

## **General Development Applications**

**(11) Application No: PAP/2018/0053**

**Land South of Gardeners Cottage, Pooley Lane, Polesworth,**

**Outline application (access only) for the residential development of up to 40 dwellings, for**

**Mr K Holloway - N P Holloway And Son**

### **Introduction**

This application was referred to the last Board meeting but determination was deferred as Members asked officers to review the consultation response from the County Council acting as Highway Authority. Independent highway advice has been sought, but this was received shortly after publication of the Board's June agenda. In view of the single reason for deferral and in order to not delay matters, the Chairman has approved the preparation of this supplementary report.

The previous report is at Appendix A.

### **Additional Advice**

A copy of the additional advice in the form of a Technical Note, is attached at Appendix B. It has been passed both to the County Council and to the applicant in advance of this meeting in order that the Board might be aware of any early responses. These will be reported verbally at the meeting.

The advice raises five concerns.

The first is that two "passing places" are recommended on Pooley Lane itself between its junction with Tamworth Road and the proposed junction into the site. This is a consequence of the narrow width of the Lane and the amount of traffic that could be using it. The Lane however is not a public highway and thus the applicant has been specifically asked if he would be able to undertake these works if they were required by a planning condition.

The second is that "HGV swept path" drawings should be submitted to show that an HGV can turn into Pooley Lane from Tamworth Road whilst a vehicle or vehicles are waiting on Pooley Lane to join Tamworth Road. This is due to the narrow "neck" of this portion of Pooley Lane where it joins Tamworth Road. If the drawing shows that there is difficulty here, then a resolution will be needed and that should show that it is capable of implementation prior to an approval of planning permission.

The third is for a speed survey to be undertaken on Pooley Lane as this would enable the visibility splays for the access into the site to be determined. The Highway Authority has assumed a 30 mph speed here. Moreover the applicant doesn't appear to have justified his indicative splays. Members should be aware that increased visibility splays would result in the loss of additional existing hedgerow.

The fourth is that due to the width of Pooley Lane, it is not apparent that an HGV could exit the site without crossing that Lane. A wider access is probably going to be needed. Again an HGV swept path drawing should be submitted.

Finally the design of the footpath connection to the east of the site needs reconsideration.

## **Observations**

Members should be aware that this is an outline application, but with access included and therefore, the receipt of this advice is relevant and that it could well give rise to the imposition of additional conditions or varied conditions to those set out in Appendix A. However such conditions have to be precise and reasonable. The advice suggests that they may well be, but only following additional research and review of the consequences. There are three issues here.

Firstly, the results of the speed survey and the consequential appropriate visibility splays for the new junction and the HGV swept path analysis of that new junction onto Pooley Lane could well result in additional lengths of hedgerow being removed.

Secondly, any passing places might not be capable of implementation because of the status of Pooley Lane, but if provided on the "site side" of the Lane, will result in additional hedgerow removal.

Thirdly, the HGV turning analysis of the junction at Tamworth Road may require resolution on land outside the control of the applicant.

It is for these reasons that the applicant has been invited to comment.

From the Board's perspective, then it is suggested that once the comments from both the applicant and the County Council have been received, that these are referred to a sub-group of the Board with a view to the grant of outline planning permission subject to conditions as set out in Appendix A, but with additional or varied conditions dependent on the outcome of this re-consultation. Should that not be the outcome, then the matter would be referred back to the full Board.

## **Recommendation**

That the Board confirms the actions set out in this report.

## 1. BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0053

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	Head of Development Control	Letter	15/5/18
2	M-EC	Technical Note	31/5/18

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

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

### General Development Applications

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### Introduction

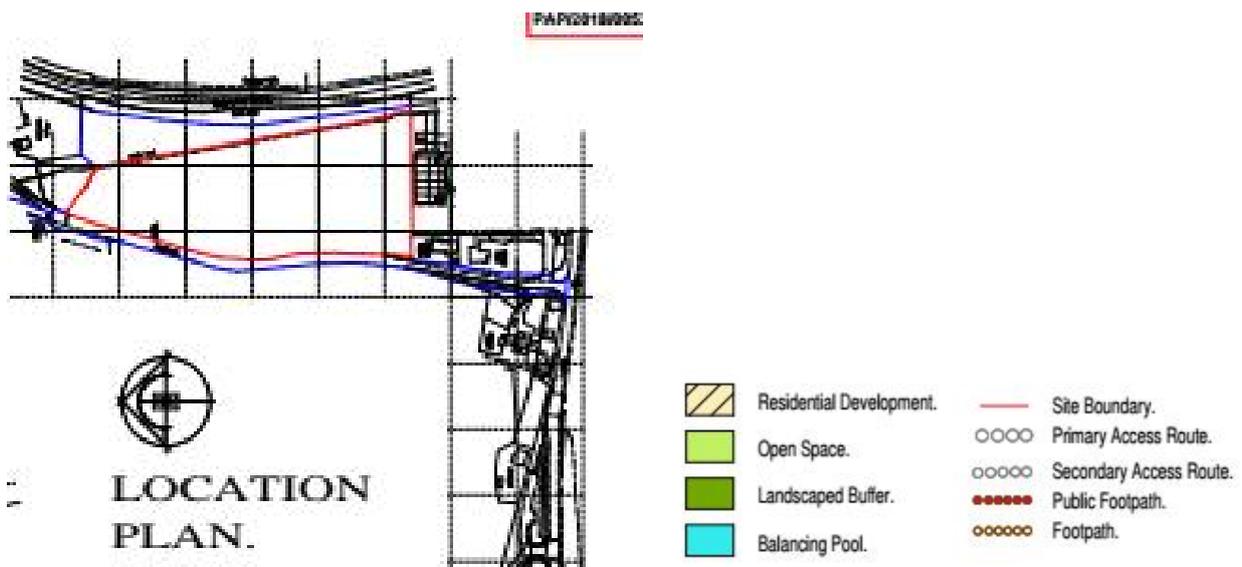
This application is reported to the Planning and Development Board at the discretion of the Head of Development Control in view of the planning history of the site.

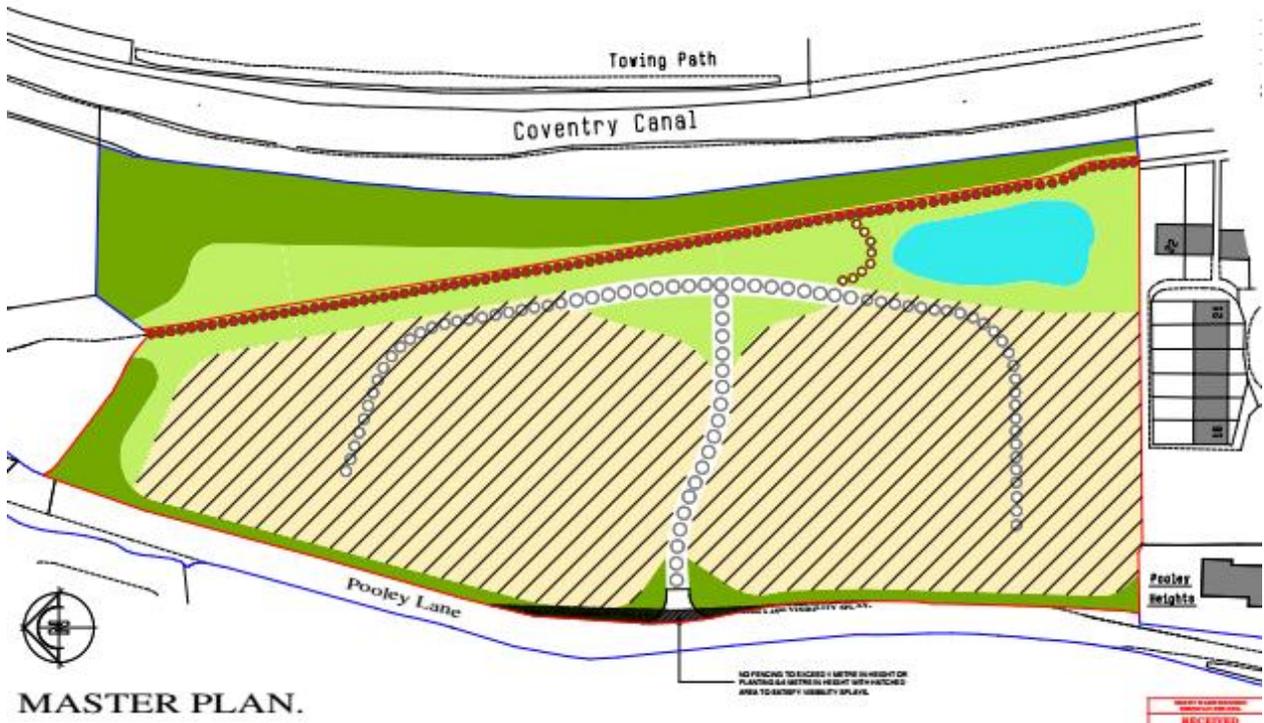
### The Site

The proposed development site lies to the north of the housing development known as The Lynch off the B5000 on the west side of Polesworth. The site is bound by Gardeners Cottage to the north; the Coventry Canal and public footpath AE16 to the east, the Lynch to the south and Pooley Lane to the west. The settlement of Polesworth lies to the east of the site and the M42 is further to the west.

The site measures some 2 hectares and is bound by mature hedgerows along its northern and western boundaries with a landscaped buffer to its eastern boundary. The gardens of the properties on The Lynch form its southern boundary.

The outline of the site is shown below.





## **The Proposal**

The scheme relates to the development of this field with residential units. It is submitted in outline format but with details of the vehicular access from Pooley Lane. The Masterplan submitted with the proposal includes the extent of a development plateau along with the access off Pooley Lane and landscaped areas. The indication in the plans submitted is that the site can accommodate up to 40 dwellings.

The following documentation has been submitted with the application:

- A Design, Access, Heritage and Planning Statement
- A Phase 1 Preliminary Ecological Appraisal
- A Flood Risk Assessment with surface drainage calculations
- An Archaeological Heritage Assessment
- A Reptile Survey
- Plan showing the access position

The proposal would be the subject of a Section 106 Agreement with the following draft heads of terms suggested by the applicant:

- 40% of the units to be affordable housing with 65% of these as socially rented units and 35% as shared ownership.
- £52000 towards public open space in Polesworth
- £2,048.15 towards Public Rights of Way Improvement
- £23,059.00 towards Health Care Services (George Elliot Trust)
- £876 towards Library improvement
- Maintenance and management of woodland areas and hedgerows within the site.
- Maintenance and management of the surface water balancing pond.

## **Background**

Planning permission was sought for this same development in 2016 (reference PAP/2016/0213) – outline application for up to 40 dwellings on the same site.

Permission was refused and an appeal against that refusal was subsequently dismissed. A copy of the appeal decision is attached as Appendix A to this report. The Inspector identified two main issues in the determination of the appeal:

- (i) whether appropriate provision is made for affordable housing; and,
- (ii) the effect of the proposal on the character and appearance of the landscape and Polesworth Conservation Area.

In respect of affordable housing the Inspector identified that Policy NW6 of the Core Strategy seeks affordable housing, on site, for developments of 15 or more dwellings and that there was no dispute between the parties that the appeal proposal should, and could, comply with this policy. The Inspector was of the opinion that a condition attached to the planning permission could not effectively, or in an enforceable manner, secure the affordable housing. She found that a unilateral obligation presented by the appellant was deficient in a number of details needed to secure affordable housing effectively, not least details on the distribution of affordable housing and a plan with regards to land transfer and measures required to secure a registered provider. The

Unilateral Undertaking, therefore, would not make appropriate provision for affordable housing.

In respect of effect of the proposal on the character and appearance of the landscape and Polesworth Conservation Area the Inspector found the land to be bound by an area of housing (The Lynch, to the south), Pooley Lane to the west and woodland to the north and east. She found that, combined with the mature landscaping on its boundaries, the site is largely obscured from view, albeit that a footpath which runs through and along the edge of the site provides public access into it. It contributed to the wider verdant and rural character of the area.

The Inspector did not accept the Council's argument that the canal formed the natural barrier between Polesworth and the open countryside, she found that Pooley Lane served as a more natural barrier between Polesworth and the open countryside beyond. In respect of the 'Meaningful Gap' policy she argued that there was nothing within the evidence to suggest that the scale of this development would risk an amalgamation of Tamworth and Polesworth such that the retention of the appeal site in its current form became imperative.

The Inspector recognised that the site could form part of the green backdrop to the nearby Conservation Area but found that the new housing would not encroach physically onto the 'green backdrop' and nor, therefore, onto the setting of the Conservation Area. A landscaped buffer along the eastern edge of the site would guarantee this. However, given the lie of the land, the houses would sit higher than the canal and behind existing trees. Being an application for outline consent, details of existing and proposed landscaping, to include heights and species of plants, and details of finished site and ground floor levels would be for consideration at the reserved matters stage. Whilst the exact position of the houses in relation to the existing topography and trees is unknown at outline stage at worst, from within the Conservation Area looking west, the housing would be seen on the skyline, against a foreground of trees and alongside existing built development, though in the winter time when the leaves have fallen from the trees, the development would be more noticeable. She found there is nothing to suggest that the development would exceed the height of these properties or existing trees to appear incongruous or overly dominant within the local landscape. Equally, given the presence of built form within local views, a more exposed view of the development in the winter would not have any greater visual effect. She considered that the development would leave the setting of the Conservation Area preserved and unharmed.

The Inspector found that there was no apparent physical, visual or historical connection between the appeal site and the listed building at Pooley Hall. As such the development would not have a harmful effect on the setting of the listed building.

## **Development Plan**

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment), NW15

(Nature Conservation), NW16 (Green Infrastructure), NW19 (Polesworth and Dordon) and NW22 (Infrastructure)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV4 (Trees and Hedgerows); ENV6 (Land Resources), ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

### **Other Relevant Material Considerations**

Government Advice: National Planning Policy Framework - (the “NPPF”)

The North Warwickshire Local Plan Submission Version, March 2018 - LP1 (Sustainable Development), LP2 (Settlement Hierarchy), LP5 (Meaningful Gap), LP6 (Amount of Development), LP7 (Housing Development), LP8 – Windfall, LP9 (Affordable Housing Provision), LP14 (Landscape), LP15 (Historic Environment), LP16 (Natural Environment), LP22 (New Services and Facilities), LP24 (Recreational Provision), LP29 (Walking and Cycling), LP31 (Development Considerations), LP32 (Built Form), LP37 (Renewable Energy and Energy Efficiency), LP39 (Housing Allocations)

Supplementary Planning Guidance: Design Guide for Bin Storage

Supplementary Planning Document Planning Obligations For Open Space, Sport And Recreation November 2017

Assessment of the Value of the Meaningful Gap and Potential Green Belt Alterations, January 2018.

Local Finance Considerations: New Homes Bonus (NHB), Community Infrastructure Levy (CIL).

Daw Mill Appeal Decision Reference APP/R3705/W/16/3149827

### **Consultations**

Inland Waterways Association – Offered a representation ahead of knowing the outcome of the appeal decision. When made aware of the appeal decision the IWA noted that the Inspector does consider the ‘meaningful gap’ policy at para. 14. The IWA advises that it disagrees with the Inspector’s assessment, which it comments is both subjective and irrational. It points out that whilst one site does not by itself undermine the separation of settlements, if you apply that reasoning to all such sites individually then the policy would be rendered ineffective. Given that the policy has been updated and restated in the current Draft Submission Plan, the IWA would expect the Council to defend it and to refuse any such sites that fall within the designated area and do not meet the exception criteria.

Warwickshire County Council Infrastructure Team requests contributions for Libraries and Sustainable Travel Packs.

Design Out Crime Officer, Warwickshire Police – No objection.

George Elliott Trust – Offers evidence to demonstrate, that the Trust is currently operating at full capacity in the provision of acute and planned healthcare. It demonstrates that although the Trust has plans to cater for the known population growth, it cannot plan for unanticipated additional growth in the short to medium term. It seeks a contribution of £23,059 for the delivery of healthcare, which it indicates is being sought not to support a government body but rather to enable that body to provide services needed by the occupants of the new development, and the funding for which, as outlined above, cannot be sourced from elsewhere.

Environmental Health Officer – Recommends that hours of construction are limited to 08:00 to 18:00 during weekdays and 08:00 to 13:00 on Saturdays and a dust management plan is produced in line with the IAQM guidance for construction.

Planning Archaeologist, Warwickshire Museum – Indicates that the proposed development lies within an area of archaeological potential. It is probable that this site has been in agricultural use since at least the medieval period. However the site is located less than 250m to the west of the medieval settlement at Polesworth. (Warwickshire Historic Environment Record (MWA9573) Pooley Hall, a former Country House, now 2 houses and dating to the early 16th are located less than 150m north of the site, as is Pooley Hall Chapel (MWA227) which is of probable mid-12<sup>th</sup> century origins. Metal detecting carried out within the adjacent fields to the west and recorded through the Portable Antiquities Scheme of the site has identified a number of Roman and medieval period finds.

Whilst little evidence for pre-medieval activity has 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. It should be noted that the site lies close to the River Anker which, in common with many other watercourses, is likely to have formed a focus for activity and served as a communication route during the prehistoric periods and later. The Archaeological Heritage Assessment which has been submitted with the supporting information to this application acknowledges that the application site has the potential to contain within it buried archaeological deposits. Since the significance of such remains, should they be present has not, been assessed, as required by NPPF paragraph 128, He does not agree with the suggestion within the Heritage Assessment that it would be appropriate, at this time, to recommend that an archaeological condition is attached to the outline planning consent should you be minded to grant planning permission for the scheme. He is of the opinion that the archaeological implications of this proposal cannot be adequately assessed on the basis of the available information. He therefore recommends that the applicant be requested to arrange for an archaeological evaluation to be undertaken before any decision on the planning application is taken. He indicates that this will help to define the character, extent, state of preservation and importance of any archaeological remains present, and will also provide information useful for identifying potential options for minimising or avoiding damage to them. The results of this evaluation should be provided before any decision is taken so that an informed and reasonable planning decision can be reached, and the application modified if appropriate.

Warwickshire County Council Highways Authority - No objection.

Warwickshire County Council, Rights of Way Team - No objection in principle, subject to conditions. To mitigate the increase in the Highway Authority's maintenance liability resulting from the increase in use of local public rights of way by new residents from this development the Rights of Way team would also request a contribution of £2048 towards improvements to public rights of way within a 1.5 mile radius of the development site.

Fire Authority - no objection to the application, providing the development meets compliance with Approved Document B, Volume 2, Section B5 –Access and Facilities for the Fire Service.

Canal and River Trust - The indicative Masterplan shows development in close proximity to the Coventry Canal and with any development close the waterway there is the potential for adverse impacts on the infrastructure of the canal in terms of stability, drainage, pollution etc. It is important that development does not adversely affect the stability of the cutting slope, as this could significantly increase the risk of damage to the adjacent canal. It highlights the need for appropriate lighting to protect biodiversity and the need to maintain visual screening between the site, the canal and the village conservation area.

Warwickshire Wildlife Trust – The Trust confirms that the Preliminary Ecological Appraisal is suitable for determining this application and this Appraisal shows that the woodland and majority of the hedgerow will be retained and protected. A reptile survey has also been submitted. With regards to Biodiversity then at present there is a loss of 49% of the biodiversity of the site. A loss would be contrary to the NPPF and Core Strategy Policy. This is due to the loss of low value improved grassland. Conditions are suggested if the application is approved.

Warwickshire County Council Infrastructure – Requests contributions for libraries and sustainable travel packs.

Lead Local Flood Authority – Sought revisions to the submitted Flood Risk Assessment to address identified concerns. A revised FRA has been received. The further comments of the Lead Local Flood Authority are awaited.

## **Representations**

Two letters of objection has been received indicating the following

- An adjacent property known as Pooley Heights is operated as a residential respite provision for adults with a learning disability. The Charity which operates the facility indicates that residents benefit from having respite in a tranquil and rural setting. If access is granted and the development goes ahead Pooley Heights will be overshadowed and will lose its privacy and views over rural fields. There would be increased levels of noise and disturbance and this would have an adverse effect on the enjoyment of the vulnerable people who stay at the home.
- The development would present an unacceptable risk in relation to highway safety. Development of the site would create a considerable increase in traffic along Pooley Lane. The existing road has no footpath or street lighting and at points it is difficult for two cars to pass side by side. It does not have the capacity

to safely withstand the additional volume of traffic that would be created. We believe it is inevitable that pedestrians will walk down Pooley Lane, the only road by which the site could be accessed. This would present a risk to pedestrians and drivers using the lane. Significant improvements would need to be made to the existing road to address these issues.

- Development of the site would compromise the character of the area. Pooley Hall, a listed building of historical interest, and Pooley Country Park are both situated along Pooley Lane. Pooley Lane sits on the outskirts of the market town of Polesworth. The immediate area is currently sparsely populated and a development of up to forty houses would cause an overspill of the more urban area of Polesworth and would ruin the rural nature of the current setting.
- Concern about the 'extremely vague' reference to a landscaped buffer on the eastern, western & northern edges of the site. The landscaped buffers must be strictly subject to a suitably robust planning obligation with legally enforceable landscaping conditions which protect all existing trees and also cater for the future care and management of these buffer areas.
- Harm to residential amenity.
- Harm to ecology. The existing woodland provides an excellent wildlife corridor serving a large variety of insects, small mammals, birds, bats etc. e.g. the objector can account for in excess of 100 tawny owls being successfully reared.
- The site is located within the Meaningful Gap and residents see the protection of this gap between the two settlements as being very important.
- This site lies outside the Development Boundary for Polesworth and is not a preferred site as identified in the Site Allocations Plan. To allow the Proposed Development on the basis of it being "sustainable" would be too simplistic. The NPPF is clear in that proposals should be assessed against the Development Plan "unless material considerations indicate otherwise"

## **Observations**

### **a) The Principle of Development**

The site lies outside of the Development Boundary for Polesworth. Policy NW2 in North Warwickshire's Core Strategy seeks to develop a broad distribution pattern for development with more than 50% of the housing and employment requirements being provided in or adjacent to the Market Towns outside of the Green Belt and their associated settlements. Polesworth with Dordon is identified as one of these Market Towns.

This proposed site is adjacent to the development boundary for Polesworth which includes the existing development known as The Lynch.

However, in the recent appeal decision relating to the Daw Mill Colliery the Inspector and the Secretary of State reached the conclusion the Core Strategy Policies NW2 and NW10 (both in relation to development boundaries) to be out-of-date and therefore at that time only limited weight could be attached to them. The Inspector reached this conclusion ahead of the submission of the New Local Plan.

The submission Local Plan has carried forward Policy NW2 into LP2 but has been updated to reflect the amount of development that is now proposed to be delivered.

This has resulted in development boundaries being altered to reflect the proposed allocations in the emerging local plan.

The relative weight to be afforded to the two plans has altered as a result of this change in circumstance. In relation to the Core Strategy as it relates to development boundaries it is out of date so afforded limited weight. Where other policies of the Core Strategy apply they carry full weight.

There have been representations made to the submission Local Plan against the proposed allocations and thus some of the development boundaries. There have been no direct representations to the development boundary in this vicinity. Balanced with this, Polesworth remains a market town and the hierarchy structure is not fundamentally altered. The emerging Local Plan can now be afforded moderate weight.

There is a public footpath which runs through the site and links it to Polesworth town centre via Tamworth Road. A condition would seek the surfacing of this footpath and the installation of street lighting to ensure that occupiers can use this path for direct access to the bus services along Tamworth Road and for the shops, services and schools in Polesworth. These pedestrian linkages comply with the requirements of Policy NW10 (4) and (5) to promote healthier lifestyles for the community to be active and to encourage sustainable forms of transport focussing on pedestrian access and provision of bike facilities. It is not considered that NW10 (4) and (5) are directly affected by the Secretary of State's decision in the Daw Mill appeal as they are unrelated to the issue of settlement hierarchy or development boundaries and so full weight can be attributed to them.

The site has not however been identified as a preferred housing allocation for Polesworth in the Council's Submission Local Plan. This is because the site is located within the area of land identified as a Meaningful Gap between Polesworth and Dordon and Tamworth as identified in Policy NW19 of the Core Strategy. The Council has developed guidance to inform the implementation of Policy NW19 and the submission Local Plan. Following public consultation and modification this Meaningful Gap Assessment was adopted by the Council in August 2015 as guidance to inform the implementation of Policy NW19. This guidance shows the site to be located within Area 2 due to its higher sensitivity to development impact as it follows the broad, eastern corridor of the M42. The guidance further goes on to say that small scale very limited development may be able to be accommodated in this area. The Assessment was updated in 2018 and a specific policy relating to the Meaningful Gap has been incorporated in the new Local Plan (Policy LP5) and shown on the proposed proposals map. Commentary below will separately consider the effect of this guidance in the context of the Inspector's findings.

The Council's Housing land supply as at 31 March 2017 was 5.1 years with a 5% buffer, however, for the purpose of a public inquiry the Council has carried out a full review and it can now be shown, as of 31 December 2017, to have a 5.8 year supply with a 5% buffer. In these circumstances that Council's housing policies can be considered up to date and there would be benefit to increasing housing supply.

Given the Secretary of State's findings in the Daw Mill inquiry, in relation to development boundaries, that they are out of date, the provisions of Paragraph 14 of the NPPF apply. Paragraph 14 states that "where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted."

This means that in this decision the tilted balance is engaged. The Council would have to show that there was significant and demonstrable harm to outweigh the presumption in favour of development. Members are reminded that the bar for establishing 'significant demonstrable harm' is a particularly high bar.

### **b) The Meaningful Gap**

As this proposal is for the development of the majority of the site for up to 40 housing units, it would not be classed as being small in scale and so would be, by definition, contrary to the guidance informing Policy NW19. However, this is where Members need to be mindful of the Inspectors conclusions about the effect of the development of this site on the Meaningful gap and the character of the locality and the compliance with Policy NW19.

The submission Local Plan includes a policy on the Meaningful Gap as well as defining the boundaries on the proposals map. There have been objections to the Meaningful Gap policy and the defined boundary, these will be a matter for the Inspector to consider during the Local Plan Examination.

A new Meaningful Gap Assessment was received just a few days prior to the receipt of the appeal decision for this site and thus the previous Inspector did not have the benefit of considering its findings when formulating her own judgements. It is necessary to question whether the Assessment would affect in anyway the Council's ability to rely on the appeal outcome.

The appeal site still forms a small part of Land Parcel 2 in the Assessment. Land Parcel 2 is identified as being important to the Gap and the separation of the settlements of Polesworth and Tamworth.

The appeal finds that *'being east of Pooley Lane, as described above, the new housing would not encroach into the 'meaningful gap' or interject into the open countryside in a way that would undermine the separate identities of the settlements described or their separation from each other'* and that the loss of the site to development *'would not be visually intrusive on the character and appearance of the Polesworth Conservation Area to cause harm, nor would the development be harmful to landscape character. The development would not, therefore, be contrary to policies NW12, NW14, NW19 or to policy NW13, which seeks development that protects and enhances the character of the natural environment'*. (NW19 being the current Meaningful Gap policy in the 2014 Core Strategy)

On the face of it the Inspector's findings appear somewhat contrary to the report's findings. The author of the Council's Assessment (LUC) was therefore asked for an opinion to help make an up to date judgement on the effect of the loss of this land from the Meaningful Gap, having regard to the report findings and the findings of the Inspector. In essence advice was sought on the significance of the application/appeal site in the author's conclusions about Land Parcel 2.

The authors of the new assessment indicated that the Meaningful Gap report considered the contribution of the parcel *as whole* to the Meaningful Gap. The parcel areas are significantly larger than the application site, which explains the difference in outcome of the Meaningful Gap report and the Inspector's wording within the planning appeal.

LUC also prepared Landscape advice for this site – The extract of text from this work set out below, aligns more closely with the Inspector's opinion of the site.

### **'Impact on the Meaningful Gap**

Although the site is on the 'wrong' side of the canal in that it is located outside the settlement of Polesworth and has crossed the natural barrier formed by the canal, the topography is such that the site 'faces' back towards Polesworth. Development of the site in isolation would result in a minor erosion of the gap, but would not result in loss of the gap between Tamworth and Polesworth. However, development up the boundary of the site with Pooley Lane would mean housing would be on a localised ridgeline and if the Robey's Lane site were to be developed there may well be inter-visibility between the two sites, reducing the perception of a gap between Tamworth and Polesworth.'

Whilst there is sympathy with the views expressed by the Inland Waterways Association, that whilst one site does not by itself undermine the separation of settlements, if you apply that reasoning to all such sites individually then the policy would be rendered ineffective, each site does nevertheless have to be individually assessed. There is reason here to concur with the Inspector and the Assessment authors that, whilst these would be some lessening of the gap, the physical characteristics of the site and the definitive edge of Pooley Lane, means the harm to the Meaningful Gap could not be robustly defended.

### **c) The impact on the character and appearance of the area**

The proposed site is an enclosed field. From Tamworth Road the site itself is obscured by the development known as The Lynch. From the Coventry Canal the site is obscured by the mature boundary trees and hedges along the Canal and along the public footpath to the east. However, in view of the topography of the site which steeply slopes away from the Canal up towards Pooley Lane, the site is visible from the village of Polesworth. At present, views from Polesworth towards the west are of open countryside. The development plateau as proposed would involve dwellings being built along Pooley Lane and so these would be clearly visible when viewed from Polesworth.

The Inland Waterways Association object to the proposal on the upper reaches of this site due to the potential for this development to obscure views from the Canal into the attractive open countryside. Indeed, this was also one of the reasons why the site was

not allocated as a preferred site in the emerging Local Plan as it is a prominent site in the landscape due to its topography.

Public Right of Way AE16 runs alongside the eastern boundary of the site, and from here this is an attractive field which positively contributes to the overall rural character and appearance of the area. The site is surrounded by expansive open countryside to the west.

The Inspectors conclusions here are material; she essentially found that the main sensitivities would be in the detail of the proposal, the heights of the houses in relation to site levels and heights of any approved dwellings. She concluded there would be less than significant impact on the Polesworth Conservation Area and its character and setting would be unharmed, that is to say preserved.

Being an elevated site and adjacent to the canal it will be important that the entire landscape buffer alongside the canal, which is within the applicant's ownership, be retained and that careful control is exercised over the levels of development within the site. This can be addressed at the reserved matters stage and requirement of a condition of any permission here.

The Inspectors findings are sound and no significant or demonstrable harm can be substantiated.

#### **d) Highway Infrastructure**

The Highways Authority has no objections to the increase in traffic along Pooley Lane or at its junction with the B5000 Tamworth Road as a result of this scheme. They acknowledge that Pooley Lane is a private highway which is not maintained by the Highway Authority. They do raise concerns that although the speed limit on this private road is 30mph, this is not so evident in ways that it would usually be in a publicly maintained highway as the road does not have repeater speed limit signs or street lighting. As such, they recommend that a condition is imposed to ensure that the visibility splays from the new access onto Pooley Lane are a distance of at least 70 metres.

Concerns are also raised about Pooley Lane's lack of street lighting and footways making it unattractive for pedestrians and cyclists to use. They do, however, recognise that the majority of pedestrians will use public footpath AE16 as being the quickest route into Polesworth and Pooley Country Park. As such, improvements to this footpath are required before any of the dwellings are occupied to provide for surfacing in a bound material and street lighting for its length from its whole length within the development site up to the public highway of the B5000 Tamworth Road.

The proposed scheme complies with Policy NW10 (Development Considerations) in the Core Strategy and Policies TPT1, TPT3 and TPT6 in the North Warwickshire Local Plan 2006.

#### **e) Loss of Biodiversity**

Warwickshire Wildlife Trust raises concerns about the loss of biodiversity through the development of this site. Through the use of WCC's Biodiversity Impact Assessment

calculator, the original plans show a loss to biodiversity of 1.72 biodiversity units resulting from this development. This is as a result of the loss of poor improved grassland.

Paragraph 118 of the NPPF states that when determining planning applications, Authorities should aim to conserve and enhance biodiversity by applying the principle of if significant harm resulting from a development cannot be avoided, adequately mitigated or as a last resort, compensated for, then planning permission should be refused.

A condition requiring a revised Biodiversity Impact Assessment that results in no net loss will be an appropriate mechanism for ensuring that the site layout at reserved matters stage takes account of the biodiversity policy objectives. Biodiversity offsetting may be a possibility.

The Trust also recommends that planning conditions are imposed on the need for a construction environment management plan, a Landscape and Ecological Management Plan and a Lighting Design Strategy for light-sensitive biodiversity. Compliance with these conditions will protect the biodiversity value of this site.

As such it is considered that a conditional permission will accord with the requirements of the NPPF, significant harm to biodiversity can be avoided.

#### **g) Impact on the Archaeological Value of the Site**

Concerns have been raised by the Planning Archaeologist at Warwickshire County Council regarding the potential for the site to contain Roman remains. The site lies approximately 170 metres from Pooley Hall which is a Listed Building and its eastern boundary adjoins the Coventry Canal which is a heritage asset and Polesworth Conservation Area which is some 300 metres away.

The applicant's Archaeology Report concludes that although the site is within a sensitive heritage location, development on this site will not greatly affect the significance of these known heritage assets. The County Archaeologist adopts a more precautionary stance. He considers that because there is no 'known' archaeology does not mean that there isn't any archaeology. He seeks a pre-determinative evaluation.

The Archaeology Report acknowledges that it is possible that the site contains as yet unidentified earth fast archaeological remains from previous occupation of the site. As the application is submitted in outline and is a reasonably extensive site, it is considered that there is some flexibility on where the development can take place on the site, it is a planning condition can be imposed to require a programme of archaeological works to be undertaken on site before the submission of any reserved matters applications. This works will include a geophysical survey followed by a programme archaeological trail trenching.

As such it is considered that amendments to the scheme as proposed by the applicant will address any concerns raised about the potential for development on this site to impact on the setting of the heritage assets in the locality.

## **h) Residential amenity**

With regards to the residents to the north and south of the site, the application is submitted in outline format and so any reserved matters application can ensure that the units are all orientated to have their rear gardens backing onto any rear gardens of these existing residential properties. The proposal to control the levels on site and the landscaping of the site can reduce the impact on the residents at neighbouring dwellings, including those who are resident at the adult respite home.

As such it is not considered that there will be a significant loss of privacy or loss of light from the proposal for the residents to the north and south of the site. The proposal thus complies with Policy NW10 (Development Considerations) in the Core Strategy 2014.

## **i) Affordable Housing**

Policy NW6 (Affordable Housing Provision) requires that 40% of the dwellings shall be affordable units. This can be required through a Section 106 Agreement whereby 40% of the dwellings will be affordable units with 65% of these units being socially rented units and the remaining 35% being shared ownership. The Council's Housing Officer is supportive of this mix in the context of Polesworth.

## **j) Access to services and education**

Warwickshire County Council has not asked for any contributions towards education from this proposal.

A contribution (£52,000) is required towards the provision and improvement of open space in Polesworth is proposed in accord with the formula approach set out in the Submission Version of the Open Spaces Strategy. The funds will be directed to Abbey Green.

Health Care Services (George Elliot Trust) seek £23,059 for the provision of medical services in the area.

Warwickshire County Council seeks £876

A sum of £2,048.15 is sought from Warwickshire County Council for Public Rights of Way Improvement.

The applicant has indicated an intention to supply and sign a S106 Agreement to this effect. Care will need to be taken to ensure that the affordable housing clauses address the deficiencies identified by the Inspector in the Unilateral Obligation that was presented at the planning appeal but the principle of the provisions are acceptable and reasonably meet policy requirements.

## **.....K) Drainage and Flood Risk**

The Flood Authority expressed concern about omissions from the Flood Risk and Drainage Strategy and the up to date nature of part of the submission. The applicant has revised his submission and re-consultation has taken place. The revised comments of the flood authority are awaited. There are no flooding or drainage issues in the

vicinity of this site that have been identified in the processing of this application or the proposal that went to appeal. It is not anticipated that this site will present any insurmountable difficulties and that drainage provisions will be capable of being addressed. However, given that this matter remains unresolved, the recommendation to approve the application (below) will be subject to the resolution of this outstanding consultee objection.

### **I) Other Matters**

Policy NW11 of the Core Strategy and emerging policy in the New Local Plan (LP37) both require '*New development will be expected to be energy efficient in terms of its fabric and use. Major development will be required to provide a minimum of 10% of its operational energy requirements from a renewable energy source subject to viability*'. The application, being in outline, does not address this matter. However, it would be appropriate to require this as a condition of any planning approval.

### **Conclusions**

This report acknowledges that this is a sustainable location for development, being immediately adjacent to the main town of Polesworth. No issue has been identified which would sufficiently outweigh the presumption in favour of sustainable development.

- The Council can demonstrate a five year housing land supply. This weighs against the proposal, however, there is pressure to maintain a healthy housing supply. The development would have the benefit of increasing housing supply, thus assisting further with the Council's five year housing supply.
- The site lies outside of the current and proposed development boundaries for Polesworth and this weighs against the proposal.
- Even though the site lies within the Meaningful Gap in the emerging Local Plan, given the findings of the Planning Inspector in respect of this site, no significant or demonstrable harm can be shown to the meaningful gap policy or to the character or appearance of the area more generally that cannot be addressed at the approval of reserved matters stage or by condition of this application. This weighs in favour of the proposal.
- It is a longstanding policy objective to direct the majority of development to the market towns which are seen as sustainable locations for new housing. The location of this site and its accessibility to the town centre weighs in favour of the proposal.
- Subject to finalising the wording, a S106 Agreement can address the deficiencies in the provisions for securing affordable housing. The other contributions sought to address the impacts of the development have been agreed by the applicant. These are benefit weighing in favour of the proposal.

On balance, the development is considered to be sustainable development. There is a presumption to approve sustainable development without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

This proposal may be supported in principle, in accord with the recommendation below.

## RECOMMENDATION

That subject to the resolution of the outstanding objection from the Lead Local Flood Authority, and subject to a S106 Agreement relating to the matters outlined in the report, the application be **Granted** subject to conditions addressing the following matters:

- The standard outline conditions
- The approval of the red line plan and plan showing the access position.
- Requirements for a landscaping scheme
- The submission and approval of existing and finished site and ground floor levels plans
- The hours of construction are limited to 08:00 to 18:00 during weekdays and 08:00 to 13:00 on Saturdays
- a dust management plan is produced in line with the IAQM guidance for construction.
- A programme of archaeological works to be undertaken on site before the submission of any reserved matters application. This works shall include a geophysical survey followed by a programme archaeological trail trenching.
- The development shall not be occupied until the public right of way AE16 has been improved so as to provide for surfacing in a bound material and street lighting for its length between the proposed development and the footway of the public highway B5000 Tamworth Road in accordance with a scheme approved in writing by the local Planning Authority in consultation with the Highway Authority.
- The maintenance of visibility splays achieving 'y' distances of 70 metres in the interests of the safety of users of the private road.
- A condition to ensure that any new vegetation of a type likely to grow more than 1 metre in height must be planted at least 2 metres away from the edge of any public right of way to help ensure that mature growth will encroach onto the public right of way.
- A gap of at least 2 metres must be allowed between the edge of any public right of way and the edge of any proposed new pond, lake or other water body or water course, to help ensure there is no encroachment onto the public right of way, including by future erosion.
- Need for a Biodiversity Impact Assessment that ensures no net loss of biodiversity by means of on-site measures or by means of Biodiversity Offsetting.

- need for a construction environment management plan
- need for a Landscape and Ecological Management Plan
- need for a Lighting Design Strategy for light-sensitive biodiversity.
- details of surface water drainage shall be submitted to and agreed in writing by the Local Planning Authority. This detail shall provide full details on any attenuation features, construction methodology and maintenance and management regimes.
- A scheme for the provision of energy efficiency and the use of renewable energy sources shall be submitted, approved and implemented. The renewable energy source(s) shall provide a minimum of 10% of the development's operational energy requirements.

Plus any conditions required by the Lead Local Flood Authority

### Informatives

- Informative addressing the following matters would be appropriate:
  - Smoke Control Zone
  - Radon Gas (1-3%)
  - Coal Development Low Risk
- At Reserved Matters stage drawings should be provided including swept path analysis to demonstrate whether a large refuse vehicle is able to access the site in a forward gear, turn in all relevant turning heads and exit the site in a forward gear
- Pooley Lane is a private road, and is not maintained by Warwickshire County Council as Highway Authority. The Highway Authority advises that any works that may be required to improve the road to adoptable standards have not been offered by the applicants or developers, so have not been considered by the Highway Authority in relation to the application, and the Highway Authority has therefore assessed this planning application on the basis of the road remaining private.
- Public footpath AE16 must remain open and available for public use at all times unless closed by legal order, so must not be obstructed by parked vehicles or by materials during construction.
- The applicant must make good any damage to the surface of public footpath AE16 caused during construction.
- If it is necessary to temporarily close public footpath AE16 for any length of time during construction then a Traffic Regulation Order will be required. Warwickshire County Council's Rights of Way team should be contacted well in advance to arrange this.
- Any disturbance or alteration to the surface of public footpath AE16 requires the prior authorisation of Warwickshire County Council's Rights of Way team, as does the installation of any new gate or other structure on the public footpath.
- The applicant/developer is advised to contact the Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

- The applicant is advised that any surface water discharge to the waterway will require prior consent from the Canal & River Trust. As the Trust is not a land drainage authority, such discharges are not granted as of right-where they are granted they will usually be subject to completion of a commercial agreement. Please contact Joanna Bryan, Utilities Surveyor (Joanna.bryan@canalrivertrust.org.uk)
- The application has been handled in a positive and proactive manner.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0053

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	23/1/18
2	Inland Waterways Association	Consultation Response	29/1/18
3	Warwickshire Police	Consultation Response	1/2/18
4	George Elliott Trust	Consultation Response	8/2/18
5	Environmental Health Officer	Consultation Response	13/2/18
6	Planning Archaeologist, Warwickshire Museum	Consultation Response	15/2/18 22/3/8
7	Lead Local Flood Authority	Consultation Response	14/2/18
8	Warwickshire County Council Highways Authority	Consultation Response	16/2/18
9	Warwickshire Footpaths Team	Consultation Response	19/2/18
10	Fire Authority	Consultation Response	19/2/18
11	Canal and River Trust	Consultation Response	26/2/18
12	Warwickshire Wildlife Trust	Consultation Response	8/3/18
13	Warwickshire County Council Infrastructure	Consultation Response	12/4/18
14	G Smith	Representation	9/2/18 14/2/18
15	Forbes	Representation	13/2/18
16	M Grant, LUC	Consultation Response	14/2/18

*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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## Appeal Decision

Site visit made on 6 November 2017

**by Rachel Walmsley BSc MSc MA MRTPI**

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

Decision date: 19<sup>th</sup> January 2018

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**Appeal Ref: APP/R3705/W/17/3179922**

**Land east Pooley Lane, Polesworth B78 1JB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr K Holloway, N P Holloway and Son against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2016/0213, dated 15 April 2016, was refused by notice dated 4 April 2017.
  - The development proposed is outline application (access only) for the residential development of up to 40 dwellings land east of Pooley Lane, Polesworth, B78 1JB.
- 

### Decision

1. The appeal is dismissed.

### Procedural matters

2. The description of development referred to in the header above has been taken from the planning application form. This forms the basis on which the appellant applied for the development proposed. I note that the local planning authority altered this description for its decision notice, however, in the absence of any evidence to demonstrate that the appellant agreed to this wording, I have used the description on the planning application form.
3. The application was submitted for outline planning permission with matters relating to layout, appearance, landscaping and scale reserved. I have dealt with the appeal on that basis, treating all plans as illustrative, except where they deal with the matter of access.

### Main Issues

4. These are:
  - (i) whether appropriate provision is made for affordable housing; and,
  - (ii) the effect of the proposal on the character and appearance of the landscape and Polesworth Conservation Area.

## **Reasons**

### *Affordable housing*

5. Policy NW6 of the Core Strategy<sup>1</sup> seeks affordable housing, on site, for developments of 15 or more dwellings. There is no dispute between the parties that the appeal proposal should, and can, comply with this policy.
6. During the course of the appeal parties were in agreement to a planning condition to secure affordable housing. However, the Planning Practice Guidance (PPG) makes it clear that planning permission should not be granted subject to a condition that requires the applicant to enter into an obligation. Equally, a condition that leaves the method of securing affordable housing vague would not meet the tests set out in paragraph 205 of the National Planning Policy Framework (the Framework), not least because the condition would not be precise and, therefore, unenforceable.
7. For affordable housing to be provided effectively, arrangements must be made to, not least, transfer it to an affordable housing provider, ensure that appropriate occupancy criteria are defined and enforced, and ensure that the development remains affordable to first and subsequent occupiers. The legal certainty provided by a planning obligation makes it the best means of ensuring that these arrangements are effective. Prior to my determination of the appeal, I raised concerns about the use of a planning condition and gave parties the opportunity to provide a suitably robust planning obligation to address the above matters.
8. Consequently I received a signed and dated Unilateral Undertaking. However, this legal agreement is deficient in a number of details needed to secure affordable housing effectively, not least details on the distribution of affordable housing and a plan with regards to land transfer and measures required to secure a registered provider. The Unilateral Undertaking, therefore, would not make appropriate provision for affordable housing.
9. Given the above I must conclude that the development would not make an appropriate provision for affordable housing and as a result would be contrary to policy NW6 of the Core Strategy.

### *Character and appearance*

10. The appeal site is not afforded the protection of any landscape designation such as those referred to within paragraph 115 of the National Planning Policy Framework (the Framework). However the site is within the Anker Valley Character Area, as set out in the North Warwickshire Landscape Character Assessment (2010). This character area is described as being a visually open and broad valley landscape, becoming steeper and more defined closer to the urban area of Polesworth.
11. The appeal site is an open grassed area, bound by an area of housing, (The Lynch, to the south), Pooley Lane to the west and woodland to the north and east. Combined with the mature landscaping on its boundaries, the site is largely obscured from view, albeit that a footpath which runs through and

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<sup>1</sup> North Warwickshire Local Plan, Core Strategy, Adopted October 2014

along the edge of the site provides public access into it. This context contributes to the wider verdant and rural character of the area, which is appreciated within immediate views, from surrounding roads and footpaths, and from longer distance views from Polesworth and its wider environs.

12. The visually open and broad valley landscape offers long distance views of the site, from positions beyond the urban area of Polesworth. The site forms a small part of a much larger panoramic composition; one of a broad valley tops, interspersed with verdant landscaping and housing. Within long distance views the development would be visible, most notably the rooftops of the houses which no degree of landscaping would obscure. However, the height of the rooftops would not exceed the line of the horizon or the height of the trees visible within long distance views, such that it could be considered an incongruous or dominant feature on the skyline. To the contrary, the development would be appreciated as an extension of The Lynch and, therefore, would not detract from the existing settlement pattern of small towns in a rural landscape.
13. The Council refers to the area to the east of the site, which accommodates the canal, as being a natural barrier between Polesworth and the open countryside. Indeed, this area, covered with trees and on land that slopes steeply up to the appeal site, is a notable barrier between the settlement and open land further west. However, it was apparent from my site visit that the appeal site continues the steep gradient of this land, up to Pooley Lane, beyond which the land then falls away towards the motorway and Tamworth. Pooley Lane, therefore, serves as a more natural barrier between Polesworth and the open countryside beyond.
14. In addition to this natural barrier, the appeal site is within an area which policy NW19 of the Core Strategy seeks development that respects the separate identities of Polesworth, Dordon and Tamworth and maintains a meaningful gap between them. The appeal site occupies an area between existing development, to the north and south, and would be set in from other areas of Polesworth that extend further west. Together with being east of Pooley Lane, as described above, the new housing would not encroach into the 'meaningful gap' or interject into the open countryside in a way that would undermine the separate identities of the settlements described or their separation from each other.
15. I recognise the possibility that Tamworth's built envelope will be extended further east in the future. However, there is nothing within the evidence before me to suggest that the scale of this development would risk an amalgamation of Tamworth and Polesworth such that the retention of the appeal site in its current form becomes imperative.
16. The natural barrier between settlements forms a backdrop to the Polesworth Conservation Area (PCA). The character and significance of the PCA derives, in part, from this 'green backdrop', defined by trees on higher ground. Interspersed amongst these trees are buildings, including those at The Lynch. The appeal site is outside the PCA and behind the natural barrier described and therefore does not contribute to the significance or character of the Polesworth Conservation Area (PCA) overall. Nevertheless, given the proximity of the

- development to the green backdrop, the development could impact on the setting of the PCA depending on the form of the development proposed.
17. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The National Planning Policy Framework (the Framework) states that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 137 of the Framework states that proposals that preserve elements of setting that makes a positive contribution to, or better reveal the significance of an asset, should be treated favourably. Equally, the Framework acknowledges that significance can be harmed or lost through development. The Council's policies on heritage within the Core Strategy, notably policies NW12 and NW14 support this approach, seeking development that sustains, conserves and enhances the historic environment.
  18. The new housing would not encroach physically onto the 'green backdrop' and nor, therefore, onto the setting of the PCA. A landscaped buffer along the eastern edge of the site would guarantee this. However, given the lie of the land, the houses would sit higher than the canal and behind existing trees. Being an application for outline consent, details of existing and proposed landscaping, to include heights and species of plants, are earmarked for the reserved matters stage of planning. Details of finished site and ground floor levels would also be for consideration at the reserved matters stage. The exact position of the houses in relation to the existing topography and trees, therefore, is unknown. Nevertheless, from my observations on site and the evidence before me, I consider that at worst, from within the PCA looking west, the housing would be seen on the skyline, against a foreground of trees and alongside existing built development, though in the winter time when the leaves have fallen from the trees, the development would be more noticeable.
  19. Taking the houses at The Lynch as a reference point, there is nothing before me to suggest that the development would exceed the height of these properties or existing trees to appear incongruous or overly dominant within the local landscape. Equally, given the presence of built form within local views, a more exposed view of the development in the winter would not have any greater visual effect.
  20. Nevertheless, this judgement is made on the assumption that the heights of the houses proposed would not be insensitive to the presence of existing built form and to local views from the PCA. This certainty will be borne out of details at the reserved matters stage concerning the heights of the houses in relation to site levels. The importance of this detail to the development proposed means that it would be reasonable to secure any planning permission with conditions to ensure the submission and approval of finished site and ground floor levels. It is on the basis of my findings and this condition proposed, together with the less than significant contribution the site makes to the PCA, that I conclude that the proposal would leave the character of the PCA and its setting unharmed, that is to say preserved. The proposal would not, therefore, be contrary to policies NW12 and NW14 of the Core Strategy, nor paragraphs 132 and 133 of the Framework.

21. Within shorter distance views, the development would be seen from Pooley Lane and surrounding footpaths. Pooley Lane has a semi-rural character, defined by built development along sections of the lane and noise from motorway traffic, complemented by verdant landscaping including hedges and trees. As an extension of The Lynch and with a landscaped buffer east and west of the site, the development would combine built form with landscaping to complement the semi-rural character of the area.
22. There is no doubt that developing the site would change its character to a more urban one, which would be most notable from Pooley Lane and the footpath along the eastern edge of the site. The layout plan shows that there would be space for an area of landscaping between the lane and the new housing so that the development would be congruent with the semi-rural character of the area.
23. Walkers would experience a material change in their surroundings. The impression of walking in the countryside would be undermined by the presence of houses. However, the illustrative layout plan before me shows that access along Pooley Lane and the footpath would be retained. This would comply with policy NW12 of the Core Strategy, which seeks to protect existing rights of way. Furthermore, the landscaped buffer proposed would create a pleasant walking environment and would ameliorate any adverse visual effects the development may have on walkers' experience of the local area.
24. Therefore, on the basis of my findings and a landscaping and levels condition, I find that the development would not be visually intrusive on the character and appearance of the PCA to cause harm, nor would the development be harmful to landscape character. The development would not, therefore, be contrary to policies NW12, NW14, NW19 or to policy NW13, which seeks development that protects and enhances the character of the natural environment.

#### **Other matters**

25. Based on the evidence before me I am unable to come to a definitive conclusion on whether the Council has a 5 year housing land supply. Nevertheless, even if I were to conclude that there is a shortfall in the five-year housing land supply and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impact of granting permission, being the substantial harm arising from a lack of appropriate means of securing affordable housing provision, would significantly and demonstrably outweigh the benefits of any additional market housing provided.
26. The Council states that the development would have a harmful effect on a Grade 2 listed building, Pooley Hall, but it doesn't substantiate its claim. There is nothing within the evidence before me, nor was it apparent from my observations on site, that there is a physical, visual or historical connection between the appeal site and the listed building. As such the development would not have a harmful effect on the setting of the listed building and as a result does not influence my decision on the appeal in this regard.

#### **Conclusion**

27. I have found that the development would not have an adverse impact on the character and appearance of the landscape or upon Polesworth Conservation Area. Nonetheless, these factors would be outweighed by the harm arising from the lack of appropriate provision for securing affordable housing. It is on this basis that I find that the appeal proposal would fail to accord with the development plan when taken as a whole. For the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed

*R Walmsley*

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**LAND SOUTH OF GARDENERS COTTAGE, POOLEY LANE, POLESWORTH  
TRANSPORT TECHNICAL NOTE  
MAY 2018  
OUR REF: 24064/05-18/5831**

**Introduction**

Mewies Engineering Consultants Ltd (M-EC) has been commissioned by North Warwickshire Borough Council to undertake a review of the Highway Authority Response to a proposed residential development of up to 40 dwelling at Land South of Gardeners Cottage, Pooley Lane, Polesworth and highlight any potential concerns.

**Proposals**

The proposals are for a new residential site of up to 40 dwellings with a single point of access on Pooley Lane which is currently a private road and not adopted by the local authority. The development also offers a pedestrian connection to the Public Footpath to the East of the site.

**Issues And Concerns**

**Intensification of Pooley Lane**

As mentioned above Pooley Lane is not publically maintained. It is approximately 4.5m wide and already serves around 50 dwellings, a couple of industrial units and also provides access to Pooley Country Park. In their response the Highway Authority refer to Pooley Lane as a 'Private Road', it should be noted this refers only to its maintenance status, Pooley Lane is clearly a highway.

Pooley Lane is quite narrow with limited passing places. The intensification of Pooley Lane will increase the likelihood of oncoming vehicles meeting along Pooley Lane. Passing places should be provided to allow for this occurrence. National Guidance suggests Inter-visible passing places must be provided on single-track roads at a maximum spacing of 200 metres.

The Warwickshire Guide to Road Design concurs with this and states at Paragraph 5.16.10;

*"Where appropriate, intervisible passing places of suitable dimensions should be provided along single track drives to cater for the efficient two-way movement of vehicular traffic".*

Looking at the alignment, both horizontal and vertical, it is recommended that at least two passing places should be provided on Pooley Lane, between the proposed site access and the Tamworth Road.

**Intensification of Existing Access with Tamworth Road/Pooley Lane**

The proposed application will increase vehicle movements on Pooley Lane and its junction with Tamworth Road. No modelling has been provided for this junction, which narrows very quickly beyond the radius turnouts. Capacity is unlikely to be an issue, however, the likelihood of one or more vehicles, waiting on Pooley Lane, to get on to Tamworth Road will be increased.

The Tamworth Road/Pooley Lane junction will need to be reviewed to ensure that an HGV vehicle can turn into Pooley Lane from Tamworth Road whilst a vehicle, or vehicles, are waiting on Pooley Lane to join Tamworth Road. It is recommended that a drawing showing HGV swept paths should be submitted for review.

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Mewies Engineering Consultants Ltd

-2-  
Pooley Lane, Polesworth  
Technical Note: Transport  
May 2018  
Ref: 24064/05-18/5831

#### Access to the Development from Pooley Lane

As there is no speed limit or speed data for Pooley Lane it is impossible to establish the required visibility splays. A speed survey should be carried out to establish the necessary visibility splays for the access. Despite being a single track road the current alignment does not prohibit speed and it is recommended that any visibility, from the junction or forward visibility on Pooley Lane itself, should be based on speed data.

The Highway Authority have requested visibility splays of 2.4m by 90m, or 70m as an absolute minimum. The figure relating to 70m visibility is only appropriate for areas with a posted speed limit of 30mph, no speed limits are in force on Pooley Lane.

The applicants have submitted drawings, drawing no 9323.20, which shows visibility splays of 2.4m by 45m, it is not clear how these splays have been derived. Providing the potential required visibility splay, appears to be achievable but will cut into the current development area and require the removal of a section of hedge, and potentially trees, between the proposed access and the Tamworth Road.

The applicants drawing also suggests that Pooley Lane, at the site of the proposed access is wide enough for two way traffic flow. This is not the case. Due to the restricted width, on Pooley Lane, it is recommended that tracking is carried out for the largest expected vehicle to the site, which is likely to be a Refuse vehicle. This tracking should demonstrate that a Refuse vehicle and access and egress the proposed access safely.

#### Lack of Suitable Footpath Links To the Public Highway

The development proposes to connect to a public footpath to the east of the site which allows for pedestrian connection to the public highway. The existing footpath is about 2m wide and is running at the back of the existing houses and bounded by fences and hedges and is not been overlooked by existing properties. Hence, it is not an attractive link and is not likely to be used frequently.

Some thought should be given on how this route can be improved and brought up to Safer by Design standards, issued by the Police Service.

#### **Conclusion**

In order to ensure the safety of the scheme it is recommended that the applicant should provide the following details;

- At least two Passing places on Pooley Lane at regular intervals;
- Drawing showing an HGV vehicle swept path at Pooley Lane / Tamworth Road Junction;
- Drawing showing an Refuse vehicle swept path entering and egressing proposed access;
- Pooley Lane speed data and updated drawing showing appropriate visibility splays;
- Atractive footpath link from the development to the public highway.

Report Prepared By:

Report Checked By:

.....  
Georgios Theodorou

.....  
Neil Benison