

**Planning Committee:** 26 July 2011

**Item Number:**

**Application No:** W 11 / 0518

**Town/Parish Council:** Wappenbury  
**Case Officer:** Rob Young

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**Registration Date:** 18/05/11

**Expiry Date:** 13/07/11

**Wappenbury Wood, Nunwood Lane, Princethorpe, Rugby**  
Provision of hard surface to existing track (part retrospective application) FOR  
Warwickshire Wildlife Trust

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This application is being presented to Committee due to an objection from  
Bubbenhall Parish Council having been received.

### **SUMMARY OF REPRESENTATIONS**

**Wappenbury Parish Council:** We have no objection, but would welcome closer contact with the charity, as neighbours have shown concern over the management. We would, therefore, like the Parish Council to meet with them for a better relationship.

**Bubbenhall Parish Council:** I am contacting you on behalf of Bubbenhall Parish Council regarding the above application. Bubbenhall Parish Council and the residents of Bubbenhall have until recently held the Warwickshire Wildlife Trust in high regard for their management of the ancient woodlands near the village. However, we have been shocked and dismayed by the recent developments in Wappenbury Woods, notably the construction of a 3m wide track through the wood, the foundations for which utilised unacceptable waste materials.

Residents have also been concerned at the amount of timber felling which has recently taken place. While we acknowledge that proper woodland management requires coppicing, and the thinning out of trees, we feel that the number of mature trees which have been cut down is excessive, and damaging to the appearance of the woodland.

We are also concerned that the litter which formed part of the recycled demolition waste used for the track's foundation is removed, and that the material used to cap the track will be sufficiently resilient to withstand the further release of any demolition waste as well as being aesthetically pleasing and appropriate to the historic 'ride'.

**Public response:** The occupier of the adjacent dwelling at Shady Acres has objected to the proposals on the following grounds:

the material that has been used is contaminated;  
their own sampling of the material shows that around 10% of the samples analysed contained asbestos;  
the material should be covered with a geo-textile membrane prior to the top capping material being applied;  
turning a path designed to enable access for disabled people into a jointly used road where large vehicles will be travelling is dangerous;

the works will encourage unauthorised motor cycles or other vehicles joy riding in the wood;  
the works are unnecessary because timber has been successfully extracted for hundreds of years without a stone roadway; and  
the large number of heavy vehicles importing the material has caused considerable damage to the bridleway known as Nunwood Lane.

The owners of the shooting and sporting rights within the wood have objected on the following grounds:

the laying of this hard surface is yet another step towards the destruction of Wappenbury Wood as a reserve and haven for wild game;  
extensive felling of trees has taken place and the opening up of the wood has reduced considerably the natural habitat;  
there is no need for the hard surface or the extent of felling that has taken place;  
the wood must be allowed to regenerate; and  
the material that has been used is contaminated.

A resident of Southam has submitted comments in support of the application.

**Forestry Commission:** The Forestry Commission encourages and supports the sustainable management of woodlands as defined in FC policy and the UK Forestry Standard. The construction of a track in the woodland will enable access for harvesting and other woodland management operations. By providing access timber can be extracted from thinning and selective felling operations. This sustainable resource is used in the timber market and for woodfuel. Felling increases the light reaching the woodland floor and the development of woodland flora which subsequently support a wide range of insects and birds. It also creates an uneven age structure which increases biodiversity.

The Forestry Commission has been in discussions with the owner of the woodland to remedy some aspects carried out during the construction of the road which require remedial work.

**Natural England:** This application is in close proximity to a number of SSSIs. However, given the nature and scale of this proposal, Natural England raises no objection to the proposal being carried out according to the terms and conditions of the application and submitted plans on account of the impact on designated sites.

From the information provided with this application, it does not appear to fall within the scope of the consultations that Natural England would routinely comment on. The lack of comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may be able to make comments that will help the Local Planning Authority (LPA) to fully take account of the environmental value of this site in the decision making process.

However, we would expect the LPA to assess and consider the possible impacts resulting from this proposal on protected species, local wildlife sites and possible biodiversity enhancements when determining this application.

**Ramblers' Association:** This work, while necessary for the management of the wood, will also enable walkers to use the wood more easily (although there is no right of access) and, therefore, I have no objections to the application.

**WCC (Ecology):** The site lies within pLWS and Ancient replanted woodland Wappenbury Wood. There are no protected species records within the application site, although badger, bats, grass snake and a number of LBAP butterflies have been noted in the woodland and surrounding area.

From a site visit, it appears the majority of works have already been undertaken. Our main concerns are for the potential impact on protected species known to be present in the woodland, mainly any potential impact on badgers, grass snakes, bats and nesting birds. I have read the Design and Access Statement and I note the table, in section 6, summarising the potential impacts the works may have. In general I agree with the measures proposed in the table to minimise the risk to species of concern. However, it was not clear if the works would involve removing any trees. If any mature trees with suitable features for roosting bats are to be affected by works, by felling/lopping works, I would strongly recommend a bat survey is carried out prior to any works.

We welcome the proposal to undertake works outside the nesting bird season. As a precautionary measure we would recommend any vegetation to be removed is checked by a suitably qualified worker immediately prior to any works. Also, consideration should be given to protect the mature trees that are being retained both sides of the track and not impacted on by machinery that will be used to create the path.

As badgers are a highly mobile species and can create new setts overnight, I recommend that a precautionary approach is adopted. Particular care should be taken when clearing ground prior to development, and if evidence of badger activity is found, (such as foraging routes, snuffle holes, latrines or established setts), then work must stop immediately while WCC Ecological Services or Natural England are contacted. Applicants are advised to pay particular attention to foundation ditches, which can be hazardous to badgers. Sloping boards or steps should be provided to allow badgers to escape from such ditches should they become trapped.

The site where the works are proposed appears suitable for reptiles, with ungrazed grassed areas, tall ruderal, areas of scrub and log piles present. We also have records of grass snakes nearby to the proposed works. We therefore advise that care should be taken when clearing the ground prior to works and when storing materials.

Taking all of the above into consideration I would recommend that a condition is attached to any approval granted to require a reserves officer to supervise all works on site. All features, including compost and log piles, are to be removed carefully by hand. Should any nesting birds, evidence of badgers, reptiles, such as grass snake, or bats be found during this operation, then work must cease immediately while WCC Ecological Services are consulted for further advice.

**Environmental Health:** No objection.

### **RELEVANT POLICIES**

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)

- DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
- Planning Policy Guidance 2 : Green Belts

## **PLANNING HISTORY**

There have been no previous planning applications relating to the application site.

## **KEY ISSUES**

### **The Site and its Location**

The application relates to part of Wappenbury Wood. The wood is designated as an Ancient Woodland and is situated within the Green Belt. The application relates to established rides / tracks through the wood. A sub-base has recently been laid along these rides / tracks and this consists of recycled materials including crushed brick, concrete and road planings. The nearest dwelling is Shady Acres on Nunwood Lane, alongside the eastern boundary of the wood.

### **Details of the Development**

This is a part-retrospective application for the provision of a hard surface to existing tracks through the woods. The sub-base has been laid and therefore this is the retrospective part of the application. It is proposed to finish off the tracks by laying a top layer of 40mm to dust limestone road aggregate.

### **Assessment**

The main issues relevant to the consideration of this application are as follows:

- the impact on the health and character of the ancient woodland;
- the impact on the living conditions of nearby dwellings; and
- contamination.

### **Impact on the health and character of the ancient woodland**

In assessing the impact of the proposals, it is important to bear in mind that the construction of tracks within a woodland for the purposes of forestry is normally permitted development and does not require planning permission, provided that prior approval is obtained from the Council for the siting and means of construction of the track (e.g. similar to the procedure for some agricultural buildings and telecoms masts). Full planning permission is only required in this case because the applicant did not obtain prior approval. Nevertheless, it is relevant that the provision of permitted development rights indicates that the government considers that there should be a generally permissive approach to this type of development.

The applicant has advised that the tracks are required to facilitate vehicular access for timber extraction. This would enable the management of the wood to be improved, with associated ecological benefits. I note the objections that have been received raising concerns about damage to the woodland and the adverse ecological impact of the works. However, I also note that there has been no objection from the Forestry Commission, Natural England or the County

Ecologist and therefore I am not convinced that the works undertaken so far have harmed the woodland, or that the proposed further works would cause harm.

I am satisfied that the proposed works to finish off the tracks would provide an appropriate finish that would be in keeping with the character of the woodland. The applicant has advised that the proposed material for the top layer has previously been used at a nearby nature reserve.

I note that the objections raise concerns about the amount of tree felling that has taken place in association with the on-going management of the woodland by the applicants. However, this does not require planning permission and the woodland is not the subject of a Tree Preservation Order. Tree felling within the woodland may require a licence from the Forestry Commission and that would be the appropriate mechanism for considering issues relating to the impact of such works on the woodland. In any case, the applicant has confirmed that only approximately 12 trees were felled to create the "wood storage area" at the northern end of the track and that the average diameter of these trees was 20cm with an approximate age of 20 years. The applicant has advised that they chose a route which did not impact on the more mature trees in order to minimize the impact on the woodland.

With regard to the condition that has been recommended by the County Ecologist, I am not convinced that this is necessary. The only remaining works associated with this planning application would involve laying a top layer on the existing sub-base and consequently this would not include any destructive works. Any felling of trees associated with the on-going management of the woodland would not require planning permission and therefore it would be unlawful to impose a condition in relation to this.

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

I note the concerns of the nearest neighbour about the potential for the tracks to be mis-used. However, I do not consider that this concern would justify a refusal of planning permission. If issues were to arise in relation to the mis-use of the tracks, such matters would be more appropriately dealt with by the police or as part of the on-going management of the woodland. Bearing this in mind, I do not consider that the works to upgrade the tracks would cause unacceptable harm to the living conditions of nearby dwellings.

#### Contamination

Objectors have raised concerns about the use of contaminated material in the sub-base that has been laid. One objector has commissioned tests of samples from the material and these tests show that there is asbestos in some of the samples. However, Environmental Health have considered these test results and have raised no objection to the application. Therefore I am satisfied that the material that has been used does not contain unacceptably high levels of contamination.

#### Other matters

I note the concerns that have been raised about alleged damage that construction vehicles have caused to the bridleway known as Nunwood Lane. However, in the absence of any evidence to prove that the bridleway was in a significantly better condition prior to the works taking place, it would be difficult to make a compelling case on this point. Having viewed the bridleway there does

not appear to be any obvious damage that could be linked to the development that is the subject of this planning application.

I am satisfied that the proposals would not harm the openness or rural character of the Green Belt.

With regard to safety concerns that have been raised about large vehicles and disabled people using the same track, I do not consider that this would be a significant issue. The applicant has advised that the frequency of extraction operations within the woodland will be low and therefore, subject to this process being managed appropriately, I can see no reason why there should be any significant safety issues with the use of the track.

I note that concerns have been raised about the destruction of the wood as a haven for wild game. However, I do not consider that the proposed track would have an adverse impact on wild game. As stated previously, the felling of trees in the wood does not require planning permission and the woodland is not the subject of a Tree Preservation Order and therefore any ongoing felling of trees is not a matter to be considered as part of this planning application.

### **RECOMMENDATION**

GRANT, subject to the conditions listed below.

### **CONDITIONS**

- 1 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s), and specification contained therein, submitted on 15 April 2011, unless first agreed otherwise in writing by the District Planning Authority. **REASON** : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

### **INFORMATIVES**

For the purposes of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the development does not prejudice the health or character of this ancient woodland and does not harm the living conditions of nearby dwellings. Furthermore, the development does not create an unacceptable contamination risk. The proposals are therefore considered to comply with the policies listed.

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