

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

**(Councillors Simpson, Reilly, Bell, L Dirveiks,
Henney, Humphreys, Jarvis, Jenns, Jones,
Morson, Moss, Phillips, Smitten, Sweet and
A Wright)**

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

10 OCTOBER 2016

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Monday 10 October 2016 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 11 July, 8 August and 5 September 2016** – copies herewith, to be approved as a correct record and signed by the Chairman.

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

- 5 **Budgetary Control Report 2016/2017 -Period Ended 30 September 2016** - Report of the Assistant Director (Finance and Human Resources)

Summary

The report covers revenue expenditure and income for the period from 1 April 2016 to 30 September 2016. The 2016/2017 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Board.

The Contact Officer for this report is Nigel Lane (719371).

- 6 **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).

- 7 **Planning Appeals** – Report of the Head of Development Control.

Summary

This report provides a summary of the planning appeal process.

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

- 8 **Occupancy Conditions** – Report of the Head of Development Control.

Summary

This report provides a briefing note on occupancy conditions.

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

- 9 **Tree Preservation Order - Land at 3 The Gables Polesworth** – Report of the Head of Development Control.

Summary

To confirm the action taken in the issue of an Emergency Tree Preservation Order for the protection of a Sweet Chestnut at 3 The Gables Polesworth on 7 September 2016.

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

- 10 **Woodland Preservation Order Land At Seven Foot Wood, Coleshill Road, Ansley Common** – Report of the Head of Development Control.

Summary

To confirm the action to issue an Emergency Tree Preservation Order for the protection of a Seven Foot Wood, Coleshill Road, Ansley Common on 27 September 2016.

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

EXEMPT INFORMATION (GOLD PAPERS)

- 11 **Exclusion of the Public and Press**

Recommendation:

That under Section 110A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

- 12 **Proposed Tree Preservation Order, Wood End** – Report of the Head of Development Control.

The Contact Officer for this report is Fiona Wallace (719475).

- 13 **Heart of England Premises** – Report of the Head of Development Control.

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

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

11 July 2016

Present: Councillor Simpson in the Chair.

Councillors Bell, L Dirveiks, N Dirveiks, Henney, Humphreys, Jarvis, Jenns, Jones, Morson, Moss, Phillips, Reilly, Smitten and A Wright

An apology for absence was received from Councillor Sweet (substitute Councillor N Dirveiks)

Councillors Davey, Smith and Waters were also in attendance. With the consent of the Chairman, Councillor Smith spoke on Minute No 19 Planning Applications – Application No 2015/0253 - Land North Of, Eastlang Road, Fillongley and Councillor Waters spoke on Minute No 19 Planning Applications – Application No 2015/0674 - Former Social Club, 66 Station Road, Nether Whitacre, Coleshill.

16 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

17 **Minutes**

The minutes of the meetings of the Board held on 7 March, 11 April, 16 May and 13 June 2016, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

18 **Budgetary Control Report 2016/2017 Period Ended 30 June 2016**

The Assistant Director (Finance and Human Resources) reported on the revenue expenditure and income for the period from 1 April 2016 to 30 June 2016. The 2016/2017 budget and the actual position for the period, compared with the estimate at that date were detailed, together with an estimate of the out-turn position for services reporting to the Board.

Resolved:

That the report be noted

19 **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 consideration of Application No 2015/0253 (Land North Of, Eastlang Road, Fillongley) be deferred in order to request legal advice on the background to the case given the recent appeal decision for a similar development on the site;

[Speakers Adrian White and James Cassidy]

- b That Application No 2015/0674 (Former Social Club, 66 Station Road, Nether Whitacre, Coleshill, B46 2EH) be approved subject to the conditions specified in the report of the Head of Development Control;

[Speakers Claire and Michael Goodyear and Chris Fellows]

- c That Application No 2016/0011 (Southfields Farm, Packington Lane, Coleshill, B46 3EJ) be approved subject to the conditions set out in Appendix A to the report of the Head of Development Control, together with an additional condition requiring details of water supplies and fire hydrants as recommended by the Warwickshire Fire and Rescue Service;

[Speakers Gary Stevenson and John Plumb]

- d That Application No 2016/0029 (Southfields Farm, Packington Lane, Coleshill, B46 3EJ) be approved subject to the conditions set out in Appendix A to the report of the Head of Development Control, together with an additional condition requiring details of water supplies and fire hydrants as recommended by the Warwickshire Fire and Rescue Service.

[Speakers Gary Stevenson and John Plumb]

In respect of c and d above the Board resolved not to defer consideration of the Applications pending investigations underway by the objector and, in addition, also resolved that the Chairman should not vacate the chair.

At this point the Chairman adjourned the meeting as a result of disturbance by a member of the public. When order was restored the meeting recommenced.

20 Tree Preservation Order - Fillongley

The Board was invited to consider the confirmation of a Tree Preservation Order relating to a number of trees on land at Hill Top (formerly Timbertops), Mill Lane, Fillongley.

Resolved:

That a Tree Preservation Order be confirmed, in respect of the Weeping Willow (T1), Blue Atlantic Cedar (T2), Birches (T3, T4, T5, T6 and T9, T10 and T11), Crack Willow (T7), Leyland Cypress (T12), Bird Cherry (T8) and Horse Chestnut (T13); all located at land at Hill Top (formerly Timbertops), Mill Lane, Fillongley.

M Simpson
Chairman

**Planning and Development Board
11 July 2016
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
6/4	PAP/2015/0253	WCC Flooding	Consultation	29/6/16
6/164	PAP/2015/0674	Agent	Representation	8/7/16
6/178	PAP/2016/0011 and PAP/2016/0029	Mr Stevenson	Objection	10/7/16
		Mr Stibbs	Objection	11/7/16

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

8 August 2016

Present: Councillor Simpson in the Chair.

Councillors L Dirveiks, Henney, Humphreys, Jarvis, Jenns, Jones, Morson, Moss, Phillips, Reilly, Smitten, Sweet, Waters and A Wright

An apology for absence was received from Councillor Bell (substitute Councillor Waters)

Councillors Clews, Davey, Ferro, Ingram and Smith were also in attendance.

21 **Disclosable Pecuniary and Non-Pecuniary Interests**

Councillor Morson declared a non-pecuniary interest in Minute No 22 Planning Applications (Application No 2016/0007 - Land at Hams Hall Distribution Park, Faraday Avenue, Coleshill and Application No 2016/0008 - Marston Fields Farm, Kingsbury Road, Lea Marston, Sutton Coldfield, B76 0DP), left the meeting and took no part in the discussion thereon.

Councillor Humphreys declared a non-pecuniary interest in Minute No 22 Planning Applications (Application No 2015/0344 - Beech House, Market Street, Atherstone, Application No 2015/0284 - Post Office Yard, rear of 100 Long Street, Atherstone, Applications No 2015/0375 and 2015/0283 - Bank Gardens, rear of 94/96 Long Street, Atherstone and Application No 2015/0285 - Land rear of 108 Long Street, Atherstone), left the meeting and took no part in the discussion thereon.

Councillor Reilly declared a non-pecuniary interest in Minute No 22 Planning Applications (Application No 2016/0007 - Land at Hams Hall Distribution Park, Faraday Avenue, Coleshill, Application No 2016/0008 - Marston Fields Farm, Kingsbury Road, Lea Marston, Sutton Coldfield, B76 0DP and Application No 2016/0399 - Former B Station Site, Faraday Avenue, Hams Hall, Coleshill).

22 **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 in respect of Application No 2016/0007 (Land at Hams Hall Distribution Park, Faraday Avenue, Coleshill) the County Council be advised that this Council objects to this proposal on the grounds of its scale being out of keeping even on this estate and that there are concerns not yet answered about the level of emissions and thus the potential risk of pollution;

[Speaker Andrew Needham]

- b** That in respect of Application No 2016/0008 (Marston Fields Farm, Kingsbury Road, Lea Marston, Sutton Coldfield, B76 0DP) the Council raises no objection but asks Warwickshire County Council to set a realistic time framework for completion of the scheme and that measures are put in place to monitor the work;

- c** That Application No 2015/0253 (Land North Of, Eastlang Road, Fillongley) be refused for the following reasons

“ It is considered that the proposal is not appropriate development in the Green Belt. This is because it does not accord with the exceptions set out in the NPPF. The reason for this is that the relevant exception in this case is conditional on the proposal meeting the content of Development Plan policy. Here Policy NW5 of the Core Strategy 2014 requires affordable housing outside of settlements to be for a proven local need and small in scale. The proposal is not small in scale and would cause substantial harm to the openness of the Green Belt. It is considered that this impact outweighs the benefit arising from the affordable housing provision. The proposal does not therefore accord with Policy NW5 of the Core Strategy 2014 and thus the National Policy Framework 2012.”

[Speakers Ray Savage, Adrian White and James Cassidy]

- d** That provided the applicant first enters in to a Section 106 Agreement relating to the phasing schedule set out in the report of the Head of Development Control, Application No 2015/0344 (Beech House, 19 Market Street, Atherstone), Application No 2015/0284 (Post Office Yard, rear of 100 Long Street, Atherstone), Applications No 2015/0375 and 2015/0283 (Bank Gardens, rear of 94/96 Long Street, Atherstone) and Application No 2015/0285 (Land rear of 108 Long Street, Atherstone), planning permissions and Listed Building consents be approved subject to the conditions contained in the report at Appendix A, amended as necessary to take account of the schedule. In addition it was noted that the

sub-group would continue to meet to oversee the progress of the works;

[Speaker Judy Vero]

- e That in respect of Application No 2015/0348 (Land At Crown Stables, Nuneaton Road, Mancetter, CV9 1RF)**
 - i the Heritage Society, Mancetter Parish Council and other interested parties be given one week from the date of this meeting to make observations on the Heritage Assessment produced by Thames Valley Archaeology Services Limited;**
 - ii that if any adverse comments are received, the Head of Development Control, in consultation with the Chairman and the Opposition Spokesperson, be given delegated authority to review such comments; and**
 - iii that upon the satisfactory resolution of any comments received, the Head of Development Control writes to the applicant to confirm that, based on the submission of the additional information received on 8 July 2016, the Council will not be defending reason refusal number 2 at any appeal which may be submitted for the purposes of planning proposal ref: PAP/2015/0348.**

[Speaker Margaret Hughes]

- f That consideration of Application No 2015/0584 (Land at Grimstock Hill, off Trajan Drive, Coleshill) be deferred for a site visit and to enable the Head of Development Control undertake further discussions with the applicant in respect of the matters identified at the meeting;**
- g That provided the applicant first enters in to a Section 106 Agreement relating to on-site affordable housing provision as set out in the report of the Head of Development Control, Application No 2015/0692 (Land Rear Of Ansley United Reform Church, Birmingham Road, Ansley) be approved subject to the conditions specified in the said report;**

[Speaker Greg Mitchell]

- h That consideration of Application No 2016/0249 (Former Police Station, Park Road/Birmingham Road, Coleshill, Warwickshire, B46 1DJ) be deferred to enable the Head of Development Control undertake further discussions with the applicant in respect of the matters identified at the meeting;**

- i That Application No 2016/0274 (Land at, Hall End Farm, Watling Street, Dordon, B78 1SZ), Application No 2016/0046 (Hall End Farm, Watling Street, Dordon), Application No 2016/0045 (Hall End Farm, Watling Street, Dordon) and Application No 2016/0048 (Hall End Farm, Watling Street, Dordon) be approved subject to the conditions specified in the report of the Head of Development Control;

[Speakers David Hodgetts and Edward Hodgetts]

- j That having been withdrawn Application No 2016/0358 (Morrisons, Park Road, Coleshill, B46 1AS) be not determined; and
- k That the receipt of Application No 2016/0399 (Former B Station Site, Faraday Avenue, Hams Hall, Coleshill) be noted.

23 HS2 – Planning Applications

The Head of Development Control reported on the consequences of the Council becoming a Qualifying Authority in respect of planning applications submitted consequential to the construction of the HS2 railway line. The Board was asked to agree a suggested course of action.

Resolved:

That the report be noted and that Parish and Town Councils be notified of the consequences of the Borough Council's status as a Qualifying Authority in respect of the forthcoming planning applications for the consequential structures of the HS2 development.

24 The North Warwickshire and Nuneaton and Bedworth Building Control Partnership

The Board was invited to consider extending the Council's partnership working with Nuneaton and Bedworth Borough Council in providing a Building Control service.

Resolved:

That the Borough Council renews its membership of the Partnership and that the Agreement be extended for a further three years.

25 **Submission of Coleshill Neighbourhood Plan for public consultation**

The Head of Development Control reported on the progress of the submitted Coleshill Neighbourhood Plan and sought approval to go out for a formal consultation in accordance with section 16 of the Neighbourhood Planning (General) Regulations 2012.

Resolved:

That the Coleshill Neighbourhood Plan be circulated for a 6 week public consultation.

26 **Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April - June 2016**

The Board was informed of progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April to June 2016.

Resolved:

That the report be noted.

27 **Exclusion of the Public and Press**

Resolved:

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

28 **The Lake House, Bakehouse Lane, Nether Whitacre.**

The Head of Development Control reported further on the enforcement action being taken in respect of The Lake House, Bakehouse Lane, Nether Whitacre and the Board was asked to agree a suggested course of action.

Resolved:

That the reason for issuing an Enforcement Notice in this case be as set out in the report of the Head of Development Control, with the option of issuing two Notices should legal advice recommend such an approach.

29 **Heart of England Premises**

The Head of Development Control reported further in respect of the Heart of England, Fillongley and the Board was asked to agree a suggested course of action.

Resolved:

- a **That the report of the Head of Development Control be noted;**
- b **That the application to discharge conditions be reported to the next meeting of the Planning and Development Board for determination and that Members consider and offer feedback on the matters set out in Appendix E to the report;**
- c **That the two outstanding applications described in the report be determined on their own merits in the usual manner;**
- d **That the owner be invited to submit applications to retain the two illuminated pole signs within the next four weeks otherwise the Council will consider prosecution;**
- e **That a further report be brought to the Board in due course concerning compliance with all of the extant Enforcement Notices affecting the site;**
- f **That Planning Contravention Notices be served in respect of the alleged breaches of planning conditions and the use of land outside the scope of the planning permissions as described in the report; and**
- g **That the Council seek legal advice on the success of gaining an Injunction as set out in the report.**

M Simpson
Chairman

**Planning and Development Board
8 August 2016
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
4/6	CON/2016/0007	Lea Marston Parish Council	Objection	1/8/16
4/180	PAP/2016/0249	WCC Flooding Ansons	Consultation Letter	29/7/16 5/8/16
4/202	PAP/2016/0274	WCC Flooding	Consultation	
4/216	PAP/2016/0399	CPRE	Objection	7/8/16

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

5 September 2016

Present: Councillor Simpson in the Chair.

Councillors Bell, L Dirveiks, Farrell, Henney, Humphreys, Jarvis, Jenns, Jones, Moss, Phillips, Reilly, Smitten, Sweet and A Wright

An apology for absence was received from Councillor Morson (substitute Councillor Farrell)

Councillors Clews, Davey, Davis and Smith were also in attendance.

30 **Disclosable Pecuniary and Non-Pecuniary Interests**

Councillor Jarvis declared a pecuniary interest in Minute No 31 Planning Applications (Applications No 2016/0010 and 2016/0011 - Queen Elizabeth Academy, Witherley Road, Atherstone), left the meeting and took no part in the discussion thereon.

Councillor Reilly declared a non-pecuniary interest in Minute No 31 Planning Applications (Application No 2016/0399 -Former B Station Site, Faraday Avenue, Hams Hall, Coleshill).

31 **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 in respect of Applications No 2016/0010 and 2016/0011 (Queen Elizabeth Academy, Witherley Road, Atherstone) the County Council be informed that**
 - i **the Council does not raise objection to the variation of the condition relating to the playing field;**
 - ii **that as drafted the Council objects to the draft Community Use Agreement; and**
 - iii **the Assistant Director (Leisure and Community Development), in consultation with the Chairman, Opposition Spokesperson and the Leader of the**

Council, be authorised to agree the draft Community Use Agreement.

- b That in respect of Application No 2016/0012 (Packington Lane Landfill Site, Packington Lane, Little Packington, Warwickshire, CV7 7HN the County Council be informed**
 - i the Council has no objection to the variation of condition 17 but that it does object to the variation of conditions 4, 12, 19 and 20 for the reasons stated in the report of the Head of Development Control;**
 - ii in this regard the Council would welcome the involvement of North Warwickshire representatives in meetings with County Officers and the applicant to explore the possibility of public access to parts of the site through alternative measures and arrangements; and**
 - iii that a meeting be convened between Members of the Planning and Development Board and County Councillors for North Warwickshire to explore the Borough Council's concerns in this context.**

- c That Application No 2016/0004 (Heart of England, Meriden Road, Fillongley, CV7 8DX) be determined after the passage of six weeks;**

[Speaker Howard Darling]

- d That in respect of Application No 2015/0348 (Land At Crown Stables, Nuneaton Road, Mancetter, CV9 1RF)**
 - i in the event of an appeal being lodged against the refusal of planning permission, the Council does not pursue the second reason for refusal in light of the archaeological evaluation undertaken;**
 - ii if an appeal is made the Council strongly recommends that there is a public inquiry;**
 - iii if a public inquiry is granted, the Council will assist organisations in their securing 'Rule 6' status; and**
 - iv the Council lead a group of interested parties to investigate whether it is possible to extend the current Mancetter Scheduled Ancient Monument (SAM) status to the wider area.**

- e That consideration of Application No 2015/0584 (Land at Grimstock Hill, off Trajan Drive, Coleshill) be deferred to enable the Head of Development Control undertake further discussions with the applicant in respect of the matters identified at the meeting;

[Speaker Jon Kirby]

- f That Application No 2016/0292 (The Chase Inn, Coleshill Road, Hartshill, CV10 0PH) be approved subject to the amendment of conditions 6 and 7 to read as follows

“Condition 6 - No use of the property hereby approved shall commence until a Management Plan has first been submitted to and approved in writing by the Local Planning Authority, which deals the use of the outdoor grassed area as a play area. The agreed Plan shall remain in force at all times; and

Condition 7 - All pedestrian access into the nursery shall be from the rear car park entrance to the building except in the case of emergency.”

[Speaker Lee Ward]

- g That consideration of Application No 2016/0367 (28, Church Lane, Old Arley, Coventry, CV7 8FW) be deferred for a site visit;

[Speaker Carl Sanders]

- h That consideration of Application No 2016/0376 (41 Stanley Road, Atherstone, CV9 2AS) be deferred for a site visit;

[Speakers Jamie Goulty and Adam Smith]

- i That consideration of Application No 2016/0375 (43 Stanley Road, Atherstone, CV9 2AS) be deferred for a site visit;

[Speakers Jamie Goulty and Daniel Aldridge]

- j That Application No 2016/0380 (83, Lister Road, Atherstone, CV9 3DF), Application No 2016/0434 (85, Lister Road, Atherstone, CV9 3DF) and application No 2016/0447 (85, Lister Road, Atherstone, CV9 3DF) be approved subject to the amendment of the operating hours conditions specified in the report of the Head of Development Control;

- k That Application No 2016/0397 (Heathland Farm, Birmingham Road, Nether Whitacre, B46 2ER) be approved subject to the

conditions specified in the report of the Head of Development Control;

- I That in respect of Application No 2016/0399 (Former B Station Site, Faraday Avenue, Hams Hall, Coleshill)**
 - i officers further explore with the applicant the matters raised in the report of the Head of Development Control and those identified by Members at the meeting; and**
 - ii officers report back on the outcome of those discussions and set out draft planning conditions and the draft Heads of a Section 106 Agreement.**

[Speaker David Green]

- m That in respect of Application No 2016/0420 (Land 225m South Of Lakeside Industrial Park, Marsh Lane, Water Orton, the report be noted and that a site visit be arranged.**
- n That Application No 2016/0433 (2 Hawthorne Avenue, Land at Hawthorne Avenue and Sycamore Crescent, Arley) be approved subject to the conditions specified in the report of the Head of Development Control;**
- o That Application No 2016/0440 (Cole End Park, Lichfield Road, Coleshill) be approved subject to the conditions specified in the report of the Head of Development Control; and**
- p That Application No 2016/0449 (Oak Tree House, 49 Main Road, Austrey, CV9 3EH) be approved subject to the conditions specified in the report of the Head of Development Control.**

32 Submission of Austrey Neighbourhood Plan for public consultation

The Head of Development Control reported on the progress of the submitted Austrey Neighbourhood Plan and sought approval to go out for a formal consultation in accordance with section 16 of the Neighbourhood Planning (General) Regulations 2012.

Resolved:

That the Austrey Neighbourhood Plan be circulated for a 6 week public consultation.

33 **Exclusion of the Public and Press**

Resolved:

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

34 **Enforcement and Appeal Update**

The Head of Development Control outlined progress on some of the major enforcement issues dealt with by the Board.

Resolved:

That the report be noted.

35 **Car Boot Sales**

The Head of Development Control provided a summary of the planning legislation in respect of car boot sales.

Resolved:

That the three market operators be invited to meet with Officers and a small group of Members to see how the local impacts of these events can be reduced.

M Simpson
Chairman

**Planning and Development Board
5 September 2016
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
4/76	PAP/2015/0584	Mrs Spears	Objection	22/8/16
		K Fallowell	Objection	22/8/16
		K Boffey	Objection	23/8/16
		J George	Objection	23/8/16
		A Core	Objection	29/8/16
		K Wyatt	Objection	30/8/16
		WCC Flooding	Consultation	31/8/16
		R Turley	Objection	1/9/16
		WCC Highways	Consultation	2/9/16
		Coleshill Town Council	Objection	2/9/16
Mr Leadbeater	Objection	3/9/16		
4/130	PAP/2016/0447	Warwickshire Infrastructure	Consultation	23/8/16
4/149	PAP/2016/0399	Environmental Health Officer	Consultation	24/8/16
		Warwickshire County Council	Consultation	1/9/16
4/238	PAP/2016/0440	Mrs Kelsall	Notification	23/8/16

Agenda Item No 5

Planning and Development Board

10 October 2016

**Report of the Assistant Director
(Finance and Human Resources)**

**Budgetary Control Report 2016/2017
Period Ended 30 September 2016**

1 Summary

- 1.1 The report covers revenue expenditure and income for the period from 1 April 2016 to 30 September 2016. The 2016/2017 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Board.

Recommendation to the Board

That the report be noted and that the Board requests any further information it feels would assist it in monitoring the budgets under the Board's control.

2 Introduction

- 2.1 Under the Service Reporting Code of Practice (SeRCOP), services should be charged with the total cost of providing the service, which not only includes costs and income directly incurred, but, also support costs relating to such areas as finance, office accommodation, telephone costs and IT services. The figures contained within this report are calculated on this basis.

3 Overall Position

- 3.1 Net expenditure for those services that report to the Planning and Development Board as at 30 September 2016 is £69,246 compared with a profiled budgetary position of £98,263; an under spend of £29,016 for the period. Appendix A to this report provides details of the profiled and actual position for each service reporting to this Board, together with the variance for the period. Where possible, the year-to-date budget figures have been calculated with some allowance for seasonal variations in order to give a better comparison with actual figures. Reasons for the variations are given, where appropriate, in more detail below.

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3.2 **Planning Control**

3.2.1 Income is currently ahead of forecast which is attributable to four large planning applications.

3.3 **Local Land Charges**

3.3.1 Income from Local Land Charges is currently under profile due to a reduced number of searches.

4 **Performance Indicators**

4.1 In addition to the financial information provided to this Board when the budgets were set in February, performance indicators were included as a means of putting the financial position into context. These are shown at Appendix B.

4.2 *Planning Control* - The gross cost of planning applications has reduced due to the reduction in the costs of Planning Control. The net cost of planning applications has had a greater reduction due to more medium and large applications.

4.3 The gross cost per Land Charge is higher than expected due to the number of searches undertaken being lower than the profiled level by 17%. There has been a smaller change in the net cost per Land Charge due to changes in the mix of searches between full searches and Official Register searches.

5 **Risks to the Budget**

5.1 The key risks to the budgetary position of the Council from services under the control of this Board are:

- The need to hold Public Inquiries into Planning Developments. A supplementary estimate of £80,000 has recently been agreed.
- A change in the level of planning applications received. A fall in applications would lead to a reduction in planning income, whilst an increase in applications increases the pressure on staff to deal with applications in the required timescales.
- The Government requires all planning applications to be dealt with within 26 weeks. If this is not achieved, the costs of the application must be borne by the authority. Whilst the Planning team deal with almost 100% of current applications within this time, there is a potential that some may slip, leading to a decline in the Planning income level.

5.2 A risk analysis of the likelihood and impact of the risks identified above are included in Appendix B.

6 Estimated Out-turn

- 6.1 If planning income continues at the current level, the original estimate of £321,930 will be reduced. However, if the income pattern of last year is repeated, income will reduce later in the year. Given the potential for variation, no changes have been made to the estimated out-turn.
- 6.2 The figures provided above are based on information available at this time of the year and are the best available estimates for this board, and may change as the financial year progresses. Members will be updated in future reports of any further changes to the forecast out turn.

7 Building Control

- 7.1 The Figures provided by the Building Control Partnership indicate that this Council's share of the costs up to 31 August 2016 show a favourable variance.
- 7.2 The approved budget provision for Building Control is £50,000, which will not be required if full year costs currently estimated by the Partnership continue. We will continue to liaise with Nuneaton and Bedworth Borough Council to monitor this over the course of the year.

8 Report Implications

8.1 Finance and Value for Money Implications

- 8.1.1 If the Building Control figures continue then the Board would reduce expenditure by £50,000. Income and Expenditure will continue to be closely managed and any issues that arise will be reported to this Board at future meetings.

8.2 Environment and Sustainability Implications

- 8.2.1 The Council has to ensure that it adopts and implements robust and comprehensive budgetary monitoring and control, to ensure not only the availability of services within the current financial year, but in future years.

The Contact Officer for this report is Nigel Lane (719371).

APPENDIX A

Planning and Development Board

Budgetary Control Report 2016/2017 as at 30 September 2016

Description	Approved Budget 2016/2017	Profiled Budget September 2016	Actual September 2016	Variance	Comments
Planning Control	198,480	58,929	28,409	(30,520)	Comment 4.2
Building Control Non fee-earning	65,060	7,530	7,166	(364)	
Conservation and Built Heritage	47,870	29,885	29,860	(25)	
Local Land Charges	1,430	(2,626)	(963)	1,664	Comment 4.3
Street Naming & Numbering	9,090	4,545	4,774	229	
TOTALS	321,930	98,263	69,246	(29,016)	

Original Budget	241,930.00
Supplementary Estimate	
Planning Appeals	80,000.00
Approved Budget	<u><u>321,930.00</u></u>

Performance Indicators for Budgets Reporting to the Planning and Development Board

	Budgeted Performance	Profiled Budgeted Performance	Actual Performance to Date
Planning Control			
No of Planning Applications	900	450	446
Gross cost per Application	£874.92	£862.41	£780.55
Net cost per Application	£220.53	£130.95	£63.70
Caseload per Planning Officer			
All applications	167	83.3	86.6
Local Land Charges			
No of Searches	530	132.5	115
Gross cost per Search	£103.00	£94.16	£114.08
Net cost per Search	£2.70	-£9.91	-£4.38

Risk Analysis

	Likelihood	Potential impact on Budget
Need for public enquiries into planning developments	Medium	Medium
Decline in planning applications leading to a reduction in Planning Income.	Low	Medium
Applications not dealt with within 26 weeks, resulting in full refund to applicant.	Low	Medium

Agenda Item No 7

Planning and Development Board

10 October 2016

Report of the Head of Development Control

Planning Appeals

1 Summary

1.1 This report provides a summary of the planning appeal process.

Recommendation to the Board

That the report be noted.

2 Background

2.1 Following the report to the last Board outlining recent appeal decisions, the Chairman has suggested that a short briefing note might be helpful to explain the appeal process.

2.2 Appeals are lodged with the Planning Inspectorate (“PINS”). They can be made in respect of planning refusals – including Listed Building refusals/Tree Preservation Order refusals as well as against Certificate and Prior Approval decisions - or against conditions attached to a planning permission. Appeals can also be made following the service of an Enforcement Notice. The time limit for the submission of appeals varies but in general terms it’s six months for a planning case and 28 days for an enforcement case. An appeal is not “started” until PINS validate it and issue a “start” letter. This will set out the timetable.

2.3 There are three ways in which an appeal can be dealt with – by an exchange of written representations; a Public Hearing or a Public Inquiry. When an appellant lodges an appeal he will outline his preferred method with his reasons. Once the Council receives the “start” letter it can respond by expressing its own opinion. PINS will then take the decision as to the method in which the appeal is to be heard.

2.4 In a written representation appeal, the Council effectively forwards the case file to PINS – the Inspector will thus have the full array of consultation responses received; all of the written representations/objections received/ the officer’s report and copies of all of the relevant planning policies. The appellant submits a Statement of Case which will argue his case. The Council does the same. All of this is then exchanged between the parties by PINS and each party has the opportunity of respond. The Inspector will then visit the site – either on his/her own or not and then issue a decision letter. The time

period from validation to decision will vary, but around five or six months is very common.

- 2.5 In a Public Hearing, the Council and appellant provide PINS with all of the same background information and Statements of Case. The Inspector will then chair a hearing which is effectively a formal discussion between the parties. The Inspector will identify the main issues and this then becomes an agenda for the ensuing discussion. That agenda is agreed beforehand with both the appellant and the Council. The public can attend and ask to participate at the Inspector's discretion. This is not usually denied. The Inspector will conclude the Hearing and then visit the site in the presence of both sides and the people who spoke if the Inspector thinks that this is appropriate. Most Hearings take a few hours and are very unlikely to extend into a second day. Decisions usually take longer and can be six to eight months from appeal submission.
- 2.6 A Public Inquiry is a formal adversarial process. It is quasi-judicial involving witness Proofs of Evidence and Cross Examination. It is thus generally the case that the appellant and the Council are legally represented by an advocate who manages the case. Again all of the background information is forwarded at an early stage and exchanged between the two main parties. Both submit a Statement of Case. A month before the Inquiry date, both sides have to submit their witness proofs of evidence. At the Inquiry the proofs are taken as "read" with only an introductory summary provided. Both sides then set out their own case calling their witnesses and they are the subject of cross-examination by the other's advocate. Members of the public can attend and request to be heard, but they too can be cross-examined. Sometimes objectors agree with PINS to be a formal party – a Rule 6 party – and then they too can be legally represented and have their own witnesses. The Inspector will visit the site in the presence of representatives of both parties and Rule 6 parties. Time periods are the longest of the three appeal methods – twelve months is not unusual.

3 Observations

- 3.1 The number of appeals lodged steadily increases. As PINS also has to deal with Local Plan Examinations, there is a real resourcing issue at PINS. This is one reason why there are these lengthy time periods.
- 3.2 The number of Public Inquiries has steadily reduced over the years. They are very resource intensive for all parties and depend on availability of Inspectors, Advocates and witnesses. They often take several days. As a consequence PINS will scrutinise every call for an Inquiry. It will not agree to one just because there is a lot of public interest. The key test is whether the evidence submitted requires thorough exploration through formal cross-examination. As a consequence it is usually only major development proposals that are the subject of the full Inquiry process.
- 3.3 Public Inquiries are resource intensive. They are expensive; very time consuming and can become very involved with detail, legal process and argument. It is for this reason that the alternative procedures are much

preferred. It is generally the case that the appellants will request an Inquiry rather than a Local Planning Authority.

- 3.4 The ability and wish for the “public voice” to be heard is often a driver for Public Inquiries. However it should be made clear that the other two procedures certainly do not deny or limit public participation. In the written procedures option, all representations received at the time of the application are submitted to the Inspectorate and the community also has a second chance, as there is always an invitation to comment once an appeal is lodged. In the Hearing process then all representations received are forwarded to the Inspector; a second invitation to submit further letters is made and of course, the public can attend the Hearing and participate at the Inspector’s discretion. This is not normally denied, however Inspectors prefer there to be a spokesperson for objectors rather than each individual raising the same concern. Public Inquiries are far more formal and adversarial. Again Inspectors prefer to hear from a “spokesperson”, but that person will be expected to answer questions under cross-examination. It is sometimes the case that the “public” are recognised as a formal third party at an Inquiry and that they are represented legally. This doesn’t happen very often, but for instance, the resident’s group in the Daw Mill case will be such a third party in the forthcoming Inquiry, The Inspectorate and Council officers can help and advise residents about this course of action.
- 3.5 There are three other issues to note – Statements of Common Ground; costs and planning decisions against officer recommendations.
- 3.6 Statements of Common Ground are signed by the two man parties – however this does not prevent a third party being involved. These Statements are designed to assist the Inspector and they are very much just matters of fact. For example they contain descriptions of the site; the proposals, the relevant Development Plan policies, lists of other relevant documents and consultation responses etc. They usually conclude with a list of the main points of disagreement between the parties.
- 3.7 Costs can be claimed by either the appellant or the Council against the other party whichever procedure is followed. Costs revolve around “unreasonable behaviour”. In the main this means unreasonable behaviour in respect of process and secondly in respect of the substance of the case made. Examples of the former are not keeping to timetables; circulating new evidence or a new argument at a late stage, withdrawing evidence, changing witnesses etc. Examples of the second are not having the evidence to support a refusal reason and arguing a case that’s different from the refusal reasons. It is the Inspector dealing with the case that decides on any costs application. He can award full or partial costs against either party. Clearly the amount then claimed by a party will vary with the procedure followed. Full costs at an Inquiry can be substantial – over £100,000 (the cost of a Barrister; professional witnesses and the sheer amount of time taken for preparation and at the appeal), but even in a Hearing they can amount to £25,000. Members might like to know that the appeal about the pedestrian crossing on the A5 at Grendon – an appeal heard by written representations – cost the Council £3000 in costs.

- 3.8 Appeals are often submitted when a Local Planning Authority takes a decision contrary to an officer recommendation. In these cases when a Hearing or an Inquiry is involved, the Council witness should not be the officer that made the recommendation. Another officer who may not agree with that recommendation can be a witness. However in these cases legal preference is always almost for there to be an independent planning witness commissioned by the Council to present its case – e.g. as in the Grendon appeal a couple of years ago. In these cases legal advice is almost always that the Council should ensure that it has the necessary evidence to support its refusal as claims for costs are far more common in these circumstances.
- 3.9 Finally in the case of appeals against the service of Enforcement Notices, then these are far more likely to end up being dealt with through the Inquiry procedure as very often evidence has to be taken on oath – eg. in respect of dates and what activities took place when and where.
- 3.10 Finally, if Members wish to sit in at an appeal and experience how they are conducted then forthcoming dates are listed below.
- October the 5th – 1000 hours in the Chamber. An Inquiry into the use of land at Blackgreaves Farm, Lea Marston for caravans, expected to last one day.
 - October the 18th – 1000 hours in the Committee Room. A Hearing into the Travellers application at Fir Tree Paddock, Mancetter, expected to last the one day.
 - November the 8th – 1000 hours in the Chamber. An Inquiry into the 80 dwellings at Ansley expected to last three or four days.
 - January the 24th – 1000 hours in the Chamber. An Inquiry into the Lake House Certificate expected to last three days
 - February the 21st – 1000 hours in the Chamber. The Daw Mill case is expected to last six working days.

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

Agenda Item No 8

Planning and Development Board

10 October 2016

Occupancy Conditions

1 Summary

- 1.1 Members will be aware that from time to time they come across planning permissions that are granted for a use that is limited, by planning condition, to a particular person or occupant. Applications to vary these conditions are also occasionally reported to the Board.

The Chairman has requested a short briefing note on the matter.

Recommendation to the Board

That the report be noted.

2 Occupancy Conditions

a) Introduction

- 2.1 Members are familiar with perhaps three main types of example here:

- Occupancy linked to agricultural/rural enterprise uses
- Occupancy limited to a particular business or company
- Occupancy limiting the use of a residential annex or outbuilding

a) Government Guidance on Conditions

- 2.2 Government guidance on the use of conditions is contained in the National Planning Practice Guidance (the “NPPG”). This points out that conditions are a measure that Local Planning Authorities can use in order to make “otherwise unacceptable development, acceptable”. They also have to meet six tests. They have to be necessary; relevant to planning, and to the development concerned, enforceable, precise and reasonable in all other respects.

- 2.3 The NPPG does offer advice on specific areas as to when conditions should and perhaps should not be used. In respect of occupancy limitations the guidance is that:

- As planning permission runs with the land it is “rarely appropriate” to provide otherwise.

- Exceptions to this however would include limiting occupancy of a new house to an agricultural worker.
- A planning permission granted solely on an individual's personal circumstances will scarcely be justified in the case of a permanent building
- A condition limiting the benefit of a planning permission to a particular business is inappropriate.

2.4 It may be possible to overcome a planning objection with a planning condition or through a Section 106 Planning Obligation. The NPPG says that the Local Planning Authority "should use a condition rather than seeking to deal with the matter by means of a planning obligation".

2.5 In short therefore the NPPG would not support such conditions and in appeal situations, Planning Inspectors give this guidance substantial weight.

2.6 Not surprisingly, The National Planning Policy Framework (the "NPPF") repeats the guidance set out above.

b) General Approach

2.7 Bearing in mind this background, planning and legal advice to the Board is that the use of such conditions should be treated with caution and that they should be individually capable of justification. In other words there has to be a proportionate approach.

c) Examples

2.8 How this works in practice is best illustrated with some examples and the three areas identified under (a) above will be used.

2.9 The most straight forward example is that of an agricultural occupancy condition. These houses are invariably outside of development boundaries and perhaps in the Green Belt. If an essential agricultural need can be evidenced for a new dwelling here where a normal house would not be, the condition can be used. The NPPG recognises this as an exception. This type of condition can also be used for other rural enterprise uses – e.g. equestrian uses and other uses which require an essential rural presence.

2.10 The second area is restricting occupancy to a particular business. The option of such a condition is attractive given the very wide range of activity that for example might be fall under Use Classes B1(light industrial) and B2 (general industrial). However the NPPG is clearly not supportive and Members will know of appeal decisions where such conditions have been removed. Member's concerns here are acknowledged and in order to address them there is one line of approach that could be followed. So rather than look at the individual business or company, conditions that affect the particular planning issues arising from a proposal should be the focus of attention. For example limiting hours of work; outside working, the number of HGV's etc. In this way the advice of the NPPG can be followed – focussing on the use not the

person and using conditions to make an otherwise unacceptable use, acceptable.

2.11 The final area is restricting occupancy of residential buildings. This is perhaps the most difficult to address. This issue is where planning permission is granted for an annex (either through conversion or new build). Within a defined development boundary this is not an issue. However a condition may be contemplated restricting occupancy as being ancillary to the main host dwelling if the location of the site is outside of a development boundary. In other words, in an area where new housing is not generally supported. Members will be aware that later applications to remove that condition are submitted and the consequence would result in a new independent dwelling where one would not normally be permitted. Again Members will know that speculation as to what might happen following the grant of a planning permission is not a material consideration. So how are Members to approach the issue? The answer is to be proportionate. It might be worthwhile treating them in the same way as agricultural dwelling applications. The most crucial time is that of consideration of the initial application for an annex. This is the time to establish that there is sound background evidence that can show the need for such accommodation. If there is, then the application should be approved and it would be within the six tests of the NPPG to add a condition restricting occupation as being to ancillary to the main dwelling – in other words focussing on the use not the person. If not, then a refusal may have to be considered. A subsequent application to remove the condition will also need to be considered proportionately – evidence to show how long the annex has been used; how it's been used and the character of its location will be important. For instance an annex that can function independently with its own access and amenity space within a group of other houses and buildings is more likely not to cause a significant planning policy issue as opposed to an annex attached to a very isolated house. The key issue is to establish that the annex has been used residentially for a reasonable period of time. The establishment of a residential use, albeit conditioned, can therefore give some weight to supporting the possibility of a replacement residential use.

2.12 There is no overall advice that can be offered to cover what is usually a range of different circumstances, but the general approach should be:

- There is no overall “water tight” approach to deal with the general concerns here.
- Treat all personal circumstances with caution. “Personal” conditions should generally not be used. It's the use that is the key question.
- Consideration of an “occupancy” condition should only be contemplated if there is strong factual evidence to support restriction of the use.
- At an appeal, an Inspector will start from the position of being unlikely to support an occupancy condition. The same will apply to the use of Section 106 Agreements.
- Conditions requiring demolition of a building once occupancy required by a condition has ceased will not find favour with the Planning Inspectorate.

- Removal of an occupancy condition is more likely to be supported if the development has been undertaken for a reasonable period of time.

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

Agenda Item No 9

Planning and Development Board

10 October 2016

**Report of the
Head of Development Control**

**Tree Preservation Order
Land at 3 The Gables Polesworth**

1 Summary

- 1.1 A call to the Planning Duty Officer from a concerned neighbour suggested that a tree at 3 The Gables, Polesworth was at imminent risk. The value of the tree was assessed by the County Forestry Officer and was found to be worthy of protection. Authority was sought for the emergency protection of the tree under delegated powers. An emergency TPO was made on 7 September 2016 and notices were served on the owner, the tenant and immediate neighbours.

Recommendation to the Board

That the Board confirms the action taken in the issue of an Emergency Tree Preservation Order for the protection of a Sweet Chestnut (T4) at 3 The Gables Polesworth, under delegated powers on 07 September 2016.

2 Background and Statement of Reasons

- 2.1 A call to the Planning Duty Officer on the 5 September 2016 advised that a neighbour at 3 The Gables was making enquiries about gaining access through neighbouring properties to enable the removal of a tree that was believed to be protected by a Tree Preservation Order. On further investigation it was identified that the tree was not protected and that the Sweet Chestnut tree in the rear garden of 3 The Gables contributed to public amenity and had existed prior to the construction of the houses.
- 2.2 Although the tree was not included in the Tree Preservation Order 713.060/1 dated 1978 which protects T1- Horse Chestnut, T2 - Holm Oak and T3 - Silver Birch within the same development; from the landscaping plan forming part of the application for the development at The Gables in 1978, it is clear that the Sweet Chestnut tree was an established tree at that time. In view of the imminent risk to the Sweet Chestnut tree, the County Forestry Officer was asked to undertake a TEMPO assessment of the value of the tree, and it scored 20, suggesting that the tree definitely merits a Tree Preservation Order.

- 2.3 The plan below is the landscape plan submitted under condition 9 of the application (HIS/1902/0528) for the development approved on 19 September 1978. The Sweet Chestnut is indicated as one of the existing trees to be retained, along with the three trees at the entrance to the site that are protected by the tree preservation order 713.060/1.



- 2.4 The tree is adjacent to a Scots Pine that was also the subject of an investigation by the Forestry Officer. He advised that the Scots Pine was of secondary concern to the Sweet Chestnut, and that the Council should only consider protecting the Scots Pine if the Sweet Chestnut were lost. The Sweet Chestnut is not common in North Warwickshire.
- 2.5 The photographs below show a selection of views of the Sweet Chestnut from the public areas around the development.



2.6 The advice of the Forestry Officer is that the tree would benefit from a crown lift and crown thinning, and this would alleviate many of the issues for the occupier of the property. It is clear that the tree existed before the development and that the owner and the tenant purchased and occupied the property knowing that the tree existed.

2.7 The TEMPO assessment completed by the County Tree Officer is attached to this report together with the tree location plan as Appendix A.

2.8 The TEMPO assessment concludes that the tree is worthy of protection. The Board is advised that an emergency tree preservation order was made on 07 September 2016 under delegated powers. The owner, occupier and neighbours have been served with a notice of the tree preservation order. There is now an opportunity for representations to be submitted, and two representations have been received to date Appendix B. A further report will be submitted to the Planning and Development Board following the conclusion of the consultation period for Members to consider whether the TPO should be confirmed and made permanent.

2.9 Given the date of the existing Tree Preservation Order 713.060/1 for this site, it is prudent to review the existing order and update it to include the additional tree.

3 Report Implications

3.1 Legal and Human Rights Implications

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

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

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
1	County Forestry Officer	TEMPO Evaluations and Tree Location Plan	06/09/2016

Appendix A

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 6.9.2016 Surveyor: Clint Parker		
Tree details	Tree/Group No:	Species: Sweet Chestnut
TPO Ref (if applicable):	Location: 3 The Gables	
Owner (if known):		

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

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

* Relates to existing context and is intended to apply to trees irredeemable defects only

Score & Notes	5
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b) Retention span (in years) & suitability for TPO

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

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

Score & Notes	5
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c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

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

- Highly suitable
- Suitable
- Suitable
- Barely suitable
- Probably unsuitable

Score & Notes	3
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d) Other factors

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

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

Score & Notes	2
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Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

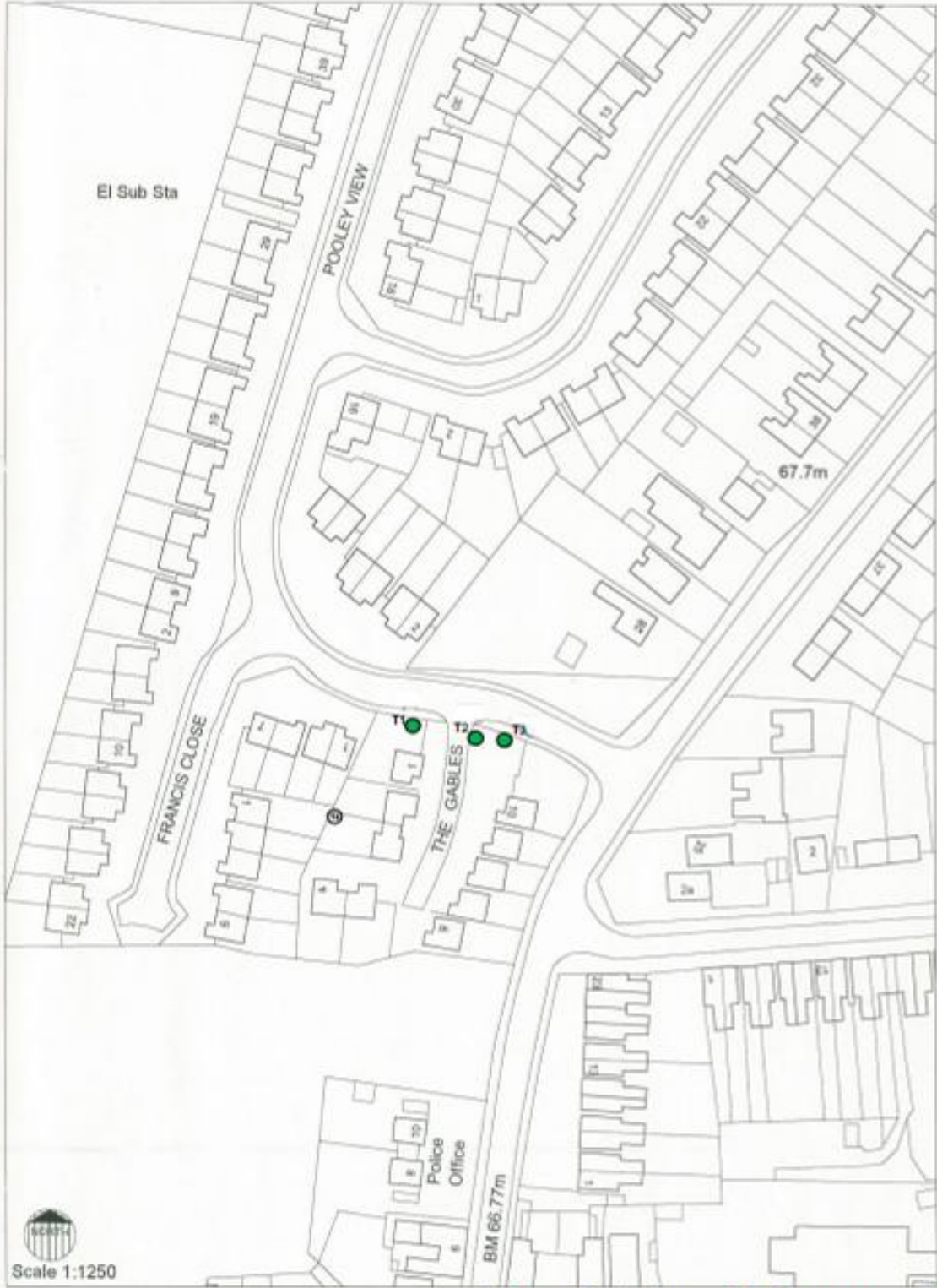
Score & Notes	5
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Part 3: Decision guide

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

Add Scores for Total:	20
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Decision:	TPO
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The Gables, Polesworth

T1- Horse Chestnut, T2 - Holm Oak, T3 - Silver Birch, T4 - Sweet Chestnut

**Appendix B
Representations Received**

To,
Annie Ryan
North Warwickshire
Borough Council
South Street
Atherstone.

From,
Mrs Pauline Alexander
3, The Gables
Polesworth

22nd September 2016

Your Ref, AR/TPO The Gables,

Our Ref, Mr M R Newbold, (Landlord)

Dear Sir/Madam,

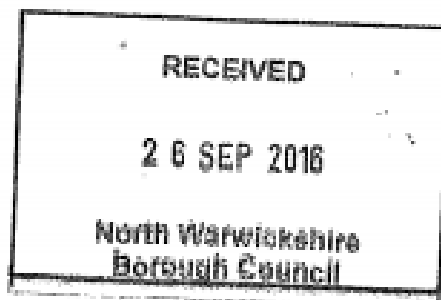
With reference to the preservation order on the sweet chestnut tree located in the back garden of 3, The Gables, Polesworth, I wish to appeal against the preservation order granted on the 7th September 2016 by the council on the grounds as listed below, also request the tree to be removed in the same instance,

- 1, As the tree has now grown to unmanageable size with the roots encroaching building foundations, fencing posts and garden borders,
- 2, Branches and falling fruit/leaves damaging fencing and surrounding flowers,
- 3, Dead leaves and small branches with bird-droppings rotting and leaving the growth of mildew and fungi, over fencing and surrounding grounds, with a immense odour,
- 4, The size of the tree canopy blocking out the light accelerating the growth of mildew/fungi, causing the whole garden to be constantly damp all year round,
- 5, Unable to put out a clothes dryer for the use of clothes drying from all above,
- 6, Unable to sit out in the garden for fear of being injured by falling obstacles,
- 7, The encroachment of the canopy degrading the exterior of the property,
- 8, When windy the sound of rustling leaves and creaking branches become overwhelming,
- 9, Unable to walk to the garden for fear of slipping over through mildew/fungi causing slippery surfaces.

Just a quick note to explain I know the tree has been there for a number of years, but was not planted it was a self setting sibling, I know this as the site was completely cleared by the builders when the houses were originally built, Also I must add, Due to my age and my disability a completely safe garden and environment is complete must.

Yours Faithfully

Mrs P Alexander



From: Martin Newbold
Sent: 25 September 2016 11:19
To: Ryan, Annie
Subject: Reference AR /TPO 3 The Gables Polesworth B78 1DD

Dear Annie

I wish to protest against the proposed tree preservation order at the above property

1

My reasons are as follows

The tree has grown to a unmanageable size

The tree poses a danger to local residents as branches may fall and injure persons in nearby gardens

The tree is so large that it blocks out natural light

The tree roots are damaging nearby foundations

Mildew and fungi all around the base of the tree and making the area constantly damp

The tree needs to be removed in order to protect the local environment and more importantly the local people.

Regards,

Martin Newbold

Agenda Item No 10

Planning and Development Board

10 October 2016

Report of the
Head of Development Control

Woodland Preservation Order
Land At Seven Foot Wood,
Coleshill Road, Ansley Common

1 Summary

- 1.1 An email to the Planning Duty Officer from a developer enquiring about the status of the trees at Seven Foot Wood prompted concerns that this developer had been making enquiries about a number of development sites in the Ansley Common area. It was identified that Seven Foot Wood had probably existed for a period in excess of 200 years and did not have the protection of a Woodland Protection Order and was not a designated Ancient Woodland. As a consequence, it was considered necessary to consider the protection of the woodland with an emergency woodland protection order to prevent felling for development. The value of the wood was assessed by the County Forestry Officer and was found to be worthy of protection. Delegated authority was sought for the emergency protection of the trees under delegated powers. An emergency TPO was made on 27 September 2016 and notices were served on the owners and immediate neighbours.

Recommendation to the Board

That the action to issue an Emergency Tree Preservation Order for the protection of a Seven Foot Wood, Coleshill Road, Ansley Common, under delegated powers on 27 September 2016 be confirmed.

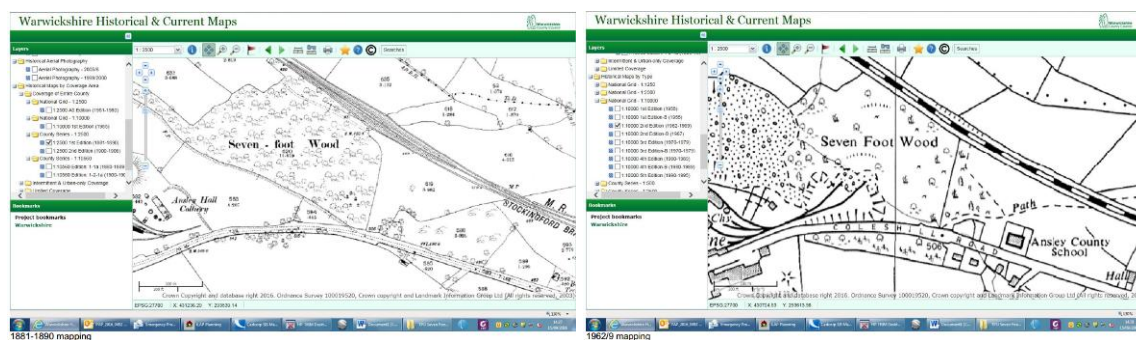
2 Background and Statement of Reasons

- 2.1 Seven Foot Wood lies between the railway line to the North and Coleshill Road to the South, and is bound to the West by the disused quarry and to the East by Nursery Hill Primary School. It appears that the wood existed prior to the quarry, and that the quarry resulted in the removal of approximately one-third of the wood. The remaining part of the wood comprises predominately of mature Oak (*Quercus robur*) (35%) and Birch (*Betula pendula*)(35%) with a understory of 30% comprising of Midland Hawthorn (*Crataegus laevigata*)(15%), Holly (*Ilex aquifolium*) (5%), Rowan (*Sorbus aucuparia*)(5%) and Wild Apple (*Malus sylvestris*)(5%).
- 2.2 The Forestry Commission has been consulted and has confirmed that checks with Forest Services datasets reveal that there is no forestry Dedication Scheme for the woodland and no consents to fell trees.
- 2.3 The Forestry Officer from Warwickshire County Council advises that '*given its location I would say it most definitely worthy of protection*'.

2.4 The aerial photograph and plan below shows the extent of the woodland to be protected.



2.5 The historical mapping for the area shows the presence of Seven Foot Wood.



2.6 The assessments of the County Forestry Officer concludes that the woodland is worthy of protection. The Board is advised that an emergency tree preservation order was made on 27 September 2016 under delegated powers. The owners and neighbours have been served with a notice of the tree preservation order. The developer who made the enquiry has also been served with the notice. There is now an opportunity for representations to be submitted. A further report will be submitted to the Planning and Development Board following the conclusion of the consultation period for Members to consider whether the TPO should be confirmed and made permanent.

3 Report Implications

3.1 Legal and Human Rights Implications

- 3.1.1 The owners of the land and those with an interest in it now have the opportunity to make representations to the Council before the Order is confirmed.
- 3.1.2 The woodland to be protected exhibits an amenity value for both the present and the future amenities of the area, given its appearance and prominence in the street scene.

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
1	County Forestry Officer	Assessment of the Woodland	12/09/2016 and 26/09/2016

Agenda Item No 11

Planning and Development Board

10 October 2016

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

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

Agenda Item No 12

Tree Preservation Order, Wood End - Report of the Head of Development Control.

Paragraph 6 – by reason of the need to consider appropriate legal action

Agenda Item 13

Heart of England Premises – Report of the Head of Development Control

Paragraph 6 – by reason of the need to consider appropriate legal action

The Contact Officer for this report is David Harris (719222).