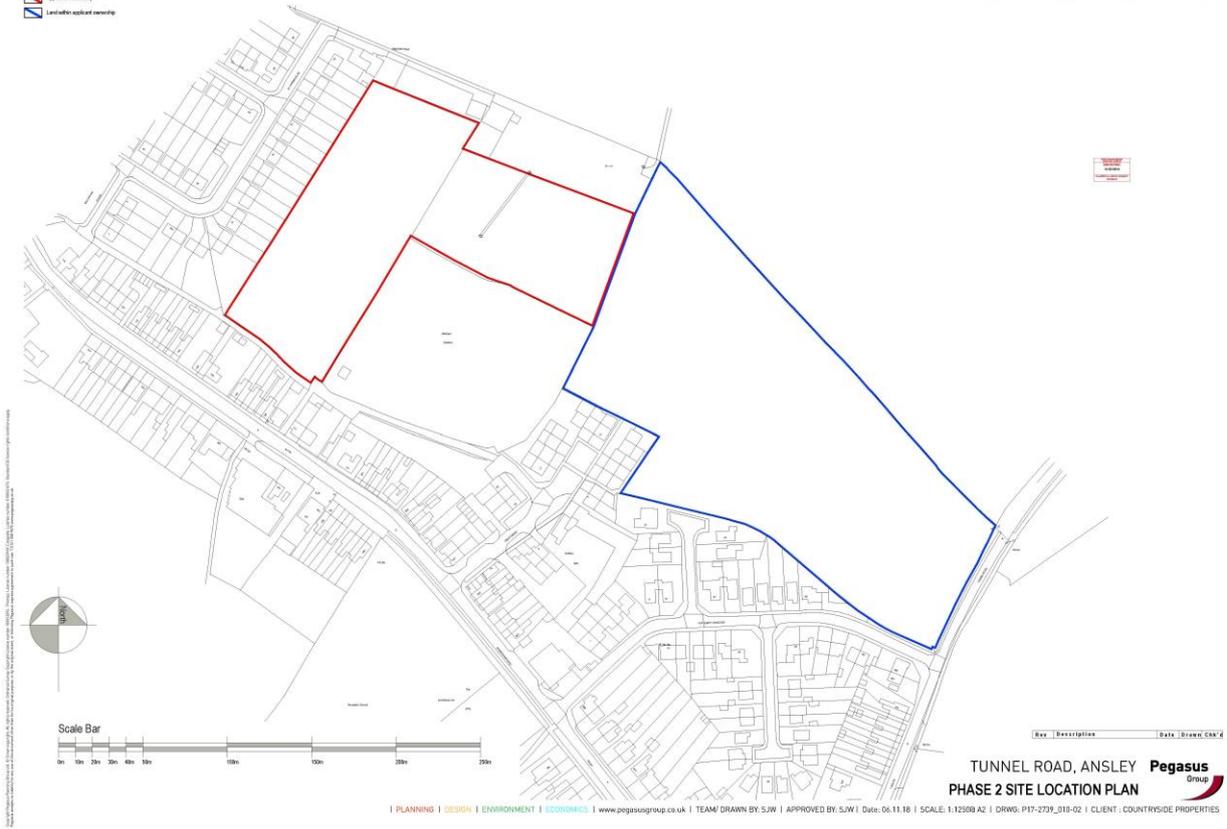
*Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.*

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

Legend  
 Application Boundary  
 Land to be applied for

APPENDIX A

PAP/2019/0079





**(6) Application No: PAP/2019/0139**

**Abbey Field, Castle Road, Hartshill, Nuneaton, CV10 0SE**

**Two storey side extension and single storey rear extension, for**

**Ms Margaret Bell**

**Introduction**

The application is brought to the Planning and Development Board because the Applicant is a Borough Councillor.

**The Site**

The site is an existing detached single residential property that shares its north-western boundary with Hartshill Castle - a Scheduled Ancient Monument. The site lies outside of the Development Boundary of Hartshill, but there is residential property opposite the site.

**The Proposal**

It is proposed to add a two storey side extension and single storey rear extension to the building.

**Development Plan**

The Core Strategy - NW10 (Development Considerations); NW12 (Quality of Development) and NW14 (The Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV13 (Building Design) and ENV16 (Listed Buildings. Non Listed Buildings of Local Historic Value and Sites of Archaeological Importance)

Hartshill Neighbourhood Plan 2017 - H2 (Protecting Open Spaces); H4 (Good Quality Design in Hartshill) and H9 (Heritage Assets and Sites of Local Interest)

**Other Relevant Material Considerations**

The National Planning Policy Framework 2019 – (the “NPPF”)

The Submitted North Warwickshire Local Plan 2018 - LP15 (The Historic Environment); LP31 (Development Considerations) and LP32 (Built Form)

Supplementary Planning Guidance: A Guide for the Design of Householder Developments – 2003

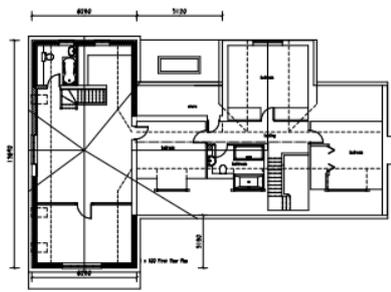
## Representations

None received

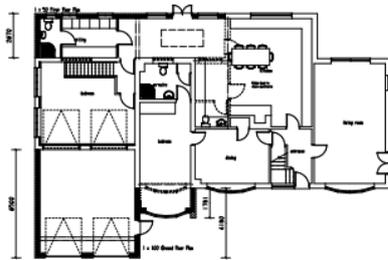
## Observations

The site is immediately adjacent to Hartshill Castle, and from the name of the site it is likely that the site has a historical connection to the Castle. Although the erection of the existing house is likely to have disturbed archaeology, there is still potential for archaeology within the ground. There are no near neighbours that are likely to be affected by the proposal.

The location of the site necessitates pre-commencement conditions to minimise disturbance of archaeology within the grounds where the extensions are proposed. It is also considered appropriate to remove permitted development in Classes A and E for further extensions and outbuildings respectively. This is to be able to control development on the site that could otherwise be permitted development but may cause harm to archaeology below ground.



PROPOSED FIRST FLOOR PLAN



PROPOSED GROUND FLOOR PLAN



SITE LOCATION PLAN

The proposed extensions would be constructed in materials that are similar to the existing dwellinghouse. The existing house has a linear form with a row of bay windows with dormer windows in the roof above. Although the ridge line will be continuous, the proposed extension will give a more interesting form and will link into the existing house with the eaves at the front of the property extended to meet the eaves, and the walls stepped to improve the character of the existing house.

The proposed extension replaces an existing garage, although the footprint of the proposed extension significantly exceeds that of the existing garage and is two storey, with a further single storey to the rear to align a previous two-storey extension and the proposed side extension, with a flat roof and lantern to take advantage of the southerly aspect.

The two-storey side extension will replace existing garage with a new garage, a ground floor bedroom, utility and shower room. The first floor comprises of an annex with a bedroom, sitting room and bathroom, and a small tea kitchen. The annex is connected the main family kitchen by way of a new staircase, and via an existing bedroom to the first floor in the main house that allows for a flexible use of the first floor bedrooms.



**EXISTING FRONT ELEVATION**



**PROPOSED FRONT ELEVATION**

The property lies on the main approach to the castle and there would be a change to the scheduled monument's setting through an increase in modern building development within its immediate surroundings. The extensions would be on the far side of the existing building, away from the scheduled monument, and there are no changes proposed to the current boundaries between the sites. The extensions would replace an existing garage and the size and scale would be comparatively modest, mostly subservient to the main building, and reflecting its style and design.

It is not considered that the impact upon setting would be materially affected and thus there would be less than substantial harm caused. That would be at the lower end of the scale. However that still carries weight in the final planning balance, but in light of there being no other harm this would not clearly be sufficient to lead to a recommendation of refusal.

### **Recommendation**

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

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

#### **REASON**

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 1013-04D, received by the Local Planning Authority on 30 April 2019.

#### **REASON**

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

3. The new works shall be carried out with smooth white or cream coloured render, and plain tiles that closely match the appearance, colour and texture of those materials used on the host dwellinghouse.

#### **REASON**

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

4. The accommodation within the extension hereby approved shall be occupied solely in connection with, and ancillary to the main dwelling at Abbey Field, and shall not be sold off, sub-let or used as a separate unit of accommodation.

REASON

To prevent unauthorised use of the property.

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

REASON

In the interests of the amenities of the area, and to protect the setting of the adjacent Scheduled Ancient Monument, and any archaeology within the ground; and the openness of the Countryside.

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

REASON

To ensure the recording of any items of archaeological interest.

7. The developer shall afford access at all times to an archaeological organisation nominated by the Local Planning Authority, and shall allow them to observe the excavations and record archaeological evidence that may be uncovered as a result of the development.

REASON

To ensure the recording of any items of archaeological interest.

8. No development shall commence on site until an archaeological investigation of the site has been carried out in accordance with a specification submitted to and approved in writing by the Local Planning Authority.

REASON

To ensure the recording of any items of archaeological interest.

## Notes

1. 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. 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.
3. 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
4. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

5. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal, meetings and negotiations and quickly 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/2019/0139

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms and Plans	30/04/2019
2	Historic England	Response	12/04/2019

*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.*

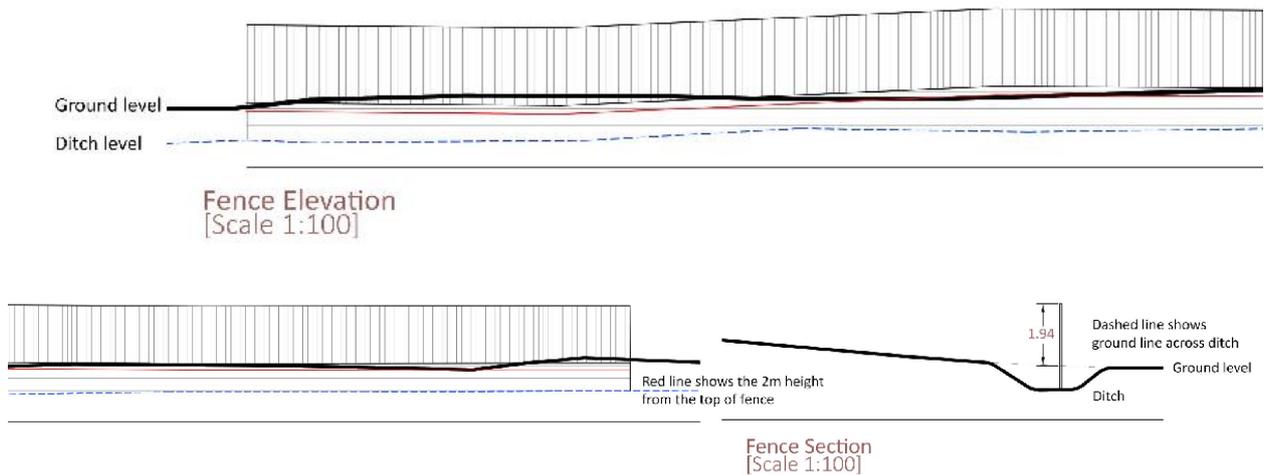
*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*



## The Proposal

The application seeks retrospective approval for a fence which exceeds 2 metres in height. It comprises vertical boards in its top portion and horizontal boards in its lower part. It varies in height dependent on the depth of the ditch in which it sits. Commonly, it is between 2.65m and 2.85m in overall height.

The fence is shown in the plans and photographs below.



From the application site:



The fence has been constructed at the foot of a drainage ditch (known as an ordinary watercourse) and hedgerow whips have been planted at the foot of the fence in the ditch course – see photographs below:



The fence viewed from properties on Main Road is shown in the photographs below:

From the rear garden of No74:



Showing the rear garden of No76:



### **Development Plan**

The Core Strategy 2014 – NW10 (Development Consideration)

Austrey Neighbourhood Plan

### **Other Relevant Material Considerations**

National Planning Policy Framework

The North Warwickshire Local Plan Submission Version 2018 – LP31 (Development Considerations)

### **Consultations**

Lead Local Flood Authority – It advises that it is unable to make a recommendation about the effect on flooding in the absence of hydraulic modelling of the watercourse. The applicant has been requested to undertake and submit such modelling.

It also makes the Council aware of two matters that will influence its consideration of the matter:

- WCC were not aware of this watercourse until the issue of the fencing was brought to our attention. As WCC are now aware of the watercourse recommending the removal of the fencing would lead to a complete inspection of the watercourse and probably the removal of anything that was deemed to be restricting the natural flow of the watercourse. This will have an impact on existing structures.
- WCC is only looking into this as a Land Drainage issue and as such we would take a risk based approach before any enforcement action would be considered. Hence hydraulic modelling would need to be undertaken to assess the full impact the fencing has on the watercourse before any recommendations were made.

It notes that the ordinary watercourse is already restricted at the rear of No. 74 due to the construction of a concrete channel. Anything permanently placed or planted within the boundaries of a watercourse (top of bank to top of bank) has the potential to impede the natural flow of a watercourse and may lead to issues upstream of the obstruction.

Under Section 24 of the Land Drainage Act 1991, any works that will impede on the natural flow path of an ordinary watercourse will require Land Drainage Consent from the Local Lead Flood Authority – that is Warwickshire County Council. This consent cannot be granted retrospectively.

Under Section 25 of The Land Drainage Act 1991 it is also an offence to impede the flow of an ordinary watercourse.

The Lead Local Flood Authority has met with the site owner, and the possibility of diverting the ordinary watercourse onto land owned by him was discussed. The proposed diversion works are only desirable and not something that could be imposed on the site owner. The requirement for Land Drainage Consent from the LLFA was also explained to the site owner and this must be granted before any works could commence.

## **Representations**

Representations have been received from occupiers of five neighbouring dwellings. The concerns expressed relate to the following:

- The retention of the fence will have an adverse effect on the function of the ditch as an ordinary watercourse.
- Concern that the application is retrospective.
- The position of the boundary is disputed in terms of ownership and previous riparian maintenance.
- That the fence exceeds the height of what can be constructed as permitted development.
- That its height undulates over its length.
- The height of the fence is over powering and reduces daylight/sunlight to gardens.
- The fence will result in moss growing in gardens.
- There are no privacy issues that justify its construction.
- The appearance is inappropriate.

- It will adversely affect the listed building.
- A hedge alone would have sufficed.
- Roots to TPO trees will have been harmed in the construction.
- The prospect of rerouting the watercourse would be inappropriate because it would cause damage to protected trees.
- The works will harm biodiversity
- One resident expresses no objection in principle to the fence but requests that it be altered to produce a step in height (he suggests that, because the fence height slopes from left to right it looks odd).
- That the structure has protruding screws and is considered to be dangerous
- The Council should take action to ensure that the fence is removed.
- Potential flooding consequences could affect insurance.

## **Observations**

There is no objection in principle to the erection of a garden boundary to an existing residential property in a village setting. Therefore, the application will be assessed on the basis of examining its impact.

The identified impacts include:

- The effect on visual amenity
- The effect on residential amenity – overshadowing/dominance
- The effect on flooding
- The effect on the setting of the listed building.

An assessment of these matters will be set out in a subsequent report.

The application will be reported back when the issue of the impact on the function of the ordinary watercourse has been explored more fully. Members should be aware that the Lead Local Flood Authority will consider all obstructions to the efficacy of the ordinary watercourse, not just the fence and its associated posts. It is clear that other alterations have been made to the ditch, including the raising of garden levels in neighbouring gardens and some consequential consideration will be given to those works.

The local residents express an ‘in principle’ concern that the developer should not ‘be allowed to get away with’ carrying out development in an unauthorised manner and seeking permission retrospectively. Members are reminded that planning legislation allows for the scenario. It is not automatically unlawful to carry out unauthorised development. The developer takes a risk of formal enforcement action but the Planning Authority will only proceed to take action if it is deemed expedient to do so. The subsequent report will consider the issue of expediency.

Furthermore, local residents express disquiet about the fact that the fence exceeds 2m above original ground level. Members should be aware that two metres is the height that fencing can be constructed to without the need for planning permission, it is not a height limit above which fencing is never allowed. In the correct circumstances, taller fencing may be allowed with the benefit of planning permission. The issue is therefore whether the increased height - 0.65 to 0.85 metres - has significant adverse impacts.

## **Recommendation**

That the content of this report be noted

## BACKGROUND PAPERS

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

Planning Application No: PAP/2019/0179

<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)	26/3/19 15/4/19
2	Various	Occupiers of 5 neighbouring dwellings	Various April 2019
3	Lead Local Flood Authority	Consultation Response	May 2019

*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.*

**(8) Application No: PAP/2019/0180 and PAP/2019/0183**

**Britannia Works, Coleshill Road, Atherstone, CV9 2AA**

**Planning and Listed Building applications for the erection of 70 apartments (use class C3) with extra care provision, for**

**Atherstone Britannia Ltd**

**Introduction**

The receipt of these applications is reported to the Board in view of its continuing interest in the site.

**The Site**

These former hat factory premises are located between the Coventry Canal, Richmond Road and the Coleshill Road about 400 metres south of the Atherstone town centre.

There are established residential areas around the site with some other retail uses and a public house.

Within the site are two separate mill buildings which date from the late Victorian age – one facing the Coleshill Road and the second overlooking the canal towards the south-east. These two are now connected by early twenty century industrial blocks. The whole complex was last in use in 1999 when manufacturing ceased. The overall built form is generally three to four storeys in height and runs along the Coleshill Road frontage and the canal side. All vehicular access is via Richmond Road.

The ground level of the site sits above the residential properties in Westwood Crescent to the north.

The site's general location is shown at Appendix A.

The existing Coleshill Road elevation is at Appendix B and the canal side northern elevation is at Appendix C.

**The Proposals**

The majority of the existing buildings are to be demolished in order to provide as relatively clear development site. The buildings to be retained in full or in part are the two former Victorian mill buildings – the two storey traditionally brick built building in the south-east corner overlooking the canal, and in essence the front portions of the main Mill building overlooking the Coleshill Road including retention of its complete façade.

As described above the proposal is for 70 apartments as “extra care” provision. The number would be split evenly between one and two bedroom accommodation.

The main new build would face the canal side and the general approach taken is to reflect the industrial nature of the site but with a contemporary design therefore leading to a number of different con-joined blocks.

The Applicant's Ecological Appraisal identified no bat roosts during surveys but says that the buildings might have the potential to support roosts of some species of bat. It is recommended therefore that some bat boxes are included in the final design of the buildings.

The Flood Risk Assessment says that the site is in Flood Zone One where development is at the least risk of fluvial flooding. Surface water drainage is to discharge into the canal and foul water would use the existing sewerage network.

The Transport Assessment concludes that the site is well located to the town centre, nearby shops with accessible pedestrian access and routes to regular public transport services. It is thus a well located sustainable site. There will be less traffic generated by the proposed use as compared with the previous permissions given the change in the nature of the residential use now proposed.

Written Schemes for the Historic Investigation of the Buildings and for the archaeological evaluation of the site itself have been submitted.

A Heritage Impact Assessment has also been submitted which concludes that the proposal would accord with both Development Plan and NPPF planning policies. This Assessment is not copied into this report but will be referred to in detail in the subsequent determination report.

A Design and Access Statement describes how the proposed design of the new build has been arrived at.

A Planning Statement draws all of the relevant planning considerations together.

The plan at Appendix D illustrates the extent of the existing buildings on site and Appendix E illustrates those to be retained.

Appendix F illustrates the proposed layout and Appendices G and H are the equivalent elevations for the sections referred to above – Coleshill Road and the canal side.

## **Background**

In 2008 planning and listed building permissions were granted, but never taken up for the part demolition and conversion of the site for residential use together with a heritage centre.

In 2017 planning and listed building permissions were granted for the part demolition and part conversion of the site for residential use by 59 new units. Several of the pre-commencement conditions attached to these permissions have been discharged.

The frontage Victorian Mill building is a Grade 2 Listed Building. The remaining buildings on the site are associated curtilage buildings.

The site is not in the Atherstone Conservation Area.

## **Development Plan**

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV12 (Urban Design); ENV14 (Access Design), ENV16 (Listed Buildings) TPT3 (Access and Sustainable Transport) and TPT 6 (Vehicle Parking)

## **Other Material Planning Considerations**

The National Planning Policy Framework

The Submitted Local Plan 2018 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP9 (Affordable Housing Provision), LP15 (Historic Environment), LP31 (development Considerations), LP32 (Built Form) and LP36 (Parking)

## **Observations**

Members have been pressing for the future of this site to be resolved given the significance of its heritage value in the history of the town and its prominent location. The recent permissions have not been taken up and thus the buildings on the site have continued to deteriorate, albeit with emergency works, including demolitions, to overcome times when there were call outs under the dangerous structures procedures.

Given the site's location within the town's development boundary and the recent permissions which are considerations of substantial weight, the principle of redevelopment with a residential use has been acknowledged. The main issues with any new proposals are thus going to revolve around a number of detailed issues. In general terms these are the amount of demolition; the impact of that on the significance of the heritage asset, the appearance and design of the new buildings, the means of access into the site, parking provision and the overall impact on neighbouring residential amenity.

A full determination report will be brought to the Board in due course when the consultation responses have been assessed and any amendments sought have been received.

It is suggested that Members should visit the site. However given the condition of some of the buildings and that the main issues are going to be with appearance and design, it is considered that that visit perhaps be confined to a walk around the site taking in the canal and the Coleshill Road and Richmond Road frontages.

## **Recommendation**

That the report be noted at this time and that a visit be organised prior to the application's determination.

## BACKGROUND PAPERS

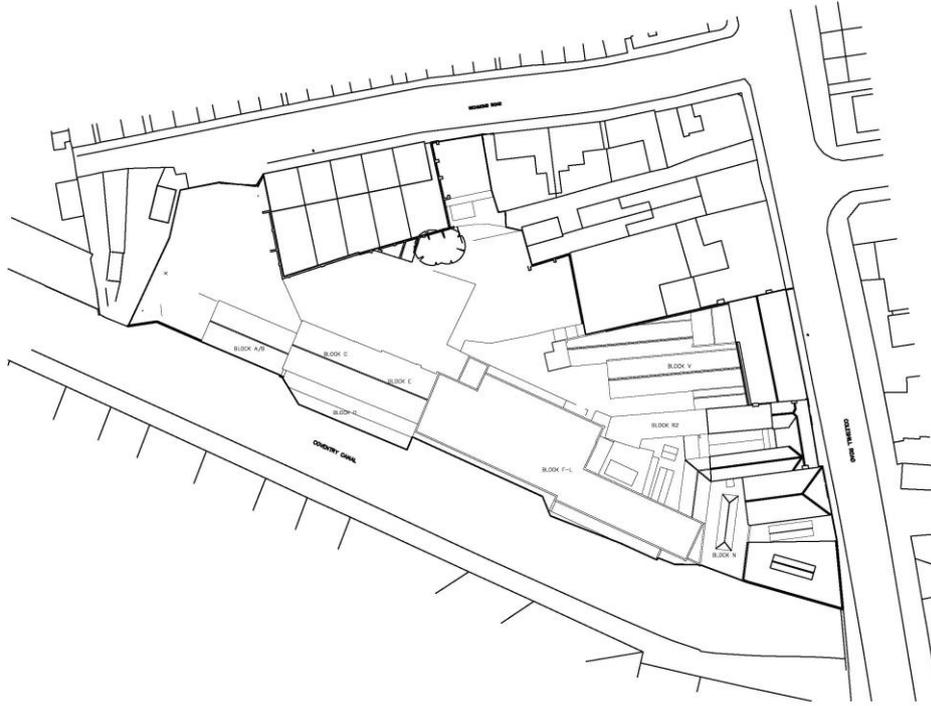
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2019/0180 and PAP/2019/0183

<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)	26/3/19

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

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



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[www.msquarearchitects.com](http://www.msquarearchitects.com)

CLIENT	HCT HOMES LTD.		
PROJECT	BRITANNIA WORKS, COLESHILL ROAD, ATHERSTONE, CV9 2JH		
TITLE	EXISTING SITE PLAN		
DWG No.	HCT	288	SUR 002
DATE	NOV'18	SCALE	1:500
DRAWN	SF	CHECKED	OTM

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EXISTING NORTH - WEST ELEVATION



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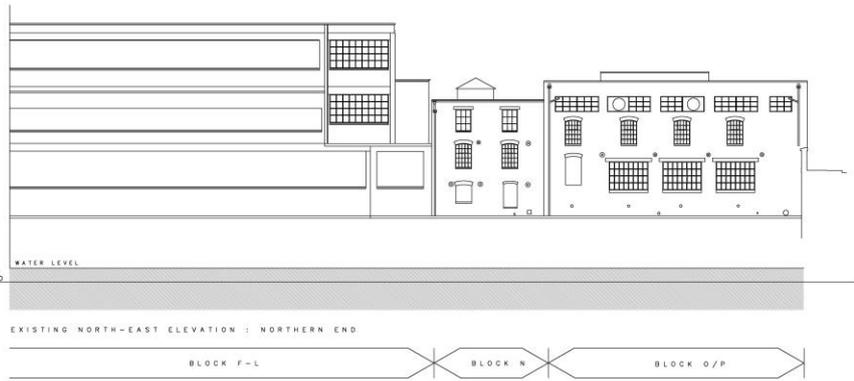
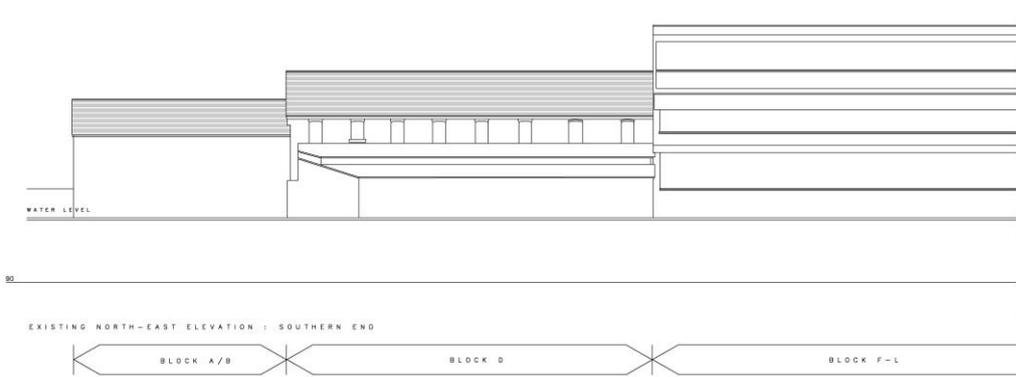
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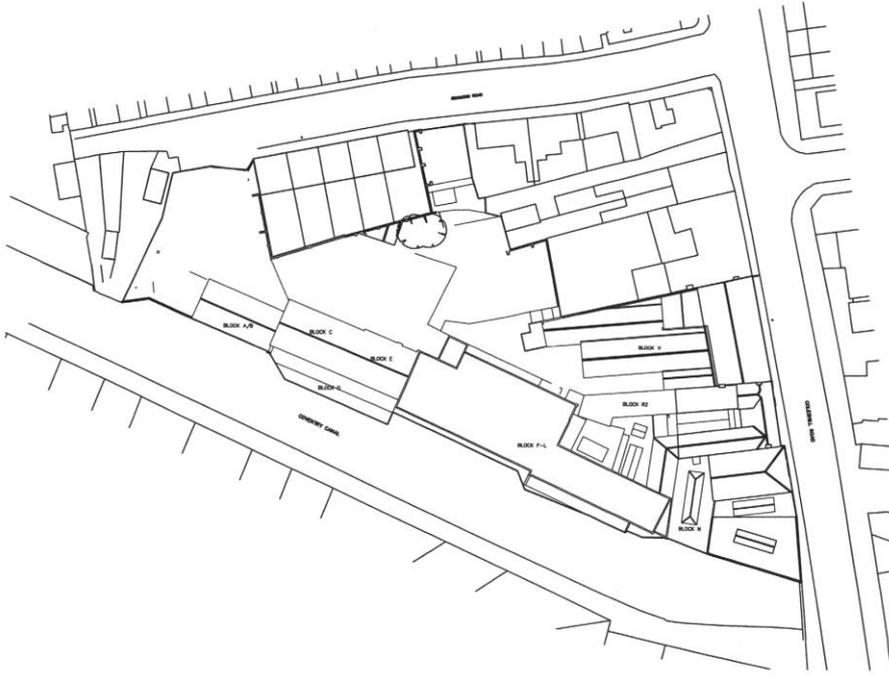
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 PROJECT: [REDACTED]  
 TITLE: [REDACTED]  
 DATE: [REDACTED]  
 DRAWN BY: [REDACTED]  
 CHECKED BY: [REDACTED]

APPENDIX D

PAP/2019/0180

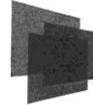


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PROJECT BRITANNIA WORKS, COLESHILL ROAD,  
ATHERSTONE,  
CV9 2AA

TITLE EXISTING SITE PLAN

DWG No.	HCT	ZBB	SUR	002
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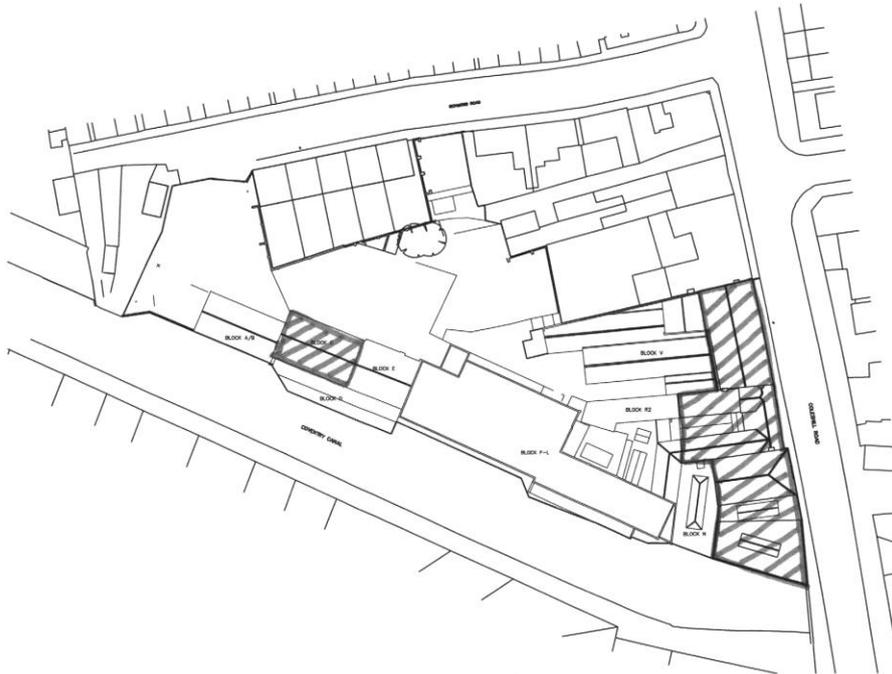
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APPENDIX E

PAP/2019/0180

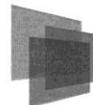


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TITLE EXISTING SITE PLAN

DWG No.	HCT	ZBB	SUR	002
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**MATERIAL KEY**

- 600x600 BLOCK PAVING SLABS, COLOUR TFC
- PERMEABLE BLOCK PAVING, COLOUR TFC
- PERMEABLE BLOCK PAVING, COLOUR TFC
- BLOCK PAVING SLABS, COLOUR TFC
- GRASS
- SOFT LANDSCAPING (REF. ISA LANDSCAPE SCHEME)

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CLIENT: MCT HOMES LTD  
 PROJECT: BATHURST SQUARE, COLESHILL ROAD, BIRMINGHAM, CV3 9AA  
 TITLE: PROPOSED SITE LAYOUT

DWG NO:	MCT	200	PA2	100
DATE:	NOV 18	SCALE:	1:200	
DRAWN:	OTM	CHECKED:		

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**(9) Application No: PAP/2019/0224**

**167, Long Street, Atherstone, CV9 1AD**

**Works to trees in Conservation Area, for**

**North Warwickshire Borough Council**

### **Introduction**

The application is reported to the Board as the Council is responsible for the trees.

### **The Site**

This is at the corner of the junction of Welcome Street with Long Street adjacent to a block of flats.

### **The Proposals**

It is proposed to fell a silver maple tree.

Its location is shown at Appendix A and the Tree Officer's report is at Appendix B.

### **Representations**

Any comments received will be reported verbally at the meeting

### **Observations**

The tree is not protected by an individual Order, but it is in the Conservation Area. The remit of the Board is thus only to decide whether an Order should be made.

The appended report outlines the structural problems that the tree is causing and the potential for these to worsen. In these circumstances an Order would not be appropriate.

### **Recommendation**

That the works may proceed but that the possibility of an appropriate replacement be considered or alternatively a different landscape treatment be agreed for this corner site

## BACKGROUND PAPERS

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

Planning Application No: PAP/2019/0224

<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)	12/4/2019

*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.*

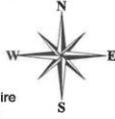
*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*



Date: 05/04/19  
Scale: 1:1000



North Warwickshire  
Borough Council



T1 - SILVER MAPLE

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Ordnance Survey

**ARBORICULTURAL APPRAISAL /INSPECTION/TREE REPORT**

- **NWBC Ref No :** NWBC Trees 12.04.19
- **Site Address:** Long Street/Welcome Street, Atherstone, CV9 1AD
- **Prepared by :** Andrew Watkins
- **Prepared for :** Planning Application
- **Date of Inspection :** 11/10/2018
- **Date of Report :** 12/04/2019

**Works applied for:**

- Works to trees within a Conservation Area.
- T1 Silver Maple. Fell.

**Observations:**

- The tree within this report is located upon the grounds of a residential site that North Warwickshire Borough Council is responsible for. This Notification follows the un-scheduled inspection of the tree by the North Warwickshire Borough Council Green Space Officer (Trees) and author of this report.
- **T1. Silver Maple.**
- This specimen is seen to be mature in age class and located upon the grounds of the North Warwickshire Borough Councils apartment block located at the junction of Long Street and Welcome Street, Atherstone. The area that the tree is sited upon does experience a high amount of both foot and vehicular traffic. The inspection follows reports that the specimen may be responsible for severe damage to the building due to subsidence. Following this inspection the following can be confirmed;
- Given the ownership of the tree and the building being one and the same it has been decided that intense level monitoring of the structure is not required to forward a claim for damage as would be the usual process. The cost to the Authority for the monitoring would be quite high and the information received would only mirror the information within this report. It is for this reason that it is requested that Elected Members agree that this expensive process not be required.

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

North Warwickshire Borough Council Tel: 01827 719212 Mob: 07875700111

- The severity of the damage to a building has been historically categorised within technical documentation Building Research Establishment BRE Digest 251<sup>(1)</sup>. The noted damage to the building has a Category of 5 within the scale of the document. This Category is the most severe given that numerous cracks over 25mm in width are noted, these cracks will require major repairs at this point and the potential partial rebuild of the building if the tree is to remain in position and continues to influence the structure (this may be the case at the present time with further investigation ongoing).
- The Classification of damage is noted as Stability, this is the most severe of the three levels of damage noted within the document<sup>(1)</sup> and will require extensive works and this time with more extensive works required if the tree remains in position and continues to influence the structure. The influence of the Genus of the tree can be confirmed within NHBC Standards Chapter 4.2 2019<sup>(2)</sup>.
- The soil in close proximity to the tree and the structure is confirmed as Shrinkable Clay Soil and is well documented and understood to be a contributing factor and major cause of subsidence where trees are in close proximity to buildings <sup>(1)&(2)</sup>. The building has been monitored during the winter months when the tree is in its dormant cycle and it can be reported that the gaps and damage have not reduced as may be expected. This is seen as proof that the removal of the tree will be the only option in this case.
- Roots of the tree are confirmed to be within the sewerage system of the building and have affected the waste system to the point that the tenant in that portion of the building is unable to use the facilities.
- It has been suggested that the tree remain in position and a Root Barrier be placed to try and limit the influence the tree roots have upon the building. This approach is discounted due to the fact that the cost of the works to the Authority would be quite high and does not guarantee success. The building will still require repair to stabilise and the best option to prevent re-occurrence is to remove the tree and the root system.

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

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**Photos of the damage noted at the time of the site visit**



Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

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- It must be noted that in relation to the Occupiers Liability Act of both 1957 and 1984 <sup>(3)</sup> an occupier with control over premises (which can be gardens and woodland) is liable to take such care that is “reasonable” to see that either the visitor (under the 1957 part of the Act) or trespasser (under the 1984 part of the Act) will be reasonably safe. A higher standard of care is owed to a visitor than for a trespasser and a higher standard still is required for a child compared with an adult. The removal of T1 is deemed to be a reasonable response to the damage to the building highlighted following the inspection of the tree.

- **Recommendations:**

- Facilitate the works within the Notification after Notification period has expired.

- **Modifications (if any):**

- None

#### **Appendices**

#### **References**

1. Building Research Establishment BRE Digest 251 (1995)
2. NHBC Standards Chapter 4.2 (2019)
3. The Occupiers Liability Act (1957 and 1984).

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

North Warwickshire Borough Council Tel: 01827 719212 Mob: 07875700111

**(10) Application No: PAP/2019/0225**

**Cole End Park, Lichfield Road, Coleshill, B46 1BG**

**Works to trees in Conservation Area, for**

**North Warwickshire Borough Council**

**Introduction**

This application is reported to the Board as the Council is responsible for the land.

**The Site**

Cole End Park is located either side of the River Cole at the northern end of the town.

The location of the trees the subject of this application is alongside the Lichfield Road.

**The Proposals**

There are three trees within the application all of which are in the Conservation Area but not protected by individual Orders.

It is proposed to remove one stem of three from a willow tree and to fell a further willow and a poplar.

The tree officer's assessment of the trees is attached at Appendix A and their location is shown in Appendix B.

**Representations**

Any comments received will be reported verbally to the meeting.

**Observations**

As the trees are not individually protected, but are in the Conservation Area, the remit of the Board is solely to decide whether to make a Tree Preservation Order for one, two or three of the trees. If not, then the proposed works may proceed. It can be seen from the report that the poplar tree is structurally unsound and as such an Order would not be appropriate. One of the willows too is showing signs of decline which is being caused by a pathogen. Again an Order would not be appropriate. The second willow is requiring surgery through the removal of one of its stems, but it too will continue to decline.

The recommendation below reflects the assessments of the Council's Tree Officer and past views of the Board.

**Recommendation**

That the works as proposed may proceed but that the Tree Officer be requested to seek appropriate replacements within twelve months in consultation with local Ward Members.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2019/0225

<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)	12/4/19

*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.*

**ARBORICULTURAL APPRAISAL /INSPECTION/TREE REPORT**

- **NWBC Ref No :** NWBC Trees 12.04.19
- **Site Address:** Cole End Park, Coleshill, B46 1BG
- **Prepared by :** Andrew Watkins
- **Prepared for :** Planning Notification
- **Date of Inspection :** 03/04/2019
- **Date of Report :** 12/04/2019

**Works applied for:**

- Works to trees within a Conservation Area.
- T1 Poplar. Fell.
- T2. Willow. Fell.
- T3. Willow. Fell one stem of three.

**Observations:**

- The trees within this report are located upon the North Warwickshire Borough Council's (NWBC) green space of Cole End Park, Coleshill. This area is within the Coleshill Conservation Area. This Notification follows the scheduled re-inspection of the trees by the North Warwickshire Borough Council Green Space Officer (Trees) (the author of this report).

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

North Warwickshire Borough Council Tel: 01827 719212 Mob: 07875700111

- **T1. Poplar.** This specimen is seen to be mature in age class. This specimen is a multi-stemmed variant that was noted to have partially failed at ground level in 2018. The tree was the subject of extensive works in 2015 and unfortunately has not re-generated since that time. The tree exhibits a pronounced lean towards the South-East of the immediate vicinity and shows signs that the structural integrity is failing <sup>(1)</sup>.



The tree is in close proximity to a designated footpath through the green space. This area is expected to experience a medium to high amount of pedestrian traffic throughout the day and is an area that is used unrestricted by the general public. The tree is devoid of fungal infection at the time of the inspection. The removal of T1 is recommended and the works requested are a precautionary measure to prevent damage or injury.

The Authority has the opportunity to deny the removal of the T1 by the placement of a Tree Preservation Order (TPO). It is felt that at this time given the condition of the tree it would not be expedient to place such an Order.

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS) Green Spaces Officer (Trees)*

North Warwickshire Borough Council Tel: 01827 719212 Mob: 07875700111

- **T2. Willow.** This specimen is seen to be young to early-mature in age class. The specimen is a single-stemmed variant. Following continued inspection it can be confirmed that the tree is in the final stages of decline and that the rhizomorphs (rooting system) of the pathogen Honey Fungus (*Armillaria mellea*) are evident upon the tree and that this pathogen is noted as the cause of the failure of the tree<sup>(1)</sup>.



The tree is in close proximity to a designated footpath through the green space. This area is expected to experience a medium to high amount of pedestrian traffic throughout the day and is an area that is used unrestricted by the general public. The removal of T2 is recommended and the works requested are a precautionary measure to prevent damage or injury.

The Authority has the opportunity to deny the removal of the T2 by the placement of a Tree Preservation Order (TPO). It is felt that at this time given the condition of the tree it would not be expedient to place such an Order.

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

North Warwickshire Borough Council Tel: 01827 719212 Mob: 07875700111

- **T3. Willow**

This specimen is seen to be early-mature in age class. The specimen is a multi-stemmed variant that was the subject of extensive works in 2015. It can be confirmed that one of the stems exhibits decline of the internal structural integrity to the point that the stem requires controlled removal before un-signalled failure<sup>(1)</sup>.



- The tree is in close proximity to a designated footpath through the green space. This area is expected to experience a medium to high amount of pedestrian traffic throughout the day and is an area that is used unrestricted by the general public. The tree is devoid of fungal infection at the time of the inspection. The removal of T2 is recommended and the works requested are a precautionary measure to prevent damage or injury.

The Authority has the opportunity to deny the requested works to T3 by the placement of a Tree Preservation Order (TPO). It is felt that at this time given the condition of the tree it would not be expedient to place such an Order.

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

North Warwickshire Borough Council Tel: 01827 719212 Mob: 07875700111

- It must be noted that in relation to the Occupiers Liability Act of both 1957 and 1984 <sup>(2)</sup> an occupier with control over premises (which can be gardens and woodland) is liable to take such care that is “reasonable” to see that either the visitor (under the 1957 part of the Act) or trespasser (under the 1984 part of the Act) will be reasonably safe. A higher standard of care is owed to a visitor than for a trespasser and a higher standard still is required for a child compared with an adult. The works notified to the three trees is deemed to be a reasonable response to the hazards posed by these specimens.

- **Recommendations:**

- Facilitate the removal of T1 and T2 and the works to T3 after Notification period has expired.

- **Modifications (if any):**

- None

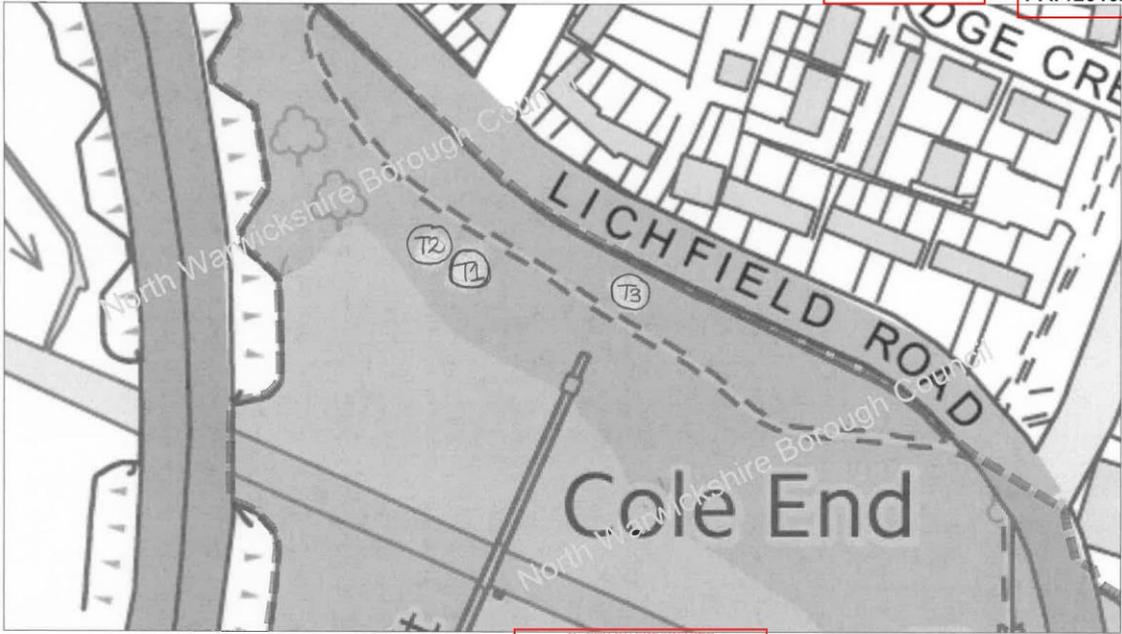
#### **Appendices**

#### **References**

1. Diagnosis of ill-health in trees. R.G. Strouts and T.G. Winter
2. The Occupiers Liability Act (1957 and 1984).

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

North Warwickshire Borough Council Tel: 01827 719212 Mob: 07875700111



Date: 05/04/19  
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T1 - POPLAR  
T2 - WILLOW  
T3 - WILLOW

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**Agenda Item No 6**

**Planning and Development Board**

**20 May 2019**

**Report of the Head of  
Development Control**

**Appeal Update**

**1 Summary**

1.1 Recent appeal decisions are reported to Members for information

<p><b>Recommendation to the Board</b></p> <p><b>That the report is noted</b></p>
--

**2 Consultation**

2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

**3 Appeal Decisions**

**a) Ashleigh, Coventry Road, Fillongley**

3.1 This case has been referred to the Board on a number of occasions. Whilst planning permission was granted for the erection of the six houses at the rear of Ashleigh, the Board subsequently refused an amendment to the appearance of those houses. The appeal into that refusal is now reported and it can be seen that the Inspector took the view that there would be no material worsening of any the situation. The decision letter is attached at Appendix A.

**b) Newton Farm, Newton Regis**

3.2 This site has been the subject of earlier dismissed appeals. It is encouraging to see this decision following suit by giving substantial weight to the heritage assets and that the character of the Conservation Area is enhanced by the openness of the approach into the village. The decision letter is attached at Appendix B.

**4 Report Implications**

**4.1 Environment, Sustainability and Health Implications**

4.1.2 The second appeal decision here accords with the Council's priorities of retaining the Borough's rural heritage and character.

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



---

## Appeal Decision

Site visit made on 1 April 2019

**by Rachel Walmsley BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 12 April 2019**

---

**Appeal Ref: APP/R3705/W/18/3218972**

**Ashleigh, Coventry Road, Filongley CV7 8BZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr James Cassidy against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2018/0377, dated 14 June 2018, was refused by notice dated 4 September 2018.
  - The application sought planning permission for residential development of 5 new dwellings, 1 detached garage and associated highways, landscaping and external works. Demolition of the "Ashleigh" garage and morning room without complying with condition 2 attached to planning permission Ref APP/R3705/W/16/3145303, dated 29 July 2016.
  - The condition in dispute is No 2 which states that: the development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site Layout, Application 3: 6882/26; House Type Plots 1 and 4: 6882/21B Rev B; Plot 2: 6882/22C Rev C; Plot 3: 6882/25B Rev B; Plot 5: 6882/23B Rev B; Site Sections: 6882/17D Rev D.
  - The reason given for the condition is for reasons of clarity and proper planning.
- 

### Decision

1. The appeal is allowed and planning permission is granted for residential development of 5 new dwellings, 1 detached garage and associated highways, landscaping and external works. Demolition of the "Ashleigh" garage and morning room at Ashleigh, Coventry Road, Filongley CV7 8BZ in accordance with the application ref PAP/2018/0377, dated 14 June 2018 without compliance with condition no.2 previously imposed on planning permission ref APP/R3705/W/16/3145303, dated 29 July 2016 and subject to the conditions set out in the attached schedule.

### Main Issue

2. This is the effect amending the condition would have on the living conditions of neighbouring occupiers with particular regard to outlook, privacy and noise and disturbance.

### Reasons

3. The appeal site is to the rear of properties fronting Coventry Road. The houses would run parallel to and a notable distance from the existing houses. Given this separation distance, the nominal increase in the height of the house on

plot 3 and of the garages on plots 1 and 4 would not have an overbearing impact on or create an oppressive environment for the occupiers of the existing properties at Cotswold, Hobgoblin House and Bella Vista respectively. It is also evident from the drawings before me that the ridge height of the new dwelling on plot 3 would be lower than the ridge height of Cotswold. Together with the distance of the properties from each other, the new dwelling would not have an overbearing effect.

4. In deciding the original permission, I found that the distance of separation between existing and proposed properties was sufficient for overlooking to not be a concern. The introduction of additional dormer windows and a variation in the size and form of some of these windows does not change this relationship and therefore overlooking would not be harmful to the privacy of existing occupiers.
5. The additional bedrooms and parking spaces proposed is likely to result in increased vehicle movements. Nonetheless, the driveway would be a suitable distance from the existing houses for any noise and disturbance associated with the movement of vehicles to not have a detrimental effect on the living conditions of the occupiers of the neighbouring properties.
6. In all, therefore, I find that amending the condition with the revised plans would not have a harmful effect on the living conditions of neighbouring occupiers with particular regard to outlook, privacy and noise and disturbance. As such the proposal would not be contrary to policy NW10 of the Core Strategy<sup>1</sup> which seeks development that does not have an unacceptable impact on neighbouring amenities. I therefore conclude that condition no.2 of the original permission can be amended and I will allow the appeal.

#### *Other matters*

7. The increase in the number of bedrooms in each property and the limited increase in floor area of the houses on each plot would not impact on the spacing of properties to consider the development cramped and therefore out of keeping with the existing pattern of development and harmful to the character and appearance of the area.
8. Given the distance of the development from existing houses, any light emitted from the proposed windows would not result in glare for existing occupiers. In allowing the appeal lighting details would be secured by planning condition and therefore any further considerations related to lighting would be considered at this time.
9. There is no evidence before me of the Fillongley Neighbourhood Plan being adopted. I am therefore unable to give weight to its policies and consider matters such as the competition for parking, flooding and the provision of affordable housing in relation to it.

#### **Conditions**

10. In light of my findings above I consider that it is not necessary to comply with condition 2 of the July 2016 planning permission. I have therefore replaced it with a new condition specifying that the development must accord with the revised drawings as this provides certainty.

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<sup>1</sup> North Warwickshire Local Plan, Core Strategy (adopted October 2014)

11. The national Planning Practice Guidance advises that where an application under section 73 of the Act is granted the planning permission should also repeat the relevant conditions from the original planning permission (which for the purposes of this appeal is the 2016 permission), unless they have already been discharged. I have not been presented with the Council's confirmation of conditions being discharged and therefore I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

### **Conclusion**

12. For the above reasons, and having regard to all other matters raised, I conclude that the appeal is allowed and a new planning permission is granted.

*R Walmsley*

INSPECTOR

### **CONDITIONS SCHEDULE**

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Layout and Street Elevation, 6882/09K Rev K; Plots 1 and 4, 6882/21C Rev C; Plot 2 and 3, 6882/22D Rev D; Plot 5, 6882/23C Rev C; and Section B-B between existing Cotswold and Proposed Amended Plot 3.
3. No development shall commence until samples of the external facing and roof surface materials to be used in the construction of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved samples.
4. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
  - a. a statement setting out the design objectives and how these will be delivered;
  - b. earthworks showing existing and proposed finished levels or contours;
  - c. means of enclosure and retaining structures;
  - d. boundary treatments;
  - e. hard surfacing materials;
  - f. planting plans;
  - g. written specifications;
  - h. a schedule of plants noting species, plant sizes and proposed numbers;
  - i. existing landscape features including hedges "to be retained";
  - j. existing landscape features including hedges "to be removed";
  - k. an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

5. All planting, seeding or turfing comprised in the approved details of landscaping referred to under condition 4 shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. All the trees shown under the works identified in condition 4 "to be retained" and any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
7. The dwellings shall not be occupied until a pedestrian link from the site to the opposite side of Coventry Road has been completed in accordance with details that have first been submitted to and approved in writing by the local planning authority. The pedestrian link as constructed shall be retained thereafter.
8. The dwellings shall not be occupied until a means of access for vehicles has been constructed in accordance with the approved plans and to the satisfaction of the local planning authority. The access shall be retained thereafter.
9. The turning, parking and access areas shown on the approved plans shall remain for these purposes at all times.
10. No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The

remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.

11. No development shall commence until details of sewage disposal and drainage works have been submitted to and approved in writing by the local planning authority. The dwelling shall not be occupied until the sewage disposal and drainage works have been completed in accordance with the approved details.
12. Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the dwellings hereby permitted are occupied. The lighting shall be carried out in accordance with the approved details.





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## Appeal Decision

Site visit made on 4 March 2019

**by J Spurling BSc(Hons) DipTP PGDip(Law) PGDip(CMI) MRTPI MCI**

an Inspector appointed by the Secretary of State

Decision date: 24 April 2019

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**Appeal Ref: APP/R3705/W/18/3218660**

**Land south of Newton Farm, Main Road, Newton Regis, B79 0NE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr T Smith against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2018/0314 dated 16 May 2018, was refused by notice 8 November 2018.
  - The development proposed is described as the erection of one dwelling with associated woodland landscaping land south of Newton Farm, Main Road, Newton Regis, Warwickshire B79 0NE.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The National Planning Policy Framework was revised in February 2019 (the Framework) and this post-dates the Council's refusal of planning permission. I have taken into account the Framework, as a material planning consideration, as part of the determination of this appeal. Local Development Plan policies that pre-date this publication should be given due weight according to the degree of consistency with the Framework. I have therefore determined the appeal with this in mind.
3. North Warwickshire Borough Council is in the process of updating its Local Plan and has referenced emerging policy LP15. From the information before me, including the progress note provided by the appellant, the examination of the emerging plan has yet to be completed and policies within it could be subject to change. I therefore only afford limited weight to this policy.
4. There have been a number of planning appeals on this site, which have been dismissed. An appeal<sup>1</sup> for 19 dwellings was dismissed, due to its adverse effect on the boundary wall and the incursion of built development into the countryside. A more recent appeal<sup>2</sup>, which related to an outline application (access only) for six dwellings was also dismissed due to the effect on the CA and that the site was not an appropriate location for housing. The most recent

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<sup>1</sup> APP/R3705/A/13/2208894

<sup>2</sup> APP/R3705/A/14/2228761

appeal<sup>3</sup> was for up to 6 dwellings with all matters reserved. In dismissing that appeal, the Inspector considered that the proposal would not represent sustainable development and that harm would be caused to the character and appearance of the area.

5. Whilst the planning application form referred to the address as 'Main Street', the decision notice referred to the address as 'Main Road' and all indications are that the road is known as 'Main Road'. Therefore, in this regard I have referred to the address as 'Main Road' and dealt with the appeal accordingly.

### **Main Issue**

6. The main issue is the effect on the character and appearance of the area, with particular regard to whether the development would preserve or enhance the setting of the Newton Regis Conservation Area (CA), and the setting of Newton Farm.

### **Reasons**

7. The appeal site comprises part of a field located on the edge of the village of Newton Regis, adjacent to the boundary of the Newton Regis CA, which runs along Main Road to the north of the site. It is bounded to the south and west by fields and to the east by semi-detached dwellings including some en bloc garages. On the opposite side of Main Road is the traditional farmhouse and associated buildings at Newton Farm. The front boundary of the site adjacent to the road is marked by a low level brick wall with a similar brick wall on the opposite side of the road to the front of the farmhouse at Newton Farm. A field gate providing vehicular access to the site is located adjacent to the wall fronting onto Main Road. The site is located at one of the key entrance points to the village and the CA and significantly contributes to its rural setting. The CA was designated in 1981.
8. The boundary wall, the one opposite and the farmhouse at Newton Farm are non-designated heritage assets within the CA, all of which contribute positively to the character and appearance of the CA.
9. It is recognised that there are some modern features both adjacent to and within the appeal site. This includes Lime Grove (which comprises two pairs of semi-detached houses and associated garages), electricity pylons and other physical apparatus.
10. The appellant states an intention to create a landmark building that is commensurate and complementary to Newton Farm, which is an historic and attractive two storey detached building prominent in the street scene. The appellant has engaged a design professional to seek a design appropriate for the location.
11. The proposed dwelling would be a substantial two storey detached building with an attached triple garage. It would be set well back from Main Road with the proposed garage offset but located in front of the proposed dwelling. Whilst the scale and massing would be similar to Newton Farm, design elements of the building, such as the externally expressed chimneys, would be uncharacteristic in the area.

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<sup>3</sup> APP/R3705/W/17/3179126 – decision date 27 November 2017

12. The proposed woodland planting associated with the development would help to screen some of the existing modern features, such as the pylons that already exist, and would enhance the CA therefore providing a public benefit. Screening through trees or groups of trees may in time be able to mitigate harm but would not enhance the setting of the Conservation Area. It would take some time for planting to reach a level of maturity that could potentially screen the building and some of the other modern features from view. Furthermore, screening can change over time and during seasons, such as changes to foliage.
13. The appeal site as an open field contributes to the setting of the village and the CA. Whilst I noted that there was some element of tree cover to parts of the edge of the village, this was not a feature that prevailed in all instances. The erection of a dwelling on the site, would result in an inappropriate and significantly harmful incursion of built development into the countryside. Whilst reference has been made to similar woodland in villages in the vicinity, no specific details are before me. In any case, it is the current appeal before me.
14. Reference has been made to the Manor Farm scheme, within the CA and near to listed buildings. My attention has also been drawn to Ingle House, which is a modern property on the junction of Main Road and Seckington Lane adjacent to the CA, in support of the proposal. However, I have only been provided with limited details or particular circumstances of these cases. In any event, I must determine the proposal before me on its own merits.
15. The appeal would not affect the boundary wall. It is accepted that some of the more modern development including the 1970s housing, garages, pylons and gas apparatus may not be removed, and it is also recognised that the nature of Conservation Areas or villages may change over time. These matters neither weigh for nor against the proposal and therefore I afford them neutral weight.
16. The proposal would therefore fail to preserve the setting of the CA and would not meet the requirements of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). I therefore consider that there would be a harmful impact on the character of the village, the setting of Newton Farm and the setting of the CA. The proposal would fail to accord with Policy NW14 of the North Warwickshire Core Strategy (CS) or policies ENV15 and ENV16 of the North Warwickshire Local Plan (LP). These policies seek, amongst other matters, to ensure that all development proposals demonstrate a high quality of sustainable design that positively improve the individual settlement's character and sustain, conserve and enhance the historic environment including conservation areas and non-listed buildings of historic value. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect on the CA.

#### *Other Matters and Planning Balance*

17. The appellant has drawn my attention to Policy NW2 in the CS. This policy sets out a settlement hierarchy and states that where necessary, changes to development boundaries will be made in the appropriate development plan document, or once development has taken place, whichever is the earlier.

18. Newton Regis is one of a number of Category 4 settlements under Policy NW2<sup>4</sup> of the CS. This category states that development will be limited to that identified in the plan or identified through a neighbourhood or other locality plan. Policy NW5 of the CS states that Newton Regis will cater for 15 houses, usually on sites of no more than 10 units and at any one time depending on viability, although a Neighbourhood Plan could allocate more. At this time there is no Neighbourhood Plan for Newton Regis.
19. The Council acknowledge that appeal decisions at Daw Mill<sup>5</sup> and Ansley Phase 2<sup>6</sup> have established that Development Plan policy in respect of development boundaries is currently out of date. As the housing supply policies are out of date, paragraph 11d) of the Framework is engaged. The appellant and the Council do not agree on whether there is a five year supply of housing or what the scale of housing development for the Borough is. However, this dispute is of little relevance given that the housing supply policies are out of date. In any event Paragraph 11d) requires an assessment of the application against the policies in the Framework when as taken as a whole.
20. Paragraph 78 of the Framework sets out that planning policies should identify opportunities for villages to grow and thrive, especially where this would support local services. I consider that policies in NW2 and NW5 of the CS, in terms of directing residential development to Newton Regis, are consistent with the Framework.
21. Future occupiers of the proposed development would be unlikely to rely solely on public transport. From the information before me, I did observe that there were various services and facilities in Newton Regis including a pub, church and a primary school. Nonetheless, the services and facilities are generally limited. The occupiers of the development would be likely to need to use a private vehicle for some trips and this is the least sustainable transport mode. However, the development is only for one dwelling and therefore the number of vehicle movements would be likely to be limited. I therefore afford the harm from vehicle movements limited negative weight.
22. There would be some short term benefits through the construction activity and additional spending from future occupiers. Whilst it is acknowledged that future occupiers would have to travel out of the village to access some services and facilities and that there are limited travel choices available, there would be some economic benefits. I afford the economic benefits limited weight.
23. The proposal would provide an additional unit and would contribute to the supply of housing in the Borough, supporting the Government's objective to boost significantly the supply of housing as stated in paragraph 59 of the Framework. I have also had regard to the aims of the Housing White Paper: Fixing our broken housing market. However, the identified benefits arising from the addition of one dwelling would be small.

## Conclusion

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<sup>4</sup> 'Other Settlements with a development boundary'

<sup>5</sup> APP/R3705/W/16/3149827

<sup>6</sup> APP/R3705/W/16/3149572

24. Taking the above matters into consideration, I consider that there would be harm to the setting and therefore the significance of the CA as a result of the proposal and that this harm would be less than substantial. Even though I have found that the harm to the heritage asset would be less than substantial, it is not to be treated as a less than substantial objection to the proposal. Paragraph 196 of the Framework states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against any public benefits of the proposal. The PPG defines public benefit in this regard as "*of a nature or scale to be of benefit to the public at large and should not just be a private benefit*". In this case no public benefit has been identified to outweigh that harm and nothing to outweigh the less than substantial harm which would be caused to the heritage asset.
25. In addition, I have found significant harm to the character and appearance of the area more generally and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. Therefore, the proposal would not represent sustainable development.
26. For these reasons given above and having regard to all other matters raised, the appeal is dismissed.

*J Spurling*

INSPECTOR



**Agenda Item No 7**

**Planning and Development Board**

**20 May 2019**

**Report of the Head of  
Development Control**

**Confirmation of a Tree  
Preservation Order - Baddesley**

**1 Summary**

1.1 The report seeks confirmation to make a Tree Preservation Order.

**Recommendation to the Board**

**That the Order be confirmed.**

**2 Consultation**

2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

**3 Background**

3.1 Members will recall that the February Board meeting confirmed action taken by the Chief Executive to make an Emergency Tree Preservation Order in respect of a yew tree at Yew Tree Cottage in Newlands Road, Baddesley Ensor. The previous report is attached at Appendix A. In short the tree was considered to be of amenity value and it was located on a site of a house which was the subject of an immediate auction.

3.2 Once the Order was made, a period of consultation was undertaken but at its expiry, no representations have been received.

**4 Observations**

4.1 As a consequence of the response, it is considered that the Order should now be made permanent. The Emergency Order expires on 13 August 2019 unless it is made permanent.

## 5 Report Implications

### 5.1 Finance and Value for Money Implications

5.1.2 There are no implications in the making of the Order but in certain circumstances, compensation may be payable if the Council refuses Consent for works to the tree concerned.

### 5.2 Environment, Sustainability and Health Implications

5.2.1 The tree here is 200 years old and has public amenity value such that it enhances the local setting and helps retain the Borough's rural character

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

### Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date

## Equality Impact Assessment Summary Sheet

Please complete the following table summarised from the equality impact assessment form. This should be completed and attached to relevant Board reports.

Name of Policy Procedure/Service	
Officer Responsible for assessment	

Does this policy /procedure /service have any differential impact on the following equality groups /people

- (a) Is there a positive impact on any of the equality target groups or contribute to promoting equal opportunities and improve relations or:
- (b) could there be a negative impact on any of the equality target groups i.e. disadvantage them in any way

Equality Group	Positive impact	Negative impact	Reasons/Comments
<b>Racial</b>			
<b>Gender</b>			
<b>Disabled people</b>			
<b>Gay, Lesbian and Bisexual people</b>			
<b>Older/Younger people</b>			
<b>Religion and Beliefs</b>			
<b>People having dependents caring responsibilities</b>			
<b>People having an offending past</b>			
<b>Transgender people</b>			
<b>Armed Forces Covenant</b>			

If you have answered **No** to any of the above please give your reasons below



Please indicate if you believe that this document

Should proceed to further Impact assessment

Needs no further action

## Risk Management Form

**NORTH WARWICKSHIRE  
BOROUGH COUNCIL**

**Division**

**Cost Centre or Service**

Risk Ref	Risk: Title/Description	Consequence	Likelihood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Gross Risk Rating	Responsible Officer	Existing Control Procedures	Likelihood( 5 = high, 1 = low)	Impact (5 = high, 1 = low)	Net Risk Rating
Risk Ref	Options for additional / replacement control procedure						Cost Resources	Likelihood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Net Risk Rating

Completed By:

Date:

**Agenda Item No 7**

**Planning and Development Board**

**4 March 2019**

**Report of the Head of  
Development Control**

**Tree Preservation Order  
Baddesley Ensor**

**1 Summary**

- 1.1 The Board is asked to confirm action taken in the making of an Emergency Tree Preservation Order.

<p><b>Recommendation to the Board</b></p> <p><b>That the Board confirms the making of an Emergency Tree Preservation Order at this address for the reasons set out in this report.</b></p>
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**2 Consultation**

- 2.1 The Chairman of the Board was consulted prior to the making of the Order.

**3 Background**

- 3.1 The Planning Division was notified of the sale by auction, of the residential property known as Yew Tree Cottage at Newlands Road in Baddesley Ensor. There is a yew tree within the garden quite close to the cottage and concern had been expressed that any prospective purchaser could seek to redevelop the site seeking demolition of the building and removal of the tree.

- 3.2 As the auction was to take place at short notice, the tree was inspected by a representative of the County Forestry team and that assessment resulted in a recommendation that an Order be made.

- 3.3 As a consequence, with the agreement of the Chairman an Emergency Order was made and this was served prior to the auction. The Auctioneer was also notified of the Order.

- ... 3.4 A copy of the Order is at Appendix A and the Assessment is at Appendix B.

**4 Observations**

- 4.1 Members are aware that Orders may be placed on trees if “it is expedient in the interests of amenity”. In this case the tree is considered to be seen from public viewpoints and that it contributes to the general ambience of the area being mature and a good and healthy condition. Given that the tree could be considered to be under threat because of the imminent sale of the land with redevelopment potential, the need for making an Order quickly was agreed and thus the Order was made under emergency powers agreed by the Chairman.
- 4.2 The Board is recommended to confirm this action.
- 4.3 There will now be a period of consultation and any representations will be reported back to the Board when it takes a decision whether to confirm the Order or not.

**5 Report Implications**

**5.1 Finance and Value for Money Implications**

- 5.1.1 Members are aware that in certain circumstances, compensation can be sought following a refusal by the Local Planning Authority to agree to works to protected trees.

**5.2 Legal, Data Protection and Human Rights Implications**

- 5.2.1 Persons with an interest in the land will have the opportunity to make representations which will then be considered by the Board

**5.3 Environment, Sustainability and Health Implications**

- 5.3.1 The protection of trees accords with the Council’s objectives of protecting the Borough’s rural character.

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

**Background Papers**

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

Background Paper No	Author	Nature of Background Paper	Date

## Agenda Item No 8

### Planning and Development Board

20 May 2019

#### Report of the Acting Chief Executive

#### Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April 2018 – March 2019

### 1 Summary

- 1.1 This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April 2018 to March 2019.

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

**That Members consider the performance achieved and highlight any areas for further investigation.**

### 2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

### 3 Background

- 3.1 This report shows the year end position with the achievement of the Corporate Plan and Performance Indicator targets for 2018/19. This is the fourth report showing the progress achieved so far during this year.

### 4 Progress achieved during 2018/19

- ... 4.1 Attached at Appendices A and B are reports outlining the progress achieved for all the Corporate Plan targets and the agreed local performance indicators during April 2018 to March 2019 for the Planning and Development Board.
- 4.2 Members will recall the use of a traffic light indicator for the monitoring of the performance achieved.

Red – target not being achieved (shown as a red triangle)

Green – target achieved (shown as a green star)

## 5 Performance Indicators

- 5.1 The year end returns are subject to review by Internal Audit and therefore maybe subject to changes. Any amendments to the returns will be reported to a future meeting of the board.

## 6 Overall Performance

- 6.1 The Corporate Plan performance report shows that 100% of the Corporate Plan targets and 67% of the performance indicator targets have been achieved. One target for processing other applications has not been achieved due to a combination of high workload demands, delays in consultation responses and capacity within the Development Control department. The report shows the individual targets that have been classified as red or green. Individual comments from the relevant division have been included where appropriate. The table below shows the following status in terms of the traffic light indicator status:

### Corporate Plan

Status	Number	Percentage
Green	7	100%
Red	0	0%
Total	7	100%

### Performance Indicators

Status	Number	Percentage
Green	2	67%
Red	1	33%
Total	3	100%

## 7 Summary

- 7.1 Members may wish to identify any areas that require further consideration where targets are not currently being achieved.

## 8 Report Implications

### 8.1 Safer Communities Implications

- 8.1.1 Major applications are considered by the Police Architectural Liaison Officer who is looking to ensure that Secure by Design principles are applied for new developments.

## 8.2 Legal Data Protection and Human Rights Implications

8.2.1 The national indicators were specified by the Secretary of State for Communities and Local Government. They were replaced by a single list of data returns to Central Government from April 2011.

## 8.3 Environment and Sustainability Implications

8.3.1 Improvements in the performance and quality of services will contribute to improving the quality of life within the community. The actions to improve apprenticeships, training and employment opportunities and transport links for local residents is contributing towards the raising aspirations, educational attainment and skills priority of the North Warwickshire Sustainable Community Strategy 2009 – 2026.

## 8.4 Risk Management Implications

8.4.1 Effective performance monitoring will enable the Council to minimise associated risks with the failure to achieve targets and deliver services at the required performance level.

## 8.5 Equality Implications

8.5.1 The action to improve employment opportunities for local residents is contributing to equality objectives and is a positive impact in terms of the protected characteristics for age through the young people employment programme.

## 8.6 Links to Council's Priorities

8.6.1 There are a number of targets and performance indicators included relating to supporting employment and business, protecting countryside and heritage, and promoting sustainable and vibrant communities.

The Contact Officer for this report is Robert Beggs (719238).

### Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date

Planning and Development 18/19						
	Action	Priority	Reporting Officer	Year End	Status	Direction
28	Manage development so as to deliver the priorities on the Council's Corporate Plan and in the Sustainable Community Strategy	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board February 2020	★ Green	➡
29	To report on Growth pressures on the Borough, how to protect the Green Belt as far as possible and sustain the rurality of the Borough by February 2019 and at least annually thereafter	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board February 2020	★ Green	➡
30	Use the Design Champions to ensure the best achievable designs are implemented and developed so as to reflect setting and local character	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board February 2020	★ Green	➡
31	To seek to secure the protection of the best of the Borough's built and rural heritage	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board February 2020	★ Green	➡
32	a) Work with the County Council, Job CentrePlus and other partners to provide and promote apprenticeships/ training opportunities; and b) administer funding provided by the developers and through other funding sources to maximise opportunities for employment of local people including employment engagement activity, development of work clubs and bespoke training; and c) to work with the County Council, Town/Parish Councils and other partners to maximise section 106/CIL contributions for infrastructure, biodiversity offsetting and community improvements	Supporting Employment & Business	Steve Maxey	A number of contributions from developers have been collected and a number of training activities delivered. Focus for upcoming work is digital skills due to demand from employers. Options are being explored to establish a number of code clubs in North Warwickshire and make links with the Digital School House at Coleshill Secondary school. A six weeks programming course for adults, Python, starts on 6th November at the Coleshill School. The Council continues to work closely with the Jobcentre to promote work opportunities and a further Jobs Fair is being held on 18th October. Work is underway to explore an enhanced DSH model with a Coordinator post identified. This will bring the digital and creative works together. Plans are in place to undertake a desk top exercise regarding the impacts of automation in North Warwickshire	★ Green	➡
33	Look at ways to improve transport links, including cycle links, footpath links, public transport and HGV parking to local employment and report on progress by March 2019	Supporting Employment & Business	Jeff Brown	To report by March 2020, but work on Section 106 Agreements continues with bus stop provision being agreed on the St Modwen development and on recent residential developments in Warton	★ Green	➡
34	To continue to work with North Warwickshire Heritage Forum to protect, promote and develop the heritage and tourism of North Warwickshire	Protecting our Countryside & Heritage	Jeff Brown	Meetings with the Forum have been established and more are programmed. Links to potential heritage projects have been identified - eg Roman history at Mancetter	★ Green	➡

NWPI Planning Board 18/19

Ref	Description	Section	Priority	Year End Target 2018/19	Outturn 2017/18	April - Mar Performance	Traffic Light	Direction of Travel	Comments
@NW:NI157a	Processing of planning applications in 13 weeks for major application types	Development Control	Countryside and Heritage	60%	91.00%	88.00%	 Green		This is to be explained by timely consultation responses, pre-application meetings and agreements to extend time periods when appropriate.
@NW:NI157b	Processing of planning applications in 8 weeks for minor application types	Development Control	Countryside and Heritage	80%	79.45%	89.00%	 Green		
@NW:NI157c	Processing of planning applications in 8 weeks for other application types	Development Control	Countryside and Heritage	90%	85.00%	85.00%	 Red		A combination of Increasing demands from new applications, delays in consultation responses and capacity have contributed towards the achieved performance level