

## Planning Committee Thursday 14 December 2023

A meeting of the above Committee will be held at Shire Hall, Market Place, Warwick on Thursday 14 December 2023, at 6.00pm.

Councillor A Boad (Chairman)  
Councillor N Tangri (Vice Chairman)

Councillor M Collins  
Councillor L Cron  
Councillor R Dickson  
Councillor B Gifford  
Councillor M Luckhurst  
Councillor R Margrave

Councillor R Noonan  
Councillor P Phillips  
Councillor J P Sullivan  
Councillor L Williams  
Labour Vacancy

### Emergency Procedure

At the commencement of the meeting, the emergency procedure for Shire Hall will be announced.

### Agenda Part A – General

#### 1. Apologies & Substitutes

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) to receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

#### 2. Declarations of Interest

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be disclosed during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

### 3. **Site Visits**

The Chairman to report the location of the planning application sites visited and the names of the Committee Members who attended.

### **Part B – Planning Applications**

To consider the following reports from the Head of Place, Arts and Economy:

4. **W/23/0415 – Woodside Conference Centre, Glasshouse Lane, Kenilworth** (Pages 1 to 34)
5. **W/23/0961 – Land Off Hob Lane, Burton Green** (Pages 1 to 12)
6. **W/23/1094 – Burrow Hill House, Hob Lane, Burton Green** (Pages 1 to 7)
7. **W/23/1316 – 106 Leicester Lane, Cubbington** (Pages 1 to 6)
8. **W/23/1689 – Land on the North-East Side of, Birmingham Road, Hatton** (Pages 1 to 12)

### **Part C – Other matters**

9. **Appeals Report** (To follow)

#### **Please note:**

- (a) the background papers relating to reports on planning applications are open to public inspection under Section 100D of the Local Government Act 1972 and consist of all written responses to consultations made by the Local Planning Authority in connection with the planning applications referred to in the reports, the County Structure Plan Local Plans and Warwick District Council approved policy documents.
- (b) all items have a designated Case Officer and any queries concerning those items should be directed to that Officer.
- (c) in accordance with the Council's Public Speaking Procedure, members of the public can address the Planning Committee meeting by attending the meeting in person on any of the planning applications or Tree Preservation Order reports being put before the Committee. If you wish to do so, please register online at [Speaking at Planning Committee](#) any time after the publication of this agenda, but **before 10.00am** on the working day before the day of the meeting and you will be advised of the procedure.
- (d) please note that the running order for the meeting may be different to that published above, in order to accommodate items where members of the public have registered to address the Committee.
- (e) occasionally, items are withdrawn from the agenda after it has been published. In this instance, it is not always possible to notify all parties interested in the application. However, if this does occur, a note will be placed on the agenda via the Council's website, and where possible, the applicant and all registered speakers (where applicable) will be notified.

General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ

Telephone: 01926 456114

E-Mail: [committee@warwickdc.gov.uk](mailto:committee@warwickdc.gov.uk)

For enquiries about specific reports, please contact the officers named in the reports.

You can e-mail the members of the Committee at

[planningcommittee@warwickdc.gov.uk](mailto:planningcommittee@warwickdc.gov.uk)

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456114**

**Planning Committee:** 14 December 2023

**Agenda Item 4**

**Application No:** [W 23 / 0415](#)

**Town/Parish Council:** Kenilworth  
**Case Officer:** Dan Charles

01926 456527 dan.charles@warwickdc.gov.uk

**Registration Date:** 21/03/23

**Expiry Date:** 20/06/23

**Woodside Conference Centre, Glasshouse Lane, Kenilworth, CV8 2AL**

Demolition of existing buildings and erection of 55no. dwellings and associated works FOR Vistry Homes

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This application is being presented to Planning Committee due to the number of objections and an objection from the Town Council having been received and the application is recommended for approval.

**RECOMMENDATION**

Planning Committee is recommended to grant planning permission, subject to the conditions listed at the end of this report and a Section 106 Agreement to secure the necessary financial contributions/ obligations as set out in the report.

Planning Committee is also recommended to delegate authority to the Head of Development Services in consultation with the Chair of Planning Committee to finalise the terms of the Section 106 agreement including any variation to, or clarification of, the sums requested where the revised sums meet the relevant statutory test together with necessary alterations to the final list of conditions.

Should a satisfactory Section 106 Agreement not have been completed within 3 months of the date of Planning Committee or in the opinion of Officers, insufficient progress has been made within this period to warrant the agreement of additional time to complete the Agreement, Planning Committee is recommended to delegate authority to the Head of Development Services to refuse planning permission on grounds that the proposal makes inadequate provision in respect of the issues the subject of that agreement.

**DETAILS OF THE DEVELOPMENT**

This is a full planning application for the demolition of the existing buildings and a residential development of 55 dwellings.

**THE SITE AND ITS LOCATION**

The application site consists of the former Woodside Hotel and Conference Centre and comprises the original house known as 'Woodside' (originally 'Glass House'), a historic stables range and a number of later 20th century additions. The existing lawful use of the site is a former hotel and conference centre. The original core buildings are locally listed.

The Hotel and Conference Centre has been disused since the beginning of the Covid restrictions in March 2020. During that period, the business went into administration and despite best efforts, did not attract a potential operator to continue the business.

The site is positioned to the east of Glasshouse Lane and is washed over by allocated housing site H40 which identifies development of up to 640 dwellings. The site is enveloped by an existing housing site that benefits from outline planning permission and reserved matters approval for 620 dwellings which are currently under construction.

The site benefits from a range of mature trees together with existing access from the public highway known as Glasshouse Lane to the west.

### **PLANNING HISTORY**

W/23/0495: Application for Prior Approval for the demolition of all existing buildings on site: Prior Approval GRANTED 27.04.2023.

W/22/0570: Prior approval for complete demolition of buildings serving site known as former Woodside Hotel and Conference Centre: Prior Approval REFUSED 09.05.2022.

Surrounding the Site, the following history is relevant.

W/21/1811: Application for reserved matters application for layout, scale appearance, materials and landscaping for 620 dwellings in pursuance of outline planning permission W/18/1635: GRANTED: 18.01.2023.

W/18/1635: Demolition of existing farmhouse and agricultural buildings and outline planning application for residential development of up to 620 dwellings (Use Class C3), new primary school (Use Class F.1) including means of access into site (not internal roads), parking and associated works, with all other matters (relating to appearance, landscaping, scale and layout) reserved: GRANTED 16.04.2021.

### **RELEVANT POLICIES**

- National Planning Policy Framework
- Kenilworth Neighbourhood Plan (2017-2029)
- KP4 - Land East of Kenilworth
- KP8 -Traffic
- KP9 - Cycle Routes
- KP11 - Footpaths
- KP12 - Parking Standards
- KP13 - General Design Principles
- KP14 - Non-designated Heritage Assets
- KP15 - Environmental Standards of New Buildings
- KP18 - Green Infrastructure
- KP20 - Street trees
- KP21 - Flooding
- Warwick District Local Plan (2011-2029)

- DS1 - Supporting Prosperity
- DS3 - Supporting Sustainable Communities
- DS5 - Presumption in Favour of Sustainable Development
- DS6 - Level of Housing Growth
- DS10 - Broad Location of Allocated Sites for Housing
- DS11 - Allocated Housing Sites
- DS15 - Comprehensive Development of Strategic Sites
- PC0 - Prosperous Communities
- H0 - Housing
- H1 - Directing New Housing
- H2 - Affordable Housing
- H4 - Securing a Mix of Housing
- H15 - Custom and Self-Build Housing Provision
- SC0 - Sustainable Communities
- BE1 - Layout and Design
- BE2 - Developing Strategic Housing Sites
- BE3 - Amenity
- BE5 - Broadband Infrastructure
- BE6 - Electronic Communications (Telecommunications and Broadband)
- TR1 - Access and Choice
- TR2 - Traffic generation
- TR3 - Parking
- HE1 - Protection of Statutory Heritage Assets
- HE2 - Protection of Conservation Areas
- HE3 - Locally Listed Historic Assets
- HE4 - Archaeology
- HS1 - Healthy, Safe and Inclusive Communities
- HS3 - Local Green Space
- HS4 - Improvements to Open Space, Sport and Recreation Facilities
- HS5 - Directing Open Space, Sport and Recreation Facilities
- HS6 - Creating Healthy Communities
- HS7 - Crime Prevention
- CC1 - Planning for Climate Change Adaptation
- CC3 - Buildings Standards Requirements
- FW1 - Development in Areas at Risk of Flooding
- FW2 - Sustainable Urban Drainage
- FW3 - Water Conservation
- FW4 - Water Supply
- NE1 - Green Infrastructure
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- NE5 - Protection of Natural Resources
- DM1 - Infrastructure Contributions
- DM2 - Assessing Viability
- Guidance Documents
- East of Kenilworth Development Brief Supplementary Planning Document (March 2019)
- Custom & Self Build Supplementary Planning Document (July 2019)
- Affordable Housing (Supplementary Planning Document - June 2020)
- Air Quality & Planning Supplementary Planning Document (January 2019)
- Public Open Space (Supplementary Planning Document - April 2019)

- Parking Standards Supplementary Planning Document (June 2019)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- LAND EAST OF KENILWORTH DEVELOPMENT BRIEF

The document has been prepared by Warwick District Council and followed the adoption of the Council's Local Plan 2011-2029 in 2017. The document seeks to guide future development within strategic allocations to the eastern side of Kenilworth and ensure that development within the sustainable urban extension is delivered in a comprehensive manner.

In preparing the Development Brief, Warwick District Council has undertaken extensive consultation with key stakeholders including Warwickshire County Council, Kenilworth Town Council, landowners, land promoters and infrastructure providers to seek views and inform the content of the document in accordance with the Council's Statement of Community Involvement. In addition to stakeholders, the document has also been through a comprehensive public consultation including drop-in sessions for local residents.

The adopted Development Brief is a Supplementary Planning Document (SPD) and as such, is a material consideration in the determination of planning applications within the area covered by the document. This document provides detailed development principles that expand upon and help interpret existing policies as they relate to the site.

## **SUMMARY OF REPRESENTATIONS**

### **Kenilworth Town Council: Objection.**

- Contrary to Local Plan Policy HE3 with loss of the Locally Listed Heritage Asset. Holds significant historic value to the town and residents and its loss would be a huge disappointment.
- Only 16% Affordable Housing shown on site.
- Insufficient mix of housing provided with lack of one-bedroom properties.
- Quality and design of houses is very standard. No consideration of NPPF use of 'beauty' in design, particularly as dwellings are replacing a beautiful heritage asset.
- 32 mature trees are to be felled. Contrary to recent biodiversity plan resulting in loss of biodiversity and tree carbon, etc.
- Historic pond on site which will be a further loss.
- Members disagreed with statement that Air Source Heat Pumps will increase energy cost for homeowners. This is pure speculation but if correct, reflects on the poor design for insulating these homes.
- No clear plans for how the properties will be made sustainable. Consideration should be given to the current Net Zero Carbon DPD under review by WDC.
- Loss of Green Space is an issue. Will have a significant effect on the character of the area set out by the Development Brief.
- Limited detail on pedestrian/cycle access in or around the site. This is an opportunity to improve infrastructure.

- Bin collection point is a long way from proposed flats.
- A further consultation is necessary to fully understand the additional need for services these houses would bring to the town. Local circumstances have changed over the past few years and any previous consultation can no longer be considered reflective of the current position.

**Kenilworth Town Council Updated Comment:** Maintain full objection.

- Amended plans do not take into consideration KTC's comments.
- No clear housing need in this area nor has an up-to-date infrastructure impact assessment been carried out.
- Amounts to over-development.
- Area recognised as valuable green space within the Development Brief and should be left as such.
- Disagree with Heritage Statement that Woodside was a heritage asset of low significance. Proved incorrect by ongoing attempts to save the building from demolition.
- Only a broad statement that retaining the building is unviable.
- Require further information on how dwellings will be made sustainable and as thermally efficient as possible.

**WDC Arboricultural Officer:** No objection to proposal. The application is supported by a comprehensive Arboricultural Impact Assessment and Method Statement report from SEED and seeks to retain where practicable and sustainable the trees of the best quality within the site. Some losses are inevitable, and they have been well-argued and justified in the report.

In the Arboricultural Method Statement, the creation of Construction Exclusion Zones is proposed as the principal method to protect the retained trees, and the use of a cellular confinement system over the RPA of those retained trees where it extends outside the CEZ is well thought out, and the alignment of the barrier fencing is well considered. In addition, temporary ground protection has been proposed for sensitive areas.

Recommend condition to secure the proposed protection measures.

**WDC Conservation Officer:** The proposal is for total demolition of all buildings across the site, with a 3-storey apartment building occupying the area where Woodside Hotel is located. The apartment building is intended to replicate the architecture of the existing building, however this does not address the loss of a locally listed building and does little to address our concerns; facsimiles and pastiches of historic buildings are rarely, if ever, of similar architectural or historic interest compared with the original building or structure. The Council still has a housing land supply over 5+ years, so I disagree that a residential development constitutes a sufficient level of public benefit that outweighs the harm caused to the heritage asset. I am not convinced that development cannot take place without retention of at least the historic core of Woodside.

Any redevelopment scheme on this site should be, as a minimum, the retention of the historic core of Woodside. This may include the removal of the less appropriate extensions which may be replaced by new buildings and/or extensions within the site. I have no objection in principle to development within the grounds of the site.



**Conservation Advisory Forum:** Noted that total demolition of the site was intended, with a larger structure in a pastiche of the existing Victorian Villa being proposed. Members, whilst in some disagreement of the merit of the design and significance of the existing building, agreed that this was somewhat distasteful, resulting in an unimaginative scheme culminating in a poor parody of a building deemed not important enough to preserve.

The forum also raised the important issue of embodied carbon and the impact of the proposed demolition, with the vast carbon expenditure involved in demolishing and rebuilding this site considered both unpalatable and extremely controversial, at a time when developers and councils should be striving to reduce their carbon footprints. Members noted that a scheme which retained and worked with the building could easily be achieved by an imaginative architect but that instead, the simplest option had been chosen without proper consideration of the consequences. This lack of imagination or forethought was then reflected in the wider site, with banal, 'off-the-shelf' designs echoed through the nominally detached homes, cumulating in a site which feels devoid of character and diminishes the overall appeal of both the site and the wider town.

Overall, members were unsupportive and asked the applicant to give greater consideration to the proposal, not only in terms of carbon expenditure in regard to demolition but also to the wider character of the site. The retention of this locally listed asset would bring some integrity, atmosphere, and history to the development, all of which would be vastly undermined through a poor pastiche of a building felt significant enough to copy but not valuable enough to save.

**WDC Environmental Health:** No objection subject to the imposition of conditions regarding EV Charging points, Air Quality Mitigation details, Construction Management Plan and Contaminated Land Assessment.

**WDC Open Space:** Make the following comments/holding objections. Applicants are required to ensure that provision is made for well-designed open spaces that conform to the adopted SPD. Having reviewed the proposal, 0.91Ha of open space is required across the various typologies. From the plans submitted, it appears that only 61% of the POS requirement is being provided and some typologies are missing from the proposal entirely. An off-site payment may be required to mitigate for this. Also make a range of comments regarding specific elements of the open space and layout that need addressing.

**WDC Sports Officer:** Request a contribution of £117,775 to mitigate for the increased demand on local sports facilities as a result of the development.

**WDC Waste Management:** No objection to the scheme but must ensure that all bin locations are within the threshold of WDC Guidance.

**WCC Ecology:** Preliminary response was one of objection as the required additional survey work to be undertaken was out of season for providing optimum results. Site layout does not show measures to retain, protect or enhance the majority of existing habitats.

Following submission of additional information and survey work, still have concerns about the layout of the scheme and fragmentation of habitats compared

to existing. Would prefer a revised layout to maximise biodiversity and habitats, but if minded to approve, recommend CEMP and LEMP conditions.

**WCC Flood Risk Management:** Following negotiations and receipt of additional information, no objection subject to conditions.

**WCC Highways:** No objection, subject to the imposition of conditions and notes together with a Section 106 Contribution of £481,919.35 towards developments identified within the Kenilworth IDP.

**WCC Landscape:** Objection – Scheme differs to the Design Code set out for the surrounding application. Several mature specimen trees along with mature native trees common and characteristic to the Arden landscape and two boundary hedges would need to be removed to facilitate the development.

The Warwickshire Landscapes Guidelines SPG place a high priority on the conservation of mature trees, parkland, and woodland management. Therefore, all development proposals should seek to retain and enhance the wooded character of this landscape.

The proposed attenuation feature (new pond towards the southern edge of the site) is not shown on the Tree Protection Plan or Arboricultural Impact Plan and appears to affect mature trees T4 to T8 which comprise Common lime, Deodar cedar, Corsican Pine, Yew and Bhutan Pine and collectively contribute to the arboretum and parkland character of the grounds.

The proposed scheme contravenes Chapters 12 and 15 of the NPPF, Local Plan Policy NE4 - Landscape, and the principles of Natural England's Green Infrastructure Framework.

**Warwickshire Fire and Rescue:** No objection, subject to the imposition of a hydrant condition.

**South Warwickshire University NHS Foundation Trust:** Request S106 contribution of £49,404.34 to mitigate for increased demand for services as a result of the development.

**Natural England:** No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

**South Warks University NHS Foundation Trust:** Request a contribution of £49,404.34 to mitigate for the increased demand on NHS Services as a result of the development.

**Warwickshire Police – Design Out Crime Officer:** No objections to the development. Note the development is in accordance with the Secured by Design requirements. I do have some concern about the pedestrian link at Plots 15 and 16 which creates a 'leaking cul-de-sac' which is not as secure as a closed cul-de-sac. Location of play area needs to be closely considered due to potential for anti-social behaviour.

**Sir Jeremy Wright MP:** Objection – Disappointing that the operators did not believe they could maintain a viable business. It is not clear how the conclusion that it will not be viable again has been achieved.

It is true that the surrounding land was allocated for development, but the Development Brief acknowledged that the hotel and conference centre would be retained, albeit with a reduced curtilage and this was the impression given to the Planning Inspector examining the Plan.

Do not see justification for more housing around Kenilworth in addition to the very expansive development underway or in prospect. With the accuracy of the housing forecast in question, additional housing is not needed or justified.

Do not believe the basis for the replacement of the Local Heritage Asset in the Woodside Conference Centre with more housing would be appropriate and hope the application will be refused.

**Public Response:** A total of 25 objections received raising the following concerns.

- Kenilworth is changing too fast, and the essence is being lost.
- Heritage sites should be protected.
- Locally Listed Building should be retained and converted rather than demolished.
- Demolition not justified.
- Should remain a public facility.
- Too many roadworks.
- No need for additional housing.
- Lack of infrastructure to cope with more development.
- Loss of trees and habitats.
- Lack of green credentials.
- Not in character with existing developments.

Will result in additional traffic.

## **ASSESSMENT**

### **Principle of Development**

#### Five Year Housing Land Supply

The most up to date Five Year Housing Land Supply (5YHLS) figures state that as of 1 April 2023, the District Planning Authority is able to demonstrate a 7.16-year Housing Land Supply.

#### Local Plan

The application site is identified within the Local Plan as a site for new housing development as part of the wider strategic urban extension to the East of Kenilworth. The land forms part of the H40 allocation which lies to the north of the H06 allocation. The H40 allocation also washes over the Education Allocation (ED2) which sits to the west of the application site.

The current Local Plan has the most up to date evidence base for the allocation of new housing land and this site forms part of the strategic expansion of Kenilworth as defined within Policy H1.

Policy DS11 sets out the allocations of housing development and gives an overall figure for each of the allocated sites. The overall allocation for new dwellings on the H40 Allocation within the Local Plan identified an estimated 640 dwellings.

Policy DS15 seeks the comprehensive development of strategic sites including H06 and H40. Whilst this development forms part of the allocation (H40), the proposal is in general accordance with the adopted Development Brief and has been designed to tie seamlessly into the wider H06 allocation. In addition, contributions are proposed to the central facilities to serve the whole site. On this basis, Officers are satisfied that the development represents an undertaking to provide a comprehensive form of development.

As part of the East of Kenilworth Strategic extension, the overarching site identifies the need for a new secondary school, primary school(s) and community facilities.

Planning application reference W/19/0655 and revised by W/20/1952 has secured full planning permission for the delivery of the new secondary school on the education allocation parcel of the East of Kenilworth extension.

This current application seeks the provision of 55 dwellings together with all ancillary works on the land of the former Woodside Hotel.

The above is in addition to the estimated figure of 640 dwellings for the whole allocation. At the current time, 719 dwellings are under construction on the surrounding land as part of 2 planning permissions which have both been implemented and under construction.

It must be kept in the mind that the Local Plan allocation was an estimate, the true capacity can only be established through the detailed assessment of constraints that is made through the planning application process.

Taking into account existing consents, the total figure for new housing within this allocation would equate to 774 dwellings. It is acknowledged that 99 of these dwellings are as a result of the residual land that was no longer required for educational purposes with the delivery of the new high school having taken place.

In making this assessment, Officers note that the proposed scheme would deliver an acceptable level of open space and a biodiversity net gain on site and would satisfactorily retain existing trees across the site within the open space areas. The proposed dwellings would complement those currently under construction adjacent to the site and as it is the same developer, the site has been designed to sit as a logical extension to the existing housing site that flanks the application site on three sides.

## Kenilworth Neighbourhood Plan

Kenilworth Neighbourhood Plan Policy KP4 identifies the land as appropriate for the provision of the new dwellings where it is in accordance with an adopted Development Brief and Policy DS15 of the Local Plan. The policy sets out a framework of requirements from any future development in terms of design and layout. These matters would be assessed at Reserved Matters stage.

## Demolition of the existing Woodside Hotel

Woodside Hotel is identified as a locally Listed Building which is a non-designated Heritage Asset.

Policy HE3 states that development that would lead to the demolition or loss of significance of a locally listed historic asset will be assessed in relation to the scale of harm or loss and the significance of the asset.

The proposal is for the complete demolition of the building and therefore would result in the total loss of the asset, which would not accord with Policy HE3.

In considering this proposal, Officers note that the building can be lawfully demolished following the granting of a Prior Approval for the demolition of the building under application reference W/23/0495.

The prior approval regulations are set out within the Town and Country Planning (General Permitted Development) (England) Order 2015. This allows for the demolition of buildings subject to an assessment of the stipulations set out within the appropriate part. In the case of demolition, the only considerations that can be assessed are.

- whether the building has been rendered unsafe by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support.
- whether the demolition is "relevant demolition" for the purposes of section 196D of the Act.
- whether the building is used, or was last used, for a purpose falling within (i) article 3(6)(p) (drinking establishments etc.) of the Use Classes Order; or (ii) article 3(6)(q) (drinking establishments with expanded food provision) of that Order.
- whether the building is used, or was last used, for the purpose of a concert hall; a venue for live music performance; or a theatre; or
- the demolition relates to a statue, memorial or monument ("a commemorative structure") in place for a period of at least 10 years on the date of any proposed demolition, other than a commemorative structure that is a listed building, a scheduled monument, within a cemetery, on consecrated land, within the curtilage of a place of public worship, within the grounds of a museum or art gallery, or is within the curtilage of a dwelling.

As the proposed demolition complied with the above criteria, there were no grounds to resist the demolition proposal and the Prior Approval was granted.

Taking the above into consideration, Officers consider that whilst the demolition is unfortunate, there are no grounds to resist the demolition works. It is also noted by Officers that during discussions regarding the proposal, the potential to retain and convert the main building was discussed and this was a potential option, but the level of works required to provide an acceptable scheme were not financially viable. Whilst no formal viability assessment was provided, Officers are satisfied that all avenues were investigated to seek to retain the building.

Overall, Officers consider that the demolition of the existing building would not be a block on any development of the site and there would be no reasonable grounds to resist the application on that basis.

### Conclusion on Matters of Principle

In summary, this proposal is for 55 dwellings on a site allocated for residential development within the Local Plan which falls within the allocation as set out within H40 of 640 dwellings.

It is noted that all housing numbers within the Local Plan are estimates and not maximums and schemes require detailed assessments to fully assess final capacities.

In the case of this site, the scheme has demonstrated that 55 dwellings can be comfortably accommodated on the application site and achieve a very high level of quality together with the correct level of public and other open space required for a scheme of this scale.

The demolition of the Woodside Hotel has been assessed and accepted. Whilst it results in the total loss of the non-designated Heritage Asset which is unfortunate, the principle of demolition has already been established and there are no grounds to resist the demolition works.

The proposal is therefore considered to be acceptable in principle having regard to Policies H1, DS11 and DS15 of the Local Plan together with guidance contained within the East of Kenilworth Development Brief and Kenilworth Neighbourhood Plan.

### **Housing mix**

Policy H4 of the Local Plan requires residential development to include a mix of market housing that contributes towards a balance of house types and sizes across the district in accordance with the latest SHMA and as summarised in the most recent guidance document 'Provision of a Mix of Housing' (June 2018), based on current and demographic trends, market trends and the needs of different groups in the community. This development provides:

#### Market Housing

<b>Bedrooms</b>	<b>Total</b>	<b>% Proposed</b>	<b>WDC requirement</b>	<b>Difference</b>
1 bedroom	0	0%	5-10%	-5%

2 bedroom	16	34.8%	25-30%	+4.8%
3 bedroom	14	30.4%	40-45%	-9.6%
4+ bedroom	16	34.8%	20-25%	+9.8%

The market housing mix does not fully accord with the Housing Mix as set out within the Housing Mix SPD with the omission of 1 bed houses, a lower proportion of 3 bed units together with a higher proportion of 2 and 4 bed units.

Having considered this in the context of the development, Officers consider that the development has been designed around the existing constraints of the site together with design cues taken from the surrounding development. Whilst the mix differs from the guidance, Officers are satisfied that the resultant development as set out within the application documents results in a site that works well within the constraints and will result in a development that is harmonious with the dwellings currently under construction around the site.

Officers are therefore satisfied that the housing mix is appropriate.

Additionally, careful consideration has been given to the location of all house types and tenures across the whole development, which is otherwise considered to represent a good spread of dwelling sizes across the development site.

#### Affordable Housing

The standard requirement for affordable housing is 40% of the total units proposed which for a scheme of 55 units which would yield a total of 22 affordable units.

The application has been put forward on the basis of national policy contained within the Planning Practice Guidance that refers to vacant sites the ability to use Vacant Building Credit for offsetting provision of affordable housing.

Vacant Building Credit provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.

The Vacant Building Credit applies where the building has not been abandoned. The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.

In adopting the vacant building credit approach, it is appropriate to consider:

- Whether the building has been made vacant for the sole purposes of re-development.
- Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

The building has been vacant since March 2020 following the existing business going into administration. Since that time, no new occupier has been found and the building has stood vacant before being acquired by the applicants. Officers are satisfied that in this respect, the building has not been made vacant solely for the purposes of redevelopment.

There is no extant or recently expired permission on the site for the same type of development.

Officers are satisfied that the scheme as proposed satisfies the Vacant Building Credit criteria to offset the provision of affordable housing.

On the basis of the above, the following calculation as set out within the Affordable Housing SPD has been provided by the applicants and assessed and agreed by Officers.

- New development for 55 homes results in total proposed floor space of 6,536.1 sq. metres (as shown on site layout).
- Policy H2 requires 40% affordable housing - which equates to 22 affordable homes and 33 market homes.
- Existing vacant buildings on the site with a floorspace of 3,932.4 sq. metres (taken from Area Referencing Report submitting as part of the application)
- The difference between the gross floorspace of the vacant buildings and the proposes new build floor space is 2,603.7 sq. metres (6,536.1 – 3,932.4)
- Therefore, the affordable Housing requirement on this site is  $(2,603.7/6,536.1) \times 40 = 15.934\%$ .
- This equates to 8.76 dwellings (rounded up to 9 dwellings).

Therefore, it is proposed to secure 9 units for affordable units through the use of a Section 106 Agreement.

As a result of Vacant Building Credit as set out above, a total of 9 affordable units are proposed equating to approximately 16%. The proposed affordable housing mix for this development is as follows:

<b>Bedrooms</b>	<b>Total</b>	<b>% Proposed</b>	<b>WDC Requirement</b>	<b>Difference</b>
1-bedroom	2	22.2%	30-35%	-7.2%
2-bedroom	3	33.3%	25-30%	+3.3%
3-bedroom	3	33.3%	30-35%	Within Range
4-bedroom	1	11.1%	5-10%	+1.1%

Whilst the figures set out in the table above show differences to the Housing Mix as set out within the SPD, the number of affordable units would not allow for a policy compliant mix that fully accords with the guidance.

The plans submitted reflect the proposed tenure mix and provision based upon the demands within the local area.



The layout plan illustrates how the affordable housing would be distributed across the site and for this development, the even distribution of affordable housing is welcomed, and care has been taken to ensure that the tenures are mixed to prevent social exclusion. It is also noted that the applicants propose tenure blind dwellings that are the same as the market range of dwellings so that they are not visually different.

## **Design and Layout**

The National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions.

The East of Kenilworth Development Brief sets out a range of design criteria that any development of the site must achieve.

Policy KP13 of the Kenilworth Neighbourhood Plan states that all development proposals should achieve a standard of design that is appropriate to the local area. The Policy sets out a framework for guiding design of new developments. In addition, Policy KP4 of the Neighbourhood Plan relates specifically to the East of Kenilworth Urban Extension.

Warwick District Council's Local Plan 2011 - 2029 policy BE1 reinforces the importance of good design stipulated by the NPPF insofar as it requires all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan calls for development to be constructed using appropriate materials and seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area.

The Warwick District Residential Design Guide SPD sets out steps which must be followed in order to achieve good design in terms of the impact on the local area; the importance of respecting existing important features; respecting the surrounding buildings and using the right materials.

In addition, a range of principles for new development are set out with Policy KP13 of the Kenilworth Neighbourhood Plan that set out a framework for setting a benchmark for good design that maintains the special characteristics of Kenilworth whilst not stifling innovation in new design.

### *The Garden Towns, Villages and Suburbs Approach*

The Council's 'Garden Towns, Villages and Suburbs' Prospectus seeks to bring together the key characteristics of the garden suburbs and villages approach, which include coherent and well-planned layouts, high quality design and consideration of long term management arrangements. The site is considered to fall within the category of 'neighbourhood edge', lying at the edge of the developable area and adjoining countryside.

Officers consider that the proposed scheme would provide a high-quality residential environment which conforms to the garden suburb design principles. The site exhibits the characteristics of a leafy, well designed residential neighbourhood within which open space and structural landscaping is an integral part, paying particular regard to the areas of Public Open Space to the centre and on the fringes of the development.

The proposal would be served from the community spine road that connects through the site from Glasshouse Lane to Crew Lane. This provides the whole development with a high-quality access road that links together with cycle and footpath links.

The scheme would provide a legible hierarchy of streets and spaces in accordance with this document that complements and reinforces the character of the wider development. The house types are similar to those used in the main development and so will integrate with the dwellings that will eventually surround the site once constructed.

The main focal point of the development is the central area that forms a large area of public open space. Within this area is a proposed apartment building set over 3 stories and containing a total of 12 apartments. The original proposal was to provide a replacement building that took design cues from the original Woodside building. Following discussions with the applicants, it was not considered that this would result in the most appropriate form of development as the proportions of the proposed building, whilst similar in overall scale to that of the original Woodside, were compromised with the need for an extra storey to provide the apartments. The resultant building therefore had a horizontal emphasis rather than the vertical emphasis of the high ceiling two storey building it replaced.

The revised scheme seeks permission for a bespoke building, designed specifically for this site. The design is modern with a vertical emphasis provided by tall windows which are framed with feature surrounds that partially extend into the roof slope. The corners of the building are chamfered to create architectural interest and these areas provide proposed balconies for the first and second floor with a terrace on the ground floor. These elements are served by large windows allowing natural light into the main living spaces.

The building has varying eaves and ridge heights to add further interest whilst breaking up the overall bulk and massing of the building. This is further reinforced through the use of a range of materials to enhance the overall appearance of the building. Officers are satisfied that this building is of very high design quality that provides a focal point for the development.

The surrounding dwellings would face onto the central area of public open space to provide natural surveillance.

The Residential Design Guide SPD sets standards for the distance separation between the windows of habitable rooms in dwellings. For the most part, the development proposes a layout where these minimum separation requirements are satisfied. In some instances, they are exceeded quite substantially. Officers are satisfied that the scheme creates an overall character of spaciousness, which

positively meets the aims and objectives of the garden suburb prospectus and ensures a good standard of amenity for future occupiers.

Feature dwellings are located around the development where key focal points have been identified, i.e. at the end of roads and at key corner plots. The whole development is predominantly made up of detached and semi-detached properties, with areas of terracing also placed throughout. Any rows of terraces generally consist of no more than three units where a traditional straight row or 4 in very limited cases.

Officers have considered the proposed layout of the dwellings and how these relate to the internal road network and the wider primary spine road to the north.

Officers consider the layout represents an efficient use of land and results in a well-spaced and legible layout that accords with the general design principles set out in the aforementioned design guidance as well as the guidance contained within the Land East of Kenilworth Development Brief Document.

In terms of appearance, the dwellings form a coherent scheme has been designed to complement the character areas of the wider development throughout the site that define areas whilst still retaining a coherent development.

Brick is predominantly proposed with some render sporadically placed throughout the development. Architectural detailing such as porches, gablettes, dormers and chimneys are proposed on a proportion of the units and the styles and types of such features differs depending on the house type.

Overall, Officers consider that the proposed design and layout would result in an appropriate form of development in visual terms and would not give rise to any harm to the general character of the area.

The proposal is considered to conform with National Guidance set out within the NPPF together with Policy BE1 of the Warwick District Local Plan and additional guidance set out within the Garden Suburbs design document, the Residential Design Guide as well as being in conformity with the approved Masterplan and Design Code for the site.

### **Impact on Residential Amenity**

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents and provides an acceptable level of amenity for future occupiers of the development.

The East of Kenilworth Development Brief places significant emphasis on ensuring that the amenity of both existing and new properties is satisfactory in terms of disturbance and noise.

Policy KP13 of the Kenilworth Neighbourhood Plan requires an assessment to be made on the impact on existing and future residents as a result of development proposals and potential impacts from noise, light or air pollution must be assessed and addressed.

### Impact on Existing Properties

There are no existing occupied properties that would be directly affected by the proposal. Officers note that the wider site is the subject of new residential development, and an assessment has been made of the application site in the context of the approved surrounding development. The proposed dwellings would accord or exceed the required separation distances set out within the Residential Design Guide SPD.

The proposal is considered acceptable having regard to Policy BE3.

### Amenity of Future Occupiers

The proposed layout and design of this development is in accordance with the garden suburb approach and would provide a high level of residential amenity to the future occupiers of the development within an attractive setting.

The separation distances to surrounding properties are considered to be acceptable, and in many cases are in excess of the minimum separation distance guidance. The proposed development would provide appropriate relationships between neighbouring properties without significant impact upon the amenities of the occupiers.

All garden areas across the site meet or exceed the required garden standards commensurate with the size of property.

Whilst the District Council has not adopted the National Space Standards as part of the Local Plan, Officers have considered the development against these standards for the purposes of assessing the amenity of future occupants. The properties meet or exceed the required standards.

Due to the proximity of the site to the A46 Highway, a noise assessment was submitted to demonstrate that the residential use of the site could be satisfactorily accommodated on the site. The site layout has been designed in accordance with the noise survey work and Officers are satisfied that the scheme would not result in unacceptable living conditions by virtue of noise impacts.

Officers are satisfied that the development is acceptable having regard to Policy BE3 of the Local Plan and Policy KP13 of the Kenilworth Neighbourhood Plan.

### **Highway Safety**

Policy TR1 of the Warwick District Local Plan requires all developments provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety. Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

The primary access to the site is proposed from the main spine road serving the wider development. The access from the existing public highway will be from the proposed roundabout on Glasshouse Lane approved as part of the permission for the wider development. In addition to the primary access, a small number of

properties will be accessed from a secondary access from Glasshouse Lane that re-uses the existing access to the site from the highway with necessary improvements to bring it up to an acceptable standard.

The spine road represents the primary route for traffic and the site will be accessed directly from this road via a new junction to be provided to the appropriate highway standards. The roads within the site are designed to a 20mph design speed in line with WCC Highways advice. The main spine road is a 30mph design speed as a primary route.

All internal roads are proposed to meet the required specification for adoption by the County Council to ensure they would not result in any harm to highway safety.

In terms of sustainable transport options, a range of routes through the site are proposed for pedestrians and cyclists. In addition, the main site access is also proposed to connect into the combined cycle/footway on the spine road that feeds into Glasshouse Lane which has already been part approved under the approved Kenilworth School development.

A key aspect of the sustainable nature of this development is the strong provision of walking and cycling opportunities to support the aims of the Development Brief, the Neighbourhood Plan and the NPPF in promoting and enhancing sustainable transport methods. Wider improvements to cycling infrastructure have previously been secured through financial contributions and a further contribution from this development will assist with the delivery of improvements within the local area to connect this development to the wider area.

In terms of parking, each property has an appropriate level of parking in accordance with the Council's Vehicle Parking Standards as well as areas set out for visitor parking. Bin collection points have been provided where necessary for properties off private drives to allow for easy servicing.

Overall, the development is not considered to be detrimental to highway or pedestrian safety and accordingly complies with policies TR1 and TR3 of the Local Plan.

### **Impact on Ecology/Protected Species**

Policy NE3 of the Warwick District Local Plan states that development proposals will be expected to protect, enhance and/or restore habitat biodiversity and where this is not possible, mitigation or compensatory measures should be identified accordingly.

The applicants have engaged the services of a specialist Ecological Consultant to assess the site. This has been assessed by the County Ecologist who has advised that the scheme is acceptable and satisfied that a net gain in Biodiversity is achieved on site without any requirement for offsetting.

Officers note that there are elements of the scheme that the Ecologist has some concerns regarding the detail of the development in ecological terms. However, it is recognised that these elements are suggestions to improve the site rather than an objection to the principle of the development and would require a

wholesale re-design of the site which would not be practical. On this basis, the Ecologist has recommended a range of conditions that are required. These include a standard Construction and Environmental Management Plan (CEMP) and Landscape and Ecological Management Plan (LEMP). Officers consider that these documents can be secured by condition.

Having reviewed the Ecology response, Officers consider that additional measures can also be secured by appropriate conditions to further enhance the ecological quality of the site such as the requirement for additional bat and bird nesting boxes within the site.

I therefore consider that the proposal is acceptable having regard to Policy NE3.

## **Sustainability**

The Council has declared a climate emergency. As part of this declaration, the Council is taking steps to becoming a net-zero carbon organisation. In addition, all efforts are to be made to reduce overall carbon emissions across the district to as close to zero as possible by 2030.

Policy CC1 of the Local Plan states that all development is required to be designed to be resilient to, and adapt to the future impacts of, climate change through the inclusion of adaptation measures such as:

- a) using layout, building orientation, construction techniques and materials and natural ventilation methods to mitigate against rising temperatures.
- b) optimising the use of multi-functional green infrastructure (including water features, green roofs and planting) for urban cooling, local flood risk management and to provide access to outdoor space for shading, in accordance with Policy NE1.
- c) incorporating water efficiency measures, encouraging the use of grey water and rainwater recycling, in accordance with Policy FW3.
- d) minimising vulnerability to flood risk by locating development in areas of low flood risk and including mitigation measures including SuDS in accordance with Policy FW2.

Applicants will be required to set out how the requirements of the policy have been complied with including justification for why the above measures have not been incorporated.

In addition, Policy CC3 requires major allocated sites to consider the potential for the use of large-scale decentralised district heating networks.

The application has been submitted with an energy statement to demonstrate how the dwellings will be designed to reduce energy consumption. A key aspect of this is the fabric first approach which provides for high levels of insulation to create thermally efficient houses where the need for energy to heat the home is reduced. This is then proposed to be supplemented through the use of photovoltaic panels to the properties to ensure that energy reduction exceeds that required by the Building Regulations.

It is also noted that the delivery of the new homes may potentially be after the adoption of the new updated Building Regulations that will set a much higher requirement for sustainability in new homes. All new homes would have to achieve this standard.

In line with Policy CC3, the Sustainability Statement has considered the use of a District Heating System or Combined Heat and Power Source. Officers consider that a further assessment of the energy provision on the site can be secured by condition and further assessment of District Heating would be considered at that stage.

Overall, it is considered appropriate to require the submission of final details of energy and sustainability matters through conditions attached to the permission to ensure that the final development helps to achieve the District Councils climate change objectives.

### **Air Pollution**

Air Quality is a critical issue that forms part of the District Councils Climate Change objectives. The existing Air Quality SPD sets out a framework of requirements to mitigate and where relevant, improve local Air Quality whilst contributing to wider Air Quality management objectives.

The Environmental Sustainability Officer has made an assessment of the proposal and raised no objection subject to conditions seeking the submission of a Low Emission Strategy identifying appropriate air quality improvement measures including under the District Councils Air Quality Action Plan and Low Emission Strategy Guidance as necessary. This guidance establishes the principle of Warwick District as an 'Emission Reduction Area' and requires developers to use 'reasonable endeavours' to minimise emissions and, where necessary, offset the impact of development on the environment.

Appropriate mitigation measures for Type 1 and Type 2 mitigation are items such as electric vehicle (EV) recharging provision and other locally specific measures to be used to minimise and/or offset any emissions from new development can be secured by condition.

The proposed condition will require the delivery of on-site works to be provided to reduce emissions at source such as provision of electric car charging points, provision of secure cycle storage for all properties, improvements to cycle/footways to promote sustainable transport objectives. These details are to be secured by condition and agreed with the Environmental Health Officers.

In addition to the above requirement, it is noted that contributions towards local infrastructure have been requested by the Highways Authority in respect of this proposal together with pedestrian wayfinding improvements. These contributions seek to assist in the provision of alternative forms of sustainable transport opportunities from the site to further seek to reduce the impact on air quality as a result of the scheme may also be considered an appropriate part of that approach.

Officers are satisfied that these are technical matters, and the specific details can be secured by the requested condition so as to make the proposed development acceptable.

### **Health and wellbeing**

The site contains areas of open space for use by future occupants and has excellent connectivity to the surrounding sites with access to further areas of open space.

The site contains significant potential for walking and cycling within the site together with the provision of appropriate footpath/cycleway links to the surrounding area to promote sustainable transport methods and reduce the reliance on the private car.

Warwickshire Police have raised no objection to the scheme. Concern has been raised regarding a "Leaking Cul-de-sac" link from one area of the site into the surrounding site. Having considered this, Officers note that the area connects into the housing site immediately adjacent, and the properties allow for passive surveillance. In addition, the area is proposed to be lit by street lighting so the overall impact would be negligible, and this is counteracted by the provision of an appropriate link for pedestrians and cyclists into the surrounding development. In general terms it is proposed to ensure that the development follows Secured by Design principles through the imposition of an appropriate condition. This will assist in minimising the potential for crime and improve community safety for future residents.

### **Impact on local services**

The proposed development of 55 dwellings would create additional demand for local services and to mitigate this, contributions towards community facilities would be required.

Negotiations into the levels of contributions have been resolved to the satisfaction of the Local Planning Authority and works on the associated Section 106 Agreement are able to proceed.

Having considered the available evidence, the contributions are considered to be in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010. A development of 200 dwellings on this site would have a material impact on or need for affordable housing, education, open space, health care, sports facilities, drainage, monitoring costs, and rights of way, employment/training for locals and highway matters.

It is reasonable to expect a development of this size to contribute towards the additional costs associated with meeting these increased demands. The relevant consultees are currently seeking to identify specific projects and locations where this money would be spent. Therefore, it is considered that appropriate contributions are necessary to make the development acceptable in planning terms and subject to being directly related to the development, are fairly and reasonably related in scale and kind to the development (as required by Regulation 122).



The necessary contributions identified would be secured through an appropriate Section 106 Legal Agreement. At the current time, the following financial contribution requests have been received.

Open Space Improvements	£tbc
Outdoor Sporting Contribution	£4,410
Indoor Sporting Contribution	£51,228
Grass Pitch Contribution	£62,137
Additional Policing Needs	£tbc
Doctors Surgeries	£61,244
Hospitals	£49,404.34
Footpath Improvements	£1,219.27
Libraries	£1,204
Education	£593,603
Sustainable Travel Promotion	£550
Road Safety	£2,750
Local Highways Improvements	£481,919.35
Secondary Education Land	£19,642.86
Community Centre Construction	£78,571.35
Community Centre Running Cost	£6,643.23
Community Centre Staffing	£12,964.27
Wayfinding (Pedestrian)	£785.73
Secondary Education Forward Funding	£13,935.35
Monitoring (County)	£tbc
Monitoring (WDC)	£tbc

The following requirements are also proposed for the Section 106 Agreement.

- Affordable Housing (and Mix)
- SUDS Maintenance/Adoption
- Open Space Adoption
- Local Labour Agreement

## **Other Matters**

### Water Efficiency

Policy FW3 requires all new development to meet a water efficiency standard of 110 litres per person, per day to create a sustainable form of development that minimises water usage and waste.

Officers consider that this can be secured through an appropriately worded condition.

### Drainage

Policy FW2 of the Warwick District Local Plan states that all new major developments must incorporate SuDS that provide biodiversity, water quality and amenity benefits and be in accordance with the Warwickshire Surface Water Management Plan. There will be a presumption against underground storage of water, and it should support the delivery of green infrastructure. In addition,

SuDS schemes must be located outside the floodplain; ideally this should be within the development site or close to the site as part of a master planned drainage scheme. Priority should be given to SuDS that incorporate green infrastructure, including green roofs, walls and rain gardens.

Although the site is in Flood Zone 1, a Flood Risk Assessment has been submitted with the application as the site exceeds 1 hectare in site area. Following negotiations regarding the form of drainage, the Lead Local Flood Authority has confirmed there is no objection to the development subject to conditions requiring the development to be in accordance with the submitted drainage strategy to deal with surface water as well.

Subject to these conditions there is no objection from a drainage and flood risk point of view and the development is therefore considered to be acceptable having regard to Policy FW2.

#### Trees/Hedgerows

The site is currently a range of buildings located within a setting that features a range of mature trees and hedging.

Officers note that the existing planting is retained where possible and the highest category trees are retained to hedgerows have been retained within the site layout and incorporated into the scheme.

The retained features will provide a good level of mature planting within the site to soften the development from the initial stages whilst the significant amount of new planting proposed matures.

Where trees are to be lost, these have been assessed by the Council Arboricultural Officer who is satisfied that the losses are justified and is content with the significant amounts of new planting proposed to mitigate for any losses. The proposal will significantly increase the level of tree planting within the site and this is to be welcomed from both an aesthetic view point as well as a biodiversity view point.

Conditions are proposed so that all retained trees are protected and the methodology for works in close proximity to retained trees are in accordance with the Arboricultural Report submitted with the application to ensure that the trees are protected during the course of the construction of the new development. Standard conditions for replacement planting should any new planting fail are also proposed to ensure the comprehensive planting scheme is maintained at all times.

#### Archaeology

Policy HE4 of the Local Plan requires an appropriate evaluation of potential archaeological remains. Where a development has the potential to have an adverse effect on archaeological remains, mitigation would be required through an appropriate form of archaeological investigation.

The applicants carried out extensive archaeological survey work including trial trenching in pursuance of the adjacent application. In determining that application, the County Archaeologist considered the proposal and noted that the

site has high archaeological potential and recommended further investigative and evaluative archaeological fieldwork should be secured by an appropriately worded condition. Following this, the applicants carried out the additional works and took the current application site into consideration when carrying out the works to the satisfaction of the County Archaeologist.

Notwithstanding the above, the applicants are proposing further works within the site boundary and the application has been submitted with a further Written Scheme of Investigation agreed with the County Archaeology Team and Officers are satisfied that this will ensure that appropriate evaluation of this site takes place.

Subject to the proposed condition, Officers are satisfied that the proposal is in accordance with Policy HE4 of the Local Plan.

### Waste Storage

The proposal has been considered by the Waste Management Officer and the layout plan submitted is considered to adequately demonstrate that all properties are provided with adequate storage areas for refuse and recycling bins. Where properties are located on a private drive, bin collection points are proposed to ensure bins are appropriately presented for collection. The application documents have demonstrated that the site is fully accessible by refuse vehicles.

### **Conclusion**

The application site forms part of allocation H40 within the Local Plan for residential development which identified approximately 640 dwellings for the wider area known as the East of Kenilworth Urban Extension. Taking into account existing consents, the total figure for new housing within this allocation would equate to 774 dwellings. It is acknowledged that 99 of these dwellings are as a result of the residual land that was no longer required for educational purposes with the delivery of the new high school having taken place.

The development is a full planning application for 55 dwellings that complements the surrounding area, and the layout demonstrates a high quality scheme which is acceptable in overall terms including in respect of the integration of built development within the surrounding landscape and the site provides additional benefits in securing appropriate links to the surrounding site to provide a comprehensive development across the overall allocation.

Whilst the proposal will result in the total loss of a non-designated Heritage Asset, the report indicates that it is not possible to resist the loss and whilst unfortunate, there are no grounds to resist the development on this ground.

Technical Matters relating to highway safety and the mitigation of increased demand on the highway network have been satisfactorily addressed and these works are to be secured through contributions within the Section 106 Agreement.

Infrastructure improvements are also to be secured through the Section 106 Agreement to mitigate the increased demand for local services.

The site-specific matters can be satisfactorily controlled by planning condition.

For the above reasons, Officers recommend that planning permission be granted subject to the conditions listed and the signing of a Section 106 Agreement.

## **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission.

**Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and;

- Approved drawing(s) PL005 and CWOOD-VIS-PL-SL-D2-C-PR-1000-00 and specification contained therein, submitted on 15 March 2023.
- Approved drawing(s) PL001-A, 8123.PP.1.0-F, 8123.PP.1.1-F, 8123.PP.1.2-F, 8123.PP.1.3-F, LAP 812.PSD.5.0, PL201-B, PL202-B, PL203-C, PL204-B, PL205-A, PL206-A, PL207-A, PL208-C, PL209-A, PL210-B, PL211-B, PL212-A, PL213-A, PL214-A, PL215-A, PL216-A, PL300-A, PL301-A, PL302-A, 62498-MCB-ZZ-00-DR-A-0300-P1, 62498-MCB-ZZ-01-DR-A-0301-P1, 62498-MCB-ZZ-02-DR-A-0302-P1, 62498-MCB-ZZ-RF-DR-A-0303-P1, 62498-MCB-ZZ-ZZ-DR-A-0500-P1, 62498-MCB-ZZ-ZZ-DR-A-0501-P1 and 62498-MCB-ZZ-ZZ-DR-A-0800-P1 and specification contained therein, submitted on 21 July 2023.
- Approved drawing(s) CWOOD-VIS-PL-SL-D2-C-PR-2600-03 and specification contained therein, submitted on 19 September 2023.
- Approved drawing(s) PL002-C, PL011-C, PL012-C, PL010-C and PL013-C and specification contained therein, submitted on 23 November 2023.

**Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 3 No development or other operations (including demolition, site clearance or other preparatory works) shall commence unless and until the tree protection measure and tree protection plan, together referred to as the scheme of protection, identified in the Arboricultural Impact Assessment And Method Statement report from SEED Arboriculture Ltd dated March 2023 and reference 1400-AMS-V1-B has been adopted and put into place in full accordance with the approved details.

The development thereafter shall be implemented in strict accordance with the approved scheme of protection, which shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed from site.

**Reason:** In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policies BE1 and NE1 of the Warwick District Local Plan 2011-2029.

4 The development (including any works of demolition) shall proceed only in strict accordance with a construction method statement which has been submitted to and approved in writing by the local planning authority. The approved statement shall be strictly adhered to throughout the construction period and shall provide for:

- the parking of vehicles of site operatives and visitors;
- the loading and unloading of plant and materials;
- the storage of plant and materials used in constructing the development;
- the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate;
- wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;
- Dust management and suppression measures - level of mitigation determined using IAQM guidance
- a scheme for recycling / disposing of waste resulting from demolition and construction works.
- Any temporary measures required to manage traffic during construction
- Plans and details of haul roads within the site and for the turning and unloading and loading of vehicles within the site during construction
- Noise assessment and mitigation method statements for the construction activities; in accordance with provisions of BS 5228:2009 Code of practice for noise and vibration control on construction and open sites - Part 1 and 2
- Concrete crusher if required or alternative procedure
- Delivery times and site working hours
- Site lighting
- Access and protection arrangements around the site for pedestrians, cyclists and other road users
- Restrictions on burning and details of all temporary contractors buildings
- Plant and storage of materials associated with the development process
- External safety and information signing notices
- Complaints procedures, including complaints response procedures and dedicated points of contact
- Best practicable means shall be employed at all times to control noise and dust on the site including:
  1. Work which is likely to give rise to noise nuisance be restricted to the following hours: Mon-Fri 7.30 am - 5 pm, Sat 7.30 am - 1pm. No working Sundays or Bank Holidays.
  2. Delivery vehicles should not be allowed to arrive on site before 8 am or after 4.30 pm Mon - Fri, 8 am - 1 pm Sat and not on Sundays or Bank Holidays.

**Reason:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1, TR4 and NE5 of the Warwick District Local Plan 2011-2029.

- 5 The development hereby permitted, including site clearance work, shall not commence until a Construction and Environmental Management Plan has been submitted to and approved in writing by the District Planning Authority. In discharging this condition, the LPA expect to see details concerning pre-commencement checks for protected species (*detail as appropriate, e.g. badgers, bats, breeding birds and otter*) and appropriate working practices and safeguards for wildlife that are to be employed whilst works are taking place on site. The agreed Construction and Environmental Management Plan shall thereafter be implemented in full.

**Reason:** To ensure that protected species are not harmed by the development, in accordance with the National Planning Policy Framework (NPPF), ODPM Circular 06/2005 and Policies NE2 and NE3 of the Warwick District Local Plan 2011-2029.

- 6 The development hereby permitted shall not commence until a detailed Landscape and Ecological Management Plan has been submitted to and approved in writing by the District Planning Authority. The plan should include details of planting and maintenance of all new planting. Details of species used and sourcing of plants should be included. The plan should also include details of habitat enhancement/creation measures and management, such as native species planting, wildflower grassland creation, woodland and hedgerow creation/enhancement, and provision of habitat for protected and notable species (including location, number and type of bat and bird boxes, location of log piles). Such approved measures shall thereafter be implemented in full.

**Reason:** To ensure a net biodiversity gain in accordance with NPPF.

- 7 No development other than site clearance and preparatory works shall be carried out until details of the finished floor levels of all buildings, together with details of existing and proposed site levels on the application site and the relationship with adjacent land and buildings, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with these approved details.

**Reason:** To ensure sufficient information is submitted to demonstrate a satisfactory relationship between the proposed development and adjacent land and buildings in the interests of amenity in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 8 No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority in

consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

1. Limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rain storm to the QBar Greenfield runoff rate of 10.6l/s for the site in line with the approved surface water drainage strategy (ref: CWOOD-VIS-PL-SL-D2-C-PR-1003-03, Date:22/8/23)

2. Provide drawings / plans illustrating the proposed sustainable surface water drainage scheme. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a 'SuDS management train' approach to provide additional benefits and resilience within the design.

3. Provide detail drawings including cross sections, of proposed features such as attenuation features, flow controls and outfall structures. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.

4. Provide detailed, network level calculations demonstrating the performance of the proposed system. This should include:

- a. Suitable representation of the proposed drainage scheme, details of design criteria used (incl. consideration of a surcharged outfall), and justification of such criteria where relevant.
- b. Simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events
- c. Results should demonstrate the performance of the drainage scheme including attenuation storage, flows in line with agreed discharge rates, potential flood volumes and network status. Results should be provided as a summary for each return period.
- d. Evidence should be supported by a suitably labelled plan/schematic (including contributing areas) to allow suitable cross checking of calculations and the proposals.

5. Provide plans such as external levels plans, supporting the exceedance and overland flow routing provided to date. Such overland flow routing should:

- a. Demonstrate how runoff will be directed through the development without exposing properties to flood risk.
- b. Consider property finished floor levels and thresholds in relation to exceedance flows. The LLFA recommend FFLs are set to a minimum of 150mm above surrounding ground levels.
- c. Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.

**REASON:** To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity in accordance with Policies FW1, FW2 and NE3 of the Warwick District Local Plan 2011-2029.

- 9 No development above slab level shall be commenced unless and until a Sustainable Energy Compliance Statement to demonstrate how sustainability measures have been incorporated into the final construction of the dwellings hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The Statement shall detail how all proposed measures have been incorporated into the proposed dwellings.

No dwellings shall be first occupied until the works within the approved scheme have been completed for each dwelling in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with any relevant manufacturer's specifications.

**Reason:** To ensure the creation of well-designed and sustainable buildings and in accordance with Policies CC1 and CC3 of the Warwick District Local Plan (2011-2029) and National Design Guidance (2019).

- 10 No occupation shall take place until a Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment (23113-HYD-XX-XX-RP-FR-0001, Date: 18 May 2022) has been submitted in writing by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority. The details shall include:

1. Demonstration that any departure from the agreed design is in keeping with the approved principles.
2. Any As-Built Drawings and accompanying photos
3. Results of any performance testing undertaken as a part of the application process (if required / necessary)
4. Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
5. Confirmation that the system is free from defects, damage and foreign objects

**Reason:** To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures in accordance with Policies FW1 and FW2 of the Warwick District Local Plan 2011-2029

- 11 No occupation and subsequent use of the development shall take place until a detailed, site-specific maintenance plan is provided to the LPA in consultation with the LLFA. Such maintenance plan should:



1. Provide the name of the party responsible, including contact name, address, email address and phone number
2. Include plans showing the locations of features requiring maintenance and how these should be accessed.
3. Provide details on how surface water each relevant feature shall be maintained and managed for the lifetime of the development.
4. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance

**Reason:** To ensure the future maintenance of the sustainable drainage structures in accordance with Policies FW1, FW2 and NE3 of the Warwick District Local Plan 2011-2029.

- 12 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.

**Reason:** To safeguard health, safety and the environment in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029.

- 13 Other than site clearance and preparatory works, no development shall commence until the further written approval of the Local Planning Authority is obtained for the design of the estate road layout serving the development [including footways, verges and private drives]. These details shall include large scale plans and sections showing the layout, vertical alignment, and surface water drainage details including the outfall.

**Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 14 The layout of the estate roads serving the development [including footways, verges and private drives] shall not be designed other than in accordance with the principles and guidance as set out in 'Transport and Roads for Developments: The Warwickshire Guide 2022' and constructed in accordance with the Highway Authority's standard specification.

**Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 15 No dwelling shall be occupied until the estate roads [including footways] serving it have been laid out and substantially constructed to the satisfaction of the Highway Authority in accordance with the details approved in writing by the Local Planning Authority.

**Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 16 The Developer shall install suitable measures to ensure that mud and debris will not be deposited on the highway as result of construction traffic leaving the site. Prior to the commencement of the development, the details of these measures (including type, method of operation and control of use) shall be submitted in writing to the Local Planning Authority for their approval in consultation with the Highway Authority.

**Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 17 The construction of the estate roads serving the development [including footways and verges] shall not be other than in accordance with the standard specification of the Highway Authority.

**Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 18 No plot shall be occupied until provision for the storage of cycles has been made in accordance with details to be approved in writing by the Local Planning Authority.

**Reason:** In the interests of encouraging the use of alternative modes of transport with the aim of creating a more sustainable development in accordance with Policies TR1 and TR3 of the Warwick District Local Plan 2011-2029.

- 19 Prior to the occupation of 200 dwellings across the wider development site, a spine road linking Glasshouse Lane and Crewe Lane including a formal crossing facility at the Glasshouse Lane junction and works shown on drawings 17377-12-03 Rev B and 17377-07-03 Rev A (submitted under Planning Application W/18/1635) and incorporating the provision of an appropriate bus turning facility, shall be constructed and available for use in accordance with details to be first submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

**Reason:** In the interests of highway safety and the free flow of traffic in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 20 No development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

**Reason:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the

locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

- 21 The development hereby permitted shall not be occupied until a scheme which satisfies the requirements set out in the Council's adopted Air Quality and Planning Supplementary Planning Document (January 2019) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The approved scheme shall be retained and maintained as such at all times thereafter.

**Reason:** To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan.

- 22 The lighting scheme shall be carried out in accordance with the details submitted on plan reference 10-06 P8 received by the Local Planning Authority on 29 May 2019. In considering the lighting scheme, the local planning authority expects lighting to be restricted around the boundary edges, particularly along hedgerows, where protected species are likely to be found, and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats and other nocturnal wildlife. This could be achieved in the following ways:

- a. low energy LED lighting should be used in preference to high pressure sodium or mercury lamps.
- b. the brightness of lights should be as low as legally possible; and
- c. lighting should be timed to provide some dark periods.

**Reason:** To safeguard the presence and population of a protected species in line with UK and European Law, the National Planning Policy Framework and Policy NE3 of the Warwick District Local Plan 2011-2029.

- 23 No development above slab level shall commence until a scheme for the provision of additional bat and bird boxes has been submitted to and approved in writing by the Local Planning Authority. This shall include;

(a) a scheme for the provision of bat boxes, other bat roosting features and bird boxes within the application site has been submitted to and approved in writing by the local planning authority; and

(b) the bat boxes, other bat roosting features and bird boxes approved under (a) have been installed in strict accordance with the approved details.

The bat boxes, other bat roosting features and bird boxes shall be retained and maintained at all times thereafter.

**Reason:** To mitigate ecological impacts, in accordance with the NPPF, ODPM Circular 2005/06 and Policies NE2 and NE3 of the Warwick District Local Plan.

- 24 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no gate, fence, wall or other means of enclosure shall be erected on any land between the front or side elevation of any dwelling and any road or footpath.

**Reason:** Due to the open plan layout of the proposed development it is considered important to ensure that control is maintained over boundary treatments fronting the public highway.

- 25 Any hard landscaping shown on the approved plans, including boundary treatment, paving and footpaths, shall be completed in all respects within the 6 months of the first use of the development hereby permitted.

Any soft landscaping shown on the approved plans, including any tree(s) and shrub(s), shall be planted within the first planting season following that first use. Any tree(s) or shrub(s) removed, dying, or becoming in the opinion of the local planning authority seriously damaged, defective or diseased within five years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of the same size and species to those originally required to be planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 - Transplanting Root-balled Trees and BS4428 - Code of Practice for General Landscape Operations.

**Reason:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.

- 26 The development hereby permitted shall not be occupied unless and until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority and the approved scheme has been implemented in full in strict accordance with the approved details.

**Reason:** In the interest of the fire safety and protection of public safety and to satisfy Policy BE1 of the Warwick District Local Plan 2011-2029.

- 27 The development hereby permitted shall not be occupied unless and until the refuse and recycling storage areas for the development have been constructed or laid out in strict accordance with the approved plans and made available for use by the occupants of the development. Thereafter those areas shall be kept free of obstruction and be available at all times for the storage of refuse and recycling associated with the development.

No dwelling shall be occupied unless and until it has been provided with the appropriate refuse containers necessary for the purposes of refuse, recycling and green waste, in accordance with the Council's specifications.

Refuse and recycling storage containers must be stored within the refuse and recycling storage area shown on the approved plans, unless when being presented on street for collection facilities.

Reason: To ensure the satisfactory provision of refuse and recycling storage facilities in the interests of amenity and the satisfactory development of the site in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

28 The development hereby permitted shall not be occupied unless and until the car parking and manoeuvring areas indicated on the approved drawings have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **Reason:** To ensure adequate off-street car parking and servicing facilities in the interests of both highway safety and visual / residential amenity in accordance with Policies BE1, BE3 and TR3 of the Warwick District Local Plan 2011-2029.

29 The development hereby permitted shall not be occupied unless and until a scheme showing how a water efficiency standard of 110 litres per person per day based on an assumed occupancy rate of 2.4 people per household (or higher where appropriate) will be achieved has been submitted to and approved in writing by the Local Planning Authority. No dwelling/ unit shall be first occupied until the works within the approved scheme have been completed for that particular dwelling / unit in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **Reason:** To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policy FW3 of the Warwick District Local Plan 2011-2029.

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**Application No:** [W 23 / 0961](#)

**Town/Parish Council:** Burton Green  
**Case Officer:** Millie Flynn

**Registration Date:** 30/06/23  
**Expiry Date:** 25/08/23

01926456140 millie.flynn@warwickdc.gov.uk

**Land Off Hob Lane, Burton Green, Kenilworth, CV8 1QB**

Change of use of land for siting of 2no. holiday accommodation igloos and formation of hardstanding to provide car park (Part Retrospective Application)  
FOR Ms Scarlett

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This application is being presented to Planning Committee as it is recommended for refusal and more than 5 support comments have been received.

**RECOMMENDATION**

Planning Committee is recommended to refuse planning permission for the reasons set out at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The application seeks permission for change of use of the land for the siting of 2no. holiday accommodation igloos and formation of hardstanding to provide a parking area. The igloos are already in situ.

**THE SITE AND ITS LOCATION**

The application site is a triangular parcel of land on the south-eastern edge of Burton Green and is washed over by Green Belt.

The site is enclosed by established hedgerows and mature trees and is largely covered by the canopies of the mature trees which stand within its boundary. The land is within the Ancient Arden landscape type site and makes an important contribution to the wooded character on the farmland fringe.

**PLANNING HISTORY**

W/20/0649 - Siting of a holiday cabin – Withdrawn.

W/21/1926 - Siting of a holiday cabin - Refused.

**RELEVANT POLICIES**

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- DS18 - Green Belt
- BE1 - Layout and Design
- BE3 - Amenity

- TR1 - Access and Choice
- TR3 - Parking
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- CT2 - Directing New or Extended Visitor Accommodation
- Guidance Documents
- Parking Standards (Supplementary Planning Document- June 2018)
- Air Quality & Planning Supplementary Planning Document (January 2019)
- Warwickshire Landscape Guidelines SPG
- Burton Green Neighbourhood Plan (2018-2029)
- BG2 - Trees and Hedges

## **SUMMARY OF REPRESENTATIONS**

**Burton Green Parish Council:** Objects to the proposal on grounds that the proposal constitutes inappropriate development in the Green Belt and is outside the Growth Village Envelope.

**WCC Highways:** No objection.

**WCC Ecology:** Objection.

**WCC Landscape:** Objection.

**WDC Tree Officer:** No objection, subject to condition.

**WDC Environmental Health:** No objection, subject to condition.

**Councillor Kyn Aizlewood:** Objects on grounds that the proposal is inappropriate development in the Green Belt. The proposals do not consider the loss of biodiversity that has already taken place on the site.

**Councillor Richard Paine:** Objects on grounds that the application is located outside the Growth Village envelope. The proposal is also inappropriate development in the Green Belt.

**Public Response:** 41 comments of support (noted all came from outside of the district) and 28 objections have been received.

### Reasons for support

- In keeping with surroundings.
- The proposal enables wildlife to thrive.
- Proposal is no different to nearby Water Tower.
- Brings a different experience to the area.
- Improves openness.
- Improve tourism/economy in the local area.
- Made of natural/environmentally friendly materials.
- Important to support local business.
- Minimal disruption to the area.

### Reasons for objection

- Loss of trees and vegetation at the site.
- Inappropriate development in the Green Belt.
- Impact on openness.
- Increased traffic.
- Fire hazard.
- Outside Growth Village boundary.
- Previous refusal at the site for an identical scheme.
- Overdevelopment of the site.
- Unacceptable in principle.
- No very special circumstances demonstrated.
- Proposals are not in keeping with the surrounding character.
- Impact on wildlife and their habitats.

### **ASSESSMENT**

#### Principle of development

Warwick District Local Plan Policy CT2 - Directing New Visitor Accommodation, states that the principle of such development in rural areas is acceptable where it is located within a Growth Village or is for the conversion of a rural building as defined in Local Plan Policy BE4. All visitor accommodation in rural areas should be of a proportionate scale, appropriate in relation to surrounding uses, should not generate significant volumes of traffic and should not harm the character of the area.

The application site is not located within the boundary of a Growth Village and does not involve the conversion of an existing rural building. It is acknowledged that the boundary of the Growth Village runs close to the proposed development, but due to the characteristics of the site (surrounded by paddock land and accessed down a narrow, single road), it feels more like an intrinsic part of the countryside rather than part of the main village settlement. The proposal is therefore considered to be contrary to Policy CT2 and is considered unacceptable in principle.

Whether the proposal constitutes appropriate development in the Green Belt and if not, whether there are any very special circumstances to outweigh the harm by reason of inappropriateness or any other harm identified.

As the application site lies within the West Midlands Green Belt, the proposal must be assessed against Policy DS18 of the Local Plan. The policy states that development must be in accordance with the National Planning Policy Framework (NPPF) Green Belt provisions.

Paragraph 149 of the NPPF states that all new buildings in the Green Belt are unacceptable unless they meet one of the exceptions set out. The development is for the siting of holiday cabins, which is not considered facilities for outdoor sport or recreation, cemeteries, burial grounds or allotments. Rather it is for visitor accommodation meaning that the proposal would not fall into exception b) under paragraph 149. Exceptions a), c) – f) are also not considered applicable. The remaining exception is g) which states that proposals which are for the:



g) partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. This point is not applicable.

Whilst the previous application at the site ref: W/21/1926 was refused, it was concluded that the site constitutes previously developed land.

The site currently includes a hard surface tennis court enclosed with a chain link fence which are proposed to be removed to provide a wildflower meadow. An outbuilding and a caravan on the site are also proposed to be removed. These structures have an impact on openness as a result of their existence.

The submitted statement considers the footprints of the existing structures, as well as the proposal.

*Footprint calculations:*

It should be noted that the caravan at the site does not constitute development in itself and has therefore not been included as part of the existing calculations.

Existing timber structure at the site = 23.0m<sup>2</sup>

Proposed igloos = 42.0m<sup>2</sup>

The submitted statement adds that whilst there is a net increase on the site, the removal of the existing hardstanding would result in an overall betterment of the site and concludes that the proposal is small in nature and inconspicuous within the setting. The applicant/agent also states that the pods cannot be visually seen from public vantage points and therefore the proposal is not considered to have a greater impact on the openness of the Green Belt than the existing development.

When considering harm to the Green Belt, Officers must consider a two-fold assessment - harm by reason of inappropriate development (which is harmful by definition) and harm by reason of harm to openness. The concept of openness is both visual and spatial. It is generally held to refer to the freedom or absence from development. The NPPF is also clear that the fundamental aim of the Green Belt is to keep land permanently open.

It is agreed that there is an increase in overall development, which would result in a greater impact on openness by simple merit of quantum of development, when compared with what currently exists at the site. Whilst the applicant states there would be a betterment at the site due to the removal of the tennis court, the additional hardstanding proposed for the car parking must also be considered.

Further to this, due to the secluded nature and scale of the site, it could reasonably be expected that outdoor furniture would be provided in the curtilage of the cabins for the visitors to use. Together with the recreational activities associated with

the use of the new development, such as sitting out, dining, the parked vehicles, the openness of the site would further be diminished.

Therefore, the cumulative effect of the igloos, associated paraphernalia and hardstanding would exceed the level of development proposed to be removed, which would impact the openness of the site.

The development would therefore represent a significant increase in the bulk and mass of built form on the site and Officers conclude that the development would reduce the openness of the Green Belt both visually and spatially, meaning that the proposal would conflict with exception g) in this regard.

The development is considered to represent inappropriate development in the Green Belt by reason of not falling into any of the exceptions listed under paragraph 149 of the NPPF. The proposal would therefore result in unacceptable harm to the Green Belt by reason of inappropriateness and reduced openness. An assessment of whether any very special circumstances exist to outweigh this harm will now be made.

The submitted Planning Statement argues that the proposal delivers economic benefits to the rural economy by providing applicants with an income and attracting visitors to the area, which in turn would stimulate the local economy.

This justification is not considered to constitute very special circumstances which would outweigh the harm to the Green Belt identified. Any economic benefits would be limited, and the current disorderly character of the site is not unique to sites in the Green Belt. It is not a reason to permit the development which is inappropriate in the Green Belt and harmful to openness.

Officers therefore conclude that the development would be inappropriate development and would, therefore, by definition be harmful to the Green Belt. It is harmful by reason of harm to openness. As instructed by the NPPF, substantial weight must be given to these harms. The justifications for the proposal put forward carry very limited weight and do not clearly outweigh the substantial weight which must be given to the harm identified. Subsequently, the very special circumstances necessary to justify the proposal do not exist.

#### Impact on character of surrounding area

Policy BE1 of the Warwick District Local Plan states that new development should positively contribute to the character and quality of its environment. The policy requires the provision of high-quality layout and design in all developments that relates well to the character of the area.

The development is not considered to result in harm to the character of the area from purely a design perspective. The local area comprises buildings of varied design and scale and it is not considered that the proposal would appear incongruous. For this reason, it is considered that the development would meet the criteria of Policy BE1.

### Impact on adjacent properties

Policy BE3 of the Warwick District Local Plan states that new development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

Officers consider the proposal not to cause harm to the amenity of neighbouring uses by reason of loss of privacy and light. The proposed igloos would be positioned well within the site far from any neighbours, and it is unlikely its use would generate excessive noise over and above what is typical for a residential use.

The proposal is considered to provide adequate living conditions for future occupiers.

It is therefore considered that the development would comply with Local Plan Policy BE3.

### Access and Parking

Policy TR1 of the Warwick District Local Plan requires that all development provides safe, suitable, and attractive access routes for all users that are not detrimental to highway safety.

Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

The Highways Authority have been consulted and raise no objection to the proposal.

The access road to the site is already used by a number of dwellings. It is a single-track carriageway and is secured by a five-bar gate after the entrance to The Water Tower. Traffic speeds are therefore likely to be slow. The hardstanding within the site will provide space for vehicles to park and exit the site in a forward gear. Despite the bend in the road to the north of the access, when taking the road characteristics into consideration, Officers are satisfied that the use of the site as visitor accommodation would not be detrimental to highway safety.

The 2no. igloos comprise of 1 bedroom each and the area shown for parking is able to accommodate at least 5 cars. The requirement is 2 parking spaces in line with the Council's Parking Standards SPD. The proposal complies with the requirements and Local Plan Policies TR1 and TR3.

### Ecology

Policy NE2 of the Local Plan seeks to protect designated areas and species of national and local importance for biodiversity and geodiversity. Policy NE3 of the Local Plan states that new development will only be permitted where it protects, enhances and/or restores habitat biodiversity.

The County Ecologist initially objected to the proposed development on the grounds that the biodiversity value submitted should be based on the site prior to the clearing of the site and the felling of multiple tree and this is required to be

calculated in order to provide an accurate assessment of the loss created by this retrospective planning application.

Officers note that further information has been submitted to state the works taken to remove the trees prior to submission were legitimate and required no specific planning consent, however, this does not deduct the need for it to be calculated as per biodiversity net gain requirements.

An updated PEA, Biodiversity Metric and Biodiversity Net Gain Feasibility report have subsequently been submitted and further reviewed by the County Ecologist; however it should be noted that their stance of objection still remains. The comments from the County Ecologist have been considered under two separate headings set out below.

#### *Biodiversity Metric and Biodiversity Net Gain Feasibility report*

The County Ecologist noted that the submitted revised metric now includes the estimated value of the site prior to the removal of the 16 trees, which were identified as being previously present, along with the area of bramble scrub, which has now been removed.

The predicted biodiversity value of the site post development now includes this loss and the removal of 2 additional trees as part of the proposals. The Ecologist is satisfied that the assessment made of the baseline habitats prior to site clearance is now a much more accurate reflection of this value, although only one of these trees removed has been recorded as being of medium in size, multiple reports of the tree felling appear to suggest that in fact 3 of the trees removed were medium sized trees.

The values for post site development currently show a habitat unit loss of 7.52 units, thus includes the consideration of all the on-site enhancement and habitat creation measures. However, the habitat enhancements proposed that 'poor condition' grassland can be managed to achieve 'good condition'. The DEFRA metric guidelines indicate that the value of a habitat can only be increased by one level through management, therefore this information is incorrect, as only 'moderate condition' can be achieved. The site habitat creation tab of the metric also lists modified grassland as being of 'good condition', modified grassland can ordinarily only achieve a 'poor condition' value, the user comments note that this will be a flowering lawn, and so in this case, it is accepted that this area could only achieve fairly poor condition, as per the DEFRA guidelines. Therefore, this requires further reconsideration and amendments, which is likely to add further to the loss of woodland units created by the proposals.

It is agreed that the linear features section of the metric show no change in the hedgerow area on site with no loss recorded for this section. As identified in the submitted Biodiversity Net Gain feasibility report it is unlikely that any further steps towards enhancement and creation can be made towards lessening the biodiversity net loss identified to achieve a biodiversity net gain for the site. Once the units of loss caused by the development can be agreed an offsite solution to result in biodiversity net gain will need to be investigated by the applicants. This could include using blue line boundary land if available, sites elsewhere in

Warwickshire within the applicant's ownership for offsite enhancement or paying into a compensatory biodiversity unit bank of the applicant's choosing to manage a site to achieve the required units needed to result in a net gain, including over 30 years of site management. This information will need to be provided prior to determination of the application.

The Biodiversity Net Gain Feasibility report submitted concludes that a net gain for the linear features section of the metric may be feasible on site. While this is welcomed as hopefully achieving one area of biodiversity gain, it is important to note that the DEFRA guidelines are clear any gains made in this section of the metric cannot be used to mitigate the losses from the habitat section of the metric.

#### *Preliminary Ecological Appraisal*

The submitted PEA correctly identifies that part of the application site is recorded as an Ecosite, with 4 areas of ancient woodland identified within 1km of the site.

Numerous protected species records for amphibians including Great Crested Newt and bat records were located immediately adjacent to the site.

Many further protected species records are also located within 2km of the site which the report concludes could reasonably be found within the site due to the suitable habitats recorded.

A pond within 100m of the site supports breeding amphibians and the terrestrial habitat on site may be used by newts. The trees on site have been identified as having potential for use by bats. Native bluebell is common throughout the site. The bulbs are protected, and it is unclear if the site clearance included removal of any bulbs.

The PEA also identified the potential for presence of Hazel Dormouse in the eastern hedgerow and the potential use of the log and brash piles (presumably resulting from the recent site clearance) on site by reptiles.

The PEA concludes that the possible presence of amphibians will require the LPA to be consulted regarding District Level Licensing. DLL is currently not in place in Warwickshire; therefore the applicants will need to consider the applicable amphibian surveys needed to fully assess the risk to amphibians potentially using the site.

Although most of the remaining trees on site are proposed to be retained, a further 2 trees are proposed for removal. The PEA correctly indicates that because many of the trees have been removed it is not possible to know if they had bat roosting features and so not possible to know if roosts were destroyed and any offence was potentially committed. A scheme of boxes on remaining trees is proposed to compensate for the potentially destroyed roosts caused by the tree felling on site. This may be an option to potentially be secured by condition, once the other ecological prior to determination issues for this site are resolved.

The PEA also concludes a similar situation for nesting birds, with it not being possible to know if nests were destroyed during tree felling and a similar recommendation for compensating the potential loss through the use of a variety

of boxes this may also be considered at the same stage as bat boxes after all pre-commencement information is provided.

Without the above requested information Officers are unable to determine whether the applicants will achieve a Biodiversity Net Gain for the proposals following an agreed figure for the units of biodiversity already lost. The submitted Biodiversity Metric is also required to be updated to accurately show the achievable condition for the on-site proposed habitat enhancement and creation measures. Along with further Great Crested Newt surveys, as those that have been submitted are currently not appropriate as the County Council do not have District Level Licensing in place.

Subsequently, the above information has not been submitted to the LPA for further review, therefore, application is recommended for refusal on these grounds.

### Landscape

Policy NE4 of the Local Plan states that new development proposals should aim to either conserve, enhance or restore important landscape features in accordance with the latest local and national guidance.

Policy BG2 - Trees and Hedges of the Burton Green Neighbourhood Development Plan seeks the retention of the existing trees and hedgerows, sensitive landscaping and planting native trees and hedges wherever possible. Where it is not possible to retain existing trees and hedgerows of merit, mitigation should demonstrate replacement planning using appropriate native species.

The County Council's Landscape Officer has objected to the proposal on grounds that the application site is within the Ancient Arden Local Landscape type and makes an important contribution to the irregular pattern of woodland along the farmland fringe, visually connecting Stoney Moor Wood to other wooded areas beyond the settlement edge.

Officers consider the application site as it stands to help retain the rural appearance of the locality. The proposal would increase the continuity of the built form and establish a more suburban appearance to the frontage of the lane which is considered harmful to the rural setting.

As per the Neighbourhood Plan Policy, the land included several large mature trees creating a wooded effect on the farmland fringe. Despite recent tree removals no replacement planting would be undertaken as part of the proposal.

Officers also note that there is a lack of information submitted with the application regarding the implications of introducing electricity, water mains and storm water drainage will have affect vegetation or root protection areas.

Therefore, the proposal is not considered to comply with Local Plan Policy NE4 and Neighbourhood Plan Policy BG2.

## Trees

Policy NE4 of the Local Plan states that new development proposals should aim to either conserve, enhance or restore important landscape features in accordance with the latest local and national guidance.

The Council's Tree Officer has been consulted on the submitted tree-related documents and has advised that if recommended for approval, a condition should be imposed to secure the implementation of the proposed tree protection measures set out in the report. In order to protect the leafy and rural character of the site and biodiversity, it would be considered reasonable and necessary to impose the recommended condition.

## Land Contamination

The Council's Environmental Health Officer has been consulted and notes due to the previously developed nature of the site, it is recommended that in the event of an approval, a watching brief is secured by condition.

## Air Quality

Electric vehicle charging points would need to be provided to accord with the Air Quality SPD. Three have been shown on the submitted proposed block plan, which could be secured by condition in the event of an approval.

## **CONCLUSION/SUMMARY**

The proposal for visitor accommodation is considered to be unacceptable in principle as the location fails to comply with Policy CT7. The development is also considered to constitute inappropriate development in the Green Belt by reason of not falling into any of the exceptions listed under paragraph. 149 of the NPPF and is harmful by reason of inappropriateness and harm to openness. Furthermore, the proposal is considered to be harmful to the character and appearance of the local rural landscape and also fails to address the concerns of the County Ecologist in regard to biodiversity net gain. The development is therefore contrary to Local Plan Policies CT2, DS18, NE2, NE3 and NE4 and Policy BG2 of Burton Green Neighbourhood Development Plan. The application is therefore recommended for refusal.

## **REFUSAL REASONS**

- 1 The NPPF and Policy DS18 of the Warwick District Local Plan state that new buildings in the Green Belt constitute inappropriate development in the Green Belt and are harmful by definition and by reason of harm to openness.

Whilst the proposal includes the redevelopment of previously developed land, the cumulative impacts of the development would result in a significant increase in the bulk and mass of built form on the site. In the opinion of the Local Planning Authority, the development would reduce the openness of the Green Belt both visually and spatially and would therefore fail to meet the relevant exception to inappropriate development in the Green Belt.

In the opinion of the Local Planning Authority, the proposal represents inappropriate development in the Green Belt which is harmful by definition and by reason of harm to openness. No very special circumstances are considered to exist which outweigh the harm identified.

The proposed development is therefore contrary to the aforementioned policy and the NPPF.

- 2 Warwick District Local Plan Policy CT2 - Directing New Visitor Accommodation, states that the principle of such development in rural areas is acceptable where it is located within a Growth Village or is for the conversion of a rural building as defined in Policy BE4. The application site is not located within a Growth Village boundary and does not propose the conversion of an existing rural building. Furthermore, due to the characteristics of the site (surrounded by paddock land and accessed along a narrow, single road), the site is seen as an intrinsic part of the countryside rather than a part of the main village settlement. The proposal is therefore considered to be contrary to the aforementioned policy and is considered unacceptable in principle.

- 3 Policy NE3 of the Warwick District Local Plan 2011-2029 stipulates that new development will be permitted provided that it protects, enhances and / or restores habitat biodiversity. Where proposals lead to a net loss of biodiversity, and suitable mitigation measures are unable to be accommodated within the development site, the policy requires compensatory measures involving biodiversity offsetting.

Whilst an updated Biodiversity Metric and a Biodiversity Feasibility Report have been submitted, the Local Planning Authority are unable to determine whether the applicants will achieve a Biodiversity Net Gain for the proposals following an agreed figure for the units of biodiversity already lost. The submitted Biodiversity Metric is also required to be updated to accurately show the achievable condition for the on-site proposed habitat enhancement and creation measures.

In order for the application to be acceptable under the NPPF, the applicant must demonstrate how a net biodiversity gain will be achieved through protection and enhancement of habitats on site. The documents submitted do not sufficiently provide this information. Therefore, the criteria of Policy NE3 has therefore not been met.

- 4 Policy BE1 of the Warwick District Local Plan states that new development should positively contribute to the character and quality of its environment. Policy NE4 sets out provisions relating to landscape impact.

The application site forms part of the small-scale, irregular field pattern characteristic of the Ancient Arden landscape type and makes an important contribution to the irregular pattern of woodland along the



farmland fringe, visually connecting Stoneymoore Wood to other wooded areas beyond the settlement edge.

The application site helps to retain the rural appearance of the locality. In the opinion of the Local Planning Authority, the proposal would increase the continuity of the built form and establish a more suburban appearance to the frontage of the lane, which would result in harm to the rural setting and would be contrary to Policy NE4.

- 5 Policy NE2 of the Warwick District Local Plan 2011-2029 states that development will not be permitted that will destroy or adversely affect protected, rare, endangered or priority species unless it can be demonstrated that the benefits of the development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to wider biodiversity objectives and connectivity. Policy NE2 goes on to state that all proposals likely to impact on these assets will be subject to an ecological assessment.

Paragraph 99 of Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System advises that it is essential that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations will not have been addressed on making the decision. Circular 06/2005 advises that the need to ensure that ecological surveys are carried out should only be left to conditions in exceptional circumstances. No such circumstances exist in this case.

Therefore, in the opinion of the Local Planning Authority insufficient information has been provided to demonstrate that the proposed development would not adversely affect protected species. The development is thereby considered to be contrary to the aforementioned policy and guidance.

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**Planning Committee:** 14 December 2023

**Agenda Item 6**

**Application No:** [W 23 / 1094](#)

**Town/Parish Council:** Burton Green  
**Case Officer:** Jack Lynch

**Registration Date:** 26/07/23

**Expiry Date:** 20/09/23

01926 456642 Jack.lynch@warwickdc.gov.uk

**Burrow Hill House, Hob Lane, Burton Green, Kenilworth, CV8 1QB**

Outline planning application (with all matters reserved apart from access) for the erection of 1no. dwelling. FOR Mr Watkinson

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This application is being presented to Committee due to the number of support comments as well a response of support from the Parish Council.

**RECOMMENDATION**

Planning Committee are recommended to refuse planning permission.

**DETAILS OF THE DEVELOPMENT**

The applicant seeks outline planning permission for the proposed erection of a single dwelling with all matters reserved, except for access.

**SITE AND LOCATION**

The application site is in the Burton Green Parish, North of Kenilworth in Green Belt land.

The proposed site is in a small parcel of land Northeast of Burrow Hill House and South of the new housing development approved under planning application W17/2086, which included the erection of 90 new dwellings.

The site is accessible off Hob Lane, which provides access to the other dwellings that neighbour this site.

**PLANNING HISTORY**

The 2018 planning permission for the adjacent residential development has been referred to above.

In 2019 planning permission was granted for a new dwelling on land to the north of the current application site (Ref. W/18/2063).

Prior to this there had been various previous planning applications relating to the use of the wider site as a nursery, including for an agricultural workers dwelling in 1988.

## **RELEVANT POLICIES**

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- H1 - Directing New Housing
- H4 - Securing a Mix of Housing
- H15 - Custom and Self-Build Housing Provision
- BE1 - Layout and Design
- BE3 - Amenity
- DS18 - Green Belt
- TR1 - Access and Choice
- TR3 - Parking
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- CC1 - Planning for Climate Change Adaptation
- FW3 - Water Conservation
- Burton Green Neighbourhood Plan (2018-2029)
- BG2 - Trees and Hedges (NE)
- BG3 - Wildlife and Biodiversity (NE)
- BG7 - Responding to Local Character (BE)
- BG12 - Electric Charging Points (BE)
- BG13 - Parking Provision (BE)
- BG14 - Use of Renewable Energy (BE)
- Guidance Documents
- Parking Standards (Supplementary Planning Document- June 2018)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Air Quality & Planning Supplementary Planning Document (January 2019)

## **SUMMARY OF REPRESENTATIONS**

**Burton Green Parish Council** – Support. The Council acknowledges that the site is within the Green Belt and outside of the village envelope. However the Council also recognises that the proposal presents a unique set of circumstances including:

- there would be a net gain in biodiversity;
- the site is brownfield, being tarmacked and previously a delivery area;
- the site is surrounded on 3 sides by housing, with an access road and stable block on the 4<sup>th</sup> side;
- the development will not cause substantial harm to the Green Belt; and
- the occupation of the dwelling will be restricted to supporting people with autism or some other form of physical or mental impairment and as such will align with the needs identified in the Burton Green Housing Needs Survey (2018).

**WDC Environmental Health** – No objection, subject to air quality mitigation condition.

**WCC Highways** – No objection.

**WCC Ecology** – No objection, subject to conditions requiring submission of mitigation measures in line with the PEA and submission of a Biodiversity Management Plan.

**Cllr K Aizlewood** – Supporting comment. Comments note that there would be no harm to the openness of the Green Belt and that the proposal meets a specific housing need.

**Cllr D Armstrong** – Supporting comment. Comments highlight agreement with Cllr Aizlewood and further notes that the proposal would improve biodiversity on the site.

**Cllr R Hales** – Supporting comment. Highlights agreement with other councillors points.

## **ASSESSMENT**

### Principle of development

Policy H1 sets out a hierarchy of where new housing will be permitted. New dwellings in the open countryside, which is what this site is classed as, will only be supported where they meet a number of criteria set out within Part d or e of the Policy. This includes where the site is adjacent to the boundary of the urban area or a growth village and; meets an identified housing need and; is a small scale development that will not have a negative impact on the character of the settlement and the capacity of services within it and; is within a reasonable and safe walking distance of services or public transport to services and will not adversely affect environmental assets unless they can be mitigated for.

The site is adjacent to the boundary of a growth village. However, there is no identified housing need to which the proposed development can contribute. Burton Green has received a significant allocation of new housing recently, with 90 dwellings allocated at Burrow Hill under Policy DS11 of the Local Plan. This will have more than met any housing need that there may have been in Burton Green or the surrounding area. Furthermore, there is a 5-year supply of housing land within the District and the Local Plan allocates sites to meeting housing needs up to 2029.

Whilst the development is small scale and is within a reasonable safe walking distance of the limited services available in Burton Green, it would have a negative impact on the character of the settlement, eroding the Green Belt and adding built form to the defined edge of the village.

Having considered the above, the proposal fails to meet the requirements set out in Policy H1.

Whether the proposal constitutes appropriate development in the Green Belt and, if not, whether there are any very special circumstances which would outweigh the harm by reason of inappropriateness and any other harm identified.

As the site lies within the West Midlands Green Belt, the proposal must be assessed against Policy DS18 of the Local Plan. The policy states development must be in accordance with the National Planning Policy Framework (NPPF) Green Belt provisions. Paragraph 145 states that any new buildings in the Green Belt are inappropriate unless one of the exceptions contained in that paragraph are met. The proposal does not meet any of these exceptions and therefore represents inappropriate development within the Green Belt.

Para. 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Para. 144 goes on to state that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. "Very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The application site currently contains an area of hardstanding, but no buildings. The erection of a dwelling would introduce notable built form to the application site. Consequently, there would be a reduction in the openness of the Green Belt.

The agent puts forward the case that:

- Consideration should be given to the site being located adjacent to the village and comprising limited infill and that a "common sense on the ground view should be taken as to the physical extent of a particular village". They also note that the proposal would "infill a small, underdeveloped gap within the confines of Burton Green" and the proposed new house complies with the term "limited infill".
- The agent also highlights that consideration should be given to the fact that the affordable housing is being proposed to meet the requirement of a local housing need.

The arguments that have been put forward in relation to the dwelling comprising affordable housing have been carefully considered. The first consideration is whether the proposals meet the definition of affordable housing. The definition is provided by the NPPF, which starts "housing for sale or rent...". The dwelling in this case is not for sale or rent. The applicant is the prospective occupier. Therefore it cannot meet the definition of affordable housing.

Even if the proposal did meet the definition, Local Plan Policy H3 would then need to be complied with. This sets out the circumstances where this Green Belt exception might apply.

Criterion (a) is that the proposal must meet a particular local housing need, as identified in detailed and up to date evidence from a parish or village housing needs assessment, and it can be demonstrated that the need cannot be met in any other way. The most recent Housing Needs Survey Report for Burton Green was carried out in July 2018. This did not identify any need for affordable housing in Burton Green. Furthermore, the subsequent development of 90 dwellings on the adjacent site, 40% of which are affordable housing, would have more than met any affordable housing need if there had been any. Even if that were not the

case, to comply with criterion (a) it would also have to be demonstrated that the need could not be met in any other way.

Criterion (c)(i) requires housing to be available in perpetuity to those with a need to be housed in the locality. As there is no registered social landlord involved with the proposal, it is not clear how future occupiers will be selected on the basis of local need. Paragraph 4.37 requires the involvement of a Registered Provider or a registered Charitable Trust.

Criterion (c)(ii) requires the type of accommodation, in terms of size, type and tenure, to reflect the needs identified in the housing needs assessment. As the application has been submitted in outline it is not possible to judge whether the size and type of dwelling would meet the need, if a need could be demonstrated.

The applicant's agent has argued that, whilst not necessarily complying with every specific requirement of Policy H3, the identified need of the applicant is sufficient to demonstrate a local need for affordable housing. This has been supported by the Parish Council and Ward Councillors.

In considering this argument, it is important to note that this is an exception to the normal strict presumption against permitting new dwellings in the Green Belt. Therefore it is important that any such proposals are in strict accordance with the policy that sets out the criteria where the exception will be made. The policy is very clear that the exception will only be made if the need is identified in detailed and up to date evidence from a parish or village housing needs assessment.

A housing needs assessment is undertaken on behalf of the community as a whole, is the subject of public consultation and follows a standard methodology. As a result, it can be afforded weight in determining planning applications.

The considerations that have been cited in support of the proposals are largely related to the personal circumstances of the applicant. When personal circumstances arise in planning appeals, Planning Inspectors normally refer to the fact that the effect of the development would remain long after the personal circumstances no longer apply. This principle applies in the current case. Therefore, the personal considerations do not outweigh the strict policies controlling development in the Green Belt.

With regard to the arguments that have been put forward regarding infilling, this is defined by Policy H11 of the Local Plan. One of the criteria states, "the development comprises the infilling of a small gap fronting the public highway between an otherwise largely uninterrupted built up frontage, which is visible as part of the street scene". The application site is not in a limited infill village and neither does the site constitute a small gap fronting the public highway within a largely uninterrupted built-up frontage. It is in an area of open countryside with dispersed dwellings and other rural buildings, outside the village boundary. The Local Plan sets out that infilling should be within the village boundaries defined in the Plan.

Arguments have also been put forward relating to the site comprising previously developed land. Even if it was, this would not provide any exception to Green Belt policy because the erection of a building on a site where there is currently none

would harm the openness of the Green Belt. In any case, as the site was formerly part of a nursery, an agricultural use, it is excluded from the definition of previously developed land in the NPPF.

For the above reasons it has been concluded that the proposals represent inappropriate development that would cause harm to the Green Belt by reason of inappropriateness and by reducing openness. There are no very special circumstances to outweigh that harm and therefore the proposals are contrary to Policies DS18 and H3.

#### Impact on the living conditions of neighbouring dwellings

The concerns of neighbours are noted. However, the site is considered to be large enough and far enough from neighbours to ensure the proposals would not cause harm in terms of loss of light, loss of outlook or loss of privacy. These impacts could be suitably controlled at reserved matters stage. The concerns that have been raised regarding loss of views are not material planning considerations.

#### Impact on the character and appearance of the area

This has been considered in the Principle of Development and Green Belt sections of this report. The erection of a dwelling on this site would reduce openness and consolidate what is currently a dispersed pattern of development adjacent to the edge of the village. This would have some harmful impacts on the countryside setting of the village which contributes to the conflict that has been identified with Policies H1 and DS18.

#### Ecology

Policy NE3 of the Warwick District Local Plan states that development proposals will be expected to protect, enhance and/or restore habitat biodiversity and where this is not possible, mitigation or compensatory measures should be identified accordingly. Neighbourhood Plan Policy BG3 includes similar provisions.

The County Ecologist requested submission of a PEA for this application. Following submission, the Ecologist notes that the site contains no protected species or sites and identifies a low risk of badgers, nesting birds, reptiles and amphibians crossing the site. The trees on site were assessed as having no suitability for use by roosting bats and no precautionary reasonable avoidance measures are recommended for bats. The report concludes that no further ecological survey work is required and any risk to animals crossing the site can be mitigated with Reasonable Avoidance Measures (RAM).

The report also addresses the need for Biodiversity Net Gain (BNG) to be achieved to comply with the NPPF making suitable recommendations for how this might be achieved. The Ecologist is satisfied that the report has been carried out to a high standard and have confidence in the findings and that no further ecological survey work is required for this application.

The proposal is therefore considered acceptable having regard to Policies NE3 and BG3.

## Highways and Parking

Policy TR1 of the Warwick District Local Plan requires all developments provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety. Local Plan Policy TR3 and Neighbourhood Plan Policy BG13 require all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

WCC Highways are satisfied that the access is appropriate for the site in this instance and have no objection to the scheme. Thus the access is considered acceptable as it is in accordance with the Local Plan Policies TR1 and TR3 and Neighbourhood Plan Policy BG13.

## **CONCLUSION**

The proposed development constitutes inappropriate development in the Green Belt which is harmful by definition and by reason of harm to openness. No exceptions have been met and no very special circumstances are considered to exist which outweigh the harm identified. The proposals would also conflict with Local Plan Policy H1.

The proposed development is therefore contrary to the aforementioned policies.

## **CONDITIONS**

- 1 The site is situated within open countryside. Local Plan Policy H1 and para. 80 of the NPPF state that housing development will not be permitted in open countryside, subject to certain exceptions. The proposals do not comply with any of these exceptions. The proposals therefore constitute an unsustainable form of development that would be contrary to the aforementioned policies.
- 2 The NPPF and Policy DS18 of the Warwick District Local Plan state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It also states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.

In the opinion of the Local Planning Authority, the proposed development constitutes inappropriate development in the Green Belt which is harmful by definition and by reason of harm to openness. No exceptions have been met and no very special circumstances are considered to exist which outweigh the harm identified.

The proposed development is therefore contrary to the aforementioned policies.



**Planning Committee:** 14 December 2023

**Agenda Item 7**

**Application No:** [W 23 / 1316](#)

**Town/Parish Council:** Cubbington  
**Case Officer:** Thomas Senior  
01926 456539 thomas.senior@warwickdc.gov.uk

**Registration Date:** 06/09/23  
**Expiry Date:** 01/11/23

**106 Leicester Lane, Cubbington, Leamington Spa, CV32 7HH**

Erection of two storey side extension, single and two storey rear extension, front door canopy and the application of render and timber cladding to the external walls FOR Nigel Bishop

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This application is being presented to Planning Committee as the applicant is a former employee of Warwick District Council.

**RECOMMENDATION**

Planning Committee is recommended to grant planning permission, subject to the conditions listed at the end of this report.

**DETAILS OF THE DEVELOPMENT**

The applicant seeks planning permission for the erection of a two-storey side extension, single and two-storey rear extension, front door canopy and the application of render and timber cladding to the external walls of the property.

**SITE AND LOCATION**

The application site relates to a two-storey detached dwellinghouse with a recessed single storey pitched roof side extension and flat roof garage visible within the immediate streetscene. The properties along this section of Leicester Lane are characterised by detached properties, ranging from bungalows to two-storey dwellings of various designs with a mix of external finishes set on relatively large plots. The application property and its immediate neighbours are set back a considerable distance from the highway, with the application property having a good-sized front garden and driveway set behind the existing deep highway verge and pedestrian footpath.

**PLANNING HISTORY**

W/13/1629 – Construction of a front extension to the existing side garage such that it would align with the existing side extension. Replacing the flat roof of garage with a pitched roof in line with and adjoining with the side extension - Granted.

**RELEVANT POLICIES**

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- BE1 - Layout and Design

- BE3 - Amenity
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- TR3 - Parking
- Guidance Documents
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Parking Standards (Supplementary Planning Document- June 2018)

## **SUMMARY OF REPRESENTATIONS**

**Cublington Parish Council** - No objection

**WCC Ecology** - Requested a Preliminary Roost Assessment.

**Public Response** - One objection received from the occupier of 102 Leicester Lane on grounds of loss of privacy, noise and disturbance during the construction phase and concerns with access to the neighbouring Severn Trent Pumping Station.

## **ASSESSMENT**

### Design and impact on character and appearance of the streetscene

The NPPF (2021) places an increased emphasis on the importance of achieving good quality design as a key aspect of sustainable development. Paragraph 130 states that planning decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate external facing materials. Development is expected to function well and add to the overall quality of the area by appearing sympathetic to the local character and history.

Local Plan Policy BE1 echoes paragraph 130 of the NPPF and states that new development will be permitted where it positively contributes to the character and quality of its environment through good layout and design. Proposals are expected to demonstrate that they harmonise with, or enhance, the existing settlement in terms of physical form, patterns of movement and land use. Proposals are also expected to reinforce or enhance the established urban character of streets and reflect, respect and reinforce local architectural distinctiveness.

The Residential Design Guide SPD sets out steps which must be followed in order to achieve good design in terms of the impact on the local area; the importance of respecting existing important features; respecting the surrounding buildings and using the right materials.

The Residential Design Guide SPD sets out a number of design requirements which proposals for two-storey side extensions are required to adhere with. The proposed two storey side extension has been amended so that the entire side extension is set away from the shared boundary with 108 Leicester Lane by 1 metre at first floor level as required by the SPD to avoid the creation of a terracing effect. In addition, the first floor of the proposed two-storey side extension is set back from the front façade of the property by well over the required 450mm outlined within the Residential Design Guide SPD and is also appropriately set down from the ridge line of the original dwellinghouse (over 225mm) to create a

subservient design. The Residential Design Guide SPD also sets out how side extensions should be no more than 2/3 of the width of the original property, with the proposed side extension also being in accordance with this design requirement. As amended, the proposed side extension is considered acceptable from a design perspective, providing a subservient addition to the original dwellinghouse that both maintains and reinforces the overarching character of the wider streetscene.

The proposed scheme also includes the erection of a single and two-storey rear extension. Due to the siting to the rear of the property, these extensions will have a limited impact on the streetscene. Nevertheless, the two-storey rear gable extension is considered to be acceptable and appropriate in design terms, providing an addition that is of a suitable scale and form, with the proposed single storey rear extension also considered to represent an extension of an appropriate design.

The scheme also proposes the erection of a flat roofed, timber clad front door canopy. As existing the property benefits from the provision of a flat roof garage to the side of the property, with the immediate streetscene containing a number of flat roof parapet walls to the front elevation of properties. Consequently, when considering the presence of a number of flat roof designs within this heavily mixed streetscene and combining that with the existing presence of a flat roof garage at the application property, the erection of a flat roof front door canopy, of a very small scale, is not considered to result in harm to the character of the streetscene and is subsequently considered to be an acceptable addition to the property from a design perspective.

Finally, the proposed scheme also seeks planning permission for the application of render and timber cladding to the external walls of the property. At present the application property is comprised of red brick, with the immediate neighbour (108 Leicester Lane) containing a rendered finish to the front gable of their property. As well as the presence of render to the immediate neighbour, the streetscene itself contains a number of properties that are comprised of a rendered finish with sections of timber cladding also present on numerous dwellings. The presence of this variety of finishes means that the proposed external finishes would not appear incongruous within this mixed streetscene. Whilst the application of timber cladding is supported on specific sections of the development, it is considered appropriate to add a condition to restrict the application of timber cladding to the sections set out within the approved plans, rather than there being an opportunity present to clad the entire property with timber through using the applicants permitted development rights.

In light of the above assessment, it is considered that the amended scheme would be in accordance with Local Plan Policy BE1 and the Residential Design Guide SPD

#### Impact on neighbouring properties and the current and future occupiers of the development

Warwick District Local Plan Policy BE3 requires that development must have an acceptable impact on the amenity of all neighbouring residents, in terms of light, outlook and privacy. The Council's Residential Design Guide SPD provides a design

framework for Policy BE3 and states how extensions should not breach a 45-degree line taken from the nearest habitable room of the neighbouring property. This aims to prevent any unreasonable effect on the neighbouring dwelling, by reason of loss of light, unneighbourly effect or disturbance/intrusion from nearby uses. Policy BE3 also requires that all development should ensure that acceptable standards of amenity space are provided for existing and future occupiers of the development site.

In respect of the proposed scheme, there is no breach of the 45-degree line when taken from either neighbouring occupier, demonstrating how the extension is considered to have an acceptable impact on the amenity of neighbouring occupiers in terms of light and outlook.

An objection comment has been received from the occupier of No.102 Leicester Lane, with one section of the objection on grounds of how the proposed development will result in the loss of privacy. Comments are made in relation to the proposed windows that are set to be installed on the side elevation of the proposed two-storey side extension serving the "Master Bedroom". The objector has stated that these windows will overlook into the rear garden of their property and into windows that serve habitable rooms. Whilst these comments have been considered, the proposed windows are set to be approximately 11m away from the shared boundary between the two properties, with this 11m distance considered to be a sufficient distance between garden boundaries and is thus not considered to result in unacceptable levels of overlooking into the neighbouring property in question.

The objector has also raised concerns in relation to the provision of a "Juliet Balcony" that is set to serve this Master bedroom and how this may provide a direct viewpoint into their rear garden and noise pollution concerns. Whilst Officers appreciate these concerns, the proposed Juliet Balcony will not involve any external area that would enable an occupier to stand on the balcony, instead being a modern design feature that is commonplace in urban areas and akin to a window and is considered not to result in unacceptable harm to neighbouring amenity levels.

Comments have also been raised in relation to the absence of the existing window on the side elevation of the application property that faces 102 Leicester Lane. Whilst the proposed floor plans show that a window is set to be blocked up on this elevation, we would not require any further information on this aspect of the proposal as the removal of this window is something that would not require planning permission as it would constitute permitted development.

The impact the proposal will have on the amenity of current and future occupiers is considered to be acceptable, with there also being ample private amenity space present, which is comfortably in accordance with the requirements that are set out within the Residential Design Guide SPD.

Overall, with regard to the above noted considerations, it is viewed that the scheme would not result in the generation of material harm to neighbouring amenity, by way of loss of light, outlook, or privacy and as such lies in accordance with Local Planning Policy BE3.

## Ecology

Local Plan Policy NE2 of the Warwick District Local Plan 2011-2029 states that development will not be permitted that will destroy or adversely affect protected, rare, endangered or priority species unless it can be demonstrated that the benefits of the development clearly outweigh the nature conservation value or scientific interest of the site and its contribution to the wider biodiversity objectives and connectivity. Policy NE2 goes on to state that all proposals likely to impact on these assets will be subject to an ecological assessment.

The County Ecologist has recommended that a Preliminary Bat Roost Assessment should be carried out before determining the application. Having considered this request and noting that the property is located within Lillington adjacent to many similar dwellings, it is not considered appropriate or reasonable to request a bat survey to be submitted in this instance. Further to this, when visiting the site the roof was determined to be in a very good condition, with no notable gaps or access points identified. In coming to this conclusion, I am mindful of the location of the property, the characteristics of the local area, and the fact that bats are a protected species under separate legislation and a duty of care by the applicants to ensure protected species are not harmed by the proposal. As a result, I consider that the imposition of an explanatory note regarding the applicant's responsibility with regard to protected species is sufficient.

The proposal is therefore considered to be in accordance with Local Plan Policy NE2.

## Parking

Local Plan Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant Parking Standards SPD. The proposed scheme will increase the number of bedrooms in the dwellinghouse from three to four. This increase will result in the additional need of one car parking space to be in accordance with the Parking Standards SPD, with a three-bed dwelling requiring 2 allocated spaces and a four bed property requiring 3 allocated spaces. The application property has ample space within the curtilage of the dwellinghouse to accommodate three vehicles comfortably. The proposal is therefore considered to accord with the Parking Standards SPD and is therefore also in accordance with Local Plan Policy TR3.

## Other Matters

The objection comment from the occupier of 102 Leicester Lane also refers to the impact the proposed development will have in relation to noise pollution and traffic generation during the period of construction and how this may have a harmful impact upon neighbouring amenity. Additionally, concerns are also raised in relation to parking demand and the need to keep access available at all times to the neighbouring Severn Trent Pumping Station that lies between the two properties. Whilst it is acknowledged that this may be the case, the scale of development is small, and the period of construction work is likely to be relatively short and therefore it would not be appropriate or necessary to condition the submission of a Construction Management Plan for a householder development. However, any planning approval will contain advisory notes on good working

practices. In regard to parking, this impact again is short lived and the workers have a responsibility to park in a safe manner in accordance with the highway code thus, this is not considered a suitable reason for refusal nor it is necessary for this to be addressed via a condition.

### **SUMMARY AND CONCLUSION**

The proposal is considered to constitute good quality design in respect of providing a subservient addition which enhances the existing dwellinghouse whilst respecting the surrounding buildings in terms of its scale, form and adoption of appropriate materials. The proposal is also considered to have an acceptable impact on neighbouring amenity levels, ecology and parking. As such, the proposal is in accordance with the aforementioned policies, and it is therefore recommended for approval.

### **CONDITIONS**

- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
  - 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 1975-PL03 REV A and 1975-PL04 REV A, and specification contained therein, submitted on 23/11/2023. **Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
  - 3 Notwithstanding the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no part of the dwellinghouse shall be clad in timber other than as shown on the approved drawings. **Reason:** To secure a satisfactory form of development in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.
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**Application No:** W 23 / 1689

**Town/Parish Council:** Hatton  
**Case Officer:** Dan Charles

**Registration Date:** 23/11/23  
**Expiry Date:** 22/02/24

01926 456527 dan.charles@warwickdc.gov.uk

**Land on the North-East Side Of, Birmingham Road, Hatton**

Variation of Conditions 14 and 17 of Planning Permission ref: W/19/0933  
(Erection of 150 dwellings with all ancillary works) to allow for the use of the temporary access for up to 40 residential occupations FOR Taylor Wimpey Midlands

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This application is being presented to Planning Committee as it is recommended for approval and more than 5 objections have been received.

**RECOMMENDATION**

That Authority be delegated to Officers to grant the Section 73 application to W/19/0933, subject to the relevant conditions upon the expiry of the consultation period on 22 December 2023.

**DETAILS OF THE DEVELOPMENT**

This application is made under section 73 of the Town and Country Planning Act 1990 that relates to the determination of applications to develop land without compliance with conditions subject to which a previous planning permission was granted, subject to the revised/new conditions meeting the requirements of 'Use of Planning Conditions' (ID: 21a Updated 06.03.2014) of the PPG.

In deciding an application under Section 73, the Local Planning Authority must only consider the disputed condition that is the subject of the application – it is not a complete re-consideration of the application (PPG Paragraph 031 Reference ID: 21a-031-20140306). In this case the applicant is seeking a variation to the wording of a condition through the use of a Section 73 application (PPG Paragraph 13 Reference ID: 17a-013-20140306).

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

This application seeks the variation of Conditions 14 and 17 which relate to the design and use of the temporary access. The proposal seeks to allow for the use of the temporary access for up to 40 residential occupations prior to the delivery of the main access junction from Birmingham Road. This requires some works to be carried out to the access to allow for the additional use.

The current Condition 14 states;

*The development shall not be occupied until the public highway A4177 has been improved so as to provide for the site access in accordance with a scheme approved in writing by the Local Planning Authority in consultation with the Highway Authority, as shown on plan 890193 10-09 P3. **Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.*

The current Condition 17 refers to the time limit imposed on the temporary access. The original wording is set out below:

*The temporary construction/sales access shall be constructed strictly in accordance with the details as shown on plan reference 0102/2000 Rev B. The access shall be used for a maximum period of three years from the commencement of the development or the substantial completion of the primary access (whichever is the sooner) and thereafter, the land shall be restored to its former condition. Any new planting shall be carried out within the first planting season following the cessation of the use of the access. **Reason:** The access is only proposed for a temporary period and is not proposed to be a permanent vehicular access to serve the site.*

The revision seeks to reword Condition 14 to reflect the revised access plan that shows the access improved to allow for the use by residential occupations in addition to the current sales and construction traffic. The changes include works within the limits of the public highway which are subject to a Section 184 Agreement under the Highways Act.

The revised wording to Condition 14 is proposed to be:

*The development shall not be occupied until the public highway A4177 has been improved so as to provide for the site access in accordance with a scheme approved in writing by the Local Planning Authority in consultation with the Highway Authority, as shown on plan 0102-S278-100 Revision R. **Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.*

The revised wording to Condition 17 is proposed to be:

*The temporary access shall be constructed strictly in accordance with the details as shown on plan reference **Reason:** The access is only proposed for a temporary period and is not proposed to be a permanent vehicular access to serve the site.*



The justification provided for the change states that the works for the new junction have been delayed due to the complex nature of the works and delays in the allocation of road space for the required time to complete the access works.

No other changes to the scheme are proposed and the temporary access will still be closed once no longer required.

### **THE SITE AND ITS LOCATION**

The application site forms allocated site H28 as set out in Policy DS11 of the Local Plan 2011-2029 and as illustrated on the Policies Map. It is therefore allocated for housing development and associated infrastructure and uses. The site is currently under construction in pursuance of the approved application for residential development.

The proposal is flanked by the Birmingham Road to the south, the existing residential development to the east with open countryside to the east beyond Ugly Bridge Road. To the north lies an area of woodland known as Smiths Covert that bounds the site. An area of residential development sweeps around the top of Smiths Covert and to the North-East of the application site.

Overall, the site is approximately 7.5 hectares. The land rises from the public highway to the south towards Smiths Covert to the north. This topography is similar to the existing residential development to the east of the site.

### **PLANNING HISTORY**

W/23/0928 - Retrospective permission for the display of 8 x 6m non-illuminated flagpoles, 1 x double sided non-illuminated totem sign and 5 x non-illuminated freestanding signs – GRANTED 18.08.2023.

W/20/1176 - Application for Variation of Condition 2 (approved plans) and Condition 14 (Access Layout) and Removal of Condition 10 (Provision of Footpath/Cycle Link) of planning permission W19/0933 – REFUSED 28.10.2020. APPEAL ALLOWED 06.09.2021.

W/19/0933 - Full Planning Application - 150 Dwellings (Class C3); New Vehicular Access from Birmingham Road; New Temporary Vehicular Access for Sales and Construction from Birmingham Road; & Associated Works – GRANTED 19.02.2020.

W/17/2415 - Full planning application for construction of 150no. dwellings (Class C3); a new vehicular access from Birmingham Road; a new temporary access for sales and construction from Birmingham Road; associated drainage and infrastructure; public open space; landscaping and all other ancillary and enabling works – WITHDRAWN 24.04.2018.

### **RELEVANT POLICIES**

- National Planning Policy Framework
- Warwick District Local Plan 2011-2029
- DS1 - Supporting Prosperity

- DS2 - Providing the Homes the District Needs
- DS3 - Supporting Sustainable Communities
- DS4 - Spatial Strategy
- DS5 - Presumption in Favour of Sustainable Development
- DS6 - Level of Housing Growth
- DS7 - Meeting the Housing Requirement
- DS11 - Allocated Housing Sites
- PC0 - Prosperous Communities
- H0 - Housing
- H1 - Directing New Housing
- H2 - Affordable Housing
- H4 - Securing a Mix of Housing
- H10 - Bringing forward Allocated Sites in the Growth Villages
- SC0 - Sustainable Communities
- BE1 - Layout and Design
- BE2 - Developing Strategic Housing Sites
- BE3 - Amenity
- TR1 - Access and Choice
- TR2 - Traffic generation
- TR3 - Parking
- HS1 - Healthy, Safe and Inclusive Communities
- HS3 - Local Green Space
- HS4 - Improvements to Open Space, Sport, and Recreation Facilities
- HS5 - Directing Open Space, Sport, and Recreation Facilities
- HS6 - Creating Healthy Communities
- HS7 - Crime Prevention
- CC1 - Planning for Climate Change Adaptation
- CC2 - Planning for Renewable Energy and Low Carbon Generation
- FW1 - Development in Areas at Risk of Flooding
- FW2 - Sustainable Urban Drainage
- FW3 - Water Conservation
- FW4 - Water Supply
- HE1 - Protection of Statutory Heritage Assets
- HE4 - Archaeology
- NE1 - Green Infrastructure
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets
- NE3 - Biodiversity
- NE4 - Landscape
- NE5 - Protection of Natural Resources
- DM1 - Infrastructure Contributions
- Guidance Documents
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Distance Separation (Supplementary Planning Guidance)
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Open Space (Supplementary Planning Document - April 2019)
- Parking Standards (Supplementary Planning Document)
- Affordable Housing (Supplementary Planning Document - January 2008)
- Warwickshire Landscape Guidelines SPG

## **SUMMARY OF REPRESENTATIONS**

**Hatton Parish Council:** No comments received.

**WCC Highways:** No objection - The proposal for an amendment to the temporary access has been previously agreed with the Section 184 Engineer and the proposal has been supported by a Stage 2 Road Safety Audit which has been reviewed by the Safety Engineer.

**Public Response:** 12 objections received making the following comments:

- Original conditions imposed for safety reasons in order to avoid the risk to residential occupiers of the development until proper access had been constructed.
- Current access does not work particularly well.
- Arrangements should have been in place prior to works commencing.
- Should not be granted as it incentivises developer to benefit.
- Mud on road is already a concern and adding residents into the access particularly in winter months will exacerbate this.
- One banksman is insufficient to be responsible for the access.
- How will the 40 occupancies be policed?
- Will add additional traffic into the existing roadworks.
- Already dangerous to cross the road.
- Existing situation with roadworks is making pedestrian movements difficult.
- Not acceptable to put lives at risk.
- Not convinced the left-in-left-out arrangement is practical and could lead to more vehicles attempting to turn at the Shell garage.
- Existing disruption is already significant, and this proposal will make it worse.

## **ASSESSMENT**

### History/Background

The principle of development has been established through the grant of full planning permission W/19/0933 for the erection of 150 dwellings and associated development. The construction of these dwellings is currently underway.

This application relates to Conditions 14 and 17 that relate to the delivery of the main site access and the operation and alteration of the current temporary construction and sales access to allow for the use for up to 40 residential occupancies to be serviced from the temporary access point.

No other changes are proposed, and the final development will be in accordance with the approved layout.

The reason for the change is that due to delays in the scheduling process for the roadworks on Birmingham Road, the schedule has been delayed for the delivery of the access to this housing site. As a number of dwellings are near completion or have been completed, access needs to be provided before the units can be occupied.

In order to prevent the undue delay of occupation of the dwellings, including much needed affordable housing, the proposal seeks to vary the condition to allow up to 40 residential occupancies to be allowed from the temporary access before the delivery of the main Birmingham Road access point.

On the basis of the above, the only relevant consideration in this case is the impact on Highway Safety.

### Highway Safety

Policy TR1 of the Warwick District Local Plan requires all development to provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety. Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.

As existing, the site benefits from a temporary access point that has been installed to allow for construction traffic and sales uses prior to the formation of the primary access to the site. This access point fronts onto the Birmingham Road.

The main access to the site is proposed to be delivered through a Section 278 Highways Agreement. These works are due to commence imminently and are scheduled to be completed by the 4<sup>th</sup> Quarter of 2024. Under the current conditions, the site cannot be occupied until this main access is completed and operational.

Due to delays with the Section 278 process, the applicants currently have completed properties on the development which have been purchased but are unable to be occupied.

This application therefore seeks to vary the existing access conditions to allow for up to 40 residential occupations to be served from the temporary access point. As part of this proposal, the temporary access is to be improved to provide an acceptable access point to accommodate the additional vehicle movements.

The revisions to the temporary access include minor widening and the creation of a left-in-left-out only arrangement. This includes the provision of bollards to the centre line of the road to prevent vehicles turning right either into or out of the access point. Appropriate highways signage is also proposed to be provided to make road users aware of the restriction.

The proposal has been submitted with a Stage 2 Road Safety Audit which has reviewed the access point and the final submitted drawing has addressed the concerns that the auditor has raised. The Road Safety Audit has been assessed by the County Highways Road Safety Engineer as part of the assessment of the proposal and no objection is raised to the proposed access as identified on the submitted plans.

Officers are satisfied that the existing access arrangements are such that the revision to the occupancy rate would not result in any harm to highway safety. Officers note that works form the main access are imminently about to begin and once carried out, would allow for 100% occupation of the development and the use of the temporary access would cease and the land required to be restored to its former condition. It is therefore likely that the temporary requirements of the revised condition would only be a short-term requirement and upon completion of the main junction with Birmingham Road, the conditions would require the access to be closed.

Officers are therefore satisfied that the proposal is acceptable having regard to Policies TR1 and TR3.

### Assessment of previously imposed conditions

The granting of a Section 73 application grants a new planning permission for the development. Therefore, an assessment of previously imposed conditions is required to determine if they are still relevant to the application. Any conditions considered still relevant shall be carried forward and amended if necessary to reflect the updated planning permission.

The conditions attached to the original permission have been predominantly discharged and these shall be updated to compliance conditions to reflect the approved details. Other conditions that are for compliance only will remain as written.

### **Conclusion**

The applicants have demonstrated that the temporary arrangements can provide an acceptable form of access for site users without being detrimental to highway safety and this has been considered by the Warwickshire County Council Highways Team who have raised no objection to the revised proposal.

Officers are satisfied that revisions would not result in any material change to the overall scheme and the limited period of the contingency highway measures is temporary and would have no resultant harm. The proposal is therefore recommended for approval.

### **CONDITIONS**

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s):
  - 0102/1000 Rev C, 0102/2000 Rev B, 0102-116A, 0102-118, 0102-119, 10-05-01-P9, 10-05-02-P9, 10-05-03-P6, 10-06-P8, 10-07-P8, 20142-DG-PL, 20142-DSG-PL, 20142-SG-PL, AA11, AA24, AA32, AA42, BU2, The Devonford – Plan, The Devonford – Elevations, The Devonford – Elevations (Plots 64&65 only), The Keydale – KE, The Keydale – KE (Plot 57 only), The Keydale – KE (SP), The Keydale – KE (SP) (Plot 131 only), The Beauford – NA21, The Byford – NA32, The Ransford – NA46 – Plans, The Ransford – NA46 – Elevations, The Ransford – NA46 – Elevations (Plot 52&63 only), The Stanford – NA47 – Plans, The Stanford – NA47 – Elevations, The Ruston – NB52 – Elevations, The Rushton – NB52 – Plans, The Canford – PA25, The Gosford – PA34, The Lavenham – PD51 – Elevations, The Lavenham – PD51 – Plans, The Teasdale – PT45 – Elevations and The Teasdale – PT45 – Plans, and specification contained therein, submitted on 29 May 2019.
  - 20142/PL/01E, c-1562-07 Rev B and c-1562-08, and specification contained therein, submitted on 27 August 2019

- 890193-10-07-P8, 1562-01J, 1562-02J, 1562-03J, 1562-04L, 1562-06K and 20142-EP-01 Rev D, and specification contained therein, submitted on 18 October 2019 1562-05J, and specification contained therein, submitted on 24 October 2019.

**REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.

- 2 The tree and hedgerow protection measures approved in pursuance of Condition 3 of planning permission shall remain in full accordance with the details set out in the document titled Stage 1 & 2 Arboricultural Impact Assessment and Method Statement Report (Rev.9) dated August 19. The protective fencing shall remain in place for the full duration of any construction work. In addition no excavations, site works, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the canopy of any protected tree(s); no equipment, machinery or structure shall be attached to or supported by a protected tree(s); no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area or any other works carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and that no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s).

**REASON:** In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policies BE1 and NE1 of the Warwick District Local Plan 2011-2029.

- 3 The development (including any works of demolition) shall be carried out in strict accordance with the construction method statement submitted to and approved in writing by the local planning authority on 9 February 2023 in pursuance of planning permission W/19/0933 and the addendum construction method statement received by the Local Planning Authority on 22 November 2023.

**REASON:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1, TR4 and NE5 of the Warwick District Local Plan 2011-2029.

- 4 The development hereby permitted shall be carried out in accordance with the details of hard and soft landscaping works submitted to and approved in writing by the Local Planning Authority on 5 January 2023 in pursuance of W/19/0933.

The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation.

Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of the same size and species as that originally planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 - Transplanting Root-balled Trees and BS4428 - Code of Practice for General Landscape Operations.

**REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029.

- 5 The development hereby permitted shall not be occupied until the scheme for the provision of adequate water supplies and fire hydrants submitted to and approved in writing by the Local Planning Authority on 1 June 2023 in pursuance of W/19/0933 has been implemented to the satisfaction of the Local Planning Authority.

**Reason:** In the interests of Public Safety from fire, and the protection of Emergency Fire Fighters.

- 6 The development shall be carried out strictly in accordance with the detailed surface water drainage scheme for the site submitted to and approved in writing by the Local Planning Authority on 22 September 2022 and the scheme shall be fully implemented in accordance with the approved details before the development is completed.

**Reason:** To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity in accordance with Policies FW1, FW2 and NE3 of the Warwick District Local Plan 2011-2029.

- 7 The development hereby permitted shall be carried out strictly in accordance with the details of the contaminated land survey and remediation strategy as set out in the following documents submitted in pursuance of W/19/0933;

- Supplemental Site Investigation Report 252601-R01(00), December 2021, prepared by RSK Geosciences received on 21.01.2022.
- Remediation Method Statement 252791-R01 (01), August 2022, prepared by RSK Geosciences received on 23.11.2022.

If during development, contamination not previously identified, is found to be present at the site then no further development shall take place (unless otherwise agreed in writing with the planning authority for an addendum to the method statement). This addendum to the method statement must detail how this unsuspected contamination shall be dealt with and shall be submitted to and approved in writing by planning authority. The site shall not be occupied until the approved addendum has been complied with.

Upon completion of the remediation detailed in the method statement a report shall be submitted to the planning authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved method statement. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.'

**REASON:** To safeguard health, safety and the environment in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029.

- 8 The development shall be carried out in accordance with the detailed surface water drainage scheme for the site submitted to and approved in writing by the Local Planning Authority on 22.09.2022 and shall be fully implemented in accordance with the approved details before the development is completed.

**Reason:** To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures in accordance with Policies FW1 and FW2 of the Warwick District Local Plan 2011-2029

- 9 The development hereby permitted shall not be occupied unless and until the pedestrian/cycle link has been fully delivered to connect the development with Ebrington Drive. The pedestrian/cycle link shall be constructed in accordance with the scheme submitted to the Local Planning Authority in pursuance of W/19/0933.

**REASON:** To ensure that the development has acceptable permeability with the existing residential development in accordance with Policies SC0 and TR1 of the Local Plan 2011-2029.

- 10 The development shall be carried out in accordance with the details of external facing materials submitted to and approved in writing by the Local Planning Authority on 9 March 2022 in pursuance of W/19/0933.

**REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

- 11 The development hereby permitted shall be carried out strictly in accordance with the Landscape and Ecological Management Plan reference CSA/2684/05 (updated April 2019) received on 29 May 2019 submitted in pursuance of W/19/0933.

**REASON:** To safeguard the presence and population of a protected species in line with UK and European Law, the National Planning Policy Framework and Policy NE3 of the Warwick District Local Plan 2011-2029.



12 The development hereby permitted shall be carried out strictly in accordance with the Construction and Environmental Management Plan (CEMP) reference CSA/2684/06 (updated April 2019) received on 29 May 2019 submitted in pursuance of W/19/0933.

**REASON:** To safeguard the presence and population of a protected species in line with UK and European Law, the National Planning Policy Framework and Policy NE3 of the Warwick District Local Plan 2011-2029.

13 The development shall not be occupied until the public highway A4177 has been improved so as to provide for the site access in accordance with the scheme approved in writing by the Local Planning Authority in consultation with the Highway Authority, as shown on plan 0102-S278-100 Revision R.

**REASON:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

14 The layout of the estate roads serving the development [including footways, verges and footpaths] shall not be designed other than in accordance with the principles and guidance as set out in 'Transport and Roads for Developments: The Warwickshire Guide 2022' and constructed in accordance with the Highway Authority's standard specification.

**REASON:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

15 No dwelling shall be occupied until the estate roads [including footways] serving it have been laid out and substantially constructed to the satisfaction of the Highway Authority in accordance with the details approved in writing by the Local Planning Authority.

**REASON:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

16 The temporary access hereby permitted shall be constructed in accordance with the details as shown on plan reference 950-S184 Ref G. The use of this access shall be limited to purposes for construction/sales and for a maximum of 40 residential occupations only. The use of the access shall cease at either the substantial completion of the primary access or within 18 months from the date of this decision, whichever is the sooner. Thereafter, the land shall be restored to its former condition within 6 months from the cessation of use of the temporary access. Any new planting shall be carried out within the first planting season following the cessation of the use of the access.

**REASON:** The access is only proposed for a temporary period and is not proposed to be a permanent vehicular access to serve the site.

17 The Developer shall ensure that all the measures to ensure that mud and debris will not be deposited on the highway as result of construction traffic leaving the site submitted to and approved in writing to the Local

Planning Authority on 9 February 2023 in pursuance of W/19/0933 are maintained and operational for the duration of all construction works on the site.

**Reason:** In the interests of vehicular and pedestrian safety in accordance with Policy TR1 of the Warwick District Local Plan 2011-2029.

- 18 The lighting scheme shall be carried out in accordance with the details submitted on plan reference 10-06 P8 received by the Local Planning Authority on 29 May 2019 in pursuance of W/19/0933.

**REASON:** To safeguard the presence and population of a protected species in line with UK and European Law, the National Planning Policy Framework and Policy NE3 of the Warwick District Local Plan 2011-2029.

- 19 The development hereby permitted shall not be occupied until a scheme which satisfies the requirements set out in the Council's adopted Air Quality and Planning Supplementary Planning Document (January 2019) has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved details. The approved scheme shall be retained and maintained as such at all times thereafter.

**REASON:** To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan.

- 20 The development hereby permitted shall be carried out strictly in accordance with the methodology set out in the Stage 1 & 2 Arboricultural Impact Assessment and Method Statement Report (Rev.9) dated August 19 and received by the Local Planning Authority on 27 August 2019 in pursuance of W/19/0933.

**REASON:** In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policies BE1 and NE1 of the Warwick District Local Plan 2011-2029.