

**To: The Deputy Leader and Members of the Planning and Development Board
(Councillors Sweet, Barber, Butcher, L Dirveiks, Humphreys, Lea, May, B Moss, Phillips, Sherratt, Simpson, A Stanley, Turley, Watkins and Winter)**

For the information of other Members of the Council

This document can be made available in large print and electronic accessible formats if requested.

For general enquiries please contact David Harris, Democratic Services Manager, on 01827 719222 or via e-mail - davidharris@northwarks.gov.uk.

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

PLANNING AND DEVELOPMENT BOARD AGENDA

12 NOVEMBER 2012

The Planning and Development Board will meet in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday 12 November 2012 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**

**PART A – ITEMS FOR DISCUSSION AND DECISION
(WHITE PAPERS)**

- 4 **Works to Trees in a Conservation Area - Atherstone** – Report of the Assistant Director (Leisure and Community Development)

Summary

This report advises the Board of proposals for works to trees within the Atherstone Conservation Area.

The Contact Officer for this report is Alethea Wilson (719212).

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

Summary

Town and Country Planning Act 1990 – applications presented for determination

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

- 6 **Progress Report on Corporate Plan and Performance Indicator Targets April – September 2012** – Report of the Chief Executive and Deputy Chief Executive

This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April to September 2012.

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

**PART C – EXEMPT INFORMATION
(GOLD PAPERS)**

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

Recommendation:

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

- 8 **Breaches of Planning Control** – Report of the Head of Development Control

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

JERRY HUTCHINSON
Chief Executive

Agenda Item No 4

Planning and Development Board

12 November 2012

**Report of the
Assistant Director
(Leisure and Community Development)**

**Works to Trees in a Conservation
Area - Atherstone**

1 Summary

- 1.1 This report advises the Board of proposals for works to trees within the Atherstone Conservation Area.

Recommendation to the Board

That the Board notes the proposed works to be undertaken to trees in Atherstone and indicates whether it has any concerns that it wishes to be referred to the Community and Environment Board for further consideration.

2 Consultation

- 2.1 The Chairman, Vice-Chairman and Opposition Spokesperson for the Community and Environment Board and appropriate Ward Members have all had the opportunity to comment on the content of this report. Any comments received will be reported verbally at the meeting.
- 2.2 Atherstone Town Council and Atherstone Civic Society have also been consulted regarding the proposed works, in accordance with the consultation procedure set out in the adopted Tree Management Briefing Note, approved by Community and Environment Board at its meeting held in March 2011. Any comments received will be reported verbally at the meeting.

3 Proposed Works to Trees

- 3.1 Works to trees in a Conservation Area ordinarily require the submission of a S211 Notice to the Local Planning Authority in order to determine the need or otherwise for a Tree Preservation Order (TPO). Local authority work to its own trees is exempt from this procedure. In accordance with the consultation procedure set out in the adopted Tree Management Briefing Note, however, this report informs Members of proposed works to trees within the Atherstone Conservation Area.
- 3.2 A schedule of remedial works has been prepared following an inspection of a number of trees in the Atherstone Conservation Area; a) to assess their condition in terms of both tree health and public safety and, b) to address concerns that visibility for some of the town centre CCTV cameras is being

impeded. The works have been deemed necessary to ensure that the Authority upholds its Duty of Care in respect of tree management and to ensure that CCTV surveillance of the town centre is effective. The schedule is attached at Appendix A and the location of the trees is shown on the plan at Appendix B. It is intended that the works will be carried out in the autumn / winter of 2012.

3.3 It should be noted that, whilst most of the affected trees are in the Authority's ownership, four, at locations 5 and 7 on the plan, are the responsibility of Warwickshire County Council, as the Highways Authority. These trees are shown on the plan for information, as all of the works are being managed at the same time by the County Council and will be carried out as a single contract. They have, however, been omitted from the schedule at Appendix B. The County Council is exempt from the S211 procedure, so works to its trees are not a matter for this Authority.

3.4 Works to trees at location 6 on the plan, which it is intended will be carried out at the same time, have also been omitted from the schedule in Appendix A as these are subject to a Tree Preservation Order. An application for consent to carry out these works has been submitted separately to Development Control.

3.5 The Board is asked to indicate whether it has any concerns or comments relating to the proposed works to the trees in the Conservation Area for which this Authority is responsible that it wishes to be referred to the Community and Environment Board for consideration.

4 **Report Implications**

4.1 **Finance and Value for Money Implications**

4.1.1 The work identified in this report and the appended schedule will be funded through the existing tree management budget.

4.2 **Safer Communities Implications**

4.2.1 A number of the proposed works will improve visibility for CCTV surveillance in the town centre.

4.2.2 Well managed trees are less likely to present a hazard to persons or property.

4.3 **Legal and Human Rights Implications**

4.3.1 The Authority has a Duty of Care in respect of the management and maintenance of its land and trees. The act of a tree or part thereof causing injury to a person or persons is likely to give rise to litigation, either as a claim in negligence or under the Occupiers liability Acts 1957 and 1984.

4.4 **Environment and Sustainability Implications**

4.4.1 Well-managed and maintained trees make a positive contribution to the environment and to creating sustainable communities within which a good quality of life is enjoyed by local residents.

4.5 Health, Well-being and Leisure Implications

4.5.1 Well-managed trees contribute to good environmental quality, which impacts positively on health and well-being.

4.6 Risk Management Implications

4.6.1 The schedule of works to be carried out in Atherstone has been prepared in response to the findings of a risk-based inspection process that identifies the risks associated with a failure to undertake the recommended works.

4.6.2 The Tree Management Briefing Note sets out the Authority's approach to managing any potential risks arising from the trees in its care. The operational risks of the tree management programme are assessed in accordance with corporate risk management procedures.

4.7 Equalities Implications

4.7.1 There are no differential equality-related impacts on particular groups or individuals within the community arising from this report.

4.8 Links to Council's Priorities

4.8.1 An efficient and effective tree management process contributes directly to the corporate priorities in respect of:

- Public services and council tax
- Environment
- Countryside and heritage
- Health and well-being

4.8.2 An efficient and effective tree management process has positive links to the priorities of the North Warwickshire Sustainable Community Strategy to:

- Raise aspirations, educational attainment and skills
- Develop healthier communities
- Improve access to services

4.8.3 Implementation of an effective tree management programme also delivers against priorities set out in the North Warwickshire Green Space Strategy.

The Contact Officer for this report is Alethea Wilson (719212).

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	Assistant Director (Leisure and Community Development)	Report to Community and Environment Board (Tree Management)	21 March 2011

Schedule of Works to Trees in the Atherstone Conservation Area

Location	Species	Recommendation
1	1 x Eucalyptus sp. 1 x Norway Maple 5 x Cherry	Crown lift to give 4m clearance all round Remove broken branch and crown lift to give 4.5m clearance all round Crown lift to give 3.5 m clearance all round and clear bus stand
2	2 x Weeping Willows	Re-pollard back to previous pollard points
3	Cherry suckers	Remove suckers growing into fence
4	1 x Birch	Crown lift to give 3m clearance all round
5	<i>(Warwickshire County Council)</i>	
6	<i>(TPO Application)</i>	
7	<i>(Warwickshire County Council)</i>	
8	6 x London Plane 4 x Maples 1 x Hornbeam 1 x Birch	Crown lift to give 5m clearance all round Crown lift to give 3m clearance to tighten canopy Lift path side Crown lift to give 4.5m clearance all round
9	2 x Birch 1 x Norway Maple 1 x Silver Maple	Crown lift to give 5m clearance all round Clear camera Crown lift to give 5m clearance all round
10	2 x Lime 2 x London Plane	Crown lift to give 4m clearance all round Crown lift to give 4m clearance all round
11	5 x London Plane	Face back both sides



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Remove Cherry suckers growing into fence. (3)

Birch CL 3m all-round (4)

CL Norway Maple 6m allround. (6)
CL Cherry 3.5m All round
Tip back maple to clear view along Sheepy road.
CL Birch 5m Over foot path/highway

2 Weeping Willows re-pollard back to previous pollard points (2)

CL Norway Maple to give a tighter crown (5)

2 x Birch CL 5m remove West branch towards camera 1x Plane CL 5 all round remove 5 branches on E side to clear camera.. (7)

Long Street (B4116)

Market Street

Eucalyptus CL 4m all round, Norway Maple remove broken branch CL 4.5m all round, CI 5 Cherry 3.5 & Clear bus stand (1)

Car Park Long Street 6 x CL 5m (planes) all round 4 x CL 3 Maples (to tighten canopy) 1 x Hornbeam lift path side 1 Birch CL 4.5m all round. (8)

2 x Lime (10)
2 x London Plane CI 4m All round

CL 2 x Birch 5m all round, 1 x Norway Maple Clear camera, 1xSilver Maple 5m all round (9)

5 London Planes face back both side (square trees) (11)

South Street

Atherstone CCTV works to clear visibility
CL = Crown lift

Agenda Item No 5

Planning and Development Board

12 November 2012

Planning Applications

Report of the Head of Development Control

1 Subject

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

2 Purpose of Report

2.1 This report presents for the Board decision, a number of planning, listed building, advertisement, proposals, together with proposals for the works to, or the felling of trees covered by a Preservation Order and other miscellaneous items.

2.2 Minerals and Waste applications are determined by the County Council. Developments by Government Bodies and Statutory Undertakers are also determined by others. The recommendations in these cases are consultation responses to those bodies.

2.3 The proposals presented for decision are set out in the index at the front of the attached report.

2.4 Significant Applications are presented first, followed in succession by General Development Applications; the Council's own development proposals; and finally Minerals and Waste Disposal Applications. .

3 Implications

3.1 Should there be any implications in respect of:

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

4 Site Visits

4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.

4.2 Members are reminded of the "Planning Protocol for Members and Officers dealing with Planning Matters", in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 17 December 2012 at 6.30pm in the Council Chamber at the Council House.

6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at: www.northwarks.gov.uk/downloads/file/4037/.
- 6.2 If you wish to speak at a meeting of the Planning and Development Board, you may either:
- e-mail democraticservices@northwarks.gov.uk;
 - telephone (01827) 719222; or
 - write to the Democratic Services Section, The Council House, South Street, Atherstone, Warwickshire, CV9 1DE enclosing a completed form.

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
1	CON/2012/0018	4	Elms Farm, Atherstone Road, Appleby Parva, Swadlincote, Erection of one wind turbine	General
2	PAP/2012/0112	14	Colwell, Church Road, Shustoke, Retention of summer house as additional accommodation.	General
3	PAP/2012/0220	33	Plot 6 & Plot 10, Faraday Avenue, Hams Hall National Distribution Park, Coleshill, Use of land as for freight container storage and distribution depot.	General
4	PAP/2012/0313	44	Car Park, Park Road, Coleshill, Variation of condition 13 of planning permission ref: PAP/2011/0529 relating to delivery hours for the site to be operationally viable; in respect of erection of a retail (A1) food store with associated parking, servicing and access	General
5	PAP/2012/0407	55	3 Ramsden Road, Mancetter, Atherstone, Warwickshire, Two storey rear extension	General
6	PAP/2012/0498	66	Land rear of 70 to 78, New Street, Dordon, Part demolition of 72 New Street and construction of 8 two-bed terrace houses and 3 three-bed terrace houses with associated access, turning area and parking	General

(1) Application No: CON/2012/0018

Elms Farm, Atherstone Road, Appleby Parva, Swadlincote, DE12 7BP

Erection of one wind turbine

Consultation from Hinckley and Bosworth Borough Council (HBBC)

Introduction

The Council has been invited to comment on this application given it is a neighbouring authority and the impacts arising from the development will not be confined to the Hinckley and Bosworth Borough. The matter has been reported to Board at the discretion of the Head of Development Control, in light of continued interest in wind turbine and wind farm development both within the Borough and close to it.

The Site

The proposed siting is upon agricultural land to the north-east of Austrey, some 150 metres from the County/Borough boundary. The A444 lies to the east, with Norton Hill to the south. The Austrey “rocket” mast lies some 1km to the north-west with a water tower also within this distance. There are few residential properties in the area, and a public byway to the immediate east (Roe House Lane). The landscape is generally open here with field hedgerows and sporadic trees along these boundaries, and the siting is to the top of the Orton, Austrey and Newton Regis escarpment that Members will be familiar with. Appendix A better shows the context of the site.

The Proposal

It is proposed to erect one turbine with maximum height to blade tip of 79 metres (tower height of 55 metres and a rotor diameter of approximately 48 metres). This is shown at Appendix B. A small hardstanding for construction and decommissioning is also proposed as well as an access track, site access modifications and a switchgear house.

Background

HBBC issued a screening opinion in September 2011 which ascertained that the project would not be likely to give rise to significant environmental effects and so did not require an Environmental Impact Assessment (EIA).

Development Plan

The North Warwickshire Local Plan 2006 is not relevant here, as the site lies within another district’s administrative boundary, as well as being outside of Warwickshire and the West Midlands.

Other Relevant Material Considerations

Government Advice: National Planning Policy Framework (NPPF).

Consultations

As this authority is not the determining authority – only a consultee – no further consultations have been made. Notwithstanding this, HBBC has been asked to consult Austrey Parish Council and Newton Regis, Seckington and No Mans Heath Parish Council; as well as a handful of neighbours within a 1km radius. They have been invited to make comments directly to HBBC. It is noted at the time of writing that Austrey and Polesworth Parish Council's have both objected to HBBC.

Observations

It is understood that officers at HBBC, in assessing this application, have consulted the necessary authorities. As such it is not proposed to discuss technical considerations further as those consultees will raise any conflicts and comments. As outlined above, Parish Councils in North Warwickshire and immediate neighbours close to the site have also been consulted.

It is acknowledged that Members have raised concern as to the pace at which wind energy applications are being made, but this is not considered a planning reason upon which to raise objection or comment. The visual impact however can be. Before discussion of this matter, Members are reminded that assessment must be based on the actual proposal presented – and not what may be anticipated close to this site. The Board's determination should thus address the planning merits of this turbine in the context of only those consented or operational turbines in the wider area. Future applications should be determined on their own merits at the appropriate time.

a) Landscape Character

The proposal will be visible at varying distances and from a number of locations. It must be remembered that given the slim nature of its design and obstructions within that line of sight, the greater the distance the more it 'disappears' into the surrounding landscape. Appendix C outlines the Zone of Theoretical Visibility (ZTV) for views to the tip of the blades. This clearly shows that views will be possible over a wide area, but it must also be considered that foreground obstructions such as buildings, trees and terrain may obstruct such views.

Long to medium distance views are generally across wide open elements of the landscape, with the photomontages at Appendix D (viewpoints of Austrey and Orton-on-the-Hill) highlighting this. Long distance views require particular attention to the horizon. In terms landscape character, the site falls adjacent to the 'No Man's Heath to Warton – Lowlands'. The Landscape Character Assessment¹ describes this area as a "*visually open, mixed farmland [landscape] located within a distinctive bowl landform*". Urban influences are present but do not provide consistent panoramas of built form, whilst woodland is occasional such that it offers little screening to large features. This site is not within Green Belt, it is not a National Park or an Area of Outstanding Natural Beauty. It is not within or on the fringe of a designated estate or other protected amenity. This is significant in assessing the importance of this landscape and how harm arising from the proposal should be weighted.

¹ [North Warwickshire Landscape Character Assessment 2010](#)

The key here is whether the impacts are considered unacceptable to the degree which it runs against the objectives of planning policy, and it is that which must be established if an objection is to be lodged. Hence whilst this area of North Warwickshire is strictly rural, the urban influences must be noted to detract from any true feeling of 'rural'. Whilst not reason enough to hold there would be an acceptable degree of harm, it is also necessary to factor in that the proposal is an isolated feature, of which its influence diminishes with distance.

It is thus not considered that this proposal would undermine or change the character of the area, with the turbine appearing as a component of the landscape. Indeed the radio mast at Austrey is viewed on the same basis. As such, it is not considered there is *unacceptable* harm to the intrinsic qualities of the existing landscape, with the proposal invoking little change on the Character Area. It is thus recommended that no objection be raised in respect of the impact on Landscape Character.

b) Visual Amenity

Notwithstanding the lack of formal landscape designation or recognition, it is accepted that visual amenity is valued locally by its residents and representatives. This is reflected in the NPPF, which recognises that the *"intrinsic character and beauty of the countryside"* is a material planning consideration. The key issue here before Members is to decide what the visual impact of the turbine will be and then to assess whether that is acceptable given its provision to energy supply and other considerations.

The turbine will generally be a slim line feature and of off white colour. Hence whilst more prominent when closer, the angle of viewing means that it will be mostly seen against the predominant grey, white and pale blue of the sky. Members are also encouraged to consider that this proposal lacks "mass" and merely has height. Conversely it must be acknowledged that further attention will be drawn to the proposal by way of its movement; and that its visual presence will still be "felt" – certainly at close to medium distance. As a consequence it is considered that the turbine would not harmonise with the immediate and wider setting for the simple fact it is not a dwelling or agricultural building, and there is thus a conflict with the thrust of design policy. The issue is how adverse the impact will be and whether it is *unacceptable*.

Visual prominence is mitigated by a number of factors – the design of the turbine as described above; that it will largely be seen against the backdrop of the sky; that it has little "width" and mass in views of it; and that it will be partially obscured by foreground buildings, vegetation and terrain. It is also appropriate to look at the reason for this application – namely to provide a clean energy supply to the national grid. As a consequence it is material and of significant weight that our Local Plan and the NPPF supports renewable energy schemes in principle. Members are reminded that the "end user" of the energy is not of consequence, with the NPPF making it explicit that the need for such schemes needs not to be justified. It is thus of significant weight that there is support for this application in principle in both national and local planning policy.

In balancing the argument, it is not considered that there will be a significant visual impact arising from the turbine. This is particularly because of its design; the differing long, medium and short distance views; and because there would be no irrecoverable loss of visual amenity or character given any permission would be limited to 25 years. However that is not to say that there will be no impact. Overall it is considered that the impact will be moderately adverse, but time limited. It is thus recommended that no objection be raised in respect of the visual impact.

Recommendation

- (1) The Council raises no objection to the proposal, recommending that the application be determined in accordance with HBBC's Development Plan and with regard to the NPPF and any other material considerations.

BACKGROUND PAPERS

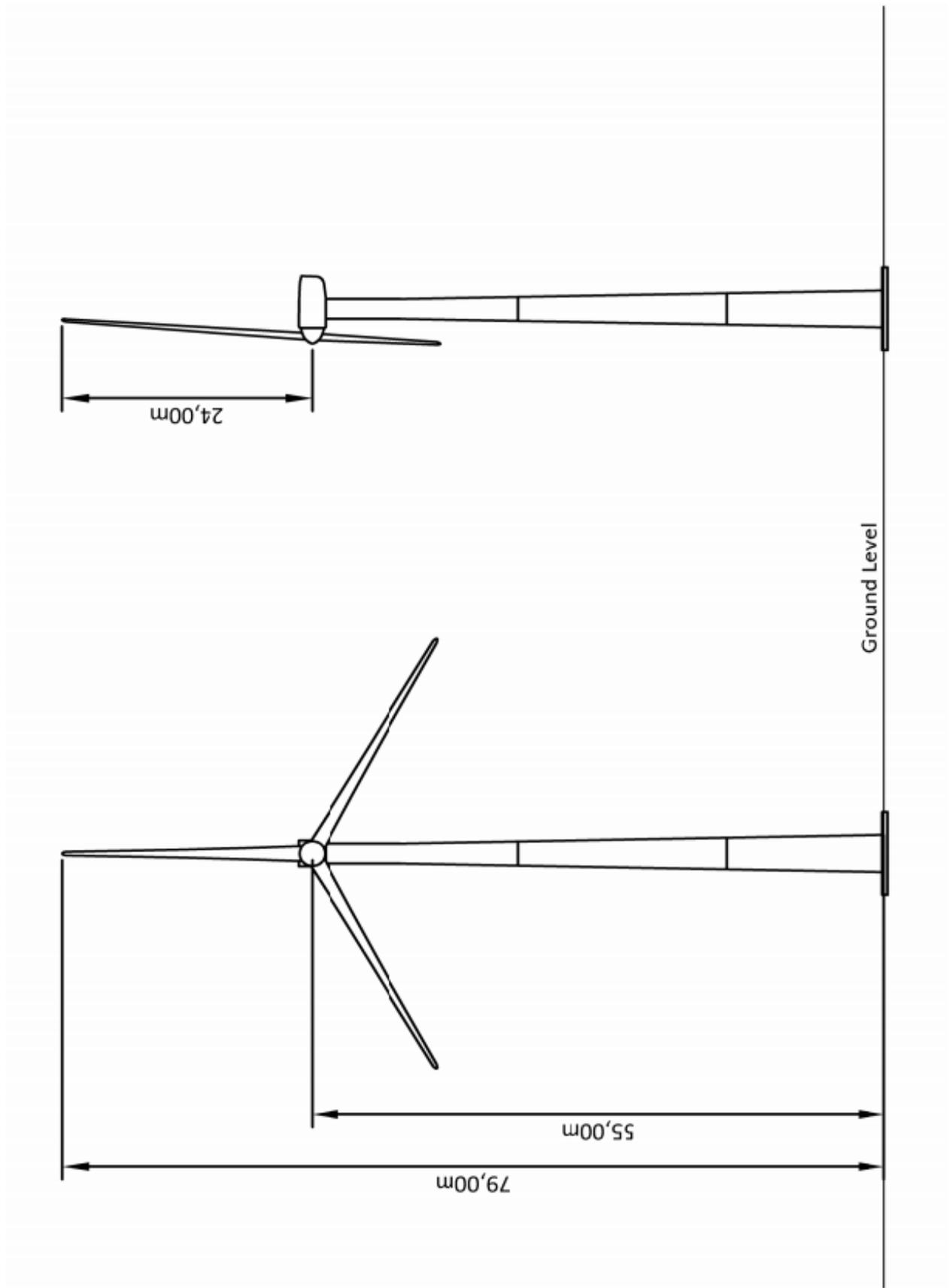
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

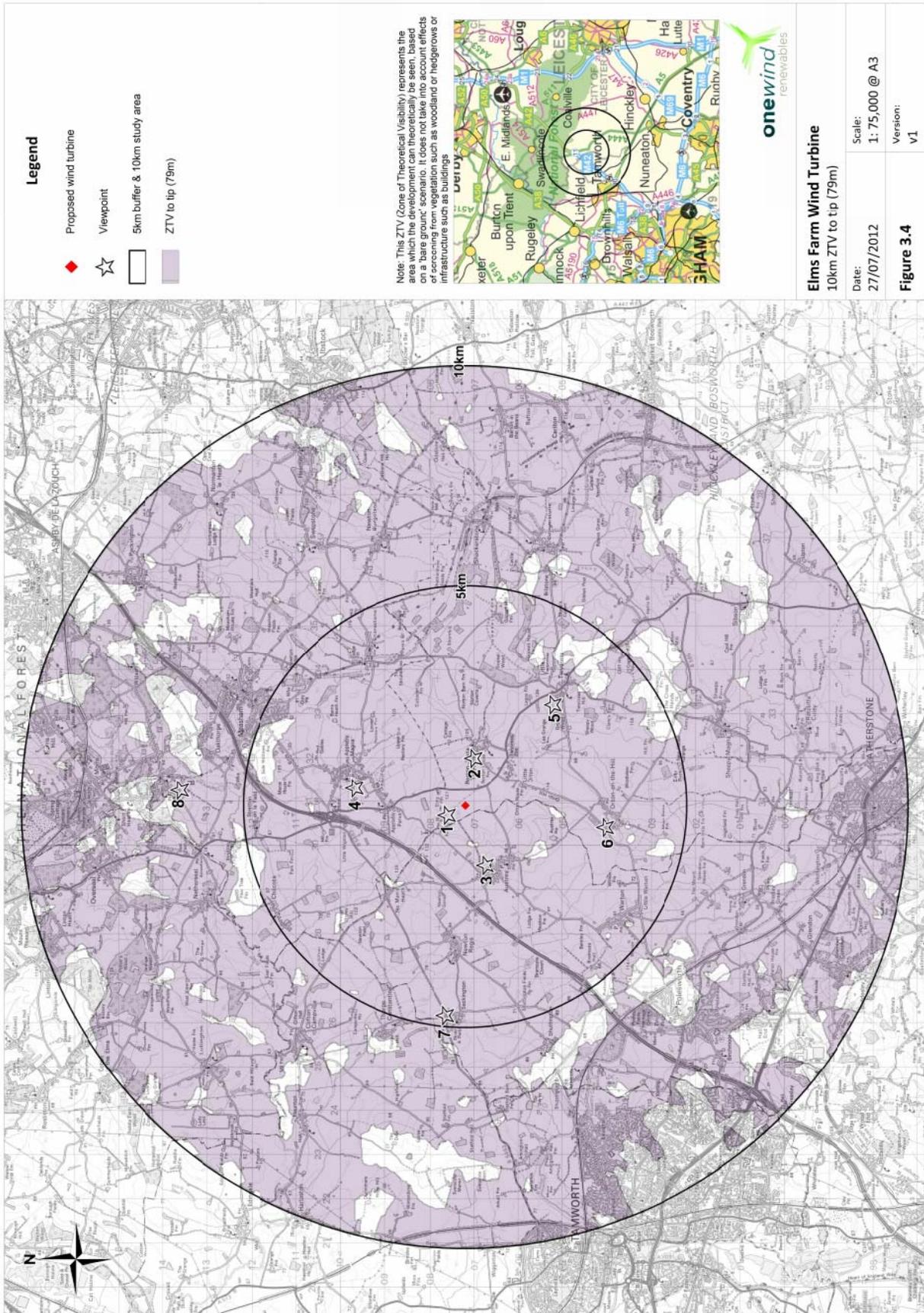
Planning Application No: CON/2012/0018

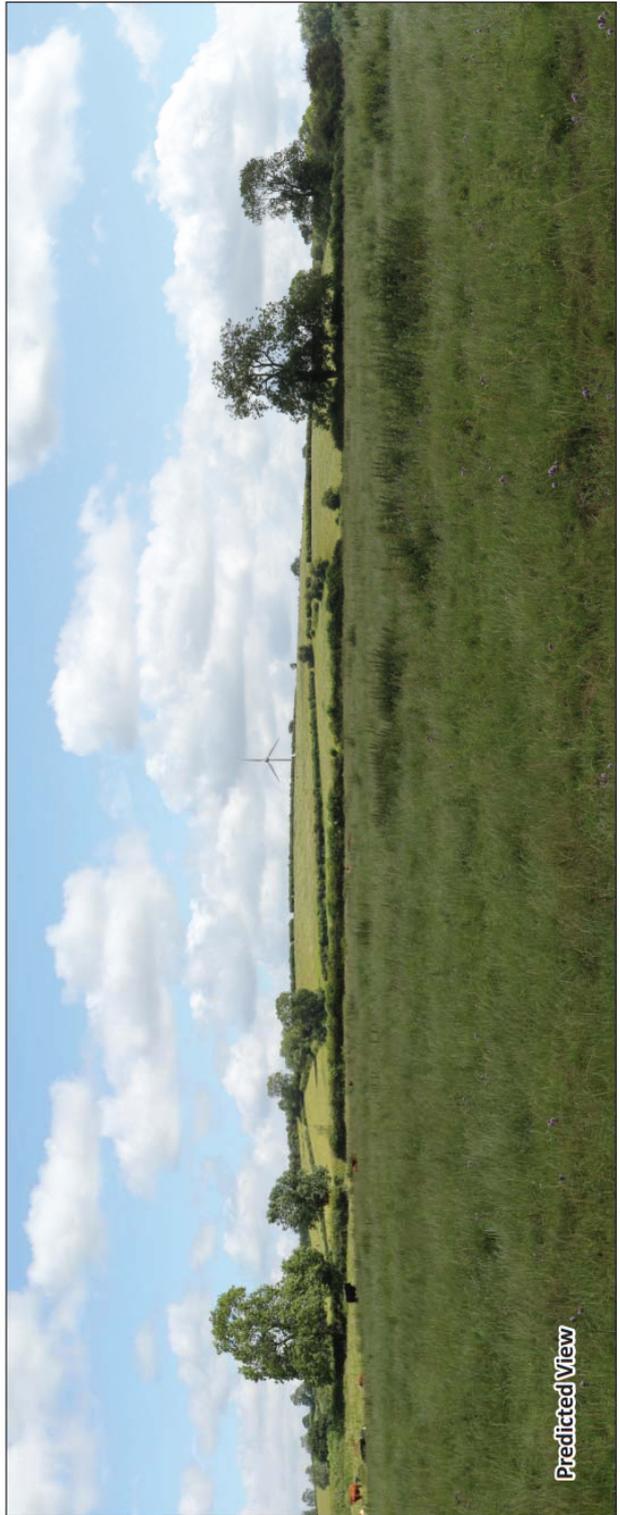
Background Paper No	Author	Nature of Background Paper	Date
1	Hinckley and Bosworth Borough Council	Consultation	04/10/2012

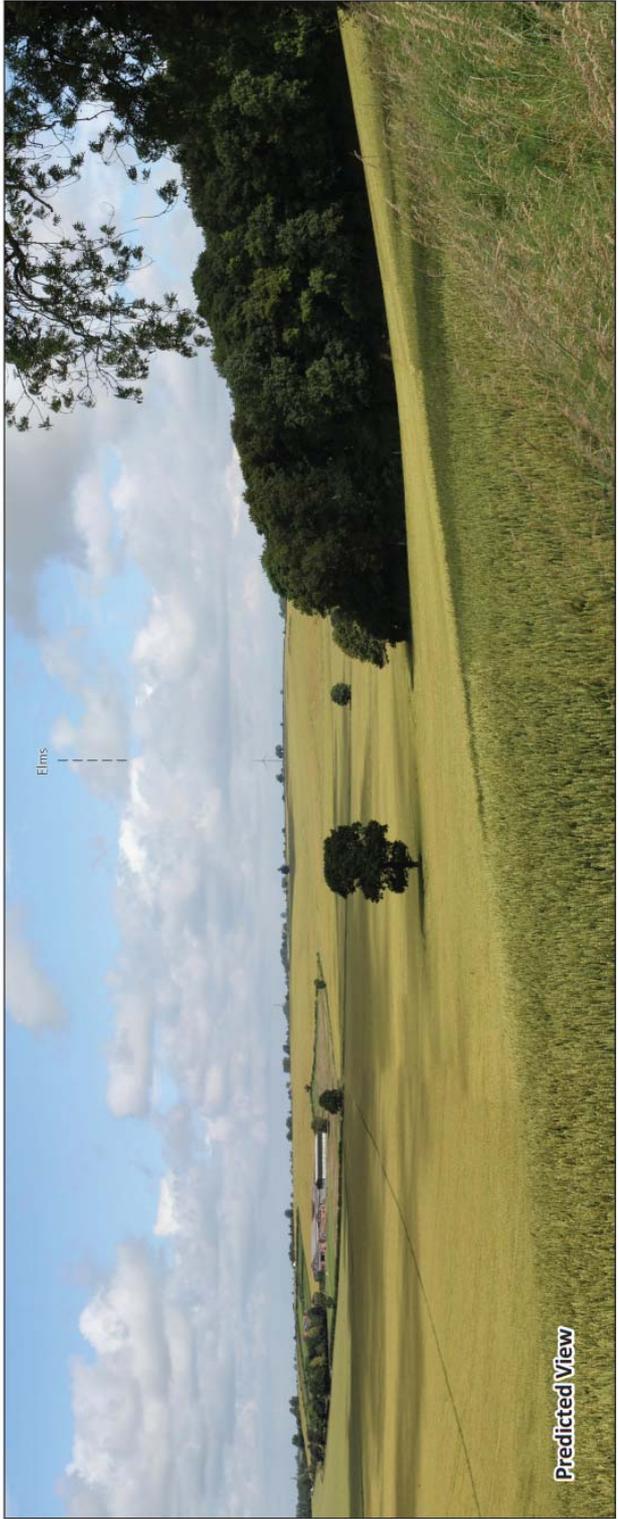
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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









(2) Application No: PAP/2012/0112

Colwell, Church Road, Shustoke, B46 2JY

Retention of summer house as additional accommodation. for

Mr James Berry

Introduction

This application is reported to the Board because a Section 106 Agreement is involved with this application.

The Site

The site lies within the Green Belt. The existing dwelling is within a row of dwelling houses some of which are Listed. The summer house is approximately 26 metres from the main dwelling house in its rear garden.

There is a public footpath (Number M385) that runs along the eastern boundary to the application site from the north to the south.

The general layout can be seen on the attached location plan.

The summer house can be accessed through existing gates which lead to the rear garden and existing garage, or through the main dwelling house.

The Proposal

The proposal is for the retention of a timber summer house as additional accommodation. The building is 2.25 metres high to the eaves; 4 metres high to the roof ridge, 11.5 metres long and 5.6 metres wide.

The layout and elevation plan of the building can be viewed in Appendix A. Photographic images of the building can be viewed in Appendix B.

Outbuildings can be permitted development, however this is not the case here as the accommodation is not incidental to, but ancillary to the main dwelling house. It contains washing facilities, a toilet, roof space storage, and a television and gym equipment.

Background

Planning advice was given before the building was constructed. Once the building was constructed, a complaint was received alleging that its use was not incidental to the main dwelling house. The building accords with the dimension criteria for incidental buildings, but it is the use has meant that it falls outside of the scope of incidental use. Hence the applicant has submitted this application to retain it.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006 - ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design) and ENV2 (Green Belt).

Other Relevant Material Considerations

Government Advice -National Planning Policy Framework 2012

NWBC Core Strategy Draft Submission Version September 2012

Supplementary Planning Guidance - A Guide for the Design of Householder Developments – Adopted September 2003

Consultations

The Council's Heritage Officer – No comments

Representations

Shustoke Parish Council - The building is in the Green Belt land and the size is not appropriate for a summer house.

Neighbour at 5 Church Road, 'The Nook', and the agent acting on behalf of the owner - Objections and comments are as follows

- Does the building comply with planning policy?
- Two of the five cottages are listed and this should be considered.
- There is concern over the use of the building. It could lead to independent occupation.
- There are four people living in the dwelling house, with only two first floor bedrooms, with a ground floor being converted from a bedroom to a living room when the summer house was brought into use.
- The building is equipped as an independent building with heating, drainage, water, shower and WC.
- Considers the building is not a summer house but a separate bungalow.
- A letting sign has been placed outside the main dwelling house.
- If allowed the proposal will set a precedent in the area.
- Applications for new dwellings have been refused.
- The building is closer to the Nook than the application dwelling house, and thus there will be an impact upon amenity.
- Does not consider the proposal can be constructed under Permitted Development.
- The building should be reduced or the use restricted.

A further neighbour makes the following points:

- Since it was constructed in 2011 it has been used for accommodation
- Informed that the building was being constructed under permitted development.
- It could be replaced with a brick structure, and could lead to further planning applications.
- Do not wish for further development given the land is green belt.
- Two of the cottages in the row are listed.
- No site notice was placed outside the property.

The submission of a draft 106 Unilateral Undertaking has been forwarded to the objectors. They acknowledge that it will address their main concerns.

Observations

The application has generated a number of issues which will be covered in this report.

a) Permitted Development and the Fall Back Position

As members are aware, in 2008 the Town and Country Planning (General Permitted Development) Order 1995 was amended, and this changed the criteria for outbuildings within a residential curtilage in respect of when a planning application would be required. In this case it is considered that the summer house is indeed within a residential curtilage.

The dimensions of the building are such that they fall within the thresholds for permitted development in respect of outbuildings.

The issue is the use of the building. Investigations concluded that its use was ancillary to the main dwelling house, rather than being just incidental to the main dwelling house. As a consequence a planning permission is required, given that Class E outbuildings can only be incidental. Incidental uses are those such as for storage, a garage or a hobby use – in other words uses that can not exist without the use of the main house, whereas ancillary uses cover anything you can normally do in a standard house, such as using it as a lounge or a spare bedroom.

There is clearly a fall-back position here. The dimensions and the location of the building are already permitted, and if the use of the building was altered such that it became a garage or a storage building, it would require no planning application. This fall-back carries weight because the building is already there. Moreover, the existing property still benefits from class E outbuilding development rights – e.g. for glass houses, garages etc. This means that further sizeable outbuildings could be constructed without the need for the submission of planning applications. They would be subject to limitations such as height, size and siting, but in general terms, because of the orientation of the existing house, these could be extensive.

Therefore the fall back position in this case is a material planning consideration. This decision by the applicant to submit this planning application allows the Council to control the use of the building and future ones through conditions as recommended below and through a legal agreement as set out later.

b) Legal Agreement

The applicant has provided a draft Unilateral Undertaking under Section 106 of the 1990 Act. This effectively says that if permission is granted for the current outbuilding, then it would not:

- (a) be occupied as independent or separate residential accommodation from the main dwelling at any time;
- (b) be used for any purpose other than for ancillary purposes in relation to the residential occupation of the main dwelling, and not
- (c) be sold or otherwise disposed of separately from the rest of the land. A copy of the draft is at Appendix C.

The applicant has been invited to extend these limitations so as to include that there be no sub-letting of the building. It is understood that he is prepared to do so, but we are waiting for confirmation of this and a revised Undertaking.

c) Scale and design

The summer house building is timber with roof tiles as viewed in Appendix B. It is considered that the materials and design are in keeping with the surrounding rural area. The building is visible from the road and the public footpath, however is partly screened by existing boundary vegetation. The proposal is considered to comply with the relevant saved Local Plan policies.

d) Neighbour amenity

The summer house building is not directly to the rear of the application dwelling and is 30 metres off the main Church Road. The separation distance from the nearest house at 5 Church Road to the outbuilding is approximately 20 metres, and this is considered to be acceptable with regards to amenity, privacy and light.

The application summer house is not considered to impact in an unacceptable manner upon any other neighbouring house or to the enjoyment of the users to the nearby public footpath.

e) Listed Buildings

The cottages at 2 and 3 Church Road are Listed. The application dwelling of No.4 is attached. The application summer house is approximately 30 metres from the nearest part of the Listed Building. The Council's Heritage Conservation Officer has made no observations with regards to the proposal. It is considered that the works will not affect the historic or architectural character or merit of the Listed Buildings. Moreover the building's dimensions and appearance are all permitted development.

f) Green Belt

Whilst the site is in the Green Belt, the fact is that this building is appropriate development because it is permitted development in terms of its dimensions. Provided its use remains as ancillary to the main house then it would remain as appropriate development.

g) Other Issues

Members will have noted that it was said that a site notice was not placed to the front of the site. As part of planning legislation the Council has to either put up a site notice or write to the neighbouring properties. In this case the Council did both. The site notice appears to have been taken down shortly after it was placed close to the application site on the public footpath post sign.

A further concern as expressed in the representations was that the building would become a brick structure. This would have to be considered in the future should these works be carried out, however a condition is proposed for the existing external materials to be retained and maintained at all times.

Conclusions

It must be stressed that the consideration of this application is wholly site specific.

In order to bring some degree of certainty to this situation which has been evolving now since the application was submitted earlier in 2012, a draft Unilateral Undertaking has been put forward by the applicant. It would enable the applicant to retain the outbuilding and lead to control of the use of the summer house. This appears to be acceptable to the objectors.

The design is acceptable and the scale is acceptable.

Recommendation

That subject to the Section 106 Agreement being signed as outlined above and with the additional clause as highlighted, that planning permission be **GRANTED** subject to the following conditions:

1. The development hereby approved shall not be carried out otherwise than in accordance with the elevation/layout plan and site location plan received by the Local Planning Authority on 27 February 2012.

REASON

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

2. The accommodation hereby approved shall be occupied solely in connection with, and ancillary to the main dwelling at Colwell, 4 Church Road, Shustoke, Warwickshire, B46 2JY , and shall not be sold off, sub-let or used as a separate unit of accommodation.

REASON

To prevent unauthorised use of the property.

3. No additional opening shall be made other than shown on the plan hereby approved, nor any approved opening altered or modified in any manner.

REASON

To protect the privacy of the occupiers of adjoining properties.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995, as amended, no further development whatsoever within Class E of Part 1, of Schedule 2 shall be carried out within the curtilage of the application site.

REASON

In the interests of the amenities of the area.

5. The existing facing materials of timber cladding and roof tiles shall be retained and maintained as such at all times.

REASON

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

Notes

The Development Plan policies which are relevant to this Decision are as follows:

North Warwickshire Local Plan 2006 (Saved Policies) : ENV11 - Neighbour Amenities; ENV12 - Urban Design; ENV13 - Building Design; ENV2 - Green Belt; ENV16 – Listed Buildings.

OTHER RELEVANT MATERIAL CONSIDERATIONS : Government Advice - National Planning Policy Framework 2012, NWBC Core Strategy Draft Pre-Submission Version June 2012 and Supplementary Planning Guidance:SPG - A Guide for the Design of Householder Developments - Adopted September 2003

Justification

The proposal is to retain an existing outbuilding. The use of the building is to be ancillary to the main dwellinghouse. The scheme is considered to be acceptable, in terms of design and scale. The proposal is not considered to impact upon the openness of the Green Belt. The fall back position is a material consideration, in that the building could be deemed to be permitted development if it was used incidentally to the main dwellinghouse. The development is not considered to detract from the character, appearance or historic value of a Listed Building. Overall the proposal is considered not to result in a loss of privacy, light or amenity to the neighbouring properties, which would lead to an unacceptable adverse impact and comply with saved policy ENV11 of the Local Plan 2006. The proposal is considered to comply with the relevant policies from the saved policies of the North Warwickshire Local Plan 2006 and to the adopted Guide for the Design of Householder Developments – Adopted September 2003 and to the NPPF 2012.

BACKGROUND PAPERS

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

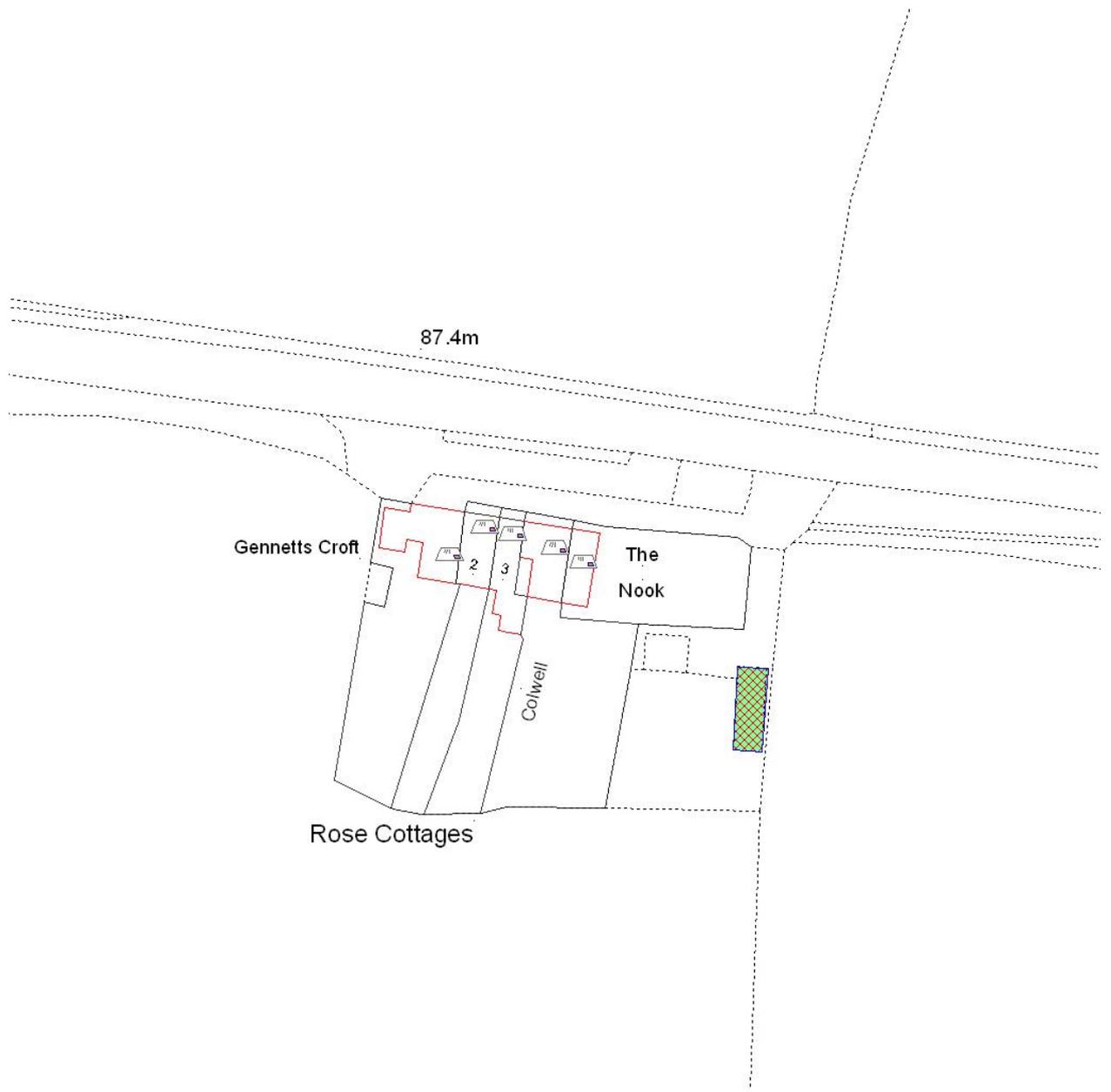
Planning Application No: PAP/2012/0112

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	27/2/12
2	Neighbour 5 Church Road	Email to Council	26/3/12
3	Case officer	Email to neighbour at 5 Church Road	28/2/12
4	Neighbour 5 Church Road	Email to case officer	28/3/12
5	Case officer	Email to Neighbour 5 Church Road	29/3/12
6	Shustoke Parish Council	Consultation response	27/3/12
7	Neighbour – Gennetts Croft, Church Road	Consultation response	25/3/12
8	Neighbour 5 Church Road	Objection letter	17/4/12
9	Montagu Evans	Objection email	18/4/12
10	Case officer	Email to applicant	20/4/12
11	Applicant	Letter to case officer	4/5/12
12	Case officer	Letter to applicant	17/5/12
13	Applicant	Letter to case officer	11/6/12
14	Case officer	Letter to applicant	16/7/12
15	Applicant	Application information – declaration	25/7/12
16	Case officer	Letter to relevant parties who have made comments upon the application (4 letters)	27/7/12
17	Montagu Evans	Email to case officer	27/7/12
18	Case officer	Email to Montagu Evans	27/7/12
19	Neighbour 5 Church Road	Email to case officer	31/7/12
20	Neighbour email	Email to case officer	1/8/12
21	Case officer	Email to neighbour	2/8/12
22	Neighbour email	Email to case officer	6/8/12
23	Case officer	Email to neighbour	6/8/12
24	Montagu Evans	Email to case officer	6/8/12
25	Shustoke Parish Council	Email to case officer	7/8/12
26	Shustoke Parish Council	Email to case officer	10/8/12
27	Montagu Evans	Letter	10/8/12
28	Case officer	Letter to applicant	10/8/12
29	Neighbour 5 Church Road	Letter to Head of Development Control	14/8/12
30	Head of Development Control	Email to Neighbour 5 Church Road	14/8/12
31	Case officer	File note	16/8/12
32	Montagu Evans	Email to case officer	15/10/12
33	Case officer	Email to Montagu Evans	15/10/12

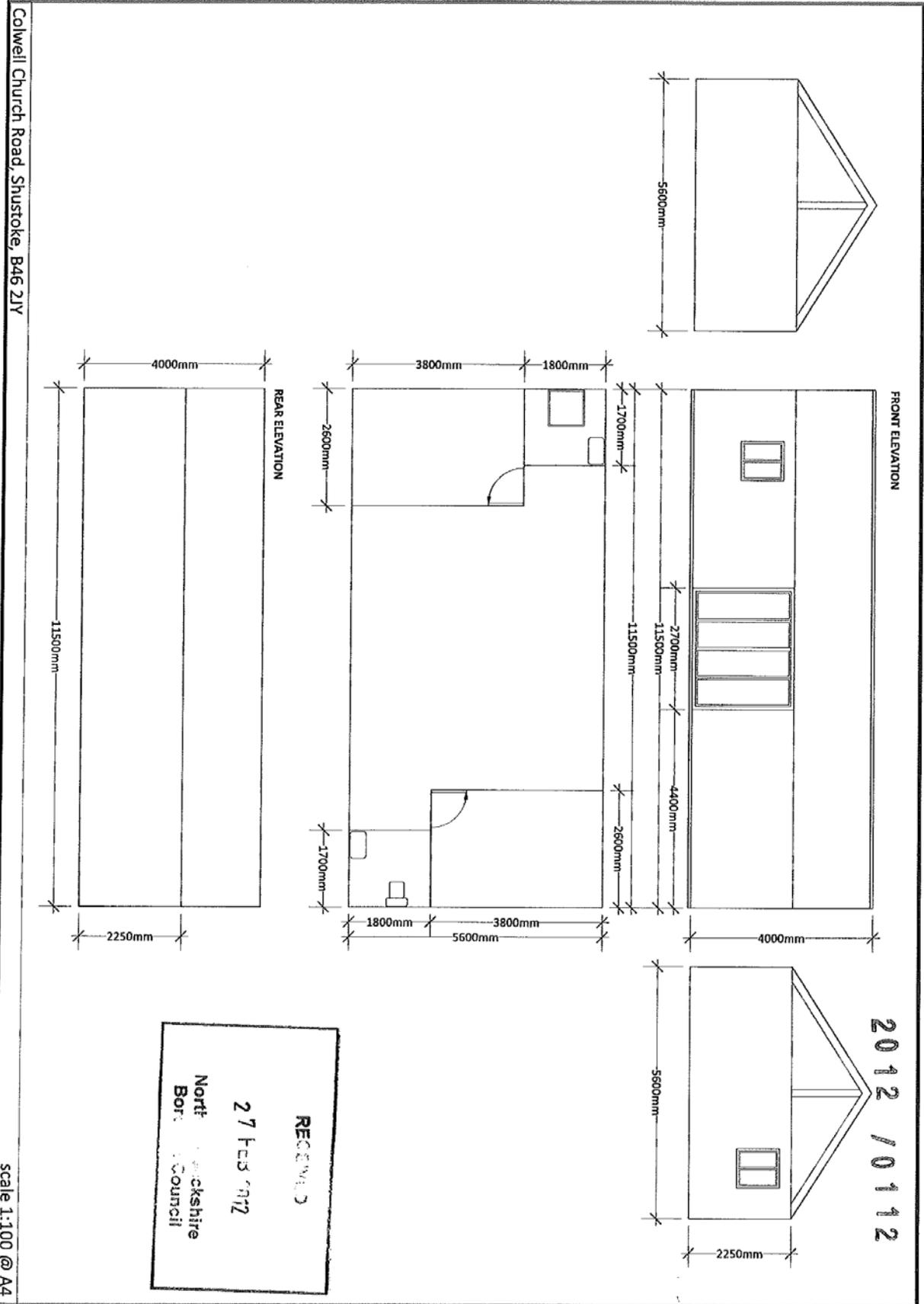
34	Ben Henry	Email to case officer with draft S106	13/10/12
35	Case officer	Email to Ben Henry	15/10/12
36	Case officer	Email to NWBC Solicitor	17/10/12
37	Montagu Evans	Email to case officer	18/10/12
38	Case officer	Email to Montagu Evans	18/10/12
39	NWBC Solicitor	Email to case officer	18/10/12
40	Case officer	Email to Ben Henry	23/10/12
41	Montagu Evans	Email to case officer	23/10/12
42	Case officer	Email to Ben Henry	23/10/12
43	Ben Henry	Email to case officer	23/10/12
44	Case officer	Email to Ben Henry	23/10/12

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

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



Appendix A – Layout and elevation plan



Appendix B – Photographs of the site



Appendix C – Draft legal Agreement

DATED October 2012

(1) JAMES ALISTAIR BERRY
(2) CAROLE ANN JOHNSON
(3) NATIONWIDE BUILDING SOCIETY

TO

NORTH WARWICKSHIRE BOROUGH COUNCIL

PLANNING OBLIGATION BY UNILATERAL UNDERTAKING
PURSUANT TO SECTION 106
OF THE TOWN AND COUNTRY PLANNING ACT 1990 AND ASSOCIATED
POWERS RELATING TO APPLICATION PAP/2012/0112

THIS PLANNING OBLIGATION BY UNILATERAL UNDERTAKING

is dated day of October 2012

And is GIVEN BY:

(1) **James Alistair Berry**, of Colwell, Church Road, Shustoke, Warwickshire, B46 2JY

AND

(2) **Carole Ann Johnson**, of 1 The Cottages, Pump Lane, Shustoke, Warwickshire, B46 2RW ("The Owners")

AND

(3) **Nationwide Building Society**, whose registered office is at Nationwide House, Pipers Way, Swindon SN38 1NW ("the Mortgagee")

TO:

(2) **North Warwickshire Borough Council**, of South Street, Atherstone, Warwickshire, CV9 1DE ("the Council").

BACKGROUND

- A The Council is the local planning authority for the purposes of the Act in respect of the Land and by whom the obligations in this Undertaking are enforceable.
- B The Owners have the freehold interest in the Land.
- C The Mortgagee holds a legal charge registered against the interest in the Land held by the Owners.
- D On 27 February 2012 the Owners submitted the Planning Application to the Council for permission to develop the Land for the purposes and in the manner described in the Planning Application.
- E The Council has not yet determined the application and the parties hereto enter into this Undertaking in the knowledge that the Planning Permission may not be granted.

THIS UNDERTAKING WITNESSES AS FOLLOWS: -

1. **DEFINITIONS AND INTERPRETATION**

1.1 For the purposes of the recitals and this Undertaking, the following expressions shall have the following meaning:

"Act"	means the Town and Country Planning Act 1990;
"Annexe Building"	means the building the subject of the Planning Application and marked "Building A" on Plan A at Schedule 2 to this Undertaking;
"Main Dwelling"	means the dwelling house situate on the Land;
"Land"	means the land against which this Undertaking may be enforced at Colwell, Church Road, Shustoke, Warwickshire, B46 2JY, which is in the freehold ownership of the Owners subject to a charge held by the Mortgagee (evidenced by title documentation attached at Schedule 3 to this Undertaking) and is shown for identification purposes edged in red on Plan A at Schedule 2 to this Undertaking;
"Planning Application"	means the application for planning permission for retention of summerhouse as additional accommodation to residential dwelling under reference PAP/2012/0112;
"Planning Permission"	means the planning permission and plans to be granted pursuant to the Planning Application.

- 1.2 Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any one gender shall include all genders and words denoting persons shall include bodies corporate, unincorporated associations and partnerships.
- 1.3 References in this Undertaking to any statute or statutory provision shall be construed as a reference to the same as it may from time to time be amended, extended, modified, consolidated or re-enacted whether before or at the date of this Undertaking.
- 1.4 Unless the context otherwise requires, reference to any clause, paragraph, sub-clause or schedule or appendix is a reference to a clause, paragraph, sub-clause, schedule or appendix of or to this Undertaking.
- 1.5 The headings in this document are inserted for convenience only and shall not affect the construction or interpretation of this Undertaking.
- 1.6 Where a party includes more than one person named as a party any obligations of that party shall be joint and several unless there is an express provision otherwise.
- 1.7 References to any party to this Undertaking shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to the Council's respective functions.
2. **STATUTORY PROVISIONS**
- 2.1 This Undertaking is made pursuant to section 106 of the Act, section 111 of the Local Government Act 1972, section 2 of the Local Government Act 2000 to the intent that it will bind the Owners.
- 2.2 The covenants, restrictions and requirements imposed upon the Owners under this Undertaking create planning obligations pursuant to section 106 of the Act and are enforceable by the Council as local planning authority against the Owners without limit of time.

3. **CONDITIONALITY**

- 3.1 Save where otherwise provided, the obligations in this Undertaking are subject to and conditional upon the grant of the Planning Permission.

4. **MISCELLANEOUS**

- 4.1 Nothing contained or implied in this Undertaking shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of their functions as local planning authority and their rights, powers, duties and obligations under all public and private statutes, bylaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Undertaking.
- 4.2 If any provision in this Undertaking shall be held to be invalid, illegal or unenforceable then the validity, legality and enforceability shall not affect the validity or enforceability of the remaining provisions of this Undertaking.
- 4.3 No waiver (whether express or implied) by the Council of any breach or default by the Owners in performing or observing any of the covenants undertakings obligations or restrictions contained in this Undertaking shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants undertaking or obligation from acting upon any subsequent breach or default in respect thereof by the Owners.
- 4.4 Nothing in this Undertaking shall be construed as a grant of planning permission.
- 4.5 Unless expressly agreed otherwise in this Undertaking, the covenants in this Undertaking shall be enforceable without any limit of time against the Owners.
- 4.6 Nothing in this Undertaking shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission granted (whether or not on appeal) after the date of this Undertaking.
- 4.7 This Undertaking cannot be amended or discharged without the prior consent in writing of the Owners and the Council.

4.8 In the event of the planning obligations contained in this Undertaking being modified a note or memorandum thereof shall be endorsed upon this Undertaking.

5. **THE OWNERS' PLANNING OBLIGATIONS**

The Owners covenant with the Council so as to bind the Land to observe and perform the obligations contained in Schedule 1.

6. **ARBITRATION**

6.1 All disputes, differences or questions arising out of this Undertaking or as to the rights or obligations of the parties under it or in connection with its construction shall be referred to arbitration by a single arbitrator to be agreed between the parties or, failing agreement, within 21 days by an arbitrator to be appointed at the request of any party by the President of The Royal Institute of Chartered Surveyors as the case may be having due regard to any representations made to him as to the appropriate qualifications of such arbitrator.

6.2 The arbitration shall take place in Warwickshire and shall be in accordance with the Arbitration Act 1996 or any re-enactment or modification of such Act for the time being in force, unless otherwise agreed in writing by the Council.

7. **THIRD PARTIES**

A person who is not named in this Undertaking does not have any right to enforce any term of this Undertaking under the Contracts (Rights of Third Parties) Act 1999.

8. **JURISDICTION**

This Undertaking is governed by and interpreted in accordance with the law of England and Wales.

IN WITNESS of which this Undertaking has been duly executed as a Deed and has been delivered once dated.

Executed as a Undertaking by
James Alistair Berry
in the presence of:-

Carole Ann Johnson
in the presence of:-

Nationwide Building Society

SCHEDULE 1

The Owners covenant with the Council as follows:

The Annexe Building shall not

- (a) be occupied as independent or separate residential accommodation from the Main Dwelling at any time.
- (b) be used for any purpose other than ancillary purposes in relation to the residential occupation of the Main Dwelling.
- (c) be sold or otherwise disposed of separately from the rest of the Land.

(3) Application No: PAP/2012/0220

Plot 6(b) and Plot 10(a), Faraday Avenue, Hams Hall National Distribution Park, Coleshill, B46 1AL.

Use of land for freight container storage and distribution depot

for Maritime Transport Limited

Introduction

This is a significant application referred to the Board at the discretion of the Head of Development Control.

The Site

The application site comprises two areas on the south side of Faraday Avenue separated by an access spur road leading to two existing warehouse developments. These areas are the undeveloped parts of two original larger plots, Plot 6 and Plot 10, within the Hams Hall Distribution Park. The site layout plan submitted identifies the undeveloped part of Plot 10 as Site A and the undeveloped part of Plot 6 as Site B.

This site is within the centre of the existing Hams Hall Estate surrounded by large warehouse buildings.

The Proposal

The proposal is to develop the land as a freight container storage and distribution depot with the erection of two ancillary office buildings, three small gatehouse buildings, the formation of hard standings for loading, unloading and storage of freight containers and for lorry and car parking. The erection of perimeter fencing and lighting and improvements to existing vehicle accesses are also included.

The proposed development will allow for the storage of up to 600 containers within the two sites. This can be achieved with containers close stacked in 4 separate bays each bay no more than eight containers long, 4 containers wide and no more than 5 containers high. The overall height of the stacks will be 15 metres. A site layout plan submitted shows three such container stacks within Site A and one stack within Site B. Container stacks are proposed close to buildings on adjacent plots to reduce the visual impact of the stacked containers. Only a relatively small area of each the site will be covered with stacked containers. The majority of the area within each site is given over to lorry parking bays; 111 lorry bays within Site A and 136 bays within Site B.

Vehicle access will be from existing vehicle access points to the spur access road, leading to Faraday Avenue. There are two access points to Site A, and one to Site B with entry controlled at each access by a gatehouse and barrier.

Two separate office buildings, one within each site, located to the front of the site facing Faraday Avenue are proposed. These will be of modular construction, and each will comprise 11 attached two-storey bays, covered with a double pitched roof. Each office building will be 32.5 m long by 9.95m wide and will provide 634 m² of floor space. 107 car parking spaces will be provided adjacent to each office building. Each site will also include lorry washing and refuelling areas.

Background

Plot 6 - Planning permission was granted for two warehouse buildings on Plot 6 in 1999. As only one of these buildings was built, the planning permission remains extant and the second warehouse building permitted on the undeveloped part of Plot 6 could be completed. A further planning permission was granted in 2006 for a similar sized warehouse building (10,200 m²) on this undeveloped part of Plot 6. This permission was not implemented and has now expired.

Plot 10 - Planning permission was granted in 2009 for a warehouse building (13,387m²) within the undeveloped part of Plot 10. This permission will expire on 22/5/2013 so it can therefore still be implemented.

These extant planning permissions are material considerations.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006: Core Policy 2 (Development Distribution) and policies ENV6 (Land Resources), ENV11 (Neighbour Amenities), ENV13 (Building Design), ENV14 (Access Design), ECON1 (Industrial Estates), TPT1 (Transport Considerations), TPT2 (Traffic Management), TPT3 (Access and Sustainable Transport), TPT5 (Promoting Sustainable Freight Movements) and TPT6 (Vehicle Parking).

West Midlands Regional Spatial Strategy: Policy T10 (Freight)

Other Relevant Material Considerations

Government Advice: National Planning Policy Framework 2012.

Consultations

Severn Trent Water – No objection.

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

Representations

Coleshill and District Civic Society – Objection. They cite concern over adverse visual impact due to the height of stacked containers; unacceptable additional HGV traffic on Faraday Avenue and the A446, together with light pollution arising from the high level of illumination that will be required on the site.

One Coleshill resident expresses support for the additional employment created, but is concerned over resulting additional HGV movements on local roads. He also advocates a direct link from Hams Hall to the M6 Motorway, and welcomes the introduction of “colour into the drab vista presented by the existing grey and white sheds”.

Observations

The proposal essentially seeks to develop overflow and expansion space to store freight containers close to the existing rail freight terminal on the estate. The applicants believe that this increased capacity will enable the capacity already within the railway network to be realised through the additional movement of freight by rail. The dual rail sidings at the existing freight terminal can accommodate additional freight trains and recent developments in locomotive technology will also significantly increase the number of containers that can be moved in each freight train.

The site will operate 24 hours and 7 days per week. Containers arriving by rail will be moved from the rail freight terminal to the proposed storage site to facilitate their onward distribution by road. Containers arriving by road will also be stored on the site pending onward movement by rail.

Maritime Transport Ltd currently employs 50 people in the existing freight terminal. The proposed expansion could create up to an additional 450 jobs, of which 40 would be office based. The remainder would be mainly associated with the movement of containers e.g. lorry drivers. It is also suggested that the expansion would result in secondary ancillary employment in local support services e.g. vehicle maintenance.

The proposal would create a facility to store up to 600 containers within the two separate sites. The site layout plan submitted indicates this number of containers could be satisfactorily accommodated without giving rise to undue adverse amenity impacts. A condition to limit the overall number of containers stored on the site at any one time to no more than 600 is however recommended.

The proposed use will result in vehicle traffic, both cars and HGV's, accessing the Hams Hall site. It will also generate HGV movements between the existing rail freight terminal and the application site. The impact of this is however estimated to be small. A Transport Statement and subsequent additional details have been submitted. These indicate the proposed storage facility would generate on average 29 vehicle trips per hour over the busiest period. This is estimated to be fewer or equivalent to the vehicle movements that would likely to be generated by the warehouse developments which could be constructed on the sites. Movements between the existing freight terminal and the application site are estimated to be some 17 two-way trips per hour during the busiest hour, which is estimated to be 13:30 hrs to 14:40 hrs, outside the typical morning and evening highway network peak hours. The Highway Authority is satisfied that the development would not have an adverse impact on the local highway network as capacity was built into that network at the time of the initial Hams Hall development and because the access is directly onto the primary road network. The Highway Authority has recommended conditions to ensure safe vehicle access is provided. Subject to these conditions and to secure the development of a Travel Plan to promote the use of sustainable modes of transport to the site, the proposed development will accord with the relevant saved transport policies of the North Warwickshire Local Plan 2006.

The overall impact of the proposed development would not be dissimilar from the impact of the warehouse developments for which planning permission is extant. The proposed use will result in less built floor space and will thus have a more open appearance. The container stacks however will present a less homogenous appearance than warehouse buildings constructed in traditional cladding. The proposed office modular office buildings would provide a building frontage to Faraday Avenue and the visual impact will be mitigated by the landscaping proposed along the boundary with that road. Overall the appearance of the proposed development would not be too much out of keeping with the existing character of this commercial area, but a refusal is unlikely to be sustained.

The site is within an area not only designated for storage and distribution uses within the current planning permission for Hams Hall, but one that is also designated for industrial uses by the Development Plan. As such there is no objection in principle to the proposal. The proposal will increase capacity for the movement of freight by rail which is also in accordance with the Development Plan. The National Planning Policy Framework 2012 also promotes development of facilities that will encourage use of sustainable modes of transport, and particularly refers to “exploiting opportunities for the use of sustainable transport modes for the movement of goods”. In addition to the increased rail freight capacity, the required Travel Plan to promote sustainable modes of transport to the site will enhance sustainability. Members too will note that a condition – number 8 – restricts the occupation and use of the site to that associated with the Rail Freight Terminal in order to allay concerns about the connection to that facility.

A site layout plan which shows the different elements of the development is submitted and elevations are provided for the proposed office buildings. The site layout however could be improved. The area of landscaping proposed to Faraday Avenue is not as wide as landscaped areas provided elsewhere on adjacent plots, and as a result the proposed office buildings are closer to the road than other buildings. Additionally the container stacking areas extend close to Faraday Avenue, particularly the area within Site B. These elements will thus be prominent in views along the road. The agent has confirmed that the layout could be revised to address these matters and provide a satisfactory layout that would meet requirements of Development Plan policies. This can be achieved through conditions to preclude development that is too close to Faraday Avenue – condition 4 - and to limit the height of the stacked containers to no more than five containers high – condition 6 - and to require the submission and approval of a revised site layout prior to commencement of any development – condition 3.

Lighting will be required for the operation of the terminal during hours of darkness. Although some details are provided, clarification and additional details are required to ensure the lighting scheme will not cause an adverse impact. This can be addressed by a condition to require the submission and prior approval of the proposed lighting scheme. Similarly the submission and approval of details of any tannoy or other sound amplification equipment and of noise attenuation measures such as with respect vehicle reversing audible warning devices can also be required by condition.

Ground investigations of the site undertaken for previous planning applications revealed potential ‘hot spots’ of contamination within the area of Plot 6. Appropriate further investigation and remedial measures to resolve contamination will be required prior to the development of the site. These can be secured by condition.

Recommendation

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

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with site red line plan received by the Local Planning Authority on 16/4/2012.

REASON

To ensure the development is carried out in accordance with the approved plan.

3. No development shall commence until a site layout plan showing all details of the site layout has been submitted to and approved in writing by the Local Planning Authority. This shall include the positions and dimensions of the vehicle accesses, vehicle circulation and parking arrangements, the areas where containers will be stacked and the positions and dimensions of office buildings and gatehouses to be erected.

REASON

To ensure the layout that will not result in adverse impacts in the interests of amenity and highway safety.

4. No buildings shall be erected on a part of the site that is within 20 metres of the site boundary to Faraday Avenue and no containers shall be stored on any part of the site that is within 30 metres of the site boundary to Faraday Avenue.

REASON

To ensure the layout that will not result in adverse impacts in the interests of amenity.

5. No more than 600 containers shall be stored on the site at one time. Containers shall be stored only in the locations shown on the site layout plan required to be submitted by Condition 3.

REASON

In the interests of the visual amenities of the area.

6. No container shall be stored on the site, either in a stack of containers or otherwise, where the height of the top of the container exceeds 15 metres above ground level.

REASON

In the interests of the visual amenities of the area.

7. No development shall be commenced before details of all building facing and roofing materials; surfacing materials and screen wall, boundary wall or fencing materials to be used have been submitted to and approved by the Local Planning Authority in writing. The approved materials only shall then be used.

REASON

In the interests of the visual amenities of the area.

8. The development hereby approved shall not be used for any purpose, including any other purpose in Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any statutory instrument revoking and re-enacting that Order with or without modification other than for the storage of containers in connection with operation of the Coleshill Inter-modal Rail Freight Terminal.

REASON

To prevent unauthorised use in the interest of sustainable development.

9. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

REASON

To ensure that risks from land contamination to the proposed end users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10. The approved remediation scheme must be carried out prior to the commencement of development, with the exception of works required to implement the approved remediation scheme. Written notification of the commencement of the remediation works must be given to the Local Planning Authority at least two weeks before works commence. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to the Local Planning Authority.

REASON

To ensure that risks from land contamination to the proposed end users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11. No development including the use hereby approved shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

REASON

In the interests of the visual amenities of the area.

12. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting or seeding season following the commencement of the development; any trees or plants which, within a period of 5 years from the date of planting, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and size.

REASON

In the interests of the amenity

13. The development shall not be occupied until the public highway has been improved so as to reinstate the radius turnouts at the junction of the cul-de-sac access spur road with Faraday Avenue in accordance with a scheme approved in writing by the Local Planning Authority.

REASON

In the interests of safety on the public highway.

14. The accesses to the site for heavy goods vehicles shall not be used unless a bell mouth has been laid out and constructed within the public highway in accordance with the standard specification of the Highway Authority.

REASON

In the interests of safety on the public highway.

15. The accesses to the sites shall not be constructed in such a manner as to reduce the effective capacity of any drain within the limits of the public highway.

REASON

In the interests of safety on the public highway.

16. The development hereby approved shall not be occupied until a Travel Plan, to promote the use of sustainable modes of transport to travel to the site and which sets out the measures proposed to be carried out within the plan, has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full at all times.

The Travel Plan shall:

(i) specify targets for the proportion of employees and visitors travelling to and from the site by foot, cycle, public transport, shared vehicles and other modes of transport which reduce emissions and the use of non-renewable fuels;

(ii) set out measures designed to achieve those targets together with timescales and arrangements for their monitoring, review and continuous improvement;

(iii) identify a senior manager of the business using the site with overall responsibility for the plan and a scheme for involving employees of the business in its implementation and development.

REASON

In the interests of promoting sustainable development.

17. No external lighting shall be placed or erected on the site until details of the lighting scheme, including hours of operation, have been submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed, operated and maintained in accordance with the approved scheme.

REASON

In the interests of the amenity.

18. No sound amplification equipment shall be placed or erected on the site without details first having been submitted to, and approved in writing, by the Local Planning Authority.

REASON

In the interests of the amenities of the area.

Reasoned Justification

The site is within an area designated for storage and distribution uses and the proposed use would accord with Saved Core Policy 2 and saved policy ECON1 of the North Warwickshire Local Plan 2006. The proposal will increase capacity for the movement of freight by rail. This is in accord with saved policy TPT5 of the North Warwickshire Local Plan 2006 and Policy T10 of the adopted West Midlands Regional Spatial Strategy. The National Planning Policy Framework 2012 also promotes development of facilities that will encourage use of sustainable modes of transport.

The Highway Authority is satisfied the development would not have an adverse impact on the local highway network and subject to conditions to ensure safe vehicle access is provided and a Travel Plan to promote the use of sustainable modes of transport to the site, the proposed development will accord with saved policies ENV14, TPT1, TPT2 and TPT3 of the North Warwickshire Local Plan 2006.

The proposed development would not be out of keeping with the character of this commercial area. The impact of the development is not dissimilar to the impact of the warehouse developments for which planning permission is extant. The proposed development is not considered to be fully in accord with saved policies ENV6, ENV11, ENV12 and ENV13 of the North Warwickshire Local Plan 2006, however these matters are addressed through conditions and subject to compliance with requirements of the attached conditions, a satisfactory development will be achieved.

BACKGROUND PAPERS

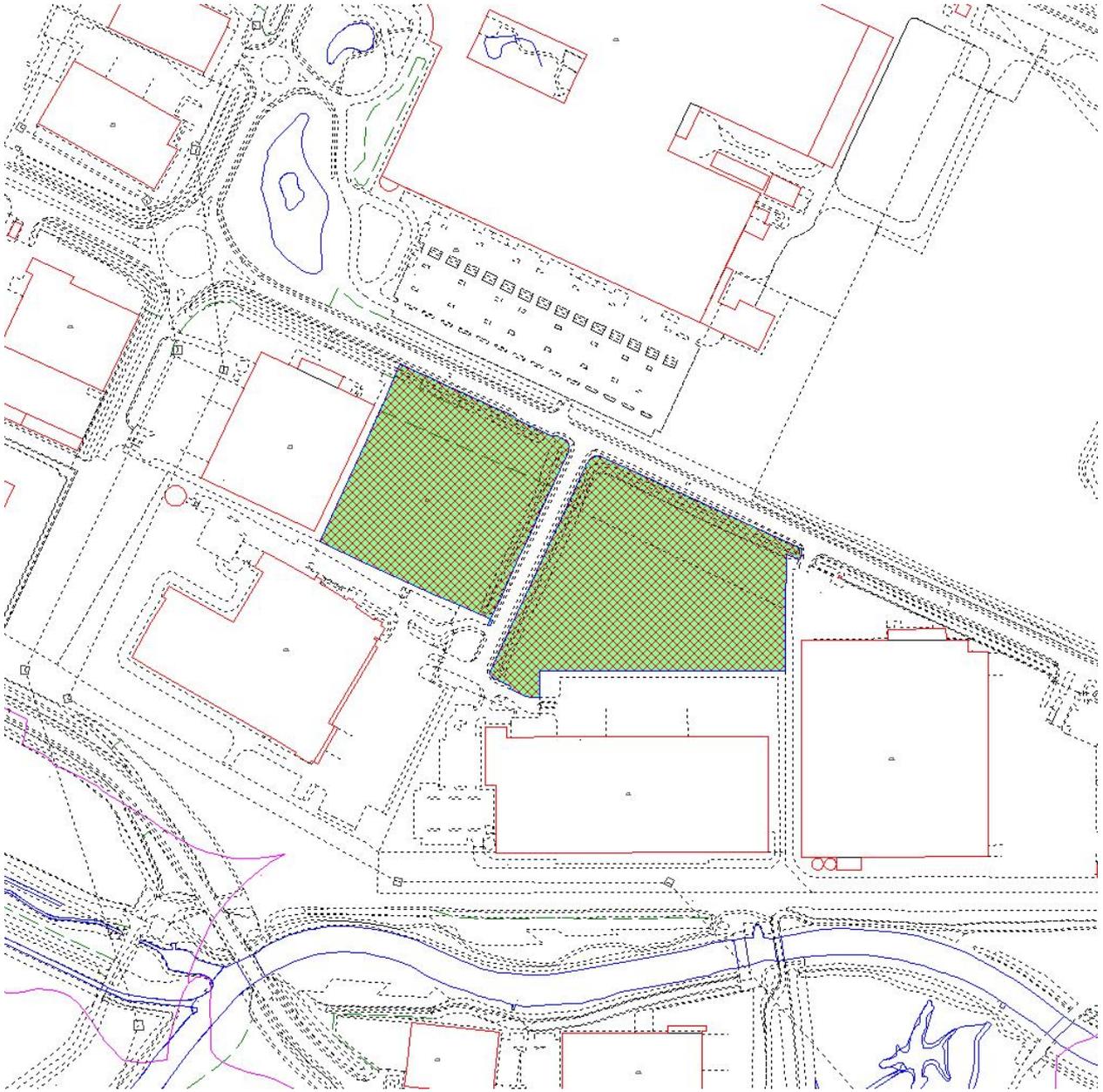
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2012/0220

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	ST Water	Consultation	8/6/2012
3	WCC Highways	Consultation	29/6/2012 & 29/10/2012
4	D Axe	Representation	5/6/2006
5	Coleshill & District Civic Society	Consultation	6/7/2012

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

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



(4) Application No: PAP/2012/0313

Car Park, Park Road, Coleshill, B46 3LA

Variation of condition 13 of planning permission ref: PAP/2011/0529 relating to delivery hours for the site to be operationally viable; in respect of erection of a retail (A1) food store with associated parking, servicing and access, for

- W M Morrison Supermarkets PLC

Introduction

This application was referred to the last Board meeting but a determination was deferred. This was because officers were requested to see if the applicant would consider an extension of the delivery times to this store over those permitted, in place of the 24 hour period as proposed.

The applicant has responded requesting that the application be determined as submitted.

Background

The permitted delivery hours are between:

0700 and 1900 hours on weekdays
0700 to 1300 hours on Saturdays, and
0900 to 1600 hours on Sundays.

The retail hours are between:

0700 to 2200 on weekdays and Saturdays and
1000 to 1600 hours on Sundays.

The last meeting suggested delivery hours between:

0600 to 2100 on weekdays, and
0700 to 1600 hours on Saturdays and Sundays.

As indicated above, the applicant wishes to remain with a 24 hour delivery period.

The previous report is attached at Appendix A.

Observations

Now that the applicant has responded, the Board is asked to consider that report once again and to determine the application on the basis of a 24 hour delivery period.

Notwithstanding the applicant's position, officers, with the Chairman's agreement, have had further discussions with Morrison's to see if they would be prepared to become jointly involved with the a noise monitoring regime for the site in conjunction with the Council's Environmental Health Officers. Such an agreed regime would monitor the conditions as recommended to the last Board, and would go some way to addressing the comments made about the monitoring of those conditions as expressed by

Members at the last meeting. Morrison's have maintained their position that they wish to see 24 hour delivery to this site and that whilst agreeing to the three recommended conditions, they say that their enforcement is a matter for the Council. They maintain the view that there is unlikely to be an issue, as they say that only two or three deliveries are expected in any one night.

Whilst the position of Morrison's is disappointing, the Board now has to decide this application on the planning evidence that is available. The recommendation in the Appendix has been made based on the noise evidence available; on the advice received from the Environmental Health Officers, and the current position in respect of conditions as set out by the Government. The reason for the original condition was related to potential noise impacts and thus the evidence on that issue is the sole matter that Members should be considering here. Environmental Health Officers were fully involved in the scoping of the appropriate noise surveys, and have been fully involved in drawing up the recommended alternative conditions. In short, there is no noise evidence to suggest a refusal.

Recommendation

That the recommendation set out in Appendix A is agreed

BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0313 (Additional papers)

Background Paper No	Author	Nature of Background Paper	Date
1	Head of Development Control	Letter	18/10/12
2	Agent	E-mail	22/10/12
3	Head of Development Control	E-mail	23/10/12
4	Agent	E-mail	26/10/12
5	Head of Development Control	E-mail	26/10/12
6	Agent	E-mail	26/10/12

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.

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General Development Applications

(#) Application No: PAP/2012/0313

Car Park, Park Road, Coleshill, B46 3LA

Application to Vary Condition 13 of the planning permission 2011/0529 relating to the hours of delivery in respect of the new retail store for

W M Morrison Supermarkets

Introduction

This application is reported to the Board for determination at the discretion of the Head of Development Control given the nature of the representations that have been received.

The Site

The site was a car park together with a former bowling green lying between Parkfield Road and the Birmingham Road just to the west of Coleshill town centre. It has a triangular shape tapering in the west to the junction of these two roads. There are residential properties on the opposite side of the Birmingham Road and also immediately to the east in the form of a block of apartments. There are also residential properties adjoining its south east corner.

Background

Planning permission was granted for this store in 2010. A revised layout was subsequently approved in late 2011, and it is this permission that is currently being implemented on site. Applications to discharge conditions have been submitted and approved.

The approved layout has the store at the far eastern end of the site. Delivery vehicles would access the site from the single main access into the site from the Birmingham Road and travel across the front of the store to a delivery area on the south side of the store. Reversing would be necessary and this would take place partly in the car park.

Amongst the conditions attached to the permission is one relating to delivery hours – number 13. This states that deliveries have to be made only between 0700 and 1900 hours during the week; 0700 to 1300 hours on Saturdays and between 0900 and 1600 hours on Sundays. Retail trading hours are conditioned so as to be from 0700 to 2200 hours on weekdays and Saturdays, with 1000 to 1600 hours on Sundays.

The Proposal

The application seeks the operation of the store without compliance with condition 13 enabling deliveries 24 hours a day and on 365 days of the year. It is said that this would enable fresh produce to be on the shelves at opening time thus negating the need for larger concentrated deliveries during a shorter time when the car park and entrance are being used by the public. The applicant quotes Government guidance that supports night time deliveries provided that they don't create disturbance. The Quiet Deliveries Demonstration Scheme has been developed by the Government and the Noise Abatement Society in order to relax restrictions. However this is still predicated on implementing practices and measures to ensure residential occupiers are not disturbed. These include turning off both refrigeration units and reversing "bleeps" when an HGV enters a site. The applicant would wish to work within this guidance, because a Noise Assessment report which accompanies the application concludes that there is unlikely to be disturbance.

Moreover the applicant says that due to the small size of the store here, there would be a low number of night time deliveries – three.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006 – ENV11 (Neighbour Amenities)

Other Material Planning Considerations

The National Planning Policy Framework 2012 – (NPPF)

Government Circular 11/1995 – The Use of Conditions in Planning Permission

Consultations

Environmental Health Officer – There was an objection to the original Noise Assessment Report as it was considered that the recorded night time noise levels in the vicinity of the site had been over-estimated. In other words the site was "quieter" than suggested by the report. As a consequence, fresh survey work was undertaken by the applicant in order to establish the night time noise "climate". The scope of this work was agreed beforehand in consultation with the Environmental Health Officer.

Having reviewed the findings from the latest survey, the advice from the Environmental Health Officer is that subject to conditions there are not sufficient grounds to object to the proposal. The conditions would require a noise threshold to be identified; that there is a test "monitoring" period of twelve months, and that a noise management plan be agreed.

Representations

There have been twelve written objections to the proposal from local residents. The matters covered fall into three different areas. The first of these is that some residents remain opposed in principle to the introduction of the supermarket to this location. The second are objections opposed to 24 hour delivery because of the potential for noise nuisance at night. The third area are objections highly critical of Morrison's in that the retailer sought a planning permission based on restricted delivery times; accepting the hours condition, but then reneged on that by seeking to remove the condition all together. This "underhand" and "dishonest" approach is referred to by most of the objectors in very strong terms.

The Coleshill Town Council reflects the strength of this feeling. Its letter is attached in full at Appendix A.

Coleshill Civic Society strongly objects to the proposal,

Three Local Ward Members – Councillors Ferro, Fowler and Watkins - have also expressed dissatisfaction with the approach of Morrison's in this respect.

Observations

Objections that question the principle of this development will carry no weight in the determination of this application. The sole issue is whether there is sufficient evidence to support the removal of the condition governing delivery times.

In this respect it is worthwhile immediately tackling the criticisms expressed by the local community about how the applicant has approached this matter. Any applicant or developer is perfectly in his rights to seek to vary approved plans or conditions. Current planning legislation and procedures enable this to happen and Members will know that this is a common occurrence. This application can not be refused on the grounds that the 24 hour delivery period was not set out in the original application. Neither can it be refused on the grounds that the applicant should have known about the Quiet Delivery Scheme at the outset; that this was part of their own corporate policy or that the operational arrangements undertaken to calculate the number and type of deliveries to this store should have been known to the applicant from the outset. Furthermore the application cannot be refused on the grounds of "undertakings" given by its representatives in public meetings respecting the approved delivery hours. All of these issues may not lie comfortably with Members too, but in short, they simply are not planning reasons for refusal.

The Board is therefore strongly advised to solely focus on the planning issue here. It is best to start by looking at the reason why the condition was imposed in the first place. This was, "in order to protect the residential amenity of adjoining occupiers of residential property". So the planning issue is, whether the removal of this condition would lead to adverse impacts on the residential amenity of adjoining occupiers. The applicant provides three arguments to support his case – namely that he would comply with the Delivery Scheme by turning off refrigeration plant and reversing bleeps; there would only be very irregular and infrequent night time deliveries, and that the noise evidence does not suggest that harm would be caused. The last of these is considered to be the critical one.

The applicant has undertaken new noise surveys in line with advice and guidance from the Council's Environmental Health Officers. Their conclusion from this evidence is that provided noise limits are applied and adhered to, then night time deliveries may not cause sleep disturbance at neighbouring properties. That advice would need to be translated into a different and new planning condition. This leads to two further matters – is it physically possible to deliver to the site within such a noise “threshold”, and secondly, bearing in mind that the noise survey was only undertaken at one point in time, would a monitoring period, during which this “threshold” was applied, be advisable, so as to assess any impacts with different background noise situations? The Environmental Health Officers have taken up both of these matters with the applicant, and he considers that they could work to that threshold and that a monitoring period would be reasonable. As a consequence the advice from the Environmental Health Officers is that the removal of the condition would not lead to a worse situation for adjoining occupiers provided that there are substitute conditions.

It is appropriate at this time for the Board to see what the Development Plan actually says in respect of noise. Saved policy ENV11 of the North Warwickshire Local Plan 2006 says that development will not be permitted if the occupiers of nearby properties would suffer “significant loss of amenity or disturbance due to noise”. The NPPF says that all planning decisions should, “avoid noise from giving rise to significant noise impacts”. The same key word is included in both quotations – “significant”. Based on up to date and relevant evidence, the advice from the Environmental Health Officers is that with substitute conditions, noise impacts would not be significant.

The NPPF continues by saying that planning decisions should mitigate and reduce to a minimum, adverse impacts arising from noise from new development, “including through the use of conditions”. The Government's Circular 11/1995 itself says that conditions can be used to control or reduce noise levels, and to have “trial runs” in order to monitor potential impacts. Indeed it recommends wording for these. Given the advice of the Environmental Health Officer, it is considered that this is the appropriate and proper course to follow.

One other matter has been raised and that is likely disturbance from the lights of delivery vehicles. Given the site layout; the location of houses around the site, the general road network, and the likely number of vehicles, it is not considered that this is a material issue.

Recommendation

That Condition 13 of planning permission 2011/0529 dated 20 December 2011 be **VARIED** so as to read:

“13A. Within one month of the date of this permission, the applicant shall submit a noise management plan to the Local Planning Authority to include measures for the minimisation of noise arising from night time deliveries. No night time deliveries shall take place to this store prior to this plan being approved in writing by the Local Planning Authority. For the avoidance of doubt for the purposes of this condition, night time deliveries are defined as deliveries between 1900 and 0700 hours on any day.

REASON

In the interests of the residential amenity of surrounding residential property.

13 B. Following written approval of the plan referred to above, any noise arising from any night time delivery to the site – that is to say between 1900 and 0700 hours on any day – shall not be greater than 40dB LAeq and 55dB LAm_{ax} when measured at one metre from the façade of any residential property surrounding the site.

REASON

In the interests of the residential amenity of surrounding residential property.

13C. The noise management plan as agreed under condition 13A, and the noise thresholds as set out in Condition 13B, shall continue for a period of twelve months from the first date on which the store is open for business. No night time deliveries whatsoever, as defined in condition 13A, shall continue after this twelve month period, unless agreed in writing by the Local Planning Authority through application to vary this conditions 13A, B and C.

REASON

In the interests of the residential amenity of surrounding residential property.”

Notes

- i) The noise management plan referred to in condition 13A shall particularly concentrate on measures such as the reversing alarms, refrigeration units and cab radios are turned off.
- ii) The Development Plan policy relevant to this decision is saved Policy ENV11 of the North Warwickshire Local Plan 2006.

Justification

Evidence has been submitted and verified to show that noise disturbance is unlikely subject to conditions. Given that there are residential properties in the vicinity it is considered that a monitoring period is required in order to “test” these arrangements. The Local Planning Authority has worked with the applicant in a positive and proactive manner through involvement in scoping a new noise assessment survey and in working with the use of conditions, in order to seek solutions to planning issues arising in dealing with this application. In all of these circumstances the proposal would accord with saved policy ENV11 of the North Warwickshire Local Plan 2006; the NPPF and Government advice on conditions in its Circular 11/1995.

BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0313

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	21/6/12
2	Central Services Support Officer	Letter	26/6/12
3	Agent	Letter	13/7/12
4	Mr I Gilmore	Objection	18/7/12
5	Mrs Richards	Objection	20/7/12
6	Environmental Health Officer	Consultation	19/7/12
7	Head of Development Control	Letter	23/7/12
8	Mr J Harrison	Objection	27/7/12
9	Coleshill Town Council	Objection	30/7/12
10	Councillor Fowler	Objection	2/8/12
11	Applicant's Noise Consultant	E-mail	2/8/12
12	Mr A Farrell	Objection	9/8/12
13	Sandra Greatrex	Objection	14/8/12
14	Councillor Ferro	Objection	14/8/12
15	Mr & Mrs Gascoigne	Objection	14/8/12
16	Coleshill Civic Society	Objection	15/8/12
17	Councillor Watkins	Objection	15/8/12
18	Mr H Taylor	Objection	16/8/12
19	P Ross	Objection	18/8/12
20	Katherine Shepherd	Objection	19/8/12
21	Mr Groll	Objection	28/8/12
22	Environmental Health Officer	E-mail	22/8/12
23	Head of Development Control	E-mail	31/8/12
24	Mr Clemson	Objection	5/9/12
25	Mr Scott	Objection	4/9/12
26	Environmental Health Officer	Consultation	14/9/12

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.

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(5) Application No: PAP/2012/0407

3 Ramsden Road, Mancetter, Atherstone, Warwickshire, CV9 1PB

Two storey rear extension, for

Mr G Chamberlain

Introduction

The application is being presented to Board following the request of the Local Member concerned about the potential impact on the neighbour's amenity.

The Site

The application site is a semi-detached dwelling and is located in a cul-de-sac towards the top end of Ramsden Road adjacent to the turning circle. The cul-de-sac comprises of 10 dwellings and these are two storey and semi-detached. Ramsden Road is accessed of Mancetter Road.

The front elevation of the application dwelling faces east and is adjacent to the turning circle. The application site benefits from a side garden which fronts Ramsden Road and is sited to the north of the application dwelling; this garden has a hedge to its boundaries. The rear elevation of the dwelling faces west onto which the extension would be constructed.

There is a gap of approximately 1 metre from the side elevation of the application dwelling to the boundary shared with No. 2 Ramsden Road; a hedge forms part of the boundary line. The application site is on a higher level compared with No. 2 Ramsden Road, where the natural topography of the land slopes upward. A timber fence forms the boundary with No. 4 Ramsden Road. An existing conifer tree located along this boundary will be removed.

The general layout and setting is illustrated at Appendix A, which shows the relationship between the application site and the neighbours.

There are photographs at Appendix C to show the existing arrangement of the dwelling. There is reference later in this report to separation distances which is illustrated in Appendix D.

The Proposal

The proposal for a rear two storey rear extension measures 3.5 metres in depth, 3.3 metres in projection, 4.9 metres in height to the eaves and 5.5 metres in height to the ridge. It extends more than half the width of the rear original building line of the host dwelling. A ground floor extension is also proposed, this measures 2.2 metres in width, 3.3 metres in depth and 3.2 metres in height to the ridge of the roof and extends across the remainder of the width of the original rear building line. The design of the extension will have a hipped roof, with a ridge height that is lower than that of the host dwelling by approximately 2 metres.

Appendix B illustrates in general terms the proposals as described.

Background

There are no existing extensions within the site.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006: ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design) and ENV14 (Access Design)

Other Relevant Material Considerations

Government Advice: National Planning Policy Framework National Planning Policy Framework – Requiring good design

Supplementary Planning Guidance: A Guide for the Design of Householder Development, September, 2003.

Representations

Mancetter Parish Council – No representation has been received from the Parish Council

Representation from the neighbour at 2 Ramsden Road, on the following grounds:

We are looking forward to spending the remainder of our lives in our family home and anticipate retirement from work next year. An extension would impinge on our home and garden, and would detract from our quality of life. We would not have raised an objection to a reasonable and thoughtful plan, we feel we have no alternative other than to express our vehement opposition to the proposals as it will affect our lives both now and in retirement.

The nature of the neighbour's objection is summarised as follows:

- Location – Our house is adjacent to and at angles directly below the building concerned. It is the south facing aspect of our home, the rear that would be affected and especially the conservatory and kitchen and back bedrooms, master bedroom as well as the garden. At present it is the only part of our house that benefits from any sunlight.
- Privacy – We believe that as all these rooms would be overlooked by the extension, our privacy would be compromised and our outlook curtailed by a two storey brick wall.
- Light – The light to the property would be diminished adding problems caused already by the existing and especially tall trees located within the garden of No. 3. The shadows are noticeable from the early afternoon and by the end of the day most of our property, to the front and rear received very little light, our conservatory which does maximise light would be under affected in this way.

- Site levels – The extension would be exaggerated by the upward slope to the application site, the position of the extension could be thought to be overbearing and intrusive. We are at a lower level than our neighbour's property due to the gradient involved these problems would be considerably exacerbated.

Observations

The application site is within the Development Boundary defined for Mancetter by the Development Plan and thus there is no objection in principle to extensions at the property. The main issues raised here are the potential impact of the proposal by virtue of its scale and location and whether the rear two storey extension would result in unpleasant living conditions on the neighbours at No. 2 Ramsden Road in terms of the effects on their general amenity, light and privacy.

The design of the extension itself is in keeping with the proportions and features of the host dwelling and it respects its character. It follows the advice as set out in the Council's SPG for householder design. It has a hipped roof arrangement with a lower ridge height compared with the main ridge and is wholly subservient. The depth of the extension is reasonable at 3.3 metres. There is no reason to refuse the application based on its appearance or scale.

In terms of amenity of neighbouring occupiers then there would be little or no impact on No. 4 Ramsden Road which is the adjoining half of the semi, as the arrangement to the two storey extension has been designed to comply with the 45-degree line rule and therefore does not reduce light. The proposed single storey extension does not impact upon this neighbour as they benefit from a single storey rear lean-to. It is considered that the main amenity impact would be on the neighbouring occupier at No. 2 Ramsden Road. The neighbour's representation is understood and the nature of their representation considered.

On the matter relating to the neighbour's concern on loss of privacy, then this can be overcome. The proposed two storey extension facilitates the introduction of a first floor side window to the existing side elevation of the application dwelling. This can be conditioned to be fully obscure glazed with a top opening light only, provided the opening element of the window is at a height of 1.7 metres above the floor level of the room it serves. This will result in no additional overlooking with no reduction in privacy to the neighbour at No. 2.

As far as the introduction of rear windows into the extension is concerned, particularly at first floor level, then there is not considered to be an overlooking issue. This is because there presently exists a degree of overlooking between neighbouring properties from their rear windows to neighbours rear gardens. Thus rear windows to the extension would not be considered to cause a further reduction in the neighbour's privacy beyond what is reasonably expected.

On the matter relating to light reduction then it is important to understand the orientation of the site and its relationship with the neighbour at No. 2. The location of the extension is sited south of the neighbour's rear elevation to their dwelling. The extension would cause an impact on sunlight in the middle of the day, with overshadowing to the neighbours garden. However, the neighbour's garden would not be overshadowed throughout the remainder of the day, from the east or west. Loss of sunlight would not extend to the neighbours rear rooms, from the extension as the windows on the neighbours rear elevation are not considered to be adversely affected in terms of loss of

light due to the separation distance between them and the flank wall of the proposed extension, measured at 9.8 metres. A general rule, (not adopted by this Authority) but as advised in the CLG's Householder Developments Consent Review, May, 2007, suggests that a separation distance of 10 metres is required to prevent loss of light. The proposal achieves a distance very close to this figure and would not be considered to reduce daylight from entering the neighbour's rear rooms.

The neighbour's conservatory is sited on the east elevation of their dwelling and would benefit from sunlight to the east, albeit it is presently overshadowed by the hedgerow that forms the boundary to the neighbour's side garden. A hedgerow can be removed or reduced to assist in improving light to the conservatory. The extension would not be considered to cause reduced light to the neighbour's conservatory given that it is at an oblique angle to the conservatory and given the existing building line of the host dwelling is closer to the conservatory, then loss of light would not be further exacerbated by the extension beyond what is already experienced.

The extension may appear bulky and dominant from the neighbour's perspective, this is likely to be accentuated by the level differences to the land. However, given the mitigating factors such as the 9.8 metre separation distance, the fact that the extension is not brought closer to the neighbour beyond that of the existing building line to the host dwelling, retaining a 1 metre gap to the boundary and by virtue of the design to the extension which has a low ridge height with a hipped roof and a light render finish to the first floor which assists in reflecting light, then all these matters assist in reducing the prominence of an extension, the resulting impact will be acceptable and is not considered to result in an unprecedented reduction in the neighbour's amenity.

Recommendation

That the application be **GRANTED** subject to the following conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with revised plan received by the Local Planning Authority on 21 September 2012 and the 1:250 Block Plan and the 1:2500 Site Location Plan received by the Local Planning Authority on 29 August 2012.

REASON

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

3. The new works shall be carried out with render to the ground and first floor of all elevations of the extensions hereby approved to match the light colour render used on the host dwelling and roofing tiles to match the existing.

REASON

In the interests of the amenities of the area.

4. The first floor windows on the east elevation of the extension and existing building shall be glazed with obscure glass and shall be non-opening, unless part of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

REASON

To protect the privacy of the adjoining property and to prevent overlooking.

Notes

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at www.communities.gov.uk/publications/planningandbuilding/partywall.
3. The Development Plan policies which are relevant to this Decision are as follows:

North Warwickshire Local Plan 2006 (Saved Policies) : ENV11 - Neighbours Amenities, ENV12 - Urban Design, ENV13 - Building Design, SPG: A Guide for the Design of Householder Development, September, 2003.

Justification

The proposal for a rear two storey and single storey extension to the host dwelling are considered to be of an acceptable design and appearance. In terms of the location of the extension, then it is set on a different level compared with a neighbouring dwelling at No. 2 Ramsden Road, thus is likely to appear prominent therefore the impact of the extension on this neighbour's amenity has been weighted. It is considered that the extension represents an entirely subservient design to that of the host dwelling and has a low ridge height and hipped roof. The extension is not brought closer to the neighbour and retains a gap to the boundary line. Given the separation distance from the extension to the neighbours rear windows of 9.8 metres, the balance is that the proposal would not exacerbate loss of light or overshadowing beyond what the neighbour might reasonably experience by the existing building line to the application dwelling. The proposal is therefore not considered to be in conflict with the saved Development Plan Policies ENV11, ENV12 or ENV13 of the North Warwickshire Local Plan, 2006.

BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0407

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	29.8.12
2	Mr & Mrs Carr	Neighbour representation by e-mail	11.9.12
3	Mr & Mrs Carr	Neighbour representation by letter	12.9.12
4	Case Officer	Correspondence to Agent	19.9.12
5	Agent	Minor revision on plan to show measurements	20.9.12
6	Mr & Mrs Carr	Previous comments, objection retained	20.10.12
	Agent	E-mail to case officer	22.10.12
7	Case Officer	E-mail to Mr and Mrs Carr	23.10.12
9	Cllr Freer	Request for application to be reported to Board	23.10.12
8	Case Officer	E-mail to agent	24.10.12

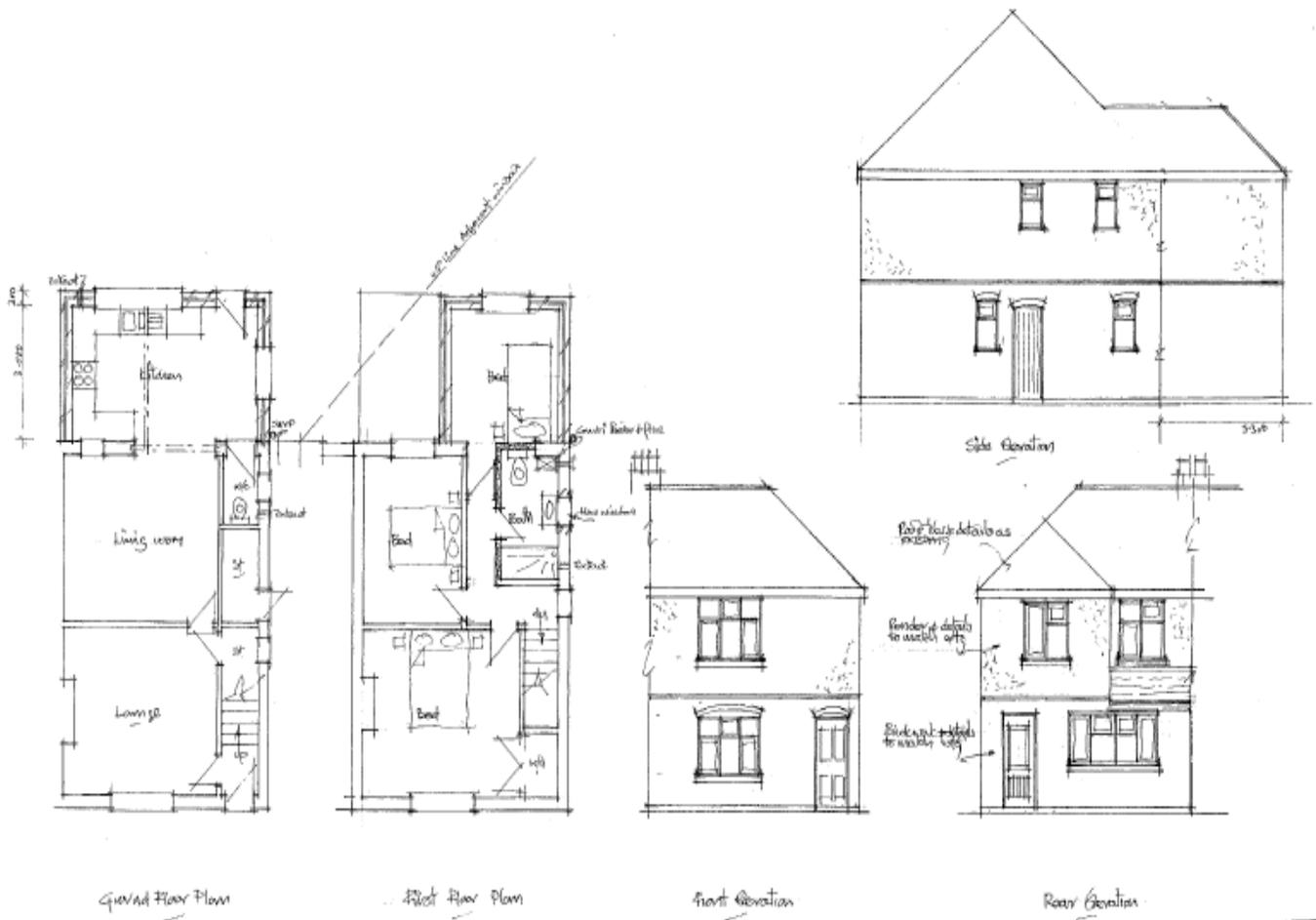
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Appendix A



Appendix B



REVISED

Appendix C



Rear elevation of application dwelling



View from applicant's side garden and neighbours dwelling in background

Appendix D



Stirling Court
Norton Road
Staines
Herts SG1 2JY
UK
Tel: +44 (0)1438 747266
Fax: +44 (0)1438 747997
E-mail: info@cadcorp.com

APPENDIX D

a ————— b - Separation distance
9.8 metres



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(6) Application No: PAP/2012/0498

Land rear of 70 to 78 New Street, Dordon,

Part demolition of 72 New Street and construction of 8 two-bed terrace houses and 3 three-bed terrace houses with associated access, turning area and parking, for

Mr Julian Coles - Tamworth Co-Operative Society Limited

Introduction

This application is reported to Board at the discretion of the Head of Development Control.

The Site

The site lies behind properties on New Street and Long Street, Dordon, and the land is presently associated with the Co-Op fronting New Street. The site is relatively flat with a fall from north to south. An existing track to the side of the Co-Op provides access to New Street, and this access is also used by some of the dwellings on New Street. The land is overgrown at the present time and has been beyond any meaningful use for some time now. It is bounded by a mixture of fencing and walling, with just the one noticeable tree to the eastern side. Gardens leading up to this fencing are quite long but narrow to reflect the predominant terraced housing pattern along both New Street and Long Street. There are exceptions to this pattern to the northern boundary with a relatively recent bungalow and two further dwellings erected in the past 12 months to the rear of the Browns Lane shops.

New Street and Long Street are characterised by on street parking, with Long Street carrying parking restrictions to one side. The Co-Op is presently with a turning and loading area for HGVs such that they are forced to park on the highway to the front of the Co-Op during deliveries. Number 72 itself is an extended terraced property, and the Co-Op is a converted run of terraced properties with extensions to the rear.

The Proposal

It is proposed to partly demolish number 72 to provide sufficient width for an access road into the site. 8 two-bedroom terraced properties and 3 three-bedroom dwellings are to be erected in the main part of the site, with ancillary parking, amenity and turning space; and a new loading yard with parking spaces provided to the rear of the Co-Op. Further parking will be provided to number 72. The plans at Appendix A better show the proposed layout and elevations.

Background

Permission was granted in 1991 for an extension to the Co-Op along with the erection of lock up garages and the use of land as allotments. This permission is considered to define the permitted uses for the site, although it is clear that the permission has not been implemented fully so to confirm the lawful use is for parking and allotments.

This application is the latest in a number of residential development proposals. An application in 2003 for 11 dwellings with similar demolition and access works was withdrawn. A further application for 12 dwellings was refused in 2007 on the basis that it had not been demonstrated the land was surplus to open space needs.

Since then pre-application discussions have looked to address any residual matters and an open space audit for the Borough has been completed.

Development Plan

North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), HSG2 (Affordable Housing), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV10 (Energy Generation and Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations in New Development), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

Other Relevant Material Considerations

North Warwickshire Core Strategy (Pre-submission Document September 2012): NW1 (Settlement Hierarchy), NW3 (Housing Development), NW4 (Split of Housing between Settlements), NW5 (Affordable Housing), NW8 (Sustainable Development), NW9 (Renewable Energy and Energy Efficiency), NW10 (Quality of Development) and NW12 (Nature Conservation).

Government Advice: National Planning Policy Framework (NPPF).

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

Local Finance Considerations: New Homes Bonus (NHB).

Consultations

Statutory and technical consultees have been consulted on the same day. This includes the Highway Authority, the Coal Authority, Environmental Health, Severn Trent Water, the County Museum (Archaeology) and Dordon Parish Council.

Responses from these consultees will be reported to the Board when the application is presented for determination.

Representations

Neighbours were consulted on 16 October 2012, with a site notice erected on 26 October 2012. Responses from neighbours and other interested parties will be reported to the Board when the application is presented for determination.

Observations

This report is provided as an interim report only. It is intended so Member's attention can be drawn to this development proposal. The site lies within the settlement boundary for Dordon and the threshold for affordable housing provision here is not reached. The principle of housing for the open market is thus acceptable. Matters relating to any open space status of this land will be discussed more fully in a later report.

However there will be considerable focus on highway safety, especially by way of creating a new access and parking needs for the development. Neighbouring amenity impacts and overall design and character are also particularly relevant. These are matters which Members may wish to offer opinion and thought on such that it is recommended that a site visit is undertaken prior to the application being presented for determination.

Recommendation

That Members of the Planning and Development Board undertake a site visit accompanied by officers to appreciate the site characteristics and surroundings prior to considering this application at a later meeting.

BACKGROUND PAPERS

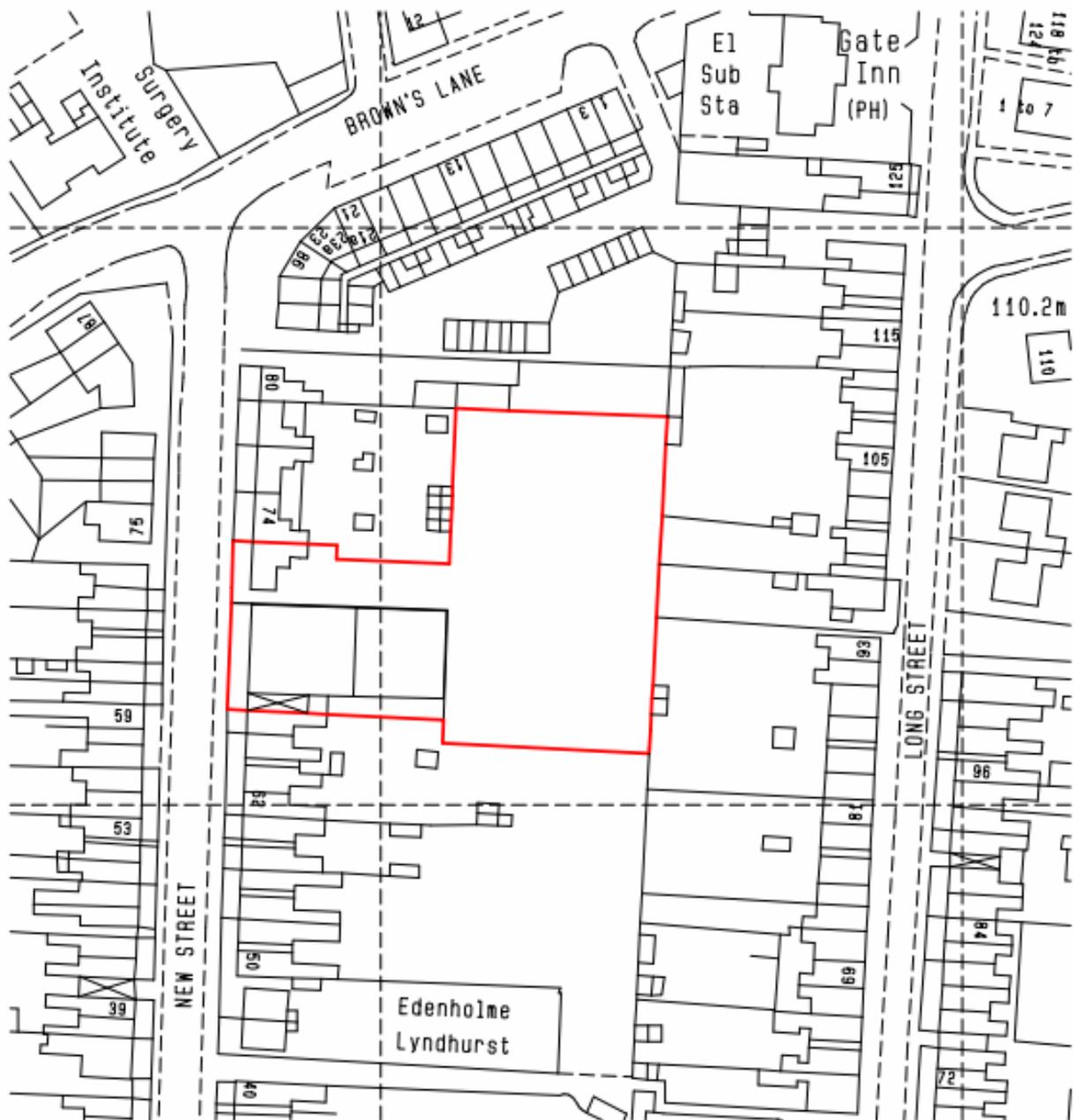
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2012/0498

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	09/10/2012

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.







PROPOSED STREET SCENE FACING ACCESS DRIVE FROM NEW STREET. Scale 1/100.



PROPOSED SITE SECTION THROUGH ACCESS DRIVE FACING SIDE OF No.72. Scale 1/100.

Agenda Item No 6

Planning and Development Board

12 November 2012

Report of the Chief Executive and the Deputy Chief Executive

Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April - September 2012

1 Summary

- 1.1 This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April to September 2012.

Recommendation to the Board

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

2 Consultation

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

3 Background

- 3.1 This report shows the second quarter position with the achievement of the Corporate Plan and Performance Indicator targets for 2012/13. This is the second report showing the progress achieved so far during 2012/13.

4 Progress achieved during 2012/13

- 4.1 Attached at Appendices A and B are reports outlining the progress achieved for all the Corporate Plan targets and the agreed local performance indicators during April to September 2012/13 for the Planning and Development Board.

- 4.2 Members will recall the use of a traffic light indicator for the monitoring of the performance achieved.

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

Amber – target currently behind schedule and requires remedial action to be achieved (shown as an amber circle)

Green – target currently on schedule to be achieved (shown as a green star)

5 Performance Indicators

- 5.1 Members will be aware that national indicators are no longer in place and have been replaced by national data returns specified by the government. A number of previous national and best value indicators have been kept as local indicators as they are considered to be useful in terms of managing the performance of our service delivery corporately.
- 5.2 The current performance indicators are being reviewed by each division and Management Team for monitoring for the 2012/13 year.

6 Overall Performance

- 6.1 The Corporate Plan performance report shows that 100% of the Corporate Plan targets and 67% of the performance indicator targets are currently on schedule to be achieved. The report shows that individual targets that have been classified as red, amber or green. Individual comments from the relevant division have been included where appropriate. The table below shows the following status in terms of the traffic light indicator status:

Corporate Plan

Status	Number	Percentage
Green	5	100%
Amber	0	0%
Red	0	0%
Total	5	100%

Performance Indicators

Status	Number	Percentage
Green	2	67%
Amber	1	33%
Red	0	0%
Total	3	100%

7 Summary

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

8 Report Implications

8.1 Safer Communities Implications

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

8.2 Legal and Human Rights Implications

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

8.3 Environment and Sustainability Implications

8.3.1 Improvements in the performance and quality of services will contribute to improving the quality of life within the community. The action to improve employment opportunities for local residents at Birch Coppice is contributing towards the Raising aspirations, educational attainment and skills priority of the North Warwickshire Sustainable Community Strategy 2009 – 2026.

8.4 Risk Management Implications

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

8.5 Equality Implications

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

8.6 Links to Council's Priorities

8.6.1 There are a number of targets and performance indicators included relating to bringing more jobs to North Warwickshire, protecting and improving our environment and defending and improving our countryside and rural heritage.

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

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
National Indicators for Local Authorities and Local Authority Partnerships	Department for Communities and Local Government	Statutory Guidance	February 2008

NWCP Planning Board 12/13						
	Action	Priority	Reporting Officer	Update	Status	Direction
NWCP 012 11/12	Manage development so as to deliver the priorities on the Council's Corporate Plan and in the Sustainable Community Strategy by March 2013	Countryside and Heritage	Brown, Jeff	To be reported in March 2013	 Green	
NWCP 013 11/12	Ensure that only appropriate development is permitted in the Green Belt, that development is focused on the agreed settlement hierarchy and protects the best of our existing buildings by March 2013	Countryside and Heritage	Brown, Jeff	To be reported March 2013	 Green	
NWCP 014 11/12	Use the Design Champions to ensure the best achievable designs are implemented and developed by March 2013	Countryside and Heritage	Brown, Jeff	To be reported March 2013	 Green	
NWCP 051 11/12	To work with the County Council to provide training and to administer funding provided by the developers at Birch Coppice Industrial Estate to maximise opportunities for employment of local people	Local Employment	Maxey, Steve	The North Warwickshire Works programme is in place and this is aiming to maximise the opportunity for local residents to access employment opportunities at Birch Coppice. The programme has recently awarded two contract. A young people contract (CDA) and an employment contract (Life Beyond Schools). In addition to these activities a tour for Cllrs and partners has been arranged at Ocado in October. Work Clubs have been set up in Arley, Hartshill and Baddelsey and some training tenders have been agreed.	 Green	
NWCP 070	Looking to improve transport links to local employment	Access to Services	Brown, Jeff	Bus services to be extended into Birch Coppice Phase 2 by April 2013 on going discussions for phase 3	 Green	

NWPI Planning Board 12/13								
Ref	Description	Section	Priority	Year End Target	Performance	Traffic Light	Direction of Travel	Comments
@NW: NI157a	Percentage of major planning applications dealt with in a timely manner	Development Control	Countryside and Heritage	60	80	 Green		Good improvement
@NW: NI157b	Percentage of minor planning applications dealt with in a timely manner	Development Control	Countryside and Heritage	80	81.4	 Green		Still maintaining a good improvement
@NW: NI157c	Percentage of 'other' planning applications dealt with in a timely manner	Development Control	Countryside and Heritage	90	81.21	 Amber		Close to target

Agenda Item No 7

Planning and Development Board

12 November 2012

**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 item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

Agenda Item No 8

Breaches of Planning Control - 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).