

Planning Committee: 16 April 2024

Observations received following the publication of the agenda.

Update on the Net Zero Carbon Development Plan Document (DPD)

Councillors are advised that following the receipt of the Inspector's letter on 9 April 2024, within which the Inspector confirmed that the DPD had passed the test of soundness, from that date the DPD attracts substantial weight in the consideration of all relevant planning applications.

The assessment of the applications included on the agendas for the Planning Committee meetings of 16 and 18 April 2024 was undertaken prior to the receipt of the Inspectors letter and therefore prior to that increased level of weight taking effect.

In order to accommodate that change, it will be necessary for some applicants to make further submissions to which detailed consideration will be given to demonstrate compliance with the DPD, taking account of specialist advice where appropriate. In other cases, it will be necessary for information already submitted to be assessed by the Council's technical specialist.

Rather than remove items from the Committee agendas to facilitate that, it is proposed to update a number of the recommendations which will be set out below for each relevant item.

Those updated recommendations will seek delegated authority from the Committee for the Head of Place, Arts and Economy in conjunction with the Chair of Planning Committee to issue the decisions, granting planning permission subject to appropriate additional planning conditions and/or Section 106 Agreement requirements on relevant applications in the circumstances where, following the technical assessment of information either already submitted or yet to be submitted, it is considered that the proposals will comply with the requirements of the DPD.

Delegated authority will also be sought to refuse planning permission in the circumstances where the Head of Place, Arts and Economy in conjunction with the Chair of Planning Committee consider that an appropriate time period has elapsed without the submission of sufficient information to demonstrate such compliance.

In view of the timing of the receipt of the Inspector's letter, which neither Officers or applicants had any control over, Officers consider that this approach is the most appropriate and proportionate in the circumstances.

Item 05 – Land South of Chesterton Gardens

Updated 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 are also recommended to delegate authority to the Head of Place, Arts and Economy 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 alterations to the final list of conditions.

Should a satisfactory Section 106 Agreement not have been completed within 4 months from the date of Committee and, in the opinion of Officers, there is no ongoing progress towards the satisfactory completion of the Section 106 Agreement, Planning Committee are recommended to delegate authority to the Head of Place, Arts and Economy to REFUSE planning permission on the grounds that the proposal makes inadequate provision in respect of the issues the subject of that agreement.

Planning Committee are also recommended to delegate authority to the Head of Place, Arts and Economy in consultation with the Chair of Planning Committee to issue the decision notice, granting planning permission subject to any additional planning conditions or Section 106 Agreement requirements which they consider appropriate in the circumstances where they consider that the applicant has demonstrated compliance with the requirements of the net Zero Carbon Development Plan Document (DPD).

In the circumstances where those requirements have not been demonstrated within an appropriate time period, Planning Committee are recommended to delegate authority to the Head of Place, Arts and Economy in consultation with the Chair of Planning Committee to refuse planning permission for that reason.

In view of the substantial weight which the Net Zero Carbon DPD now attracts, Officers consider that the revised recommendation is necessary in this case to enable specialist advice to be sought as to compliance of the submitted energy statement and associated documents with the requirements of the Net Zero Carbon DPD prior to the issuing of the decision for this application.

Public Response

An additional 152 letters of objection received, citing reasons that are set out within the public response section of the report.

1 letter of support received – no reason for support given.

Query from Councillor Dickson

Amongst the many conditions which relate to the requirements for properties to comply with the 'Secured by Design' principle, as requested by the Warks Police Designing Out Crime Officer, and the provision of an equipped play area within a reasonable time period after the first x% of properties are occupied? Or are these both Reserved Matters items?

Response: The Secured by Design requirements can be applied to the outline to ensure the details are incorporated at Reserved Matters stage. The play area detail and would be secured through the Section 106 Agreement.

Item 06 – Woodloes Farm

Net Zero Carbon DPD

This application proposes the change of use of existing buildings and therefore Policy NZC4 of the Net Zero Carbon DPD applies.

Other DPD policies do not apply to this proposal because as set out in Objective 1 of the DPD, those other policies relate to developments proposing new buildings.

Policy NZC4 requires that:-

"All developments should demonstrate a consideration to sustainable construction and design in accordance with Local Plan Policy CC1 'Planning for Climate Change Adaptation'.

In addition, all development should consider alternatives to conventional fossil fuel boilers. This should be explored through a Low/Zero Carbon assessment of low carbon energy supply options within the submitted application documents".

As set out in the report, Officers consider that an appropriate Sustainability Strategy has been submitted which, notwithstanding the heritage constraints of the site, demonstrates the consideration of sustainable construction and design, and the consideration of alternatives to conventional fossil fuel boilers.

For example, air source heat pumps and de-centralised extract ventilation.

Officers are therefore satisfied that this proposal is in accordance with the requirements of the Net Zero Carbon DPD to consider such factors.

Further consultation received

Noise

The Council's Environmental Health Officer objects due to the impact of the shooting noise on the proposed residential development.

The applicant submitted a noise assessment report in order to overcome the initial holding objection from the EHO. The report assessed the impacts of two noise sources; road traffic noise and the impact of two nearby shooting grounds; Wedgnock Rifle Range and Adventure Sports.

With regard to the road traffic noise, the EHO notes that the submitted assessment identifies the road traffic noise not to be a limitation to the proposed development, therefore no specific mitigation measures are proposed.

The EHO notes that in the absence of more specific guidance, the assessment has been undertaken with regards to the Chartered Institute of Environmental Health (CIEH) Clay Target Shooting: Guidance on the Control of Noise (2003). The guidance says that a shooting noise level of around 65dB is likely to evoke a strong adverse community response. In this instance, the assessment results indicate that the shooting level would be above the 65dB on all occasions, ranging from 65.9dB to 76.9dB, with the shooting level being highest when there is a positive wind vector from the north/northwest (wind blowing directly from the shoot towards the measurement site plus or minus 45 degrees). These results indicate that a strong adverse community response is likely.

The Environmental Health Officer notes that complaints have been received in previous years from existing residents in similar proximity to the site. It is also noted that a noise abatement notice was served on each premises in 2000 and is continued to be enforced, such notices restrict the number of special events/competitions at the site, along with shooting hours. Environmental Health continued to receive annual complaints from residents, particularly concerning the noise impacts in their garden.

The submitted report says that the 65dB level was only marginally exceeded when the wind was blowing from the southwest, consistent with the national prevailing wind conditions. However, the EHO notes that this is not the positive wind vector suggested by the CIEH guidance and was only observed during one of the five measurements. The CIEH guidance says that if measurements exceed 65dB without a positive wind vector, it will not be acceptable with a positive wind vector. It is noted that whilst shooting is permitted during specific hours, as previously mentioned the sites are permitted a number of special events each year. Therefore, given that shooting is allowed to take place seven days a week, it is likely that the noise will be frequent enough to have adverse impacts on residential amenity and likely to generate noise complaints.

On the basis of the above, they would object to the proposed development as the noise assessment indicates that strong adverse community response is likely.

The EHO notes that the applicants report suggests that glazing could be upgraded to ensure that shooting is not disruptive to future occupiers whilst indoors. However, this would not avoid the noise impact occurring when residents wish to open their windows or want to use their gardens. They further note that the shooting grounds are not signposted on the local highway and therefore may not be obvious to individuals unfamiliar with the area. Therefore, this would make it difficult for future residents to make an informed choice about whether the shooting noise would be tolerable, before purchasing or renting the properties. Therefore, based on the above reasons Environmental Health Object to the proposals.

Planning balance

Officers note that whilst the shooting grounds located to the north-west of the site are considered to negatively impact the future occupiers of the residential

development, it is considered that there are numerous benefits of the development which are considered to outweigh such harm.

Such benefits would carry significant positive weight in the overall planning balance, they include.

- Securing the future of the Grade II*, Grade II and curtilage listed buildings, which are currently in a state of disrepair.
- Given the buildings are listed and of historic significance, it is in the public interest to secure their long-term futures.
- The proposal would secure the optimum viable use of the Grade II listed South Barn and other curtilage listed barns.
- Visual improvement from public vantage points, as the site can be seen from various public rights of way.
- The proposal secures a biodiversity net gain on site, in excess of the requirements at the time of the application.
- The proposal would include a range of social benefits as it would reduce antisocial behaviour e.g. vandalism, which is currently occurring on site.

Officers further note that the site has a history of residential use, and the main farmhouse was occupied as recently as 2021, of which there is no evidence that the occupants complained about noise from the shooting ranges.

Furthermore, the predicted impacts experienced by the proposal are considered to be no different to that experienced at other residential properties in this area, of which it is noted there are other dwellings which are marginally closer.

Whilst the EHO states that an abatement notice was served on the shooting grounds in 2000, following several local complaints, it is noted that no further action has been taken since then - a 24-year period. Therefore, it can be reasonably concluded that no further action has been required in relation to noise.

Officers also note that whilst the figures provided are in excess of the CIEH guidance, from the data submitted it was no more than 11dB over the maximum noise level. It is also noted that the majority of the shooting is within daytime hours, with extended hours being permitted for special events. This is further confirmed by the notices served on the shooting grounds, which require shooting to stop no later than 5pm for special events, with no further suggestion that the clubs shoot after 5:30pm other than Adventure Sport, where shooting can continue until 8pm on Tuesdays.

Officers consider that a condition could be imposed to ensure that prospective purchasers are aware of the location and operating hours of the shooting ranges.

Condition added.

"No dwelling created from the conversion of the barns hereby permitted shall be first occupied until marketing material has been submitted to and approved in writing by the Local Planning Authority, such marketing material to make clear to prospective purchasers the location and operating hours of the Wedgnock shooting ranges and thereafter the approved marketing material shall be made available to

purchasers. **Reason:** To ensure any future purchasers are aware of any potential noise impacts”.

Further consultation received

Land Contamination.

The Council’s Environmental Health Officer has been consulted and recommends the below conditions relating to land contamination.

1. No development shall take place until a method statement detailing the remediation requirements using the information obtained from the approved site investigation reports, has been submitted to the local planning authority. The method statement shall include details of how the remediation works will be validated upon completion. This should be approved in writing by the local planning authority prior to the remediation works being carried out on the site. Once approved, all development of the site shall accord with the approved method statement. **Reason:** To safeguard health, safety and the environment in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029.

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

3. Upon completion of the remediation detailed in the method statement a report shall be submitted to the local 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.

Further comments received

Public Responses – 3 further comments have been received; however, it should be noted that the same three representations were previously submitted.

Objection on the grounds of the following;

- Impact on Woodloes Lane
- Impact on the safety of those using Woodloes Lane

Error in Officers Report

A section in the report, the final paragraph of the 'Impact on Trees' section, refers to TPO trees and is further referenced by the Landscape Officer. However, this is a mistake as there are no TPO trees within the application site

Item 07 – 28 Newnham Road

Net Zero Carbon DPD

This application proposes extensions to an existing residential property and therefore Policy NZC4 of the Net Zero Carbon DPD applies.

Other DPD policies do not apply to this proposal because the development proposed does not exceed the relevant triggers.

Policy NZC4 requires that:-

"All developments should demonstrate a consideration to sustainable construction and design in accordance with Local Plan Policy CC1 'Planning for Climate Change Adaptation'.

In addition, all development should consider alternatives to conventional fossil fuel boilers. This should be explored through a Low/Zero Carbon assessment of low carbon energy supply options within the submitted application documents".

It is proposed that this requirement be achieved through the imposition of an additional planning condition requiring the applicant to demonstrate compliance with the above requirements of the Net Zero Carbon DPD.

Ecology Response

As part of this application a Preliminary Bat Roost Assessment was submitted, which highlighted that whilst there was no presence of bats within the roof void of the application property, there were openings between the hanging tiles to the front elevation of the property, with small droppings identified at the time of the survey. A DNA analysis was requested from the County Ecologist following these findings, with the analysis itself confirming that the droppings found were from Common Pipistrelle bats.

In light of these findings, the County Ecologist has considered that the imposition of two specific conditions will act to protect this small roost that has been identified. Alongside these mitigation measures in relation to the protection of bats, the Ecologist has also recommended the inclusion of advisory notes relating to birds and hedgehogs.

Subsequently, subject to the works being carried out in line with the specific pre-commencement conditions and advisory notes set out by the County Ecologist, the proposed scheme is considered to comply with Local Plan Policy NE2.

Conditions Added

No part of the development hereby permitted shall be commenced until a scheme for the provision of a bat box/es/bat roosting feature/s to be erected on buildings within the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme should include details of box type, location, and timing of works. Thereafter, the box/es/features shall be installed and maintained in perpetuity. **Reason:** In accordance with the NPPF, OPDM Circular 2005/06.

The development hereby permitted shall not commence until a detailed schedule of bat mitigation measures (to include timing of works, ecologist supervision of destructive roof works, toolbox talk, providing a bat box in case bats are found during works, monitoring and further survey if deemed necessary) has been submitted to and approved in writing by the Local Planning Authority. Such approved mitigation measures shall thereafter be implemented in full and maintained in perpetuity. **Reason:** To ensure that protected species are not harmed by the development.

Notes Added

Bird Note: Work should avoid disturbance to nesting birds. Birds can nest in many places including buildings, trees, shrubs, dense ivy, and bramble/rose scrub. Nesting birds are protected under the 1981 Wildlife and Countryside Act. The main nesting season, lasts approximately from March to September, so work should ideally take place outside these dates if at all possible. NB. Birds can nest at any time, and the site should ideally be checked for their presence immediately before work starts, especially if during the breeding season.

Hedgehog Note: In view of the nearby hedgehog record(s)/and/suitable habitat, care should be taken when clearing the ground prior to development, particularly piles of deadwood /leaves /bonfire mounds. Any trenches used as part of construction should be covered over night or be ramped to allow exit. If a hedgehog is found, work should stop until WCC Ecological Services is contacted. Hedgehogs are of high conservation concern and are a Species of Principal Importance under section 41 of the NERC Act. Habitat enhancement for hedgehogs can easily be incorporated into development schemes, for example through ensuring Any new fences contain gaps of at least 15cm to allow hedgehogs and other wildlife to move through the gardens and provision of purpose-built hedgehog shelters. More details can be provided by the WCC Ecological Services if required.

Item 08 – Woodside, Glasshouse Lane

Updated 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 Place, Arts and Economy 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 Place, Arts and Economy to refuse planning permission on grounds that the proposal makes inadequate provision in respect of the issues the subject of that agreement.

Planning Committee are also recommended to delegate authority to the Head of Place, Arts and Economy in consultation with the Chair of Planning Committee to issue the decision notice, granting planning permission subject to any additional planning conditions or Section 106 Agreement requirements which they consider appropriate in the circumstances where they consider that the applicant has demonstrated compliance with the requirements of the net Zero Carbon Development Plan Document (DPD).

In the circumstances where those requirements have not been demonstrated within an appropriate time period, Planning Committee are recommended to delegate authority to the Head of Place, Arts and Economy in consultation with the Chair of Planning Committee to refuse planning permission for that reason.

In view of the substantial weight which the Net Zero Carbon DPD now attracts, Officers consider that the revised recommendation is necessary in this case to enable specialist advice to be sought as to compliance of the submitted energy statement and associated documents with the requirements of the Net Zero Carbon DPD prior to the issuing of the decision for this application.

Update on Biodiversity Net Gain

The applicant has advised that the landscape consultant and ecologist are still liaising but this is proving to be a very slow process due to the national requirement on BNG across the country. If no further enhancement is practicable on-site, the applicants are wholly agreeable to a condition/obligation to achieve the 10% BNG requirement.

Update to Section 106 Requests

The ICB have revised their request in line with their earlier request on W/23/0415 and is now £61,244 not £100,177 as referenced in the report.

Queries from Councillor Dickson

Because this application is a re-submission of 23/0415, is the only factor that can be considered whether or not the reason for refusal still applies given additional information provided? Or can the Committee consider other factors too?

Officer Response: Whilst this is a new application and can be considered as such, the detail is identical to the previously refused scheme with the only change being the inclusion of the Energy Statement in compliance with the Net Zero Carbon DPD.

Given the above, the primary consideration for Members is whether the submitted information overcomes the previous reason for refusal.

It states in the report that carbon emissions will be reduced by 64-72% depending on the unit type, exceeding the 63% required in Policy NZC1. When the units are occupied, how will this be measured, by whom and what enforcement action will be possible if, after completion and occupation of the development, the planned reductions are not achieved?

Officer Response: Condition 9 requires full details to be submitted in the form of a Sustainable Energy Compliance Statement prior to first construction. Thereafter, the dwelling cannot be occupied until details of the final as-built specification have been provided.

In terms of Enforcement, should the final detail not be in accordance with the DPD, then the dwelling cannot be occupied until this is rectified. Any dwelling that is occupied without having the detail approved would be in breach of the above condition and can be subject to Enforcement action to regularise.