

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

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

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

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W/20/0649 - Siting of a holiday cabin – Withdrawn.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