6 February 2013

Development Management Committee

Thursday, 14 February 2013 at 6.30pm

Council Chamber, Town Hall, Sankey Street, Warrington, WA1 1UH

Agenda prepared by Julie Pickles, Democratic and Member Services Officer – Telephone: (01925) 443212, Fax: (01925) 656278, E-mail: jpickles@warrington.gov.uk

A G E N D A

Part 1

Items during the consideration of which the meeting is expected to be open to members of the public (including the press) subject to any statutory right of exclusion.

Item
1. Apologies for Absence

To record any apologies received.

2. Code of Conduct - Declarations of Interest
   Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Members are reminded of their responsibility to declare any disclosable pecuniary or non-pecuniary interest which they have in any item of business on the agenda no later than when the item is reached.
3. **Minutes**

   To confirm the minutes of the meetings held on 24 and 30 January 2013 as a correct record.

4. **Planning Applications (Main Plans List)**


5. **Results of Planning and Enforcement Appeals**

   5.1 1 Weir Lane, Woolston
   5.2 2 Beechfield Road, Grappenhall
   5.3 11 Barnes Avenue, Fearnhead
   5.4 12 Acton Avenue, Appleton
   5.5 13 Ellesmere Road, Culcheth
   5.6 13 Holcroft Lane, Culcheth
   5.7 16 Culcheth Hall Farm Barns, Culcheth
   5.8 23 Higher Lane, Lymm
   5.9 23 Higher Lane, Lymm
   5.10 44 Smithy Lane, Croft
   5.11 70 Culcheth Hall Drive, Culcheth
   5.12 49 Walton Road, Stockton Heath
   5.13 60 Mardale Crescent, Lymm
   5.14 Land at Cartridge Lane, Grappenhall
   5.15 Lidl UK, Thelwall Lane, Latchford
   5.16 Agency Bar and Grill, St Austins Lane, Warrington
Part 2

Items of a “confidential or other special nature” during which it is likely that the meeting will not be open to the public and press as there would be a disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.

Nil

If you would like this information provided in another language or format, including large print, Braille, audio or British Sign Language, please call 01925 443322 or ask at the reception desk in Contact Warrington, Horsemarket Street, Warrington.
DEVELOPMENT MANAGEMENT COMMITTEE

24 JANUARY 2013

Present: Councillor T McCarthy (Chair)
Councillors J Davidson, P Walker (sub for B Barr),
G Friend, L Hoyle, C Jordan, L Murphy, F Rashid,
J Richards and G Settle

DM80 Apologies for Absence

Apologies for absence were received from Councillors B Barr, T Higgins and L Ladbury.

DM81 Code of Conduct – Declarations of Interest

<table>
<thead>
<tr>
<th>Councillor</th>
<th>Minute</th>
<th>Reason</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Councillor</td>
<td>DM 84</td>
<td>Richards knew the applicant</td>
<td>Cllr Richards remained in the meeting but took no part in the discussion or vote thereon</td>
</tr>
</tbody>
</table>

DM82 Minutes

Resolved,

That the minutes of the meeting held on 3 January 2013 were agreed as a correct record and signed by the Chair subject to the following amendments

Councillors present at the meeting to include T McCarthy, B Barr, L Hoyle, L Murphy, F Rashid, J Richards and G Settle.

Apologies for absence also received from Councillors Davidson and Jordan.

DM83 Planning Applications

Resolved,

That Pursuant to the Town and Country Planning Act 1990 (As Amended) the applications for permission to develop land be considered and dealt with in the manner agreed.

DM84 2012/20721 - Total Fitness, Winwick Road, Warrington, WA2 8HQ - Proposed change of use from leisure (use class D2) to retail non-food (use class A1).

The Executive Director of Environment and Regeneration submitted the above application with a recommendation of approval. Members were advised that
the proposed Section 106 Agreement was no longer needed as an amendment to the scheme of traffic signage had been agreed. A condition to also include associated landscaping had been added to the application.

This application had been deferred from the previous meeting of the Planning Applications Sub-Committee held on 2 January 2013.

Representations were heard in support of the Officer recommendation.

Resolved,

That application 2012/20721 be granted conditional approval.

DM85 2012/20274 - Grappenhall Lodge, Cartridge Lane, Grappenhall And Thelwall, Warrington, WA4 4SH - Retrospective change of use for stationing of two mobile homes and ten caravans for residential occupation by travellers with associated operational development (utility blocks, septic tank, extend hard standing).

The Executive Director of Environment and Regeneration submitted the above application with a recommendation of refusal.

This application had been deferred from the previous meeting of the committee held on 3 January 2013 to enable a site visit to take place.

Representations were heard in support of and against the Officer recommendation.

Resolved,

That application 2012/20274 be refused on the grounds of harm to green belt not outweighed by exceptional circumstances.

DM86 2012/20594 - 2, Field Lane, Appleton, Warrington, WA4 5JR - Proposed demolition of existing dwelling and construction of a two storey block of 8 no. apartments with associated works.

The Executive Director of Environment and Regeneration submitted the above application with a recommendation of approval subject to a Section 106 Agreement.

Representations were heard in support of and against the Officer recommendation.

Resolved,

That application 2012/20594 be granted conditional approval subject to the applicant first entering into a Section 106 agreement relating to the payment of £45,000 for off site affordable housing.
Signed……………………

Dated ………………………
DEVELOPMENT MANAGEMENT COMMITTEE

30 JANUARY 2013

Present: Councillor T McCarthy (Chair)
Councillors B Barr, J Davidson,
G Friend, T Higgins, L Hoyle, C Jordan,
L Murphy, F Rashid, J Richards and G Settle

DM87 Apologies for Absence

An apology for absence had been received from Councillor L Ladbury.

DM88 Code of Conduct – Declarations of Interest

<table>
<thead>
<tr>
<th>Councillor</th>
<th>Minute</th>
<th>Reason</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Councillor J Richards</td>
<td>DM 90</td>
<td>Councillor Richards had campaigned against this application</td>
<td>Councillor Richards left the table, he took no part in the discussion or the vote thereon</td>
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<tr>
<td>Councillor J Davidson</td>
<td>DM 90</td>
<td>Councillor Davidson had campaigned against this application</td>
<td>Councillor Davidson left the table, she took no part in the discussion or the vote thereon</td>
</tr>
<tr>
<td>Councillor F Rashid</td>
<td>DM 90</td>
<td>Councillor Rashid had campaigned against this application</td>
<td>Councillor Rashid left the table, he took no part in the discussion or the vote thereon</td>
</tr>
<tr>
<td>Councillor C Jordan</td>
<td>DM 90</td>
<td>Councillor Jordan was a Member of Stockton Heath Parish Council but had not taken part in any discussions in relation to the Parish Councils objection to the application</td>
<td>Cllr Jordan remained in the meeting and took part in both the discussion and voted thereon</td>
</tr>
<tr>
<td>Councillor L Murphy</td>
<td>DM 90</td>
<td>Councillor Murphy was a Member of Stockton Heath Parish Council but had not taken part in any discussions in relation to the Parish Councils objection to the application</td>
<td>Cllr Murphy remained in the meeting and took part in both the discussion and voted thereon</td>
</tr>
<tr>
<td>Councillor B Barr</td>
<td>DM 90</td>
<td>Councillor Barr was a Member of Lymm Parish Council but had not taken part in any discussions in relation to the Parish Councils objection to the application</td>
<td>Cllr Barr remained in the meeting and took part in both the discussion and voted thereon</td>
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</tbody>
</table>
DM89 Planning Applications

Resolved,

That Pursuant to the Town and Country Planning Act 1990 (As Amended) the applications for permission to develop land be considered and dealt with in the manner agreed.

DM90 2011/19244 – Arpley Landfill Site, Forest Way, Warrington, WA4 6YZ – Proposed extension of operational life of Arpley landfill facility to 2025 including re-profiling, revised sequence of landfill phasing and restoration works, extension of operational life of existing leachate treatment facility and landfill gas utilisation plant and other ancillary developments including offices, weighbridges, wheel washes, fencing etc. associated with the operations of the landfill

The Executive Director of Environment and Regeneration submitted the above application with a recommendation of refusal.

The Assistant Director of Development and Public Protection reported that correspondence had been received late on Monday, 28 January 2013 from the applicant which requested that the application be considered by the Committee at some later date. The Solicitor to the Committee informed Members of the concerns and the issues raised by the applicant and advised them accordingly.

It was noted that after legal advice was given to the Members, no motion to defer the agenda item was tabled, the Committee then considered the application.

Representations were heard in support of and against the Officer recommendation.

Resolved,

That application 2011/19244 be refused as recommended

Signed…………………………

Dated ………………………..
<table>
<thead>
<tr>
<th>Item</th>
<th>Page</th>
<th>App number</th>
<th>App Location/Description</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3</td>
<td>2011/19014</td>
<td>PROSPECT FARM, PROSPECT LANE, RIXTON-WITH-GLAZEBROOK, WARRINGTON, WA3 6EH Retrospective application for upgrade of existing track surface</td>
<td>Approve</td>
</tr>
<tr>
<td>2</td>
<td>13</td>
<td>2012/19709</td>
<td>PROSPECT FARM, PROSPECT LANE, RIXTON-WITH-GLAZEBROOK, WARRINGTON, WA3 6EH Proposed change of use to provide a clay pigeon shooting club, clubhouse and associated parking</td>
<td>Refuse</td>
</tr>
<tr>
<td>3</td>
<td>42</td>
<td>2011/19010</td>
<td>PROSPECT FARM, PROSPECT LANE, RIXTON-WITH-GLAZEBROOK, WARRINGTON, WA3 6EH 2m high boundary fence (lawful development certificate)</td>
<td>Planning Permission not required</td>
</tr>
<tr>
<td>4</td>
<td>48</td>
<td>2012/20927</td>
<td>LAND AT ASTON AVENUE, BIRCHWOOD PARK, WARRINGTON Application for approval of reserved matters</td>
<td>Approve</td>
</tr>
</tbody>
</table>
following outline approval 2012/19696 - Erection of office accommodation, formation and alteration of access, landscaping, car parking and associated development

<table>
<thead>
<tr>
<th>5</th>
<th>54</th>
<th>2012/20993</th>
<th>RIVER MERSEY WARRINGTON FLOOD RISK MANAGEMENT SCHEME PHASE 2, FARRELL STREET, HOWLEY LANE, RIVERSIDE CLOSE AND WHARF STREET, WARRINGTON</th>
</tr>
</thead>
</table>

Reserved matters application for Phase 2 of the Mersey Warrington Flood Risk Management Scheme Phase 2 (excluding Scottish Power sub station)
Application Number: 2011/19014
Location: PROSPECT FARM, PROSPECT LANE, RIXTON-WITH-GLAZEBROOK, WARRINGTON, WA3 6EH
Ward: RIXTON AND WOOLSTON
Development: Retrospective application for upgrade of existing track surface.
Applicant: Mr Durney
8 week expiry date: 19th December 2011
Recommendation: Approve subject to Conditions

Conditions:
- Details of grassing/seeding of track
- Details of any further imported material

Reason for referral

This application was previously considered by Members of this Committee in March 2012 where members deferred making a decision to allow all of the applications relating to the site to be considered together. The application has been referred to Committee in view of the objections received from Rixton Parish Council, Birchwood Town Council and Councillors’ Bowden and Brinksman, (who also requests that members visit the site prior to reaching a decision)

Description

- Retrospective planning permission is sought for the retention of works previously undertaken to an existing private track to the north of Holly Bush Lane.
- Retrospective planning permission is sought for the retention of approximately 200mm of hardcore/road planings which have been previously laid over an approximately 260 metres length of the existing private track from its junction with Prospect Lane northwards towards the land currently used for clay pigeon shooting.
- The existing track afforded access to an existing agricultural field which is subsequently being used for clay pigeon shooting under the permitted rights contained in the Town & Country (General Permitted Development) Order 1995 – Schedule 2, Part 4, Class B, which allow such activity to take place for 28 days in any calendar year.
- Material has been imported onto the site and used to create soil mounds/a hardsurfaced and 2 wooden buildings have also been erected on the site
without planning permission. The applicant has stated that a retrospective planning application is in the process of being submitted for the above unauthorised works already undertaken on the remainder of the site. If planning permission is not granted it would be appropriate to consider enforcement action.

- Since the submission of this application, the track (to which consent is sought under this application) has now been included within the planning application site for planning application ref: 2012/19709 and therefore this application is superfluous to some extent in that planning permission is also being sought under planning application 202/19014.

Location

- The site lies approximately 2 kilometres to the north of the existing junction of Manchester Road and Holly Bush Lane
- The land lies within the Green Belt and lies immediately to the south of an existing railway line
- To the north of the existing railway line lies Risley Moss (a Special Area for Conservation/European Site of International Importance), whilst Woolston Moss Site of Importance for Nature Conservation is located approximately 150 metres to the west.
- Vehicular access is gained either via Holly Bush Lane (from the A57) or via Prospect Lane the east). Prospect Lane is a designated public footpath, whilst the access track subject of this application is a privately owner track

Relevant History

- 2011/18349
  - Change of use of land to clay pigeon shooting
  - withdrawn
- 2011/19009
  - Change of use of land to clay pigeon shooting
  - withdrawn
- 2011/19010
  - Certificate of Lawfulness application for 2 metre high fencing
  - no decision to date – report being considered on the Agenda of this meeting

- 2012/19709 – Change of use of land to provide clay pigeon shooting club – this application is being considered by Members on the Agenda of this meeting

Main Issues and Constraints

- Visual impact on green belt/countryside - appropriateness in green belt
- Ecological impact
- Impact on adjoining residents
Key policy/guidance checklist:

Policy DCS1 – Development control strategy
Policy REP10 - Noise
Policy GRN1 – Green Belt
Policy GRN2 – Environmental Protection & Enhancement
Policy GRN3 – Development Proposals in the Countryside
Policy GRN15 – Sites of International Importance for Nature Conservation
Policy GRN17 – Sites of Local Importance for Nature Conservation
Policy GRN22 – Protection & enhancement of landscape features
Policy DCS7 – Provision & enhancement of landscaping in new development
Planning Policy Guidance Note No.2 Green Belts

Warrington Borough Council Unitary Development Plan (unless stated)

<table>
<thead>
<tr>
<th>Impact on residents</th>
<th>DC Strategy</th>
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<tbody>
<tr>
<td>DCS1</td>
<td>DC Strategy</td>
</tr>
<tr>
<td>GRN2</td>
<td>Environmental protection &amp; enhancement</td>
</tr>
<tr>
<td>REP10</td>
<td>Noise</td>
</tr>
</tbody>
</table>

- Nearest residential properties located at:
  - Prospect Farm – 340m to east
  - Woodend Lane – 600m to south-east
  - Holly Bush Lane – 300m to south
  - Pallister Close – 840m to north-west

- Retrospective works have involved only minor increase in appearance/level of track – no visual harm has resulted
- Retrospective works have effectively infilled existing potholes and ruts in an otherwise existing private track – no new track created – although the repair works have enabled the easier access to the land upon which clay pigeon shooting is taking place, those works have/would not result in a greater level of activity than would be permitted through the Town and Country Planning (General Permitted Development) Order (i.e.: the use of the land for no more than 28 days in any calendar year – no greater level of traffic activity
| Green Belt/impact on countryside | National green belt policy | • Repair of track via engineering works considered to be appropriate development in the green belt - no loss of openness would result (not a new track - merely upgrade of existing track – not significantly wider than former track)  
| No conflict with purposes of including land in green belt – does not contribute to urban sprawl/encroachment in the countryside  
| Appearance of track not significantly different to previous other than repair of potholes/ruts – although some planings/imported material can still be seen to margins of track - condition requiring such small areas to be grassed/seeded etc could be attached  
| Track relates well to rural setting – dark road planings not viewed as incongruous visual feature in immediate/distant views  
<p>| Rights to improve existing private access ways (without the need for planning permission) are contained within Part 9 of the Town &amp; Country Planning (General Permitted Development) Order, however, In this instance, it is considered that the minor widening of the formerly existing extent of the track is such that those rights do not apply in this instance |
| GRN1 Planning Policy Guidance Note No.2 (PPG2) | Environmental Protection &amp; Enhancement |  |
| GRN2 | Development Proposals in the Countryside |  |
| GRN3 | Development control strategy |  |
| Highway safety |  |  |
| DCS1 | Development proposals in the countryside |  |
| Ecological Impact |  |  |
| GRN15 | Sites of International Importance for |  |</p>
<table>
<thead>
<tr>
<th>GRN17</th>
<th>Nature Conservation Sites of Local Importance for Nature Conservation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Minor repair works to existing track - have/would not result in a greater level of activity than would be permitted through the Town and Country Planning (General Permitted Development) Order (i.e.: the use of the land for no more than 28 days in any calendar year – no greater level of traffic activity has/would occur and no greater levels of traffic visiting/leaving the site would therefore result</td>
</tr>
<tr>
<td></td>
<td>• No disruption to existing public footpaths – track in question is private</td>
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<tr>
<td></td>
<td>• Track is located 190m to east of existing Risley Moss (site of local importance for nature conservation) – 210m to south of Risley Moss (site of international/national importance for nature conservation)</td>
</tr>
<tr>
<td></td>
<td>• Bearing in mind minor physical repair works to existing track undertaken – no harm results to adjoining nature reserves</td>
</tr>
<tr>
<td></td>
<td>• Planning permission not required for continued use of track for vehicles associated/gaining access to land used for clay pigeon shooting (up to 28 days in any calendar year)</td>
</tr>
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</table>

**Responses to Notification**

Rixton with Glazebrook Parish Council
Object as per comments on previously withdrawn planning applications:

a) Concern regarding additional traffic on un-made road with no passing bays and impact on users of footpaths in terms of public safety

b) Danger to users of railway line

c) Impact on nearby nature conservation areas (Rixton SAC and Risley Moss)
d) Impact on Green Belt – (hardstanding & buildings)  
e) Noise nuisance

Comment: Repair works to existing track appropriate in the green belt – approval would not sanction additional use of track by vehicles other than those associated with permitted 28 day use of land for clay pigeon shooting

Birchwood Town Council

Object:

a) Application should not be considered separately from other unauthorised works undertaken
b) Planning permission should have been sought before works undertaken
c) Is track suitable for use by emergency vehicles/refuse wagons?

Comments

a) Retrospective planning consent is sought purely for the retrospective works to the access track and not for any other unauthorised activities/works – approval of the current application would not mean that any other retrospective planning application which may be received would be considered any more favourably
b) It is not an offence to carry out development without first obtaining planning permission and the applicant has exercised his right to apply retrospectively

c) The works carried out have merely repaired an existing track rather than form a new access. There is therefore no requirement to widen it to allow such access, which would in itself could well lead to far greater visual harm in this location.

Councillor Brinksman

Objects on the following grounds:

a) all applications for the site are interlinked
b) loss of amenity/affect on culture to residents in close knit rural area
c) would/has resulted in loss of wildlife/nesting bird/land of local ecological value
d) local roads not capable of supporting traffic movements/movements from heavy vehicles
e) would adversely affect a tranquil area of the Borough popular with joggers, cyclists, birdwatchers, and ramblers who use local pedestrian routes
f) results in loss of a “green lung “,which is also designated green belt and the only bit of green between Warrington and Manchester
g) building erected on site could be hired out to supplement income in the evenings and at slack times for likes of wedding receptions and birthdays, etc.

h) Satellite navigation systems indicate the route to the site from the A57 along Holly Bush Lane, which is a further intrusion.
i) recommends that Members visit the site prior to reaching a decision
Comments
a) this application (and that for a certificate of lawfulness for the retention of the existing fence) are the only 2 current applications being determined and can be dealt with separately to the current unauthorised works that have taken place on the land where clay pigeon shooting is taking place.
b) The minor repair works to the track are not considered (in themselves) to have adversely affected the amenity of the local area and its residents
c) The repair works (to an otherwise previously existing track) have not resulted in any significant harm to the ecological importance of the local area
d) The specific works to the track have not resulted in a significant increase in vehicles using local roads - Planning permission not required for continued use of track for vehicles associated/gaining access to land used for clay pigeon shooting (up to 28 days in any calendar year)
e) The track in question is not a public right of way although it does intersect with an existing footpath to the south, (Prospect Lane)
f) The relatively minor physical works to the existing track have not resulted in significant visual harm to the green belt or its openness.
g) The buildings erected on the site are not part of this application. It is likely that a planning application will be submitted for the retention of such buildings, otherwise enforcement action is likely to be instigated.
h) This application is purely for the retention of the works undertaken to a 260 metre length of access track and not to allow the use of any land for activities which require planning permission
i) Members may wish to visit the site to assess the visual impact of the works.

Councillor Bowden
Objects:
a) level of development on the site undertaken without planning permission is unacceptable, (buildings/earth mounds)
b) adversely affects the immediately adjoining RISLEY Moss (a “Green Flag” site) and a SSSI.
c) Results in harm to adjoining residents through noise
d) Clay pigeon shooting results in activities close to members of the public
e) Works to the existing track have already been undertaken, with the intent of gaining access to the clay pigeon shooting area

Comments
a) other unauthorised activities will be subject to a subsequent planning application or enforcement action
b) The repair works (to an otherwise previously existing track) have not resulted in any significant harm to the ecological importance of the local area
c) The retention of the works undertaken to repair/upgrade the track would not lead to significantly increased noise experience by local residents
d) Clay pigeon shooting can take place on the land to the north for a period of no more than 28 days in any calendar year without the need for planning permission
e) The applicant has not committed any offence by undertaking such works without the necessary planning permission. The retrospective planning application submitted seeks consent for those works.
Councillor Settle (on behalf of Warrington Nature Conservation Forum)
Strong objections:
a) adjoins 2 sites of significant nature reserves and close to Woolston Eyes SSSI
b) no recognition of the designated sites/important habitats/species nearby – no assessment of impact on such matters
c) proposal would impinge on tranquillity of the area and its visitors/footpath users in particular the all year round disturbance to birds

Comment: No visual harm to character of rural area – no greater noise/highway activity results via additional use of track by vehicles other than those associated with permitted 28 day use of land for clay pigeon shooting

Risley Moss Action Group
Object:
a) would create noise pollution and disturb adjoining nature reserves/endangered species
b) noise levels previously undertaken by application inaccurate
c) wildlife report submitted by applicants incomplete/inaccurate
d) lead shot could contaminate local water courses
e) impact on local roads would be significant via large increase in vehicles

Comment: No visual harm to character of rural area – no greater noise/highway activity results via additional use of track by vehicles other than those associated with permitted 28 day use of land for clay pigeon shooting

Neighbours
28 Objections:
a) application is a resubmission of earlier applications under another guise - application does not cover all of the unauthorised works undertaken
b) would adversely affect/destroy the area, the adjoining ecologically important areas and its protected/threatened wildlife
c) contrary to green belt policy – no very special circumstances
d) adversely affects residents amenity/enjoyment of area via noise disturbance
e) works have carried on without planning permission
f) access is a public footpath used by walkers, cyclists/joggers prior to material being imported onto it
g) level of traffic use too high for small/narrow track and involves additional use of existing junction of Holly Bush Lane and Manchester Road – dangerous - track was built for horses/agricultural activities not motorised vehicles
h) applicant does not own/control Prospect Lane
i) large quantities of builders rubble have been deposited on the track some of which are of a hazardous nature and is dangerous
Comments
a) The current retrospective application therefore seeks planning permission for the retention of a small part of those unauthorised works (i.e.: the repair of the existing track) and does not seek retrospective planning permission to retain the soil mounds/a hard surfaced area and 2 wooden buildings that have also been erected without planning permission

b) Works have not significantly extended the existing width of the existing track and have mainly repaired its surface – the works undertaken have not harmed the ecological importance of the adjoining areas

c) Works considered to be appropriate in the green belt – no loss of openness/harm to the purposes of including land in the green belt

d) would not result in a greater level of activity than would be permitted through the Town and Country Planning (General Permitted Development) Order (i.e.: the use of the land for no more than 28 days in any calendar year – no greater level of traffic activity has/would occur and no greater levels of noise experienced by local residents.

e) not an offence to carry out development without first obtaining planning permission and the applicant has exercised his right to apply retrospectively

f) this part of the track in question is not a public right of way

g) Minor repair works to existing track - have/would not result in a greater level of activity than would be permitted through the Town and Country Planning (General Permitted Development) Order (i.e.: the use of the land for no more than 28 days in any calendar year – no greater level of traffic activity has/would occur and no greater levels of traffic visiting/leaving the site would therefore result

h) Prospect Lane to south is a public right of way not under the ownership of the applicant, the track subject of the current application is

i) Application seeks retrospective consent for importation of material to repair the track. It should be noted that the repair of such tracks (where the adjoining land is used for agricultural purposes) does not normally require planning permission

Conclusions and reasons for recommendation/decision

Retrospective planning permission is considered appropriate in view of the developments’ compliance with the advice contained in Planning Policy Guidance Note No.2 (Green Belts) and Policies DCS1, GRN1, GRN2, GRN3 and REP10, based on its appropriateness in the green belt and the lack of visual, noise harm arising to the character of the area and local residents.
<table>
<thead>
<tr>
<th>Plans List</th>
<th>Item 2</th>
<th>14-Feb-2013</th>
</tr>
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<tbody>
<tr>
<td>Application Number:</td>
<td>2012/19709</td>
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<tr>
<td>Location:</td>
<td>PROSPECT FARM, PROSPECT LANE, RIXTON-WITH-GLAZEBROOK, WARRINGTON, WA3 6EH</td>
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<tr>
<td>Ward:</td>
<td>RIXTON AND WOOLSTON</td>
<td></td>
</tr>
<tr>
<td>Development:</td>
<td>Proposed change of use to provide a clay pigeon shooting club, clubhouse and associated parking</td>
<td></td>
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<tr>
<td>Applicant:</td>
<td>Mr Prospect Target Club</td>
<td></td>
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<td>13 week expiry date:</td>
<td>24th June 2012</td>
<td></td>
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<tr>
<td>Recommendation:</td>
<td>Refuse</td>
<td></td>
</tr>
<tr>
<td>Reasons:</td>
<td>Nature conservation impact</td>
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</tbody>
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**Reason for referral**

This application has been referred to Committee in view of the objections received from Birchwood Town Council and Councillor Brinksman (who also recommends that members visit the site prior to reaching a decision) and comments received from Councillor Keane.

The planning application was considered by Members at their previous meeting of 25th October, where it was agreed to defer a decision to enable the applicants to provide additional information with regard to noise and the ecological impacts of the development. Such information has now been submitted.

Members have also now visited the site

**Proposed development**

- Proposed change of use of former agricultural land to provide a clay pigeon shooting club, clubhouse and associated parking
- site covers an area of 3.76 hectares
- proposal includes:
  
a) 34 car parking spaces
b) clubhouse building- 14.6m x 15m x 3.2m (high)- incorporating café'(12m²), store (8m²), shop (5m²), kitchen(17m²), internal training/sitting area (126m²) and external decking area (124m²)
c) 10 timber acoustic shooting enclosures (3m x 15m x 2.4m high)
d) 10 timber air rifle enclosures (3m x 15m x 2.4m high)
e) 5 timber archery enclosures (3m x 15m x 2.4m high)
f) 15 individual timber 1.5m x 1m x 2.3m high) acoustic enclosures
g) 3m wide internal pathway

- The application seeks to retain the previously constructed 2m high earth bunds to the south and west perimeters, and proposes a further earth bund to the west and south-west - existing 2m high earth bunds exist to the south perimeter
- Native trees have been planted on parts of the site and additional planting is proposed as part of the planning application along the shootings lanes within the site, to the north/west of the car parking area/clubhouse and to the periphery of the site to a depth of between 3 and 19 metres
- A 4m high timber observation tower
- 4 new vehicle passing points to be constructed to south-east of site on Prospect Lane
- Applicant states that 10 new jobs would be created (together with retention of 5 existing jobs)
- The site would be only be used on the following days/times:
  - Tuesday - 10am to 3 pm
  - Thursday - 10am to 3 pm
  - Saturday - 10am to 3 pm

  (The above hours of use would apply between April to August) with the proposed hours reduced to 9am to 2pm on Tuesday/Thursday/Saturday during the winter months (September to March) to further mitigate the noise impact in relation to Hen Harriers

- Applicant states that the site would be used by individual shooters and group parties (not exceeding 15 people) and special event days (i.e.: charity/corporate events) may also take place with groups not exceeding 15 people
- The site is currently in use for clay pigeon shooting and mounds/hardsurfaced area/structures have already been placed on the site without planning permission. Material has been imported onto the site and to create the soil mounds/hardsurfaced area and 2 wooden buildings have also been erected. If planning permission is not granted it would be appropriate to consider enforcement action to secure the removal of the previously undertaken works.

- Retrospective planning permission was also previously sought under a separate application (ref: 2011/19014) for the retention of works previously undertaken to an existing private track to the north of Holly Bush Lane (to the south of the application site). Clay pigeon shooting activities can have been undertaken on the site under the permitted rights contained in the Town & Country Planning (General Permitted Development) Order 1995 – Schedule 2, Part 4, Class B, which allow such activity to take place for 28 days in any calendar year without the need for planning permission
• a previous application (ref: 2011/19010) also sought confirmation (via a Lawful Development Certificate) that an existing 2 metre high timber post and mesh fence which has been erected around the perimeter of the site is development that is permitted by virtue of the Town and Country Planning (General Permitted Development) Order 1995. Members may recall that decisions on the above applications were deferred, pending the outcome of the current planning application

**Location**

• The site lies approximately 2 kilometres to the north of the existing junction of Manchester Road and Holly Bush Lane
• The land lies within the Green Belt and lies immediately to the south of the Warrington/Manchester railway line
• To the north of the existing railway line lies Risley Moss (a Special Area for Conservation/European Site of International Importance), whilst Woolston Moss Site of Importance for Nature Conservation is located approximately 150 metres to the west.
• Vehicular access can be gained either via Holly Bush Lane (from the A57) or via Prospect Lane the east). Prospect Lane is a designated public footpath, whilst the access track to the site itself is a privately owner track

**Applicants' Supporting Statement**

• approval of the application would provide essential/secure training to both amateur and professional shooters
• the applicant is a British Association for Shooting & Conservation (BASC) accredited shotgun coach
• there are currently 300 members of the BASC in Cheshire/Warrington but only 1 accredited BASC facility at Mouldsworth
• site has/will be used to host fund raising/charity events for national/local charities (eg: National Society for the Prevention of Cruelty to Children, Macmillan Cancer Support, Help for Heroes, Alzheimer’s Society
• application is supported by the National Disabled Shooters Club
• 10 new jobs would be created and 5 existing jobs retained
• facility would attract £200,000 in consumer expenditure in first year and £400,000 in year 3 supporting local hotels, food, retail and leisure industry
• bulk of site given over to landscaping - 8000 trees planted/in process of being planted - trees/shrubs will eventually mitigate any noise disturbance
• site designed to allow inclusive access for wheelchair users

The applicant has submitted additional supporting information in the form of a noise assessment, an ornithological assessment and a water vole and Great Crested Newt Survey:

**The Water Vole/Great Crested Newt Survey** concludes that that part of
• Prospect Lane proposed to be widened for passing places is not suitable as a breeding habitat for Great Crested Newts and/or Water Voles

**Report on impacts on Ornithology**

Concludes that:

• conditions can be utilised to protect the ornithological importance of the adjoining SSSI and surrounding land and specifically that annual assessments can be required (via a planning condition) in order to assess the actual impact of shooting activities on the existing bird population and the ornithological importance of the area

• the existing site (prior to its current use for shooting) would have been of low value to birds in view of its limited size and composition with no evidence found that the site would have been used for nesting opportunities

• although the existing surrounding farmland contains protected birds (Redwing/Fieldfare/Grey Partridge/Northern Lapwing/skylark amongst others) they unlikely to deterred from visiting the site by the noise from shooting activities and are likely to become accustomed to such noise. Although Lapwing and Oystercatchers are more sensitive to such disturbance, the applicants consider that the fact that shooting activities have been undertaken on the site since 2011 (i.e.: a period of 28 days in any calendar year allowed without the need for planning permission and without any need for acoustic insulation/restrictions on the size of cartridges used and on the number of person shooting at any one time)and the location of the nearby railway line demonstrates that the shooting activities proposed will not deter birds from visiting the adjoining land and/or SSSI

• similarly the applicant considers that not all of the birds present/utilising the SSSI would be particularly sensitive to shooting activities, especially:
  • Hen Harrier – which does not breed at the site and is less sensitive to disturbance
  • Merlin/Short -Eared Owl – which may suffer some localised/temporary displacement
  • Wintering wildfowl – moderately sensitive to shooting activities
  • Mallards/Snipes – moderately sensitive who if displaced are likely to locate elsewhere on the SSSI
  • Marsh Harrier/Goshawk – would suffer some minor short term displacement bearing in mind that they are unlikely to breed on the adjoining SSSI

• In all of the above, the applicants contends that the fact that shooting activities have been undertaken on the site since 2011 (i.e: a period of 28 days in any calendar year allowed without the need for planning permission and without any need for acoustic insulation/restrictions on the size of cartridges used and on the number of person shooting at any one time)and the location of the nearby railway line demonstrates
that the shooting activities proposed will not deter birds from visiting the SSSI

- Overall the report considers that the proposed enhancements on site will enhance the attractiveness of the application site for passerines (perching birds) resulting in a net increase in ornithological value
- The noise levels assessed indicate that the SSSI would experience noise levels acceptable to human beings and bearing in mind that shooting activities have been undertaken since 2011 and the site already experiences noise associated with passing trains, no harm to the ornithological importance of the SSSI would result

Report on Clay Pigeon Shooting Noise Assessment

- Undertaken following consultation with Warrington Borough Councils’ Environmental Protection Section – undertaken over 2 days (November and December 2012 – wind directions towards the south-east and north/north-west respectively), with a total of between 60 and 100 shots fired in a 30 minute period.

- 7 locations were monitored:

  - Admirals Road - results indicated that shooting was barely audible – only 3 out of 60 shots positively identified. Noise levels fell within the Chartered Institute of Environmental Health guidance document entitled “Clay Target Shooting – Guidance on the Control of Noise”

  - within the south-east corner of the SSSI - most shots were audible, with some masked by passing trains. Noise levels were well within the levels advocated within the Chartered Institute of Environmental Health guidance document. Noise from 12 passing trains (in a 1 hour 40 minute period were 4 times greater than noise from shooting. Shooting inaudible over much of SSSI

  - Gorse Covert (southern edge of residential area) – shooting only audible from southern edge of residential area on top of landscaped mound (to south of Hazelborough Close) not from nearest dwellings. Again noise levels were well within levels advocated in the Chartered Institute of Environmental Health guidance document

  - at the junction of Holly Bush Lane and Woodend Lane – shooting was audible and within the level recommended in the Chartered Institute of Environmental Health guidance document where significant annoyance is unlikely to result

  - at Woodend Farm, Woodend Lane – shooting is clearly audible, some 10dB(A) above ambient noise levels however wind direction/speed ensure that such a reading is a worst case scenario and increase in height of soil mounds to southern boundary (to 2 metres) of the site would reduce noise level
• at Moss Side Lane – shooting was barely audible

• At School Lane/Dam Lane - shooting was barely audible either side of the railway line

The report concludes that the mitigation measures proposed by conditions (ie: restrictions on days/time/number of shooters etc) ensures that the noise impact resulting is not harmful. In addition it is clear that the application merely propose an extension of the 28 day permitted allowance for the existing use of the land, which has not resulted in any noise complaints being received by the Council

Relevant History

• 2011/18349 - Change of use of land to provide clay pigeon shooting club - Withdrawn

• 2011/19009 - Change of use of land to provide target shooting club with associated parking - Withdrawn

• 2011/19010 - Certificate of Lawfulness application for 2 metre high fencing - Deferred at Development Management Committee on 8th March 2012 to enable consideration concurrently with planning application 2012/19709 for the wider development of the site.

• 2011/19014 - Retrospective application for upgrade of existing track surface - Deferred at Development Management Committee on 8th March 2012 to enable consideration concurrently with planning application 2012/19709 for the wider development of the site.

Comments

• Applications 2011/19010 & 19014 remain undetermined, previous applications withdrawn in view of objections received from consultees. It should be noted that the applicant has now extended the planning application site (edged in red) to include the access track.

Main Issues and Constraints

• Visual impact on green belt/countryside - appropriateness in green belt
• Ecological impact
• Impact on amenity of adjoining residents - (noise/disturbance)
• Impact on traffic and highway safety
• Agricultural land quality
• Safety of users of railway line/pedestrians/adjoining land owners
Key policy/guidance checklist:
National Planning Policy Framework

Warrington Borough Council Unitary Development Plan
Policy DCS1 – Development control strategy
Policy REP10 - Noise
Policy GRN1 – Green Belt
Policy GRN2 – Environmental Protection & Enhancement
Policy GRN3 – Development Proposals in the Countryside
Policy GRN15 – Sites of International Importance for Nature Conservation
Policy GRN17 – Sites of Local Importance for Nature Conservation
Policy GRN22 – Protection & enhancement of landscape features
Policy DCS7 – Provision & enhancement of landscaping in new development
Policy REP1 - Prudent use of resources
Policy REP10 - Noise
Policy GRN9 - Outdoor activities in the countryside

Warrington BC Local Plan Core Strategy
Policy QE5 - Biodiversity & Geodiversity
Policy QE6 - Environment & Amenity Protection
Policy CC2 - Protecting the Countryside

<table>
<thead>
<tr>
<th>Impact on residents (noise/disturbance)</th>
<th>DC Strategy</th>
<th>Impact on residential areas to north (Birchwood/Gorse Covert)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DCS1</td>
<td>Outdoor activities in the countryside</td>
<td>large number of residential properties located within 2 km of application site - 20 houses within 1km (on Holly Bush Lane), between 45-75 houses located within the general direction of shooting within 1.5 km of the site and between 200-300 dwellings (to the north at Birchwood) would be to the rearward direction of shooting - prevailing wind from south/south-west/north</td>
</tr>
<tr>
<td>GRN9</td>
<td>Noise</td>
<td>proposed acoustic shelters/direction of shooting would assist in mitigating noise impact to north – only north facing shooting proposed would be air rifle shooting which is virtually silent</td>
</tr>
<tr>
<td>REP10</td>
<td>paras' 109 &amp; 123</td>
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<tr>
<td>National Planning Policy Framework</td>
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<tr>
<td>Noise Policy Statement for England</td>
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</tbody>
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20
Applicants noise assessment indicates that shooting activities are barely audible for the vast majority of residents to the north. Residents to immediate south of Birchwood/Gorse Covert would only hear shooting if actively listening rather as opposed to undertaking normal domestic activities. Only 3 shots out of 60 conducted during assessment heard to the north and existing noise from passing trains far in excess of noise associated with shooting.

No harm to residential amenity likely to result in this area should planning permission be approved.

**Impact on residents of Holly Bush Lane**

Nearest dwelling (Brookes Cottage) would experience increase in ambient noise levels of some 10dB(A) equal to 56.9dB(A). The Chartered Institute of Environmental Health guidance document entitled “Clay Target Shooting – Guidance on the Control of Noise” states that noise levels at no more than around 55dB(A) are unlikely to result in annoyance for local residents and coupled with the proximity of the nearby motorway/railway line and the limited timescale/days over which shooting would occur, it is not considered that significant harm to residential amenity could be demonstrated in relation to this particular property and others further south on Holly
Bush Lane.

Impact on Woodend Farm
Occupants of this property would experience an increase in ambient noise (measured during the noise assessment at 69dB (A), which was the highest reading observed). The Chartered Institute of Environmental Health guidance considers that at such a level, annoyance to residential amenity is likely. An increase in the height of mounding to the south perimeter of the site may further reduce the noise levels at this property, however, bearing in mind the proximity of the nearby motorway/railway line and the limited timescale/days over which shooting would occur, it is not considered that significant harm to residential amenity could be demonstrated in relation to this particular property. A condition could be attached to any consent for the site granting planning permission for a temporary period only, in order to assess the impact on individual properties. If members expressed concerns on this particular point. Such a condition would allow the Council to monitor noise levels at such individual properties over, for example a 12 month period to assess whether ambient noise levels were being significantly exceeded and harm to residential amenity arose.

The applicants have drawn attention to the economic benefits not just to themselves
but the area as a whole in terms of the creation of 10 new jobs and the retention of 5 existing jobs, together with the financial spin off effects to the local economy that they envisage (as detailed on the third page of this report). Bearing in mind the current economic climate, weight should be attributed to the job creation/economic benefits which are likely to flow (from the granting of planning permission). Although not the determining factor in this respect, such benefits are positive ones to weigh in favour of the proposal.

Moss Side Lane/Woodend Lane/School Lane/Dam Lane
The noise assessment indicates that shooting is barely audible in these locations when compared against existing background noise levels. Consequently it is not considered that harm would result to the existing dwellings in these locations.

The fall back position (i.e.: is that the use of the site for shooting for no more than 28 days in any calendar year) can take place without the need for planning permission. The proposed use of the site would be 5 times greater in terms of the total number of days over which shooting (and hence disturbance) would take place. Although no specific noise complaints have been received since the site has been used for shooting since 2011, it is considered that such an intensification in the number of days when shooting (and
consequently noise occurs)is significant and the fall back position is not of sufficient weight to overcome the concerns in respect to the nearest dwelling at Woodend Farm

| **Green Belt/visual impact on countryside** | **GRN1** | National green belt policy |
| **GRN2** | Environmental Protection & Enhancement |
| **GRN3** | Development Proposals in the Countryside |
| **National Planning policy Framework** | Para's 79-92 |

Low level timber buildings/mounds (majority of buildings/enclosures 2.4m high/main club house building 3.2m) does not result in significant harm to openness of the green belt - 1.3% of site would be covered by buildings, 4% of site covered by paths/parking area - 96% of the site therefore remains landscaped/open - majority of buildings spread across site - would be seen as insignificant structures amid rural landscape - clubhouse larger buildings but low height, unlikely to be viewed as significant "building" bearing mind planting/mounds which surround the site

National planning policy advises that "appropriate" buildings for outdoor sport/recreation are appropriate development in the green belt provided they maintain openness of the green belt and prevent urban sprawl/encroachment in the countryside/merging of towns - no conflict in this instance - surrounding land almost predominantly open/agricultural- existing gap between urban areas almost 4 km - no reduction as a result of the development.

Visual impact of proposed clubhouse on character/appearance of
<table>
<thead>
<tr>
<th>National Planning policy Framework</th>
<th>Environment &amp; amenity protection</th>
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<tbody>
<tr>
<td>Local Plan Core Strategy</td>
<td>General transport principles</td>
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<tr>
<td>Policy QE6</td>
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<td>Policy MP1</td>
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<tr>
<td>Development proposals in the countryside</td>
<td>No technical objection to level of traffic using/accessing facility – proposed passing places would allow vehicles to pass on narrower stretches of Prospect Lane to Moss Side Lane thereby integrating with existing highway network without harm to highway safety – passing places avoid need for vehicles to reverse – speed of vehicles low/naturally regulated by width/surface of tracks – ensures pedestrian users of Prospect Lane would not be put in danger as a result of the additional traffic associated with the use – not considered that harmful disruption/conflict between traffic/pedestrians using the footpaths would therefore result</td>
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<tr>
<td>Outdoor activities in the countryside</td>
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<tr>
<td>Development control strategy</td>
<td>No technical objection to level of traffic using/accessing facility – proposed passing places would allow vehicles to pass on narrower stretches of Prospect Lane to Moss Side Lane thereby integrating with existing highway network without harm to highway safety – passing places avoid need for vehicles to reverse – speed of vehicles low/naturally regulated by width/surface of tracks – ensures pedestrian users of Prospect Lane would not be put in danger as a result of the additional traffic associated with the use – not considered that harmful disruption/conflict between traffic/pedestrians using the footpaths would therefore result</td>
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<tr>
<td>Land use/transportation strategy</td>
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<tr>
<td>No technical objection to level of traffic using/accessing facility – proposed passing places would allow vehicles to pass on narrower stretches of Prospect Lane to Moss Side Lane thereby integrating with existing highway network without harm to highway safety – passing places avoid need for vehicles to reverse – speed of vehicles low/naturally regulated by width/surface of tracks – ensures pedestrian users of Prospect Lane would not be put in danger as a result of the additional traffic associated with the use – not considered that harmful disruption/conflict between traffic/pedestrians using the footpaths would therefore result</td>
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Applicant intends to encourage all traffic visiting/leaving the site would do so via Moat Lane and Prospect Lane by highlighting the route/preferred route on their web site/by placing a” Turn Left” sign (advising those
# Ecological Impact

<table>
<thead>
<tr>
<th>Code</th>
<th>Site Type</th>
<th>Details</th>
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<tbody>
<tr>
<td>GRN15</td>
<td>Sites of International Importance for Nature Conservation</td>
<td></td>
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<tr>
<td>GRN16</td>
<td>Sites of National Importance for national importance</td>
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<tr>
<td>GRN17</td>
<td>Sites of Local Importance for Nature Conservation</td>
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</tr>
<tr>
<td>GRN18</td>
<td>Key biodiversity habitats &amp; protected species</td>
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<tr>
<td>GRN21</td>
<td>Protection of nature conservation resource</td>
<td>leaving the site to use Prospect Lane rather than Holly Bush Lane). In addition, should planning permission be approved it would be conditional upon the applicant funding a “No Access (Except for Residents &amp; Farm Vehicles” Traffic Regulation Order (enforceable by the Police) preventing general vehicles from accessing the site via the Manchester Road/Holly Bush Lane route – such measures would ensure that vehicles associated with the site only accessed the site via Moss Side Lane/Prospect Lane rather than from Manchester Road/Holly Bush Lane and would prevent potential highway safety concerns by preventing vehicles using a sub-standard junction (in terms of visibility splays) and protecting the amenity of existing dwellings on Holly Bush Lane</td>
</tr>
</tbody>
</table>

Application site located 85m from Risley Moss which forms part of the Manchester Mosses Special Area of Conservation, (designated on the basis of its important bog habitats) Risley Moss is also a European Site of International Importance/ a Site of Special Scientific Interest (SSSI) and a Local Nature Reserve with shooting ranges located approximately 150 metres to the south/south-east – Risley Moss SSSI – with birds noted as one of the designating features of the SSSI - Risley Moss LNR designated in view of importance in providing public access to areas of natural beauty. Risley Moss is an
| GRN2 | Environmental protection & enhancement | internationally important site supporting a range of endangered bird species at all times of the year (ie: from winter feeding times to summer feeding/breeding territory) |
| National Planning Policy Framework | Para 109, 118 | Site lies within 1km of Rixton Clay Pits – also a SSSI and European Site of International Importance |
| Local Plan Core Strategy | Biodiversity & Geodiversity | Although the applicants’ noise survey demonstrates’ that the noise levels from shooting would be within acceptable limits (as set down in the Chartered Institute of Environmental Health guidance) in terms of the affect on human beings, the guidelines do not assess impact of noise from shooting with respect to the impact on wildlife. The nearest part of the SSSI to the planning application site contains open water/wet bog habitat, which is of high value to the bird species using the area. Gun shots were recorded at 12dB(A) above existing ambient noise levels within this part of the SSSI and would be audible across large parts of the SSSI. There is no evidence to confirm the applicants assertion that birds would become accustomed to the noise of gun shots and therefore not be deterred from visiting/utilising the SSSI and flying over the application site (in order to gain access to the SSSI). It is not considered that the use of the site for shooting |
(since 2011) or the noise from passing trains is such that the existing bird population have become accustomed to such levels of noise and would therefore not be affected.

The noise impact of the development could deter both raptors (and other birds whose populations are in decline) who are sensitive to the sound of gunshots in view of their association with grouse shooting/upland areas – the species affected are therefore likely to retreat from their current favourable habitat or leave the area completely – many of the species affected are species which are in either global or European decline/concern, whose numbers/breeding population have declined considerably or are in decline in the UK - the development would therefore conflict with policies GRN16, 17 & 18 via the adverse affect on the integrity of the ecological importance of the SSSI and Local Nature Reserve.

It is not considered that the reasons for the development or any social/economic benefits arising would outweigh the need to safeguard the nature conservation value of the adjoining land or surrounding area. In addition, it is not considered that the mitigatory measures identified would adequately prevent harm to the features of the SSSI. It is also not considered that the suggested condition to require annual monitoring of
| Agricultural land quality | the bird population to be submitted would not be possible. In this respect such a condition would not be able to prevent harm arising in terms of the decline in the population of birds using/visiting the site but would merely provide evidence of that decline after the event, should harm occur. Harm would have therefore already occurred. Such a condition would also not meet two of the 6 tests for the imposition of conditions contained in the circular, in that it would impose an unreasonable requirement on the applicant and would be virtually impossible to enforce. In particular paragraph 35 of circular 11/95 advises against imposing conditions that would effectively nullify the benefit of a planning permission. Were surveys to be undertaken which demonstrated that harm was resulting to the SSSI, the only option available may well be to cease shooting altogether. The LPA is being asked to consider a permanent planning application and it would not be possible to withdraw that permission once granted via a condition. In addition, it is difficult to envisage the ability to accurately identify whether a drop in bird population has actually occurred (and indeed was specifically because of the shooting activities on the adjoining land). Such drops in population could well occur naturally in view of disease/weather conditions |
| REP1 | Prudent use of resources |
| REP2 | Protection of best and most versatile agricultural land |
etc and are not under the control of the applicant.
Similar comments apply to the possible use of a condition which granted only a temporary consent (reviewable after for example a 12 month period) in that it would be impossible to identify whether the shooting activities had or had not resulted in harm to the adjoining SSSI. The further use of additional acoustic insulation measures may reduce the noise levels impact on the birds within the area, however, to date no evidence has been provided to confirm that such a reduction in noise level would overcome the concerns expressed above.

Application site classified as Grade 1 on the Ministry of Agriculture Fisheries & Food map (from 1983) – map indicates land quality at the regional scale – applicant has undergone assessment of site and concluded that the land would be better described as Class2 in view of water logging/wetness on parts of the site – NPPF describes best/most versatile land as either Grade 1 or 2 – loss of best/most versatile land relatively small scale – not considered significant

96% of site (over 3.3 hectares) would remain undeveloped/open/natural and therefore capable of being reverted back to agricultural use if required – permitted development rights likely to be utilised were planning permission to be refused
<table>
<thead>
<tr>
<th>Safety of users of railway line/pedestrians/adjoining land owners</th>
<th>Environmental Protection &amp; Enhancement Development proposals in the countryside Hazardous uses/installations</th>
<th>Safety considerations would be considered via the necessary application for a firearms licence, under the Firearms Act 1968 - no objections from Police – relevant licence has been issued Nearest public footpath located 260m to south of site – nearest shooting ranges (firing in direction of footpath) set 335m from footpath – Chartered Institute of Environmental Health guidance document advises that a minimum safety zone of 275m should be maintained (in front of the shooting stands) within which no public highways/footpaths/bridleways etc should be located – this would be the case in this instance</th>
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<tr>
<td>GRN3</td>
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<td>GRN9</td>
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<td>REP13</td>
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**Responses to Notification**

**Birchwood Town Council**

Objects - proposal totally unacceptable of a number of reasons:

a) Proximity to noise-sensitive developments.
b) Proximity to SSSI.
c) Proximity to other conservation and recreation areas.
d) Proximity to Public Right of Way.
e) Proximity to other developments.

f) Inappropriate development in the Green Belt.

gh) Lack of demonstrable need.

h) General material considerations regarding noise pollution (from gunfire and any public address systems) and resultant detrimental impacts on amenity of surrounding residents, distress to animals and increase in the sound of dogs barking.

i) Environmental impacts not thoroughly assessed such as impacts on land and water quality from chronic accumulation of lead shot - advice not sought from the Environment Agency or United Utilities.

j) Security of storage of equipment and shooting supplies questioned.

Comment
See assessment under policy assessment

Rixton with Glazebrook Parish Council
Object:

a) Application should be considered by full committee

b) concerned about traffic impact on unmade roads with limited passing places

c) concern at public safety adjacent/near site to users of public footpaths

d) possible danger to users of adjacent railway line

e) affect on Rixton/Risley Moss nature conservation areas in terms of the rare wildlife, birds and flora/fauna

f) visual impact on green belt via hard surfacing and buildings

g) proposed landscaping consists of mounds and trees – proposed planting not boundary treatment but normally planted in copse - unacceptable

h) noise nuisance

i) traffic routing cannot be enforced – use of other local roads is still possible/an issue

Comment
a) to h) – see policy appraisal

i) Planning conditions unable to control traffic routing, however use of Traffic Regulation Order, signage and routing strategy proposed should ensure that all vehicles use Moat Lane/Prospect Lane access rather than via Manchester Road/Holly Bush Lane

Councillor Settle

Objects on the following grounds:

Nothing has changed from the previous application. Serious concerns for the welfare of birdlife on Rixton Moss which includes extremely rare, protected and Red Listed species. The applicant has developed his plans to the point of near or actual completion despite WBC's advice not to do so. Requests Members visit the site prior to making a decision

Comment
See comments under policy appraisal
Councillor Bowden
Three Borough Councillors for Birchwood request that the Committee makes a site visit before hearing this application.

Councillor Keane
Democratic approach welcome whereby all parties get to out their views to Committee prior to a decision.

Councillor Brinksman
Objects on the following grounds:
  a) Proposal retrospective as engineering works have been carried out without consent against WBC’s advice to cease.
  b) Official classification of agricultural land grade unclear.
  c) Loss of amenity to residents, lifestyle & culture in a rural part of town.
  d) Substandard vehicle access.
  e) Loss of wildlife including migratory birds.
  f) Damage already done by unlawful works including earth imported during nesting period & destruction of typical rural lane only meant for light agricultural vehicles with hardcore and planings.
  g) Access via Holly Bush Lane & Moss Side Lane possible to the detriment of residential amenity.
  h) Loss of tranquil area, asset to town & greenfield for leisure users far outweighs the needs of a shooting club.
  i) Committee site visit recommended and consideration by full Development Management Committee.

Comment
  a) Majority of works are retrospective, however planning application needs to be assessed in normal way. Enforcement action would follow any refusal of planning permission
  b) see comments under policy appraisal
  c) d) e) f) g) h) i)– see comments under policy appraisal

Network Rail
No objections, subject to details of any further earthworks in close proximity to the railway line to be agreed beforehand with Network Rail

Environment Agency
No objection, subject to foul and surface water drainage details to be submitted

Natural England
Further comments are in the process of being submitted by Natural England and will be reported verbally to members

Comment
See comments in policy appraisal – applicants are in the process of addressing issues raised by Natural England
Campaign for the Protection of Rural England
Objection- inappropriate development in terms of impacts on wildlife, residents and local roads. Loss of agricultural land and continued adverse impact into the future.

Comment
See policy appraisal

Civil Aviation Authority - Aerodrome Standards Department
No objection
Provides general comments in principle given regarding safety of aerodromes, which is a matter of Public Interest, and recommend consultation with operators (including Barton Aerodrome) by the LPA.

CAA confirm that it is the responsibility of the operator of the aerodrome (and the pilot in command of any aircraft using the aerodrome) to satisfy themselves that a flight can be safely made.

Comment
Agreement between the operator of the aerodrome and the applicant would allow continued safe use of the aerodrome. Cheshire Police consider that they do not consider that the use of the site for shooting would not cause any danger to aircraft in the area under the terms of the applicants current license (under Section 11 of the Firearms Act 1968 - which allow the use of shotguns on the site)

Warrington Nature Conservation Forum
Objects on the following grounds:
Nothing has changed from the previous application. Serious concerns for the welfare of birdlife on Rixton Moss which includes extremely rare, protected and Red Listed species. The applicant has developed his plans to the point of near or actual completion despite WBC's advice not to do so.

Comment
See policy appraisal

Health & Safety Executive
No objection

National Grid Pipelines
No objection- important to ensure that:

- access to pipelines is not restricted
- no increase/decrease in amount of cover over pipelines takes place
- applicant to contact National Grid prior to creation of additional passing places
Comment
Likely that changes to location of activities on site is such that any concerns with regard to the location of the shooting activities to the existing natural gas pipelines is now acceptable

Police
No objections

WBC Natural Environment Officer
Objects to the development (and has taken into consideration the additional ornithological/noise survey and Water Vole/Great Crested Newt survey) and comments as follows:

a) although the applicants’ noise/ornithological survey indicates that noise levels would be within an acceptable range, (in terms of impact upon human beings visiting the SSSI), it does not demonstrate that disturbance to bird species would not occur and that some species could cease to use/visit the site
b) The southern/south-eastern part of the SSSI is closest to the shooting area and is likely to receive most disturbance. It is this area that contains the most appropriate open water/wet bog habitat which is of highest value to bird species
c) The noise survey indicates that the existing agricultural landscape/habitat to the south of the existing railway line would experience the highest noise levels. These areas are used by endangered farmland bird species (who pass over this area en-route to Risley Moss SSSI. Although noise from passing trains may be greater than noise from the use of the site for shot guns, it is considered that trains have been present adjacent to the site in excess of 150 years and therefore bird species have become accustomed to such a constant noise source. In addition, the noise impact would prevent birds (some of which at greatest threat of extinction) from nesting/feeding within the local area
d) The creation of the proposed passing places on Prospect Lane would not result in an adverse impact on water voles or Great Crested Newts
e) The fall back position that would allow shooting to take place without planning permission on the land for 28 days in any calendar year would, (in ornithological terms) not result in a worse situation. The proposed development would increase the number of days where noise disturbance would occur to 156 days per year.
f) The applicant has only provided anecdotal evidence to suggest that birds would become accustomed to the sound of shooting and comparisons to military training areas are not considered appropriate, bearing in mind the differences in scale (i.e.: the relatively small area of land involved in comparison to the generally large open areas of land comprised in military training areas).
g) The proposed reduction in hours/days when shooting occurs (and especially no shooting after dusk) would not be sufficient to prevent harm to Raptors (i.e: birds of prey which in this case are also at greatest threat of extinction) use the surrounding area for
feeding/passing through/over at various times of the day. Such species would be deterred from visiting the site in view of the noise from shooting activities and harm would result to the ornithological importance of the SSSI.

h) The enhancements proposed by the applicants (nesting boxes/feeding stations) would only negligibly mitigate against the above harm.

i) The applicants proposed use of reports to monitor whether the shooting activities have resulted in harm to the ornithological importance of the area could not prevent harm from occurring and be applied retrospectively once harm has occurred.

Comment
See policy appraisal

WBC Environmental Protection
Originally objected to the application, on the grounds that noise from shooting would have an unacceptable irritant to large numbers of adjoining local residents and would have an unacceptable impact on users of the adjoining Risley Moss and Rixton Clay Pits areas.

Following submission of the applicants additional noise survey the Environmental Protection Section do not now object to the development and have provided the following comments:

a) The additional noise survey has been undertaken in liaison with the Environmental Protection Section and follows the advice contained in the Chartered Institute of Environmental Health guidance document entitled “Clay Target Shooting – Guidance on the Control of Noise”.

b) Noise impact assessed the impact of noise from shooting activities on site at 7 locations surrounding the site, at the residential areas at Gorse Covert/Birchwood, Risley Moss SSSI, Woodend Lane, Moss Side Lane and School Lane/Dam Lane.

c) The residential areas to the north are unlikely to suffer harm (from noise associated with shooting) and the activities will have a negligible impact on existing background noise levels, with the assessment indicating that shooting was only audible (i.e: residents would only hear the sound of shooting if they were actively listening or as a minimal addition to existing background noise levels) at the nearest dwellings to the southern edge of Gorse Covert/Birchwood. No harm to amenity of such residents would therefore result.

d) Guns shots would be more audible at the Risley Moss SSSI, with the noise levels well within the acceptable noise limits in the Chartered Institute of Environmental Health guidance document, in terms of the impact on human beings perception of noise. During the course of the noise assessment, 12 trains passed the site, with the noise from the passing trains measured some 20-27 dB(A) louder than the noise from the shooting activities.

e) The sound of shooting would be audible from the nearest dwelling on Holly Bush Lane (Brookes Cottage) and Moss Barn, however existing background noise from the nearby motorway would assist in mitigating
the impact and shooting would only take place on limited days/times per year, however, As such residents of this property would suffer some harm to amenity and it should be noted that the noise assessment was undertaken with shooting taking place from west to east only. The applicant proposes 3 shooting ranges facing south, which when utilized would increase noise levels towards existing dwellings to the south. However, any increase in noise levels experienced at this property would be off-set by the limited timescale/days etc over which shooting activities would occur.

f) Shooting is clearly audible at Woodend Lane Farm, whose occupants would experience the highest noise level monitored (above that recommended in the Chartered Institute of Environmental Health guidance document) As such residents of this property would suffer some harm to amenity with the Chartered Institute of Environmental Health guidance document advising that at such levels annoyance is likely to occur. Again, however such noise levels would be off-set by the limited timescale/days etc over which shooting activities would occur and a refusal based on such grounds would, it is considered be difficult to defend/substantiate

g) Shooting activities are barely audible from residential properties on Moss Side Lane and not audible on School Lane

The Environmental Protection Section raise no objection to the application and if planning permission were to be approved suggest conditions be attached with regard to the following:

a) Days/hours of operation
b) Maximum cartridge weight limited to 28 grams
c) Maintenance of acoustic sheds/fences etc
d) Submission of noise management plan
e) Actions to be undertaken should complaints be received
f) Submission of log detailing weights of cartridges

Comment
See policy appraisal

Warrington BC Highways Section
No objection, subject to conditions to ensure passing places are provided/signage details (to route traffic along Prospect Lane) rather than Holly Bush Lane/a scheme to ensure that parking restrictions are provided at junction of Holly Bush lane and Manchester Road

Comment
See policy appraisal

WBC Legal Services
Licensing of guns & gun clubs generally is handled by the Police.
Neighbours
358 individual objections received and two petitions (signed by 269 persons) objecting on the following grounds:

1) proposed landscaping will not disguise daily amount of gun noise- flat nature of local landscape of the moss results in sound travelling easily - noise will be intrusive/disturbing/irritating to local residents/wildlife/walkers/joggers/anglers/horse riders over wide area - noise will disturb hundreds of residents of Gorse Covert & Birchwood - conflicts with Policy GRN9 of Local Plan - noise survey submitted by applicants not considered appropriate/accurate

2) Risley Moss nature reserve (SSSI)/Woolston Moss/Rixton Clay Pits/Gorse Covert Mounds located very close- site are important for biodiversity/nature conservation - bats/hares/swallows/house sparrow-noise will affect breeding patterns/nesting birds/wildlife/house martins/owls/buzzards/skylarks/lapwings/partridge/pheasants/migratory geese/curlews - gunfire will harm ecological importance of area and harm protected species - applicants own ecological assessment acknowledges that harm to protected species would result

3) Holly Bush Lane/Prospect Lane- poor condition/unsuitable- already suffer via current use - majority of traffic likely to originate from Warrington/west (satellite navigation systems direct via Holly Bush Lane) and therefore access via Holly Bush Lane rather than Prospect Lane - Holly Bush Lane unsuitable/poor visibility onto Manchester Road (A57 recently designated Red Route) - passing places not on land under control of applicant therefore not enforceable - Holly Bush Lane not maintained/owned by Warrington BC

4) Proposed use will harm surface and noise will impact on residents/wildlife - existing use of airstrip has damaged surface of Brook Lane

5) agricultural land is high quality - good quality land would be lost - applicants assessment of land as Grade 2 incorrect - moss land always likely to be prone to wetness - even at Grade 2 land should be considered best/most versatile land - Borough Portrait designates site as Grade 1 - no need for development - site was previously cropped with carrots - adjoining land continues to be cropped successfully

6) will undermine green belt designation - results in harm to openness - mounds conflict with openness bearing in mind flat terrain - no very special circumstances exist to outweigh harm to green belt

7) bearing in mind that works have already been commenced on site, integrity of planning process is of concern - should not approve retrospective development - blatant disregard for planning laws - unauthorised tipping works have caused visual damage and left unsightly material in full view

8) would spoil enjoyment of tranquil countryside

9) existing other clay pigeon facilities at Thelwall, Frodsham, Eccles, Worsley - no overriding need for new site such as this

10) hundreds of tonnes of waste material deposited on site previously - not easily removed contrary to applicants statement

11) charity/fund raising use of site commendable, however development inappropriate in this location - application is a commercial venture - no
evidence from disabled groups supporting application - job creation benefits should be weighed against harm
12) clubhouse would become source of noise nuisance
13) will increase crime/thefts in local area
14) will increase dust via use of local tracks
15) would compromise safety of walkers/pedestrians using local footpaths/tracks
16) proposal is not farm diversification
17) would breach human rights/loss of amenity
18) private access track adjoining site considered to be public right of way with rights of access acquired by prescription/use
19) safety of walkers from guns being discharged
20) Environmental Impact Assessment should have been submitted in view of proximity to SSSI
21) would cause serious safety concerns for users of adjoining private airstrip - need to ensure shooting days are not increased at future date - long range shooting capabilities would result in further safety implications for use of airstrip
22) safety implications for users of railway - stray bullets could kill walkers/users of paths/tracks
23) shooters would be firing towards the sun - firing positions on clay pigeon shoots normally to north - firing positions likely to change - no details of types of weapons/ammunition to be used
24) unsafe distance for owners farming directly adjoining agricultural land
25) reduction in house prices would result
26) would spoil the peace and quiet at adjoining fishery

Comment
1) to 8) – see policy appraisal
9) lack of need not a reason to refuse planning permission in its own right
10) enforcement action would follow refusal of planning permission
11) supporting information submitted by the applicant not sufficient to outweigh harm to residents/nature conservation identified
12) isolated location – nearest dwelling over 300m away – daytime hours of use unlikely to be harmful
13) no evidence that crime/fear of crime likely to increase
14) not significant increase in vehicle traffic likely
15) see policy appraisal
16) farm diversification can involve ventures such as this
17) amenity considered under policy appraisal
18) 19) – see policy appraisal
20) not considered EIA required – type of development does not fall within Schedule 1 or 2
21) see comments under Civil Aviation Authority comments
22) to 24) – see comments under policy appraisal
25) Reduction in house prices not material consideration
26) see policy appraisal comments
Risley Moss Action Group
Objects;

1. Noise pollution to residents of Birchwood and Rixton
2. Will disturb wildlife at Risley Moss via noise/daily barrage of sound
3. Will disturb wildlife on Rixton Moss and endangered species thereon as acknowledged by applicants report
4. Would result in safety to users of adjoining Woolston Moss airfield
5. Other clay pigeon shoots nearby

Comment
See policy appraisal

Woolston Eyes Conservation Group
Objects:

1. Noise level from shooting inevitably high and effect on Risley Moss would be profound
2. Applicants surveys do not assess number of breeding/wintering birds
3. Skylark, Corn Bunting in decline - numbers would be further reduced by noise levels resulting
4. Activities on existing clay pigeon shooting site at Thelwall results in birds (especially wildfowl) leaving the site, some never to return - levels of disturbance on that site less than that proposed under this application

Comment
See policy appraisal

Submissions made by agent acting for operator of nearby Airstrip dated 13th November 2012:

- application is not valid, as access is not shown within “red edge” boundary
- proposed passing places would be on land outside of applicant’s control
- airstrip is 700m to south-west of the application site, and this is a major safety issue
- summary of CAA advice above is inaccurate; it is the advice of the airstrip operator which is relevant, and there has been no formal consultation
- agreed flight path passes 50m to the south of application site
- WBC Highway advice ignores fact that application does not show the access within the red edge
- Response to neighbour’s concerns over proximity to airstrip - above – refers back to an incorrect summary of CAA advice
Conclusions and reasons for recommendation/decision

The noise disturbance resulting from the use of the site for clay pigeon shooting would deter protected bird species (already in declining numbers) from breeding/feeding/visiting Risley Moss SSSI and the surrounding local area and therefore damage its nature conservation value and its attractiveness to subsequent visitors. It is not considered that the planning conditions could adequately mitigate the resultant harm. The development therefore conflicts with policies GRN2, GRN16, GRN17, GRN18 and GRN 21 of Warrington Borough Councils’ Unitary Development Plan, Policy QE9 (of Warrington Borough Councils’ Local Plan Core Strategy) and paragraphs 109 and 118 of the National Planning Policy Framework.
Reason for referral

This application was previously considered by Members of this Committee in March 2012, where members deferred making a decision to allow all of the applications relating to the site to be considered together. The application has been referred to Committee in view of the objections from Rixton Parish Council and Councillors’ Bowden and Brinksman, (who also requested that Members visit the site prior to making a decision).

Description

- This application for a Lawful Development Certificate has been submitted in accordance with Section 192 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Members should note that this is not an application for planning permission and is simply a request as to whether the erection of a 2 metres high fence is lawful (i.e.: does not in fact require planning permission).
- The application seeks confirmation that a 2 metres high fence around the perimeter of the existing site is development that is permitted by virtue of the Town and Country (General Permitted Development) Order.
- In this case, the fence has already been erected around the site in question and consists of timber posts at 2 metre centres with a mesh infill

Location

- The site lies approximately 2 kilometres to the north of the existing junction of Manchester Road and Hollybush Lane
• The site was originally an open field and has been recently been used for clay pigeon shooting events. Soil/rubble has been imported onto the site and used to create soil mounds/repair existing tracks/a parking area. 2 wooden buildings have also been erected on the site without planning permission. The applicant is in the process of submitting a retrospective planning application for such works.

Relevant History

• 2011/18349
  o Change of use of land to clay pigeon shooting
  o withdrawn
• 2011/19009
  o Change of use of land to clay pigeon shooting
  o withdrawn
• 2011/19014
  o Retrospective application to upgrade existing track
  o no decision to date
• 2012/19709 – Change of use of land to provide clay pigeon shooting club – this application is being considered by Members on the Agenda of this meeting

Main Issues and Constraints

The main issue for consideration is whether the erection of the fence meets the criteria contained within Schedule 2 Part 2 of the Town and Country (General Permitted Development) Order and not whether the fence is/is not acceptable from a planning point of view. Debate over the use of the site, authorised, lawful or otherwise if of no relevance to the consideration of this application.

Key policy/guidance checklist

The determination of an application for a Certificate of Lawfulness is not required to be considered against the policies of the Development Plan.

Responses to Notification

Rixton with Glazebrook Parish Council
Object as per comments on previously withdrawn planning applications:
a) Concern regarding additional traffic on un-made road with no passing bays and impact on users of footpaths in terms of public safety
b) Danger to users of railway line
c) Impact on nearby nature conservation areas (Rixton SAC and Risley Moss)
d) Impact on Green Belt – (hardstanding & buildings)
e) Noise nuisance
Comment: Above comments are not relevant in the determination of a Certificate of Lawfulness application

Councillor Brinksman
Objects on the following grounds:
  a) all applications for the site are interlinked
  b) loss of amenity/affect on culture to residents in close knit rural area
  c) would/has resulted in loss of wildlife/nesting bird/land of local ecological value
  d) local roads not capable of supporting traffic movements/movements from heavy vehicles
  e) would adversely affect a tranquil area of the Borough popular with joggers, cyclists, birdwatchers, and ramblers who use local pedestrian routes
  f) results in loss of a “green lung”, which is also designated green belt and the only bit of green between Warrington and Manchester
  g) building erected on site could be hired out to supplement income in the evenings and at slack times for likes of wedding receptions and birthdays, etc.
  h) Satellite navigation systems indicate the route to the site from the A57 along Holly Bush Lane, which is a further intrusion.
  i) recommends that Members visit the site prior to reaching a decision

Comment
  a) this application (and that for the retention of the existing repair/upgrade of the existing track) are the only 2 current applications being determined and can be dealt with separately to the current unauthorised works that have taken place on the land where clay pigeon shooting is taking place.
  b), c), d), e), f), g), h), i) Unfortunately, such comments are not relevant in the determination of a Certificate of Lawfulness application

Councillor Bowden
Objects:
  a) level of development on the site undertaken without planning permission is unacceptable, (buildings/earth mounds)
  b) adversely affects the immediately adjoining RISLEY Moss (a “Green Flag” site) and a SSSI.
  c) Results in harm to adjoining residents through noise
  d) Clay pigeon shooting results in activities close to members of the public
  e) Works to the existing track have already been undertaken, with the intent of gaining access to the clay pigeon shooting area

Comment
  f) current application is to assess whether planning permission is required for a 2 metre high fence – other unauthorised activities will be subject to a subsequent planning application or enforcement action
  g) , c), d), e) Unfortunately, such comments are not relevant in the determination of a Certificate of Lawfulness application

Councillor Settle (on behalf of Warrington Nature Conservation Forum)
Strong objections:
a) -adjoins 2 sites of significant nature reserves and close to Woolston Eyes SSSI
b) no recognition of the designated sites/important habitats/species nearby – no assessment of impact on such matters
c) proposal would impinge on tranquillity of the area and its visitors/footpath users in particular the all year round disturbance to birds

Comment: Above comments are not relevant in the determination of a Certificate of Lawfulness application

Risley Moss Action Group
Object:
a) would create noise pollution and disturb adjoining nature reserves/endangered species
b) noise levels previously undertaken by application inaccurate
c) wildlife report submitted by applicants incomplete/inaccurate
d) lead shot could contaminate local water courses
e) impact on local roads would be significant via large increase in vehicles

Neighbours
17 Objections:
a) fencing/importation of material/buildings have already been constructed on the site – applicant continues to undertake works without planning permission
b) dust, pollution and noise nuisance has occurred via shooting etc
c) access is a public footpath used by walkers, cyclists and joggers
d) site is close to important areas for nature conservation and site was grade 1 agricultural land – use of land leads to danger
e) level of traffic completely unsuitable for this location - access road was built by our ancestors for horses to farm not large numbers of motorised vehicles with subsequent damage to local roads/tracks
f) inappropriate on green belt land
g) junction of A57/Hollybush Lane narrow – danger to existing road users
h) despite applicants assurances, highly likely that vehicles would access the site via direct route (on Hollybush Lane) rather than alternative route via Prospect Lane
i) vehicles would access site past existing dwellings creating noise/disturbance in otherwise tranquil area
j) existing shoots further away nearby can be heard clearly
k) no consultation with local community
l) proposed tree screening would take considerable time to achieve screening effect
m) use of site for school children may well involve coaches using local roads
n) 2 metre high fence is an eyesore
o) Shooting takes place close to existing public footpaths and leads to danger to users

Comment: Above comments are not relevant in the determination of a Certificate of Lawfulness application – appearance of the fence is immaterial is determining whether planning permission is/is not required
Assessment

- Schedule 2 Part 2 Class A of the Town & Country Planning) General Permitted Development Order states that the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure is development that is permitted, provided that:
  - (a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed one metre above ground level;
  - (b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed two metres above ground level;
- The existing tracks north of Prospect Lane which provide access to the site are privately owned and therefore the public do not have a right to pass and re-pass and do not fall within the definition of a “highway”.
- The nearest “highway” is located over 260 metres away to the south.
- The fence, as erected is no higher than 2 metres above the ground and is therefore “lawful” in that it benefits from a general planning permission granted by the Town and Country Planning (General Permitted Development) Order 1995

Conclusions and reasons for recommendation/decision

The fencing as built is lawful by virtue of compliance with Schedule 2 Part 2 Class A of the Town & Country Planning) General Permitted Development Order 1995
Application Number: 2012/20927

Location: LAND AT ASTON AVENUE, BIRCHWOOD PARK, WARRINGTON

Ward: Birchwood

Development: Application for approval of reserved matters following outline approval 2012/19696 - Erection of office accommodation, formation and alteration of access, landscaping, car parking and associated development.

Applicant: MEPC Birchwood Park General Partners Ltd

8 week expiry date: 17th February 2013

Recommendation: Approve subject to Conditions

Conditions:

- In Accordance with Submitted Plans
- No Commencement of Use - Car/cycle Parking laid out and made available for use
- Implementation of Approved landscaping scheme in first planting season
- Development shall be constructed to a BREEAM Very Good rating.
- Implementation of details in FRA
- Implementation of Lighting Scheme

Reason for Referral

- This application is referred to Committee for decision as it is a major planning application.

Description

- The proposal is for a 3-storey office building with associated car parking and landscaping. It will be purpose built for Your Housing Group.
- The building will stand 11.96 metres in height, with further roof top services making the total height 14.77 metres.
- Access to the site is via Aston Avenue to the north east corner of the site.
- The building will be located towards the western edge of the site, with the entrance orientated eastwards. The car parking, cycle parking will
be located on the central portion of the site, with a wild flower meadow at the eastern end of the site.

- The building will be of a contemporary design similar to other recent development in the Birchwood Park complex. It will be rectangular in shape and constructed of glass, steel and aluminium, with an over-sailing roof supported on thin columns.
- There will be a central plaza in front of the entrance to the building that will provide an amenity area for staff and incorporate hard landscaping, feature planting and areas of seating.
- Perimeter landscaping will be provided around the site, comprising a grass border, new and retained trees and swales that will form part of the surface water attenuation scheme.

Location

- The application site is located on the southern edge of Birchwood Park, fronting onto Birchwood Way.
- The business park itself is located approximately 5.5 km to the northeast of Warrington town centre but still within the defined urban area.
- The site is rectangular in shape. It is bound to the north by Aston Avenue and to the east by an area of landscaping. It shares a boundary with the Ramada Encore Hotel to the west.
- The site was cleared several years ago and is free from any structures other than a line of trees along its southern boundary that were planted fairly recently.
- The nearest residential properties are some distance to the south beyond a substantial area of landscaping along Birchwood Way.

Relevant History

- A01/43317 – Outline application for offices, light and general industrial and warehousing development – Approved 5th Sept 2003.
- 2004/04420 – Variation of conditions on planning permission A01/43317 (Conditions 22 and 23 off site Highway Works to jtn21) - Approved 28th April 2005.
- 2006/07641 - Erection of offices, light and general industrial and warehousing development without compliance with conditions 14 and 25 attached to permission 2004/04420 (ie, maximum floorspace for uses approved) – Approved 6th June 2006.
- 2012/19696 - Application to extend time limit for implementation of permission 2006/07641 (offices, industrial and warehousing development) – Approved 24th July 2012.

Main Issues and Constraints

- Design
- Highways
- Environmental Impact
Both the adopted policies and the emerging policies look for development proposals to reinforce local distinctiveness and enhance the character and appearance of an area in terms of the street scene, the local area and the wider townscape. In addition the scale, proportions and materials should harmonise with those of adjacent existing buildings.

The proposed building is essentially a rectangular shaped three-storey office block of a contemporary design to be constructed of glass, steel and aluminium. This is considered to be appropriate in the context of the outline proposals for the redevelopment of business park and consistent with the more recent development that has been approved on the business park, in particular at Bridgewater Place.

The landscaping proposals, shown on Drg nos. (9-)L001 Rev B, (9-)L002 Rev C, (9-)L003 Rev B, (9-)L004 Rev C, (9-)L005 Rev C and (9-)L007, are considered to be acceptable and will complement the existing landscaping on the business park.

The strategic highways impact of the proposed
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<th>DCS1</th>
<th>Development Control Strategy Cycling</th>
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<td>LUT5</td>
<td>Cycling</td>
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<td>LUT20</td>
<td>Parking</td>
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<td>LPCS</td>
<td>Environment and Amenity Protection</td>
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The detailed access, layout and level of cycle/car parking provision are in accordance with the Council’s adopted standards. A Condition is recommended to ensure the provision and retention of the cycle parking facilities.

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<tr>
<th>UDP</th>
<th>ENVIRONMENTAL IMPACT</th>
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<tr>
<td>DCS1</td>
<td>Development Control Strategy</td>
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<td>REP8</td>
<td>Contaminated Land</td>
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<td>LPCS</td>
<td>Overall Spatial Strategy –</td>
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<td>Delivering Sustainable Development</td>
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<td>QE6</td>
<td>Environment and Amenity Protection</td>
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The site is likely to be contaminated due to its previous use. The Council’s Environment and Public Protection Service have recommended imposing two conditions relating to the need to undertake a contaminated land assessment. However, this matter has been addressed through conditions 10 and 14 of the outline consent (2012/19696). The outline consent forms part of the planning permission and therefore there is no need to repeat the conditions.

It is noted that there are no conditions relating to noise or air quality on the outline consent. The nature of this specific development is not likely to be a noisy end use and the only potential noise source is likely to be from plant and equipment associated with the building rather than activities therein. Therefore, it is considered acceptable to include appropriately worded informatives relating to noise and air quality.

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<th>UDP</th>
<th>FLOOD RISK AND DRAINAGE</th>
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<tr>
<td>DCS1</td>
<td>Development Control Strategy</td>
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<tr>
<td>REP5</td>
<td>Surface Water Run-off and Sustainable Drainage Systems</td>
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<td>LPCS</td>
<td>Flood Risk</td>
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The submitted FRA demonstrates that the site is not at risk of flooding. The surface water drainage strategy will incorporate attenuation and connect to an existing surface water drain. The strategy is to ensure that the runoff rate will actually be less than that of the existing site. Foul drainage will connect to an existing foul sewer within the site.

The Council’s Flood Risk Management Team has raised no objections to the proposals as the disposal of surface water will take place through private sewers.

**Responses to consultation**

**Environmental Health**  
No objections  
Conditions and/or informatives recommended relating to land contamination, air quality and the insulation of external plant.
Highways
No objections
The strategy highway impacts of the proposals have been considered previously at the outline stage and found to be acceptable. A condition is recommended to ensure the provision of adequate cycle parking facilities.

Arboricultural Officer:
No objections

The amended landscaping proposals shown on Drg nos (9-)L001 Rev B, (9-)L002 Rev C, (9-)L003 Rev B, (9-)L004 Rev C, (9-)L005 Rev C and (9-)L007, are acceptable and will complement the established landscaping on the business park and Birchwood Way.

Flood Risk Officer
No objections
The outline application (2006/07641) indicates that the disposal of surface water will take place through private sewers.

United Utilities
No comments received to date

Responses to Notification

Parish/Ward Councillors
None

Comment: None

Neighbours
None

Comment: None

Conclusions and reasons for recommendation/decision

The proposals are consistent with the outline consent (2012/19696) that was renewed in 2012. The design is appropriate in the context of the outline proposals for the redevelopment of business park and consistent with the more recent development that has been approved. The detailed access, layout and level of cycle/car parking provision are in accordance with the Council’s adopted standards. Whilst, the site is likely to be contaminated due to its previous use this matter has been addressed through conditions 10 and 14 of the outline consent (2012/19696). The proposed landscaping scheme will enhance the appearance of the site, providing complementary planting along the sensitive Birchwood Way frontage. The site is not at risk of flooding and the appropriate drainage connections are proposed. Therefore, the proposals are considered to be in accordance with the relevant provisions of the development plan.
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<tr>
<th>Plans List</th>
<th>Item 5</th>
<th>14-Feb-2013</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Application Number:</th>
<th>2012/20993</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location:</td>
<td>RIVER MERSEY WARRINGTON FLOOD RISK MANAGEMENT SCHEME PHASE 2, FARRELL STREET, HOWLEY LANE, RIVERSIDE CLOSE AND WHARF STREET, WARRINGTON</td>
</tr>
<tr>
<td>Ward:</td>
<td>Fairfield and Howley</td>
</tr>
<tr>
<td>Development:</td>
<td>Reserved matters application for Phase 2 of the Mersey Warrington Flood Risk Management Scheme Phase 2 (excluding Scottish Power sub station)</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Mr Environment Agency</td>
</tr>
<tr>
<td>16 week expiry date:</td>
<td>20th March 2013</td>
</tr>
<tr>
<td>Recommendation:</td>
<td>Approve subject to Conditions</td>
</tr>
<tr>
<td>Conditions:</td>
<td>Phasing details to be agreed</td>
</tr>
<tr>
<td></td>
<td>Development in accordance with approved plans</td>
</tr>
<tr>
<td></td>
<td>Job and training opportunities</td>
</tr>
<tr>
<td></td>
<td>Tree removal and protection measures</td>
</tr>
</tbody>
</table>

**Reason for Referral**

The proposal is for major development.

**Description**

- Planning permission was granted in full for Phase 1 of these works in April 2012 (2011/19262) and in outline form for Phases 2 and 3. The proposals remain largely unchanged from those envisaged as part of the outline planning permission
- Although the overall project is being progressed by the Environment Agency, Warrington Borough Council is a stakeholder in this project – potentially contributing up to £3.4 million
- The overall Flood Risk Management Scheme (FRMS) would reduce the risk of flooding by providing a 1 in 100 year standard of protection to Howley, Latchford, Padgate, Bruche and Woolston
- In detail, Phase 2 would comprise the following:- River Mersey (north bank) from Kingsway Bridge to Bridgefoot Roundabout, comprising: Howley Lane Electricity Sub-Station/Warrington Rowing Club;
Howley Suspension Bridge to Farrell Street Development Site, including Howley Quay; Wharf Street to Howley Suspension Bridge; and Wharf Street / Vernon Street Junction

- For Phase 2 full detailed matter of layout, scale, access, appearance and landscaping) are now submitted for approval
- Localised road raising of Wharf Street adjacent to the Next store on Riverside Retail Park, on Howley Lane and on Holmsfield Road is proposed
- There would be works to the existing bridge crossings of Padgate Brook
- The construction programme would be dependent on receiving planning permission and internal Environment Agency approval for funding. It is anticipated that preparatory works for Phase 2 (tree and vegetation clearance) would commence immediately following the grant of this reserved matters application
- The project is supported by an Environmental Statement Addendum and non-technical summary
- The applicant has conducted extensive pre-application with the public, Members and affected landowners during 2012. This took various forms including direct contact via phone and meetings; community group meetings; public exhibitions; newsletters; the Environment Agency website; local newspaper articles and local radio. In November 2012 a public drop-in session was held, requesting comments on the Phase 2 proposals. Responses to comments from the public were considered with regard to the extent of tree removal; how the new riverside paths might impact on residents' privacy; access to the new riverside walkways and prevention of anti-social behaviour
- Consultation has also taken place with affected landowners has taken place with the aim of minimising adverse effects and to manage disruption to residents and businesses

The Proposed “Phase 2” Works
Phase 2 is as follows:-

<table>
<thead>
<tr>
<th>Phase 2</th>
<th>Description of River Corridor</th>
<th>Summary of Proposed Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>River Mersey (right bank) from Kingsway Bridge to Bridgefoot Roundabout</td>
<td>Predominantly industrial/commercial land at Howley Lane, Wharf Street and the Riverside Retail Park. Small pockets of existing residential properties at Riverside Close, including sheltered housing and proposed residential development along</td>
<td>Combination of a new flood embankment and flood walls including flood protection to the Howley Lane electricity sub-station and localised road raising at the Wharf Street/Vernon Street junction</td>
</tr>
</tbody>
</table>
Howley Lane. Notable infrastructure includes the Howley Lane electricity sub-station. Height typically up to 1.3m above ground level. In general, the relative height of defence depends on the adjacent ground level, and therefore appears to vary. The widths of the flood walls vary depending on construction type – but generally range between 300mm and 750mm.

Main Issues and Constraints

- Alleviation of Flood Risk; Need for the Development
- Visual Impact/Streetscene
- Impact on Living Conditions
- Trees, Landscaping and Nature Conservation
- Footway, cycleway and other linkages

Key policy/guidance checklist
Supplementary Planning Guidance/Documents:
- Landscape Design Guide

Adopted Warrington UDP and emerging Warrington Local Plan Core Strategy policies:

| GRN2; GRN13 REP1; REP4; DCS1; Alleviation of Flood Risk; Need for the Development | Phase 2 is part of the overall FRMS – which would reduce the risk of flooding to people, property and the environment by providing a 1 in 100 year standard of protection (representing a 1% risk of flooding in any one year) to Howley, Latchford, Padgate, Bruche and Woolston. There is acknowledged to be a clear and pressing need for the works in these terms.

The overall scheme would provide much improved (1 in 100 year) flood protection for the foreseeable future. The short term and other impacts of the proposal should each be assessed in this context. Insofar as impact on habitats and protected species are concerned, the test of “overriding public need” for the development should be applied – wherever there may be negative impacts which can not be mitigated. The short term and other impacts of the proposal have been considered with the conclusion |
that negative impacts such as some visual intrusion, tree loss and significant potential for disruption and disturbance during construction are outweighed by the overriding public benefit of improved long-term flood defences.

The scheme would increase flood protection for approximately 2130 residential and 123 industrial/commercial properties.

### Visual Impact/Streetscene

There are no statutory, or non-statutory designated landscape near the proposed development – but some impacts of all three phases would undoubtedly result in some dramatic visual changes. In many of the proposed locations new embankments and/or walls topped by fencing would replace established, naturalised river bank and planting. Change would be stark in some locations, where planting is removed and replaced by highly visible new walls and other structures. New flood walls would generally be constructed of either reinforced concrete or sheet pile. Flood embankment crests and side slopes would generally have a grass finish. Flood walls would generally have an exposed aggregate concrete finish with concrete coping. As with Phase 1 – artwork would be incorporated into parts of the flood wall – from images selected in design competitions held at local schools. Other mitigation includes the protection of vegetation near construction areas; replacement planting and improvements to the riverside walkways.

### Impact on Living Conditions

There are various locations where proposed works may be undertaken in proximity to residential properties – notably Riverside Close - where there may be some visual impact and/or impact on outlook. Although close to houses and highly visible in some cases – especially where new flood defences would replace existing domestic boundary treatment – the walls would generally be low – mostly under 1 metre – but increasing to 1.5 metres depending on precise existing land levels – which may vary locally.

Aside from visual impacts – assessed above – there is some potential for impacts during the construction phase. By way of the construction management plan required by condition on the outline permission (2012/19262) – and a continuation of the dialogue conducted at pre-application stage between the applicant and
affected businesses and landowners – it is expected that adverse construction-related impacts would be adequately mitigated.

| GRN2; GRN13; GRN16; GRN17; GRN20; GRN21; GRN22; GRN23; GRN24; DCS1; DCS7; | Trees, Landscaping and Nature Conservation | Works in the river corridors have been the subject of detailed study as part of the submitted EIA – with particular regard to potential impacts on habitats. The landscape proposals seek to deliver reinstatement on a like-for-like basis – and comprises a combination of surface treatments (including tarmac, grass and planting). The landscape reinstatement scheme provides for, as a minimum, the planting of one tree for every tree felled. In general terms, the test of “overriding public need” for the development should be applied – wherever there may be negative impacts on habitat value or protected species which can not be fully mitigated. |
| LUT1; LUT3; LUT4; LUT5; LUT15; DCS1; GRN2; GRN12; GRN13; | Footway, cycleway and other linkages | There would be a need to divert some public rights of way – either permanently or temporarily – to which there is no objection subject to detailed controls. Existing public footpaths and other routes in the river corridor would be protected and retained - and there will be some reinstatement and improvement of existing stretches of the Mersey Way and Howley Heritage Trail. During construction there will be some temporary path diversions which would cause inconvenience to footpath and cycle users. Enhancements would be delivered through new surfacing, wider paths and/or general improvements to the amenity of routes. |

**Responses to consultation** (Full details on file)

**Highways**
To be reported.

**Environmental Protection**
Further land quality work will be carried out on Phase 2 – in response to condition 10 attached to the outline planning permission.

**Nature Conservation**
No objection subject to the detailed considerations in the Environmental Statement Addendum and the detailed habitat surveys which have been conducted.

**Tree Officer**
No objection subject to agreed revisions re species and mix of planting.

Environment Agency
No objection, subject to condition.

Responses to Notification (Full details on file)

Neighbours – Three objections/expressions of concern:
- Meaningful consultation with the applicant is not taking place
- There has been a partial river bank collapse in Woolston
- The Mersey has not flooded in over 100 years – only issue with the river has been man made
- Proposed replacement tree planting includes inappropriate species and is not suitable ecologically
- Coppicing only small sections of trees at a time would threaten bird life
- Loss of vital bird feeding area of grass banking unnecessarily destroyed and replaced with tarmac
- Block paving will replace the only, vital, soak-away grass on Riverside Close – we already have problems with surface water run-off
- After all this destruction in front of Riverside Close, the total extra height of flood defence is a seemingly paltry 30 cm
- River corridors is part of our Heritage Trail and National Trail
- Government is currently offering large amounts of money to maintain and create wildlife corridors – the plans here will destroy one
- A cleared riverbank would give easy access for children to get to waters edge
- A cleared riverbank would undermine integrity, as with the collapse of the riverbank upstream of Woolston Weir
- Riverside walk has previously kept the locality safe and relatively tranquil; if it is now cleared, opened up and covered in tarmac – it will become a rat run for local teenagers riding motorcycles and no design of barrier will deter them, thereby creating another danger for walkers

Comment:
- There has been considerable opportunity for consultation as part of the submitted Statement of Community Involvement
- Although not part of Phase 2 – there is ongoing discussion with Cllr Brinksman; the Environment Agency and Peel Holdings – with regard to the river bank collapse in Woolston and other, related matters
- The need to protect large parts of the town from flooding is acknowledged as genuine – notwithstanding the absence of particular flood events in some areas of the town in living memory
- Existing public footpaths and other routes in the river corridor would be protected and retained - and there will be some reinstatement and improvement of existing stretches of the Mersey Way and Howley Heritage Trail. During construction there will be some temporary path diversions which would cause inconvenience to footpath and cycle users.
- Some changes to tree species and mix have been agreed with WBC Tree Officer
- Coppicing will be undertaken as necessary by the Council
- Existing planting and wildlife along the riverbank is acknowledged to be heavily influenced by the adjoining urban environment – for example via
light and noise pollution. Nonetheless, the wild riverbank is valued as a continuous margin to the river – and there is no overriding objection from WBC Tree or Nature Conservation specialists

- It is acknowledged that residents of Riverside Close are likely to experience the most significant landscape and visual changes due to loss of tree cover and new flood defence walls impacting on outlook – and that such impacts will be mitigated only when new planting has matured

The applicant has responded in particular to objections raised as a result of discussion with an objector at 61 Riverside Close, and has provided the summary table below:

<table>
<thead>
<tr>
<th>Summary of points made by Objector</th>
<th>Environment Agency response</th>
</tr>
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<tbody>
<tr>
<td>1. Loss of existing vegetation (riverbank scrub; trees and grass on riverbank) which is valuable for wildlife including Red and Amber Data list bird species and which provides corridor along river through Warrington</td>
<td>All necessary ecological surveys have been undertaken. The scope of the ecology assessment was agreed with WBC and the EA. The Ecological Impact Assessment in the Environmental Statement did not identify any significant impacts to birds or their habitats. The Red List / Amber list is the RSPB/ BTO Birds of Conservation Concern. There are various reasons why species are classified as Red or Amber listed. This listing does not confer any statutory protection or value whatsoever. Some of these species are listed as Priority Species in the UK BAP but this does not confer any statutory protection or value either. The birds the objector has listed are common and widespread and this does not constitute a significant species assemblage. There will be some adverse impacts during construction through loss of trees and the harshness of the new flood defence wall. However, the wildlife corridor will remain following the completion of the flood defence scheme, albeit with a slightly more managed appearance. The long term management of this corridor will be for EA and WBC to determine under their respective maintenance programmes.</td>
</tr>
<tr>
<td>2. Replacement tree planting uses inappropriate species</td>
<td>Replacement tree planting uses species which are suitable for the location, specified by a qualified landscape architect. Species were chosen which are not only suitable for the area but serve other landscape and visual aims of the project (improved aspect from the riverside corridor and improved health and safety for footpath users).</td>
</tr>
<tr>
<td>3. Replacement of soft absorbent surfaces by hard surfaces (3m wide</td>
<td>The 3 metre wide tarmacked surface for footpath/cycleway is being provided in agreement with WBC as an improvement for public access to the</td>
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<tr>
<td>footpath; hard surfaced patios for individual gardens) is unacceptable</td>
<td>riverside frontage. The proposal to provide hard surfaced patio gardens was an option for individual residents of Riverside Close who may feel that the shortage of space at the front of properties may be more appropriately hard paved than left as a small strip of grass with the associated maintenance difficulties. This is not a planning issue and there is no compulsion whatsoever on residents to accept hard surfacing – it was merely offered to residents as an option should they wish to pursue it.</td>
</tr>
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| 4. Flood defence scheme which only constructs 300mm height of extra structure at Riverside Close requires major impacts for little gain | Whilst the height of flood defences relative to existing ground levels varies throughout the scheme, the top of defence structure has been calculated to provide the necessary standard of protection for adjacent properties. At Riverside Close, the wall will be approx 700mm higher than the adjacent car park level. |

| 5. Loss of scrub vegetation along river edge will lead to increased health and safety risks for children | There has never been any intention to remove all the riverbank scrub vegetation. Following a site meeting with the objector and in response to his concerns, tree protection and removal plans were changed to highlight the need to protect and retain the riverbank vegetation adjacent to Riverside Close. Therefore there will be no changes to the H&S risks for children along this section of river bank from the existing situation. |

| 6. Loss of trees and vegetation could adversely affect integrity of riverbank | Trees are proposed for removal alongside Riverside Close in the interests of good arboricultural management to allow other remaining trees to grow and for landscape and visual / health and safety reasons for footpath users. Following the felling of those trees identified for removal, a judgement will be made about the merits of removing the stump and large roots bearing in mind the structural integrity of the bank and remaining adjacent vegetation. If it is considered to be prudent, the stump and roots will be left in place, and possibly allowed to regrow as a coppice, retaining the structural integrity whilst also providing a good age range for riverbank vegetation. Having invested in a new flood defence wall and new riverside footpath on the riverward side of the wall, EA and WBC will ensure that there is no loss of integrity to the riverbank. In the event of any structural weakness being identified in the future, this will be addressed as appropriate. |

| 7. Creation of 3m wide path | EA is in discussions with WBC about antisocial |
will attract teenagers on motorcycles and other antisocial behaviour | behaviour and how to minimise use of the new riverside cycle/footpath by motorbikes. This is part of a wider problem including use of Howley Suspension Bridge and across to Victoria Park. WBC, as the ultimate owner of the footpath, is best placed to manage this issue in the longer term.

Conclusions and reasons for recommendation/decision

These extensive proposals would form part of the overall, much improved (1 in 100 year) flood protection for the foreseeable future - for the majority of to Howley, Latchford, Padgate, Bruche and Woolston – and have been assessed in detail - via the submitted Environmental Statement, as part of formal EIA attached to the outline permission.

Some impacts of all three phases would undoubtedly result in dramatic visual changes. In many of the proposed locations new embankments and/or walls topped by fencing would replace established, naturalised river bank and planting. Change would be stark in some locations, where such planting is removed and replaced by highly visible new walls and other structures.

Insofar as impact on habitats and protected species are concerned, the test of “overriding public need” for the development has been applied – wherever there may be negative impacts which can not be mitigated – with the conclusion that, subject to conditions, such harm would be mitigated over the lifetime of the development. Similarly, where the loss of tree cover can not be avoided, it is considered that the maturing of new planting and the re-naturalisation of the river corridor would eventually take place without serious permanent harm.

The short term and other impacts of the proposal have been considered with the conclusion that negative impacts such as some visual intrusion, tree loss and significant potential for disruption and disturbance during construction are outweighed by the overriding public benefit of improved long-term flood defences.

Overall, the proposals are considered to be in accordance with GRN2; GRN12; GRN13; REP1; REP4; REP10; SOC1; HOU7; GRN13; GRN16; GRN17; GRN20; GRN21; GRN22; GRN23; GRN24; DCS1; DCS7; LUT1; LUT3; LUT4; LUT5; and LUT15 of the adopted Warrington UDP.
WARRINGTON BOROUGH COUNCIL

DEVELOPMENT MANAGEMENT COMMITTEE
14th February 2012

Report of the: Executive Director Environment and Regeneration Services
Report Author: Daniel Hartley - Development Control Manager
Contact Details: Email Address: dhartley@warrington.gov.uk
                     Telephone: 01925 442819

Ward Members:

1. SUMMARY PAPER – REPORT ON:
   Results of Planning and Enforcement appeals as attached.

2. Purpose of the Report:
   To advise members of the results of appeals.

3. Recommendations:
   To note the reports.

4. Reason for Recommendation:
   To inform Members of the results of appeals.

5. Confidential or Exempt:
   Not applicable

6. Financial Considerations:
   None.

7. Risk Assessment:
   Not required.

8. Equality Impact Assessment:
   No equality impact assessment is considered to be required.
9. Consultation:
   Not relevant

10. Clearance Details (Record of clearance of report):

<table>
<thead>
<tr>
<th>Name</th>
<th>Consulted</th>
<th>Date Consulted</th>
</tr>
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<tr>
<td>Relevant Executive Board Member</td>
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<td></td>
</tr>
<tr>
<td>SMB</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Relevant Executive Director</td>
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<td></td>
</tr>
<tr>
<td>Solicitor to the Council</td>
<td>No</td>
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<tr>
<td>S151 Officer</td>
<td>No</td>
<td></td>
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<tr>
<td>Relevant Head of Service</td>
<td>Peter Taylor</td>
<td>Yes 30.1.13</td>
</tr>
</tbody>
</table>

11. Background Papers:
Planning application and appeal decisions attached

Contacts for Background Papers:

<table>
<thead>
<tr>
<th>Name</th>
<th>E-mail</th>
<th>Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melissa Mountain</td>
<td><a href="mailto:mmountain@warrington.gov.uk">mmountain@warrington.gov.uk</a></td>
<td>01925 442819</td>
</tr>
</tbody>
</table>
Appeal Decision

Site visit made on 20 August 2012

by Keith Turner  LLB(Hons) DipArch(Dist) RIBA MRTP

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 September 2012

Appeal Ref: APP/M0655/E/12/2172224
Moss Edge Cottage, 1 Weir Lane, Woolston, Warrington WA1 4QQ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr K Dunne against the decision of Warrington Borough Council.
- The application Ref 2011/18464, dated 28 June 2011, was refused by notice dated 10 November 2011.
- The works proposed are to replace existing windows.

Decision

1. The appeal is allowed and listed building consent is granted for replacement windows at Moss Edge Cottage, 1 Weir Lane, Woolston, Warrington WA1 4QQ in accordance with the terms of the application Ref 2011/18464 dated 28 June 2011 and the plan (no. 120911) submitted with it subject to the following conditions:
   1) The works hereby authorised shall begin not later than 3 years from the date of this consent.
   2) Before the works commence full details of the window frames, including detailed sections, details of glazing bars, and details of the slim profile double glazing units to be used, shall be submitted to and approved in writing by the local planning authority.
   3) The double glazing units shall be no more than 10mm thick and shall be glazed into the frames in separate panes divided by glazing bars in the arrangement shown on plan no. 120911.

Reasons

2. Moss Edge Cottage is a grade II listed building. When considering whether to grant consent for any works to a listed building affecting it or its setting, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The building also constitutes a designated heritage asset for the purposes of planning policy. The recently published Framework sets out how this is to be approached. It requires the significance of heritage assets to be described and assessed, and the level of detail should be proportionate to the asset’s importance.

---1---
Ss16(2) and 66(1) Planning (Listed Buildings and Conservation Areas) Act 1990

---2---
Paragraphs 126-141 National Planning Policy Framework – April 2012
3. The Framework has superseded PPS5\(^3\), to which the parties have referred. However, the Practice Guide\(^4\) remains extant and is a material consideration of significant weight. That makes clear, in paragraph 179, that the fabric will always be an important part of the asset’s significance and retention of as much historic fabric as possible is therefore a fundamental part of any good alteration or conversion. Paragraph 185 states that the insertion of new elements such as doors and windows is quite likely to adversely affect the building’s significance. It also indicates that new elements may be more acceptable if account is taken of the character of the building.

4. Having regard to the above statutory requirements and policy context the main issue raised by this appeal is whether the proposed works would preserve the character of the listed building.

5. The appeal premises were listed in 1983 together with the adjoining Clayton Cottage. According to the list description, the building at that time had 3-light metal casements in wooden frames at ground and first floor level and later casements in the attic gables. The metal casement windows no longer exist and have been replaced at some time since listing by the present timber casement windows. This is not disputed.

6. The present windows do not, therefore constitute historic fabric and nor was their installation ever authorised. They comprise timber frames having standard EJMA\(^5\) sections. The opening casements are rebated over the fixed frames to provide a weather seal. The windows are divided into small panes by glazing bars and they are single glazed.

7. The Appellant contends that some, but not all of the windows have some disrepair. The Council do not accept this. From my inspection I am satisfied that all of the windows which it is proposed to replace are reasonably sound and capable of repair. Generally, that would militate strongly against such a proposal because it would entail loss of historic fabric. However, in this case it is agreed that the windows are neither original nor pre-date the listing of the building. They are clearly modern, unauthorised additions.

8. The existing windows echo the general form and appearance of their predecessors to some degree as the photograph submitted shows. However, they do not reflect traditional details in a number of respects and for this reason they may be regarded as insensitive alterations. EJMA sections were common place in the mid twentieth century and were different from earlier casement windows in having weathered rebates and generally larger frame sections. I agree with the Appellant that flush casements would be more typical of historic timber casements, though the evidence indicates that such windows did not exist in this building.

9. The Council consider that the existing windows should be retained. Normally, that course would be appropriate for a listed building. However, the Appellant is seeking to enhance the appearance of the building by introducing windows which he considers would have a more appropriate appearance than the existing ones. Whilst I accept that this represents a somewhat conjectural restoration, which current conservation practice generally resists, in this instance there would be some benefit to the overall appearance of the listed

\(^3\) Planning Policy Statement 5: Planning for the Historic Environment
\(^4\) PPS5 Planning for the Historic Environment: Historic Environment Planning Practice Guide March 2010
\(^5\) English Joinery Manufacturers Association
building. The windows would have slimmer sections, traditional casements, and panes of appropriate proportions. In reaching this conclusion I have had regard to the design criteria upon which the Appellant has based the design of the windows. That demonstrates a careful and informed analysis seeking to reflect an appropriate historical context.

10. The other issue which concerns the Council is that the proposed windows would be double glazed using modern slim profile sealed units. Whilst this would clearly improve thermal performance, such alterations to listed buildings are generally resisted for two principal reasons. First, because traditional window frames often cannot be used with double glazing and so loss of historic fabric, or insensitive alterations to it are often required. That is not the case in this instance. Second, double glazing introduces the presence of multiple reflections.

11. The Appellant is correct in pointing out that such multiple reflections would occur even if secondary double glazed were used, and this is often accepted in historic buildings. That is a compromise solution which in some cases is accepted to improve thermal performance but protect original window frames from alteration or removal. It also permits retention of original panes which may have the patina of age or characteristics of handmade glass. Those considerations are not present in this case because the glass is a modern machine made product, as are the frames.

12. The Appellant also contends that such multiple reflections are much less apparent with slim profile glazing units. This assertion is supported by the findings of the research referred to in Edinburgh. Whilst I share the Council’s view that each case still ought to be assessed on its own merits, that study does alleviate one concern about the double glazing. That, together with the fact that the windows which would be replaced are a modern run-of-the-mill installation considerably diminishes the grounds for objection.

13. The final consideration, in my view, is whether replacing the window frames is likely to give rise to damage or harm to the adjacent fabric of the listed building. Having regard to the fact that these windows were inserted in the relatively recent past, I consider that eventuality to be unlikely.

14. Having regard to the above factors, and bearing in mind the particular and unusual circumstances in this case, I conclude that replacement of the windows as proposed would not be harmful to the character of the listed building and, in this particular case, that the benefits of double glazing would outweigh any visual impact which might arise from its use.

15. However, I have one cause for concern and that must be overcome for the works to be acceptable. I note that the details of the windows\(^6\) show glazing bars applied to either side of the glass faces rather than running through and separating the windows into separate panes. Such applied features, in my experience, can become detached from the glass or frame and that would completely alter the appearance of the windows. Furthermore, such features would lack the authenticity which the replacement windows are intended to provide. Use of a detail like the one shown in other information submitted\(^7\)

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\(^6\) Supporting Information and Design and Access Statement – Appendix 3 – Details of the proposed windows

\(^7\) Further Supporting Information – JT Design Consultancy Ltd page 3
would overcome this issue and the listed building consent will be subject to a condition to ensure that.

16. It is unclear whether the details of the window sections and double glazing units submitted with the appeal formed part of the application. For the avoidance of doubt I shall, therefore, require submission of details for the approval of the LPA.

Keith Turner
Appeal Decision

Site visit made on 14 February 2012

by E Norma Farish BA DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 March 2012

Appeal Ref: APP/M0655/D/12/2168028
2 Beechfield Road, Grappenhall, Warrington, Cheshire WA4 2LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr K Ireland against the decision of Warrington Borough Council.
- The application Ref 2011/18594, dated 27 July 2011, was refused by notice dated 19 October 2011.
- The development proposed is partial garage conversion and single storey side and rear extensions.

Application for Costs

1. An application for costs was made by Mr K Ireland against Warrington Borough Council. That application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Main Issue

3. This case turns on the impact of the proposed development on the residential environment of neighbouring occupiers.

Reasons

4. No.2 Beechfield Road is a north-west-facing inter-war detached house on a residential estate of properties of broadly similar age. Other than a rear conservatory and what appear to have been minor alterations to the back corner of the present kitchen the house is, I accept, in size and external appearance effectively as it was when built. The appellant proposes to alter the attached garage to create a home office and a shed; since there would still be off-street parking space for a vehicle in front of the present garage this does not raise concern. I have considered whether I could issue a separate decision in respect of the garage alterations, but as they depend to a degree on the larger scheme I cannot. The appellant also wishes to remove the conservatory
and erect a single storey extension 4m deep across the full width of the rear of the house. This would be barely apparent from the road outside and would not materially affect the streetscene or the character of the host dwelling.

5. However, saved policy DCS1 of the Warrington Unitary Development Plan 2006 (UDP) requires that proposals for new development should take into consideration and at least preserve the amenities of near neighbours. To that end saved UDP policy HOU13 recommends that for conventional two-storey house types there should be a minimum distance of 13m between windows of living rooms and windowless elevations. Also, the council’s Supplementary Planning Guidance (SPG 2), House Extension Guidelines, and SPG 2C, Rear Extensions, set out the council’s 45 Degree Code which is advocated to limit the impact of proposed new development on light to and the outlook from nearby habitable rooms within a distance of 12m in order to protect the amenities of neighbouring dwellings.

6. The neighbouring property to the south-west of the appeal site is a west-facing extended detached house, No.2 York Road, the back windows of which would directly face the proposed extension to No.2 Beechfield Road. As No.2 York Road is on a corner plot it has a private rear amenity area far smaller than those of other dwellings nearby. That private garden area is already dominated by the flank wall of the appellant’s house, and the additional building now proposed would extend to virtually the full length of the boundary between the two properties.

7. The proposed extension would be less than 2m from that boundary and roughly 8m from the downstairs rear habitable room windows and French doors of No.2 York Road which is well below the council’s recommended minimum separation distance; with an eaves height of 2.6m and a pitched roof it would be clearly visible from No.2 York Road above the existing close-boarded boundary fence. The 45 Degree Code would be breached, and whilst there would be no loss of privacy, the size and proximity of the proposed development would cause it to dominate, to a degree overshadow, and have an overbearing impact on the small back garden of the neighbouring house and the outlook from its ground floor rear windows. The appeal scheme would thus be materially harmful to the residential environment of the occupiers of No.2 York Road, making that house much less pleasant to live in, and so would conflict with the aims of UDP policies DCS1 and HOU13.

8. The appellant contends that express planning permission is not required because the development is permitted by virtue of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). From a comparison of drawing numbers it would appear that the Lawful Development Certificate issued by the council on 6 December 2011 (Reference 2011/19062) does not relate to the same development as that currently before me. Whether or not the appeal scheme is permitted is not a matter for me to determine in the context of an appeal made under S.78 of the Act. It is open to the appellant to formally apply for a determination in this matter under sections 191/192 and my decision in this appeal would not affect the outcome of such an application.

9. I note the appellant’s comments on the manner in which his negotiations with the council were handled, but that cannot affect my decision on the planning
merits of his proposal. I have given careful consideration to all other points raised in the representations received but have found nothing which outweighs my conclusion that for the reasons given in paragraphs 6 and 7 above this appeal must fail.

E Norma Farish

INSPECTOR
Appeal Decision

Site visit made on 3 October 2012

by Karen Baker  DipTP MA DipMP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 October 2012

Appeal Ref: APP/M0655/D/12/2177692
11 Barnes Avenue, Fearnhead, Warrington WA2 0BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Marcin Tkaczyk against the decision of Warrington Borough Council.
- The application Ref. 2012/19557, dated 16 February 2012, was refused by notice dated 15 May 2012.
- The development proposed is the installation of external insulation around the property.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character and appearance of the original property and the local area.

Reasons

3. The appeal property is a 2 storey semidetached dwelling, located on the western side of Barnes Avenue in a predominantly residential area. Although some properties benefit from extensions to the front or side, the dwellings along this part of Barnes Avenue are mostly of a similar style and design, with brick walls and tiled roofs. The proposed development would include the installation of external insulation around the walls of No. 11 Barnes Avenue. From the submitted plans, it is apparent that the overall depth of the insulation would be around 92.5mm. The outer acrylic plaster would be coloured 'Nut Brown' (RAL8011).

4. Policies DCS1, DCS9 and HOU8 of the Warrington Unitary Development Plan\(^1\) (UDP), adopted in January 2006, seek to ensure that development proposals achieve a high standard of design which would preserve or enhance the character and appearance of the area and the original building. I note that many different colours and styles of properties exist within Fearnhead. Nevertheless, given the design, scale and colour of the proposed insulation, along with the location of the appeal property within a row of similar dwellings, the proposal would introduce an alien form of development, which would not be

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\(^1\) The UDP policies to which I refer in this decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 11 December 2008. Having regard to paragraph 215 of Annex 1 to the National Planning Policy Framework (The Framework), I consider that these UDP policies, in so far as they relate to the development before me, are broadly consistent with The Framework. As such, full development plan weight has been afforded to them.
in keeping with the character and appearance of the original property and would appear prominent and visually obtrusive within the streetscene, detrimental to the character and appearance of the area.

5. I conclude, therefore, that the proposed development would harm the character and appearance of the original property and the local area. As such, it would be contrary to UDP Policies DCS1, DCS9 and HOU8.

6. I have considered all the other matters raised by the appellant, including the need to reduce heating bills, while keeping the house warm for his young family; and, the nature of the proposed insulation, but none changes my overall conclusion that the appeal should be dismissed.

Karen Baker
INSPECTOR
Appeal Decision

Site visit made on 25 June 2012

by Karen Baker  DipTP MA DipMP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 June 2012

Appeal Ref: APP/M0655/D/12/2175818
12 Acton Avenue, Appleton, Warrington WA4 5PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Peter Davies against the decision of Warrington Borough Council.
- The application Ref. 2012/19575, dated 22 February 2012, was refused by notice dated 16 April 2012.
- The development proposed is a single storey extension to side.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character and appearance of the original building and local area.

Reasons

3. The appeal property is located on the western side of Acton Avenue, in a predominantly residential area. The properties along this part of Acton Avenue are mostly mature 2 storey semidetached dwellings, many of which have attached single garages to the side. The appeal property is sited on a corner plot, to the north of Springholm Drive. It benefits from a substantial 2 storey side extension and the proposed development would extend the appeal property further to the side by the construction of an attached single storey garage.

4. It was apparent from my site visit that the existing 2 storey side extension to the appeal property imbalances the symmetry of, and is not subservient to, the pair of semidetached properties at Nos. 10 and 12 Acton Avenue, particularly given its scale, height and mass and as its front elevation is not set back from the front elevation of the original building. Although the proposed attached single storey garage would be similar to others along this road, given the existing substantial 2 storey side extension to No. 12, it would cumulatively add to the overall width and size of the host building, leading to a further imbalance in the symmetry of these dwellings and would not appear subservient to the original property. Given this, it would also appear prominent and visually obtrusive in the streetscene along Acton Avenue.

5. I conclude, therefore, that the proposed development would harm the character and appearance of the original building and local area. As such, it
would be contrary to Policies DCS1, DCS9 and HOU8 of the Warrington Unitary Development Plan\(^1\) (UDP), adopted in January 2006, and would not accord with the Council’s Supplementary Planning Guidance (SPG) 2: House Extension Guidelines, adopted in December 2003.

6. I have considered all the other matters raised by the appellant, including the references to the guidance in The National Planning Policy Framework (The Framework) in relation to sustainable development; that the dwellings in the local area are not of any architectural importance; that the site is not within a Green Belt or conservation area; the lack of any objections from the Parish Council or local residents; and the benefits to the current and future occupiers of the dwelling from the extended accommodation; but none changes my overall conclusion that the appeal should be dismissed.

Karen Baker

INSPECTOR

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\(^1\) The UDP policies to which I refer in this decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 11 December 2008. Having regard to paragraph 215 of Annex 1 to the National Planning Policy Framework (The Framework), I consider that these UDP policies, in so far as they relate to the development before me, are broadly consistent with The Framework. As such, full development plan weight has been afforded to them.
Appeal Decision

Site visit made on 3 October 2012

by Karen Baker  DipTP MA DipMP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 October 2012

Appeal Ref: APP/M0655/D/12/2181775
13 Ellesmere Road, Culcheth, Cheshire WA3 4BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Simon Waldron against the decision of Warrington Borough Council.
- The application Ref. 2012/20072, dated 14 May 2012, was refused by notice dated 11 July 2012.
- The development proposed is a single storey side and 2 storey rear extension.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the living conditions of the occupiers of No. 15 Ellesmere Road, with particular reference to outlook and daylight.

Reasons

3. The appeal site is located on the northern side of Ellesmere Road, in a predominantly residential area. The dwellings along this part of Ellesmere Road are mostly semidetached 2 storey properties. No. 13 Ellesmere Road is sited to the west of a communal drive, which leads to several blocks of garages sited to the rear of Nos. 15 – 21 Ellesmere Road. Beyond the communal drive, to the east, is the side elevation of No. 15, which includes a first floor bedroom window.

4. The proposed extension includes a 2 storey rear element which would project around 3650mm from the rear elevation of the appeal property, with a maximum height of around 6900mm to the ridge. The Council’s Supplementary Planning Guidance (SPG) 2: House Extension Guidelines, adopted in December 2003, and SPG C: Rear Extensions, adopted in December 2003, refer to the use of the 45 Degree Code to assess the impact of rear extensions upon the amenities of neighbouring occupiers. Policy HOU13 of the Warrington Unitary Development Plan (UDP), adopted in January 2006, sets

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1 The UDP policies to which I refer in this decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 11 December 2008. Having regard to paragraph 215 of Annex 1 to the National Planning Policy Framework (The Framework), I consider that these UDP policies, in so far as they relate to the development before me, are broadly consistent with The Framework. As such, full development plan weight has been afforded to them.
out recommended separation distances, including a minimum distance of 13m between windows of living rooms and a gable or windowless elevation.

5. The Council states that the 2 storey element of the proposed scheme would sit within the 90 degree field of view of the first floor bedroom window at No. 15 Ellesmere Road and that the incursion would occur at a distance of around 6.9m – 7.6m. Given this and that the window is the only one which opens into this bedroom, along with the scale, height and mass of the proposal, it would appear dominant and overbearing from within this bedroom, to the detriment of the outlook of these occupiers, and lead to a material loss of daylight within this room.

6. I conclude, therefore, that the proposed development would harm the living conditions of the occupiers of No. 15 Ellesmere Road, with particular reference to outlook and daylight. As such, it would be contrary to UDP Policies DCS1 and HOU13 and would not accord with the guidance in SPG 2 and SPG C.

7. I have considered all the other matters raised by the appellant, including the orientation of Nos. 13 and 15 Ellesmere Road; and, that the proposal would prevent any overlooking into the rear garden of No. 13 from the first floor bedroom window of No. 15; but none changes my overall conclusion that the appeal should be dismissed.

Karen Baker
INSPECTOR
Appeal Decision

Site visit made on 8 May 2012

by D Kaiserman BA DipTP MRPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 May 2012

Appeal Ref: APP/M0655/D/12/2173387
13 Holcroft Lane, Culcheth, WARRINGTON, WA3 5AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Hunt against the decision of Warrington Borough Council.
- The application Ref 2012/19337 was refused by notice dated 1 March 2012.
- The development proposed is a single storey extension and first floor rear extension (resubmission of 2011/18576).

Decision

1. The appeal is dismissed.

Main issues

2. I consider that the main issues in this case are whether the proposal constitutes inappropriate development in the Green Belt, and its effect on the openness of the Green Belt; and if I find that it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

3. The appeal property is a substantial dwelling, being within a short “ribbon” of eight houses along the north side of Holcroft Lane, all of which lie within the Green Belt. Policy GRN1 of the Unitary Development Plan (UDP) says that within the Green Belt planning permission will not be granted for inappropriate development except in very special circumstances, and that the erection of new buildings will be considered inappropriate unless (in addition to other criteria which are not relevant to the appeal) they involve the limited extension or alteration of existing dwellings. This approach is broadly similar to the advice at paragraph 89 of the National Planning Policy Framework (NPPF), which carries a presumption against “disproportionate additions over and above the size of the original dwelling”. A similar formulation appears in the Council’s supplementary planning document on house extensions within the Green Belt [SPG (G)].

4. The appellants do not challenge the calculations provided by the Council which suggest that the floorspace of the original house has already been increased by 78%. In drawings accompanying the application, the appellants’ agent calculates the floor area of the original building as 176 sq m and the existing as
238 sq m, with the appeal proposal adding a further 101 sq m. While neither the UDP nor the NPPF contain detailed figures, SPG(G) states (with emphasis) that the Council would generally regard a cumulative increase over the original of more than one third being inappropriate in policy terms. It is clear that the appeal scheme would significantly exceed that guideline advice.

5. Inappropriate development in the Green Belt is, by definition, harmful. In this case, the proposed single storey extension would increase the building’s footprint and the first floor extension would increase its bulk, in each case reducing the openness of the Green Belt, which is its most important attribute.

6. I have noted the assertion that part of what has been applied for would constitute permitted development; that most of it would not be visible from the public realm; that the appellants have a need for more space; and other matters which are either not in dispute or are not relevant to the issues raised by the appeal. None of these amount to very special circumstances which outweigh the harm which I have described, and which might justify the grant of planning permission, and consequently I have decided to dismiss the appeal.

D Kaiserman

INSPECTOR
Appeal Decision

Site visit made on 6 August 2012

by Sue Glover BA(Hons) MCD MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 August 2012

Appeal Ref: APP/M0655/D/12/2177671
16 Culcheth Hall Farm Barns, Withington Avenue, Culcheth, Warrington WA3 4AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Peter Marsh against the decision of Warrington Borough Council.
- The application Ref 2012/19393 was refused by notice dated 19 April 2012.
- The development proposed is a two storey extension to the gable of the existing property.

Decision

1. The appeal is allowed and planning permission granted for a two storey extension to the gable of the existing property at 16 Culcheth Hall Farm Barns, Withington Avenue, Culcheth, Warrington WA3 4AN in accordance with the terms of the application, Ref 2012/19393, subject to the following conditions:

   1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.

   2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. 1141 PL 001, 1141 PL 002 Revision A, 1141 PL 003 Revision B, 1141 PL 004 Revision B.

   3) No development shall take place until details of the materials and finishes to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the barns and their setting, and the area in general.

Reasons

3. No. 16 is an end terrace house, which is part of a range of converted or replaced agricultural buildings at the fringe of the settlement. Within the group there are 2 distinctive elements. The first is a substantial courtyard of dwellings that in many respects retain the traditional agricultural character of the original buildings, although there are modern elements. The appeal dwelling lies within the second distinct group, facing the rear of the courtyard.
4. The second group has a linear form, but pays significantly less regard to the simple form and design of a traditional barn. I am told that it replaced a simple structure of brickwork with a substantial corrugated tin addition. The building as converted or replaced is a modern interpretation of a traditional barn with a substantial amount of glazing at the front and other non-traditional features. Nevertheless, the modern form of the terrace has a pleasing symmetrical design.

5. The proposed extension at the side of no. 16 would be a subordinate addition set back from the front. The proposed design would imitate the slope of the roof, design and materials of the terrace, and harmonise with it in scale, proportions and materials. It would partially infill the gap between the terrace and the lower garage building adjoining.

6. Whilst the footprint of the terrace would be altered, the design would reflect the architectural features of this modern interpretation of a barn and it would not appear unduly out of place. From many viewpoints, due to the significant setback of the proposed extension from the front, the terrace would continue to appear symmetrical.

7. Taking all these matters into account I find no material harm to the character and appearance of the barns and their setting, and the area in general. The proposal would preserve the essential character of the street and the surrounding area in accordance with Policy HOU8 of the Warrington Unitary Development Plan (UDP). There would be a high standard of design in accordance with UDP Policy DCS1. There would also be no conflict with the objectives of UDP Policies DCS9 and GRN2. From the evidence before me the status of the Supplementary Planning Guidance, Side Extensions is unclear so that I attach only limited weight to that document.

8. As the extension would be set back some 4m from the front of the terrace, there would be sufficient separation distance from no. 5 and other nearby dwellings that it would not appear unduly overbearing or harm the privacy of nearby residents. Since each application and appeal must be judged on its own merits taking into account its position and other considerations, the appeal proposal would not, as a matter of course, create a precedent for other proposals.

9. I have considered all the policies in the National Planning Policy Framework in the light of the submissions for this appeal, but the National Framework does not alter my conclusions. I have taken into account all other matters, but I find none that are of sufficient merit to warrant the dismissal of this appeal. I have imposed a condition requiring details of external materials and finishes to ensure a high quality finished appearance. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.

_Sue Glover_

INSPECTOR
Costs Decision

Site visit made on 25 June 2012

by Karen Baker  DipTP MA DipMP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 July 2012

Costs application in relation to Appeal Ref: APP/M0655/D/12/2174793
23 Higher Lane, Lymm, Cheshire WA13 0BA

• The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
• The application is made by Mr and Mrs A Myers for a full award of costs against Warrington Borough Council.
• The appeal was against the refusal of planning permission for the remodelling of and extension to existing bungalow to create first floor accommodation, additional ground floor space, along with an integral garage (revision of application 2010/17224).

Decision

1. The application for an award of costs is refused.

Reasons

2. I have considered this application for costs in the light of Circular 03/2009 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.

3. The planning application the subject of the appeal was made following discussions with the local planning authority, after the refusal of an earlier scheme (Ref. 2010/17224). I note the appellants’ statement that they consider that the Council has acted unreasonably, given that the new case officer refused the application, which was prepared following advice from the previous case officer and involved an extensive and costly process for the appellants. I also acknowledge the evidence of pre-application discussions submitted by the appellants and the description of the character and appearance of the area in both Officers’ Reports and within an appeal decision for a dormer window at No. 25 Higher Lane (Ref. T/APP/C/97/Q0640/648303).

4. It is apparent from the submitted evidence that the Council was involved with lengthy pre-application discussions with the appellants and their architects and agents, which included specific advice relating to the unacceptability of the addition of a second storey and general guidance on the siting and design of any extension at the appeal property. Although I note that a draft scheme was submitted to the Council for consideration and comment, concerns were expressed about it by the previous case officer. In addition, its design differed significantly from that eventually submitted as part of the planning application, particularly with regards to the design of the roof.
5. Following the submission of the planning application, which included a substantial extension to the side and part of the front of the appeal property, as well as raising the roof to incorporate a second level of accommodation, the Council considered that it would be harmful to the character and appearance of the original dwelling and local area and to the living conditions of the occupiers of No. 25 Higher Lane, with particular reference to outlook and daylight. Although I do not concur with the Council’s conclusions in respect of the latter, the Council set out clearly in the Officer’s Report and decision notice its reasons for refusal in both respects, with reference to the relevant policies within the Warrington Unitary Development Plan¹ (UDP), adopted in January 2006.

6. It is apparent, from the evidence before me, that the Council has provided advice and guidance to the appellants and their architects and agents throughout the application process. However, the resultant scheme was not considered to reflect this and, as such, planning permission was refused for clear and precise reasons. I find, therefore, that the Council has not acted unreasonably during the application and appeal processes, having regard to Paragraphs A3, A12 and A28 of Part A of the Circular. As such, an award of costs is not justified in this case.

Karen Baker

INSPECTOR

¹ The UDP policies to which I refer in this decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 11 December 2008. Having regard to paragraph 215 of Annex 1 to the National Planning Policy Framework (The Framework), I consider that these UDP policies, in so far as they relate to the development before me, are broadly consistent with The Framework. As such, full development plan weight has been afforded to them.
Appeal Decision

Site visit made on 25 June 2012

by Karen Baker DipTP MA DipMP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 July 2012

Appeal Ref: APP/M0655/D/12/2174793
23 Higher Lane, Lymm, Cheshire WA13 0BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs A Myers against the decision of Warrington Borough Council.
- The application Ref. 2011/18761, dated 2 September 2011, was refused by notice dated 30 January 2012.
- The development proposed is the remodelling of and extension to existing bungalow to create first floor accommodation, additional ground floor space, along with an integral garage (revision of application 2010/17224).

Procedural Matters

1. Following the refusal of planning permission the appellants submitted a revised plan showing the Existing and Proposed Streetscenes (Drawing No. 11-076 (PL) 203 Rev. A). The plan does not materially change the proposed development, but shows the existing and proposed dwelling at No. 23 Higher Lane in relation to Nos. 21, 25, 27 and 29, rather than just its immediate neighbours. Given this, I am satisfied that my consideration of this plan would not prejudice the interests of the Council or third parties.

Decision

2. The appeal is dismissed.

Application for Costs

3. An application for costs was made by Mr and Mrs A Myers against Warrington Borough Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues in this appeal are the effect of the proposed development on:
   a. the character and appearance of the original building and local area; and,
   b. the living conditions of the occupiers of No. 25 Higher Lane, with particular reference to outlook and daylight.

Reasons

Character and Appearance

5. The appeal site is located on the northern side of Higher Lane, in a predominantly residential area. A mix of styles and designs of dwellings exists
in the vicinity of the appeal site. To the rear of the appeal site, to the north, the dwellings are mostly 2 storey detached properties which front onto Greenwood Road. The dwellings to the east of the appeal site, along Higher Lane, which are set at a higher level, are mostly single storey detached bungalows, some of which benefit from rooms within the roofspace. Indeed, No. 25 Higher Lane has a large dormer window sited within its front roofslope. To the west and south of the appeal site, along Higher Lane, the dwellings are mostly detached 2 storey properties.

6. No. 23 Higher Lane is a modest detached double fronted bungalow set within a large plot. It has similar characteristics to the row of bungalows sited to the east, which include hipped roofs, rendered walls and projecting bay windows to the front elevation. However, its front elevation is set further back from the highway. The proposed development would include a substantial extension to the western side and part of the front of the appeal property, which would provide a double garage and kitchen/family room at ground floor level. The proposed extension would increase the width of the appeal property by around 4m, and would project around 4.3m to the front of the existing dwelling. Nevertheless, it would not extend beyond the front building line of the bungalows to the east. In addition, the proposal would introduce a Mansard style roof and raise the roof height of the dwelling from around 5.2m to around 6m, which would enable the creation of a new first floor level, within the enlarged roofspace, which would provide 3 bedrooms and 2 bathrooms, one of which would be en suite.

7. Policy HOU8 of the Warrington Unitary Development Plan\(^1\) (UDP), adopted in January 2006, says that house extensions and alterations within the built up areas of the Borough will be permitted provided that they respect the character of the original dwelling and harmonise with it in scale, proportions and materials, and preserve the essential character of the street and surrounding area, amongst other things. Further, the Council’s Supplementary Planning Guidance (SPG) 2: House Extension Guidelines, adopted in December 2003, states that to ensure that extensions harmonise visually with existing dwellings they should be subordinate in scale to the building, which is to be extended.

8. I note the drawings submitted by the appellants which show the potential for extending the appeal property using permitted development rights. Nevertheless, given the scale, height and mass of the proposed extension, along with its siting partly to the front of the existing dwelling and the bulky nature of the roof, it would appear as an incongruous and dominant addition, which would not be in keeping with, or subordinate to, the character and appearance of the original property.

9. It was apparent from my site visit that substantial planting exists along the front boundary of the appeal property, which, along with its siting at a lower level than No. 25 Higher Lane, enables only limited views of it at present. Nevertheless, given the scale, mass, height and siting of the proposed extension to No. 23 Higher Lane, along with the design and extent of the roof, the proposed development would appear visually obtrusive and introduce a

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\(^1\) The UDP policies to which I refer in this decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 11 December 2008. Having regard to paragraph 215 of Annex 1 to the National Planning Policy Framework (The Framework), I consider that these UDP policies, in so far as they relate to the development before me, are broadly consistent with The Framework. As such, full development plan weight has been afforded to them.
discordant element, out of keeping with the character and appearance of the streetscene.

10. I conclude, therefore, that the proposed development would harm the character and appearance of the original building and local area. As such, it would be contrary to UDP Policies DCS1, DCS9 and HOU8, in this respect.

**Living Conditions**

11. The appeal site is located to the west of No. 25 Higher Lane. The side elevation of No. 25 contains the main window into the kitchen of this neighbouring property. A hedge exists along the side boundary between Nos. 23 and 25. However, given the difference in levels, it does not obscure views of the appeal property and its front garden from within the kitchen of No. 25.

12. The Council’s SPG includes reference to the 45 Degree Code, which it says is designed to protect the amenities of neighbouring dwellings from overshadowing or obstruction of outlook, which can be caused by large extensions on or close to a boundary. It goes on to say that the Code is principally applied to extensions that project beyond the building line either at the front or at the rear and that extensions should be designed so as not to cross the 45 degree line from the neighbour’s nearest habitable room (living, dining or bedroom). It goes on to say that non-habitable rooms, such as kitchens, will not be protected by this Code, except where kitchens are clearly used as kitchen dining rooms. Further, the SPG sets out privacy/separation distances to ensure reasonable levels of privacy and daylight for the occupiers of the extended property and neighbouring residents are maintained. It states that principal windows on an extended property should be not less than 21m from any others, and that a distance of 13m should be maintained to a blank gable wall.

13. The Council is concerned that the proposed front extension, which would be sited around 14.82m from the side elevation of No. 25 Higher Lane, along with the increased massing of the roof of the eastern side elevation of No. 23 and the change from a hipped to a Mansard style, would reduce the daylight and outlook enjoyed by the occupiers of No. 25 in their kitchen. It was apparent from my site visit that the kitchen at No. 25 includes a breakfast bar. Nevertheless, given the nature of this room, along with the distance between the side elevation of No. 25 and the proposed forward projection and the siting of the eastern side elevation of No. 23, together with the elevated nature of No. 25, the proposed development would not appear unduly overbearing or dominant from within the kitchen at No. 25 or materially reduce the amount of daylight within this room.

14. I conclude, therefore, that the proposed development would not harm the living conditions of the occupiers of No. 25 Higher Lane, with particular reference to outlook and daylight. As such, it would not be contrary to Policies DCS1 and HOU8 of the UDP, in this respect, and would accord with the Council’s SPG.

15. Although I have found that the proposal would not be detrimental to the living conditions of the occupiers of No. 25 Higher Lane, with particular reference to outlook and daylight, it would harm the character and appearance of the original building and local area. I consider this to be a compelling objection, and for this reason alone the appeal should not succeed.
16. I have considered all the other matters raised by the appellants, including the new design approach promoted following the refusal of an earlier scheme (Ref. 2010/17224); and the discussions held with the local planning authority prior to the submission of the planning application; but none changes my overall conclusion that the appeal should be dismissed.

Karen Baker

INSPECTOR
Appeal Decision

Site visit made on 27 November 2012

by I McHugh DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 December 2012

Appeal Ref: APP/M0655/D/12/2184553
44 Smithy Lane, Croft, Warrington, WA3 7JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs David Smith against the decision of Warrington Borough Council.
- The application Ref 2012/20049 was refused by notice dated 12 September 2012.
- The development proposed is proposed demolition of existing garage and single storey side extension and construction of a new single storey side extension, two storey rear extension and extension to driveway.

Decision

1. The appeal is dismissed.

Procedural Matter

2. I noted on my site visit that a single storey extension, similar to but slightly smaller than that proposed as part of this appeal, was under construction. I have however made my decision with regard to the plans that were submitted with the planning application.

3. The description of the development used by the Council in its decision notice differs from that stated on the planning application form, as it includes the proposed extension to the driveway. I have used the Council’s description in this decision.

Main Issue

4. The appeal site is within the Green Belt and therefore the main issues are: whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and Development Plan Policy; the effect on the openness of the Green Belt and the character and appearance of the area; and if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

5. The appeal site is a 2/3 storey semi-detached dwelling, situated in open countryside to the south of the village of Croft. It lies within the Green Belt in an area which is characterised by sporadic residential development, with dwellings of varying styles, ages and size.
6. Within Green Belts new development, including extensions to existing dwellings is strictly controlled. Policy GRN1 of the adopted Warrington Borough Council Unitary Development Plan 2006 (UDP) restricts such proposals to the “limited extension or alteration of existing dwellings”. In addition, the Council’s adopted Supplementary Planning Guidance G – Extensions within the Green Belt, December 2003 (SPG) states that an increase in floorspace of more than a third when added to the original dwelling would be disproportionate. I consider that the Council’s policy and guidance is consistent with national planning policy on such proposals, as contained within the Framework.

7. I note that the Council and the appellant disagree over the size of the extensions when compared to the size of the original dwelling house. However both parties agree that the extensions would be over a third larger than the original dwelling, which is the figure that the Council considers to be proportionate. The appellant states that the proposed demolition of the garage would reduce the amount of built development on the site and if this is taken into account, the increase in floor area would be significantly less than a third. Whilst the demolition of the garage would reduce the amount of built development on the site, both the UDP policy and the SPG refer only to extensions to the dwelling. There is no reference to ancillary buildings. On this basis, and taking into account my own observations, I conclude that the proposed extensions would be disproportionate in relation to the original dwelling and would therefore represent inappropriate development, which is by definition, harmful to the Green Belt.

8. The proposed extensions would add significantly to the amount and scale of built development on the site, and would be highly visible when viewed from the roadside and from further afield, particularly when viewed from the north easterly direction. Due to their mass, height and prominence, I consider that the proposed extensions would have a detrimental impact on the openness of the Green Belt and the character of the rural area. In my opinion, the harm that I have identified would not be outweighed by the proposed demolition of the garage, or by the design and position of the rear extension. The proposed development would therefore be contrary to the aims of both national and local Green Belt policy.

9. In reaching my decision, I have had regard to the appellant’s argument that extensions could be constructed using permitted development rights, and that these would have less impact on the open character of the Green Belt than the appeal proposal. Whilst I do not have full details of such a scenario, the appeal proposal includes a two storey rear extension which, in my opinion, would not fall within permitted development limits. This element of the proposal would be visually prominent when viewed from the north east and would have a significant impact on the openness of the site.

10. I have also taken into account the fact that neighbouring properties have been extended. The appellant states that these are larger than the appeal proposal and that they do not conform to the Council’s policies or guidance. I do not have the full facts relating to these examples but in any event, I am required to assess the appeal proposal on its merits, with regard to the current Development Plan and national planning policies.

11. I conclude that the proposal would constitute inappropriate development which is by definition harmful to the Green Belt. The arguments made in support of the proposal, as outlined above, do not clearly outweigh the harm to the Green
Belt. Consequently, it has not been demonstrated that the very special circumstances necessary to justify the development exist. The proposal is therefore contrary to Policy GRN1 of the adopted UDP and with the Council’s adopted SPG (which I consider to be the most relevant in this case), both of which seek to protect the visual amenities and openness of the Green Belt, and the character of the countryside.

**Conclusion**

12. It is concluded for the reasons given above, that the appeal should be dismissed.

*I McHugh*

INSPECTOR
Appeal Decision

Site visit made on 3 October 2012

by Karen Baker  DipTP MA DipMP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2012

Appeal Ref: APP/M0655/D/12/2182763
70 Culcheth Hall Drive, Culcheth, Cheshire WA3 4PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr David Gibbons against the decision of Warrington Borough Council.
- The application Ref. 2012/20238, dated 15 June 2012, was refused by notice dated 17 August 2012.
- The development proposed is a 2 storey side extension and 2 storey rear extension and demolition of detached garage.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character and appearance of the original dwelling and the local area.

Reasons

3. The appeal site is located on the northern side of Culcheth Hall Drive, in a predominantly residential area. The dwellings along Culcheth Hall Drive are mostly substantial detached single and 2 storey properties, set on large plots. A mix of styles and designs of properties exists in the local area. No. 70 Culcheth Hall Drive is a detached 2 storey dwelling of a modest scale, set back from the highway. It is sited on a roughly triangular shaped plot, given its location on the outer side of a bend in the road. Although views of the dwelling are limited from the east along Culcheth Hall Drive, due to its siting and the existing boundary hedge and substantial tree planting, it is prominent in views from the south along Culcheth Hall Drive.

4. The proposed development would include a 2 storey side extension and a 2 storey rear extension which would project around 5m to the western side and 4m to the northern side of the host dwelling respectively. Both extensions would have a height of around 5.1m to the eaves and a ridge height of around 8.25m. The side extension would be set back from the front elevation of the original property, a similar distance to that of the existing 2 storey projection to the eastern side of No. 70. Its scale and design would not, however, respect that of the existing projection. I note that the proposal would increase the footprint of the existing property by around 110%, with an increase in floorspace of around 130%. Given this, along with the proposed ridge height, which would not be dissimilar to the host dwelling, and its scale and design,
despite the set back of the side elevation, the proposed development would appear as a dominant and incongruous feature, which would not be subordinate to the host dwelling or respect the character and design of the original property.

5. I note the recent developments which have been undertaken along Culcheth Hall Drive, including the properties at Nos. 64, 66 and 72. However, given the siting of the proposed side extension, along with its scale, height, design and mass, it would appear prominent and visually obtrusive in the streetscene when viewed from the south along Culcheth Hall Drive, to the detriment of the character and appearance of the area.

6. I conclude, therefore, that the proposed development would harm the character and appearance of the original dwelling and the local area. As such, it would be contrary to Policies DCS1, DCS9, HOU8 and GRN4 of the Warrington Unitary Development Plan\(^1\) (UDP), adopted in January 2006, and would not accord with the guidance in Supplementary Planning Guidance (SPG) 2: House Extension Guidelines, adopted in December 2003.

7. I have considered all the other matters raised by the appellant, including the use of matching materials; the lack of objections from interested parties; the retention of many original features; the lack of harm to the living conditions of neighbouring occupiers; the positive pre-application discussions with the Council; and, the extensions which could be constructed using permitted development rights; but none changes my overall conclusion that the appeal should be dismissed.

Karen Baker
INSPECTOR

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\(^1\) The UDP policies to which I refer in this decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 11 December 2008. Having regard to paragraph 215 of Annex 1 to the National Planning Policy Framework (The Framework), I consider that these UDP policies, in so far as they relate to the development before me, are broadly consistent with The Framework. As such, full development plan weight has been afforded to them.
Appeal Decision

Site visit made on 15 November 2012

by Keith Manning  BSc (Hons) BTP MRTP
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 December 2012

Appeal Ref: APP/M0655/A/12/2179474
49 Walton Road, Stockton Heath, Warrington WA4 6NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Raj Sellathurai against the decision of Warrington Borough Council.
- The application Ref 2012/19512, dated 13 February 2012, was refused by notice dated 13 April 2012.
- The development proposed is roller shutters to front elevation windows and door.

Procedural Matter

1. The application relates to a development that has already taken place. I therefore treat the appeal as an application for retrospective planning permission.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area with regard to the street scene.

Reasons

4. The Council’s current Unitary Development Plan (UDP) was adopted in January 2006 and a number of its saved policies are cited as relevant by the Council. Policy DCS1 requires that development proposals should be designed to a high standard so as to preserve or enhance the character or appearance of an area, but also that design should aim to deter crime. Policy DCS9 promotes design quality in alterations to existing buildings and policy GRN2 seeks to protect residential and visual amenity. The intentions of these policies, insofar as they are specifically relevant to the proposed development at issue, do not conflict with those of the National Planning Policy Framework published in March 2012. This promotes the achievement of high quality and inclusive design for all development.

5. The Council’s longstanding Supplementary Planning Guidance (SPG) Shopfronts & Advertisements has previously been updated with the benefit of consultation in the context of revisions to the Revised Deposit UDP as it then stood. Insofar as this SPG is more specific to the issue of, amongst other things, roller shutters on shopfronts, than the UDP itself, I accord due weight to its intentions.

6. The SPG (Figures 19 and 20 and associated text) is clear in its promotion of more sensitive forms of security than solid lath roller shutters of the type proposed, the proliferation of which would be at odds with the Council’s intentions regarding the
environment of shopping areas. Such proliferation, and the consequent blank appearance and deadening effect that are its consequences, can undermine the intrinsic pleasantness of shopping areas, engendering an ambience of secure closure and susceptibility to crime that is unpleasant and contrary to the virtues of high quality and inclusive design in the context of the public realm.

7. The appeal site in this case is a small convenience store on the fringes of Stockton Heath’s central area. Although outside the conservation area, the street scene here nevertheless displays a pleasantness born of the intimate mix of small shops, other commercial enterprises and dwellings. These impart a distinctive village-like ambience of appreciable quality and amenity value.

8. The roller shutters would be of utilitarian construction superimposed on what would otherwise be a shopfront compatible in its basic design with others in the street and complementing the domestic appearance of the nearby dwellings. The combination of projecting housing for the shutters and the galvanised metal tracking would make for a stark contrast with the traditional and lighter detailing of the adjacent shopfront, even when the shutters themselves were not in use.

9. The area is generally free of shutters of this type and hence the unfortunate consequences of their proliferation. Therefore, while the proposed development, of itself, could be regarded as a single deviation in the area from the Council’s aim of promoting more sensitive but nevertheless effective security measures, it would, oft repeated, harmfully undermine that objective and its introduction on the premises in question, without particular justification, would be a significant step towards the outcome that the Council seeks to avoid, namely a significantly harmful degradation of the street scene.

10. The commercial nature of the area is not in itself a justification, especially bearing in mind the admixture of commercial and residential use and the degree of natural surveillance this engenders and the importance of visual amenity to local residents. The more traditional shopfront designs and paraphernalia, including the nearby barber’s pole referred to, are not harmful to the street scene in the way that crudely applied roller shuttering, as proposed, would be.

11. I appreciate that there is a desire for security on the part of the appellant, but I have been presented with no evidence to suggest that the area demands the proposed measures in terms of recorded criminal activity or warranted fear of such. I also acknowledge that the current enterprise is open early till late seven days a week, thereby limiting the adverse effect of the shuttering when closed. However, there are no stated grounds for making any permission personal to the appellant and therefore transfer of the premises to a different type of retail enterprise with more restricted hours could significantly exacerbate the harm with no further recourse to planning control.

12. For the above reasons, having taken all other matters raised into account, I conclude that the harmful conflict, so far as the street scene and the character and appearance of the area are concerned, with the intentions of the development plan and national policy to promote high quality and inclusive design, more specifically reflected in the Council’s long established SPG, are not outweighed by security concerns or any other material considerations. I therefore conclude that the appeal should be dismissed.

Keith Manning
Inspector
Appeal Decision

Site visit made on 3 October 2012

by Karen Baker  DipTP MA DipMP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 October 2012

Appeal Ref: APP/M0655/D/12/2181520
60 Mardale Crescent, Lymm, Cheshire WA13 9PJ

• The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
• The appeal is made by Mr Jeff Kay against the decision of Warrington Borough Council.
• The application Ref. 2012/19859, dated 30 March 2012, was refused by notice dated 12 June 2012.
• The development proposed is part 2 storey part single storey extension including garage conversion.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character and appearance of the local area and the original dwelling.

Reasons

3. The appeal site is located on the northern side of Mardale Crescent, in a predominantly residential area. No. 60 Mardale Crescent is a semidetached 2 storey dwelling. Properties along this part of Mardale Crescent are of a similar style and design and are set back from the footway by around 4m – 6m. They mostly include an integral single garage, which projects around 2.5m from the main front elevation of the dwelling, and a small porch. Many of the flat roofs on these projecting garages and porches have been replaced with hipped roofs, including those at Nos. 52, 56 and 58 Mardale Crescent, and some of the garages have been converted to provide additional living accommodation, including those at Nos. 52 and 56.

4. The proposed development would include the extension of the porch and the conversion of the garage to form a study at ground floor level at the appeal property and the construction of a first floor extension above the enlarged porch and converted garage to provide an enlarged bedroom. It is apparent, from the evidence before me, that similar extensions have been allowed elsewhere in the Borough. However, given the common design of properties along this part of Mardale Crescent, along with their siting close to the footway, the construction of a first floor extension to the front of the appeal property of the scale, design and height proposed, would introduce an alien feature into the streetscene, which would appear visually obtrusive and prominent when viewed from the west and east along Mardale Crescent. In addition, given its scale, height, design and siting it would appear as a dominant and incongruous
feature, which would not be subordinate to the original dwelling or harmonise with the character and appearance of the host building.

5. I conclude, therefore, that the proposed development would harm the character and appearance of the local area and the original dwelling. As such, it would be contrary to Policies DCS1, DCS9 and HOU8 of the Warrington Unitary Development Plan\(^1\) (UDP), adopted in January 2006, and would not accord with the guidance in Supplementary Planning Guidance (SPG) 2: House Extension Guidelines, adopted in December 2003.

6. I have considered all the other matters raised by the appellant, including that the ridge line of the proposed extension would be around 1m lower than that of the host dwelling; the roof design details; and, the use of matching materials; but none changes my overall conclusion that the appeal should be dismissed.

Karen Baker

INSPECTOR

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\(^1\) The UDP policies to which I refer in this decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 11 December 2008. Having regard to paragraph 215 of Annex 1 to the National Planning Policy Framework (The Framework), I consider that these UDP policies, in so far as they relate to the development before me, are broadly consistent with The Framework. As such, full development plan weight has been afforded to them.
Appeal Decision

Hearing held on 6 March 2012
Site visit made on 6 March 2012

by Susan Holland  MA DipTP MRTP
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 May 2012

Appeal Ref: APP/M0655/A/11/2163479
Land at Cartridge Lane, Grappenhall, Warrington WA4 4SH

• The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
• The appeal is made by Mr J M Cross against the decision of Warrington Borough Council.
• The application Ref 2011/18487, dated 29 June 2011, was refused by notice dated 24 August 2011.
• The development proposed is the erection of a bungalow.

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues are (a) whether the appeal proposal constitutes inappropriate development in the Green Belt; (b) the effect of the proposal upon the openness of the Green Belt; (c) the effect of the appeal proposal upon the housing supply; (d) whether there are any material considerations in favour of the appeal proposal; and (e) whether the harm by reason of appropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Background

3. The appeal site is located on land forming part of Clifflane Farm, an arable farm owned by the Appellant. The appeal site has a wide frontage of about 70m to Cartridge Lane and forms part of an extensive, grassy field separating the farmhouse and farmstead of Clifflane Farm from a pair of semi-detached 2-storey houses (also in the ownership/control of the Appellant).

4. No previous planning applications have been made in respect of the site. The Appellant requires the proposed bungalow in order to provide suitable accommodation for his wife, Mrs Christine Cross, who has become ill with a condition known as Multiple System Atrophy and who is largely confined to a wheelchair. (This matter is covered in more detail under Issue (d) below).
Issue (a): Inappropriateness

5. The appeal site is located in the Green Belt. National planning policy on Green Belts is contained in the National Planning Policy Framework (the Framework). At ¶87 the Framework states that *inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*; at ¶88 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, is clearly outweighed by other considerations; and at ¶89 that a local planning authority should regard the construction of new buildings as *inappropriate in the Green Belt*. The stated exceptions to this provision, also set out at ¶89, do not include new dwellings.

6. Statutory (saved) Policy GRN1 of the Warrington Unitary Development Plan (the UDP) essentially re-states, with added detail, the categories of development which would not be considered inappropriate in the Green Belt. Again, the categories do not include new dwellings. The appeal proposal therefore represents inappropriate development in the Green Belt when judged against the provisions both of the Framework and of the statutory development plan policies, which in this instance accord with the (more recent) Framework. Substantial weight is therefore to be accorded to this matter.

Issue (b): Openness of the Green Belt

7. National planning policy in the Framework (at ¶79) states the *essential characteristics of Green Belts to be their openness and their permanence*. The appeal proposal is in outline with all matters reserved for future determination: so that no indication of the size of the proposed dwelling is available. However, Green Belt openness does not depend upon the relative scale of the setting and the building: instead, it relates simply to the occupation of space by built development. It follows that any built development which physically takes up space will reduce openness in Green Belt terms. The extent to which a reduction in openness would cause harm to the Green Belt would depend upon the location of the site in relation to other buildings.

8. In the current appeal, the proposed bungalow would occupy a significant part of a wide open space between existing buildings, on a road frontage. The effect of the simple occupation, by the proposed bungalow, of physical space or volume would be accentuated by its isolation within a much wider open space which it would effectively divide and disrupt. The open appeal site on the frontage to Cartridge Lane is not merely attractive in its own right, but affords, from an elevated position, an extensive view northwards across open Green Belt countryside. In conclusion, the erection of a whole new dwelling, even a bungalow of modest height, within such an open space, would substantially and harmfully reduce Green Belt openness at this point. Substantial weight is to be accorded to this matter.

Issue (c): The Housing Supply

9. The Council argues that the proposed development would add unnecessarily to the surplus of available housing land in Warrington Borough, and that this would conflict with statutory saved UDP Policies HOU1 and HOU2 and with the approved Supplementary Planning Document (SPD) entitled ‘Managing the Housing Supply’. Policy HOU1 provides for *sufficient land for housing ... to*
accommodate an annual average of 380 dwellings (net of clearance) between April 2002 and March 2016, and states at ¶6 that insofar as housing land supply can be regulated by refusal of permission ... the Council will, in implementing this policy, ensure that the rate of development does not substantially exceed the required annual average net increase in housing stock. The Council’s submitted Addendum to its appeal statement argues that the Borough continues to experience an oversupply of housing against the development plan target ... [and] comfortably exceeds the 5-, 10- and 15-year requirements required by [national planning policy statement] PPS3.

10. However, UDP Policy HOU2 incorporates a potential exception to HOU1 in that it allows for the situation where the decision-maker can be convinced that the effect of the approval is not simply to add unnecessarily to the surplus of available housing supply ... in the strategic context set out in Policy HOU1. Whilst the appeal proposal would not, strictly speaking, contribute to ... the available supply of affordable or social housing in relation to identified needs, it would provide a unit of accommodation specially adapted to the disabilities and medical needs of Mrs Cross. UDP Policy SOC1 states that in determining planning applications, the Council will aim to ensure that ... the special needs of people with impaired mobility are catered for; and that provision is made for minority groups with identified needs that can be met within the planning land-use system.

11. The Council explicitly accepts all of the facts surrounding the medical condition of [Mrs Cross] and does not contest the genuine practical and cost implications of the possibility of converting, enlarging or otherwise adapting existing nearby accommodation at Clifflane Farm to meet the personal needs as set out by the Appellant. The proposed bungalow would be specially adapted for wheelchair use and for the needs of Mrs Cross who has significantly impaired mobility and a tendency to faint or collapse with minimal warning, arising from her medical condition: and hence a need for level surfaces, wider doors, a specialist bathroom/shower and a room layout designed for her safety. Such a bungalow would not add to the housing supply either unnecessarily or in the strategic context, but could be categorised as providing for the special needs outlined in Policy SOC1. In conclusion, therefore, the appeal proposal would not have a materially harmful effect upon the housing supply, nor would it conflict with UDP Policies HOU1 or HOU2.

**Issue (d): Material Considerations**

12. Mrs Christine Cross, the wife of the Appellant, was diagnosed more than a year ago with Multiple System Atrophy. The evidence is that this is a rare, progressive neurological disorder caused by degeneration or atrophy of nerve cells in several areas of the brain which can result in problems with movement and balance, automatic functions of the body, and speech. In Mrs Cross’s case, which is said to be at the extreme end of the spectrum, sudden changes in blood pressure can cause fainting and dizziness which greatly inhibit movement – whilst at the same time, inactivity may worsen the problem, so that controlled exercise under supervision is beneficial. It is also necessary for her to receive medication in a highly-regulated programme, in which timing is critical. The most effective way of managing Mrs Cross’s condition, movement and medication would be for her to continue to be cared for at home, by her husband and family.
13. The Appellant, Mr Cross, is a farmer who, together with his adult son Robert Cross runs Clifflane Farm as an arable unit producing, handling and processing grain. Mr Cross is (with some assistance) able to act as his wife’s carer, provided that he can remain living on the holding. If he had to live (with his wife) in alternative accommodation at a distance, he would be less able to continue his supervision and work on the farm. Mr Cross has already made changes to his working pattern in order to stay close to the farmstead, so as to be able to check on Mrs Cross’s condition at frequent intervals. The evidence is that, in the absence of Mrs Cross’s income as a pharmacist (since the condition has forced her to give up her job), it would not be practicable simply to employ another worker to replace Mr Cross’s input on the farm. Neither Mr Cross nor Mrs Cross is yet approaching retirement age.

14. Clifflane Farmhouse itself is unsuitable for wheelchair use and the Council accepts the submitted Survey Report by Mr John W Wright, which concludes that the existing farmhouse is unsuitable for the disabled and that it would not be practical to make it more accessible and safe for Mrs Cross. The farmhouse is reached via a sloping and uneven cobbled yard and via a number of exterior steps; there are numerous changes in level between the ground floor rooms within the house; there is no downstairs bathroom and little space or manoeuvrability in the existing cloakroom; and the staircase to the bedrooms is narrow and steep.

15. The Survey Report notes 2 possibilities for providing appropriate living space. One of these would be to convert an existing outbuilding to specialised living accommodation. The outbuilding in question lies on the far (east) side of the cobbled yard, to which it has one entrance, the other being onto the operational grain yard beyond. This building would provide a considerable amount of space on a single level. On the west side, it would look out onto the cobbled entrance yard and the farmhouse, with a somewhat restricted view through to the garden beyond. But on the other side, the outlook would be closely compromised by the operational farm buildings, with the potential for dust pollution from the grain-drying processes. It has not been established that the building is structurally sound or suitable for conversion.

16. The other possibility noted by the Survey Report is the extension of the existing farmhouse. This does not appear to have been extended before. An extension could provide ground floor bedroom and bathroom accommodation. The author of the Report notes that the rest of the house would however be hazardous and difficult to access; this would restrict Mrs Cross to one small area of the property, this would affect her enjoyment and quality of life. However, since no planning application or preliminary proposal has been made for an extension to the farmhouse, it is not possible to conclude that it would not be feasible to design an extension to include a living area as well as bedroom and bathroom. Certainly there is a considerable area of level, lawned garden ground to the immediate west side of the farmhouse on which an extension might be constructed, with suitable access.

17. Nor does attention appear to have been paid to the eastern semi-detached house adjacent to the appeal site as a potential site for a residential extension. This house is occupied by the Appellant’s son who works on the farm (the other semi is occupied by elderly tenants). The house itself is reached by steps; but a large, detached double garage stands to the east side, adjacent to the appeal site. The space exists at the side of this house to accept some form of extension. None of these alternatives would provide accommodation as
attractive as a separate, new-build bungalow on the appeal site. But it has not been demonstrated that the alternatives would be impractical or unfeasible. For that reason alone, little weight can be accorded to the unsuitability of the existing accommodation.

18. Mrs Cross’s condition itself is rare and represents a severe personal misfortune with which it is impossible not to feel profound sympathy. Nevertheless, its results in terms of mobility impairment and disability are not dissimilar to those of other, perhaps more common medical conditions which could give rise to stringent requirements for care. For the reason that they could be repeated so often in Green Belt situations across the country, such personal circumstances are not on their own capable of amounting to very special circumstances in the terms of national planning policy; nor, in this Green Belt situation, does compliance with UDP Policy SOC1 add weight in favour of the proposal. In conclusion, the personal circumstances of Mr and Mrs Cross carry little weight in planning terms as justification for the erection of a new dwelling on a Green Belt site.

**Issue (e): Very Special Circumstances**

19. PPG2 states that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this case, harm arises through inappropriateness and through the impact of the proposed dwelling upon the openness of the Green Belt: and each of these factors carries substantial weight against the proposal. On the other hand, little weight can be attributed to the unsuitability of the existing farmhouse, given that the possibility of extending it, or, alternatively, the adjacent house, has not been explored: and the personal circumstances of Mr and Mrs Cross, though unfortunate, carry little weight in the Green Belt context. In the balance, the matter of housing supply is neutral. In conclusion, therefore, there are no other considerations in this case which are sufficient either alone or in combination to outweigh the totality of the Green Belt harm which I have identified. Accordingly, my overall conclusion is that there are no very special circumstances sufficient to justify the proposal; and that the appeal should be dismissed.

*S Holland*

INSPECTOR
APPEARANCES

FOR THE APPELLANT:

Mr Peter Fenwick of Berrys, 1 Brunel Court, Rudheath Way, Gadbrook Park, Northwich CW9 7LP
Mr Graham Bowcock of Berrys, as above.
Mr J M Cross Appellant, of Clifflane Farm, Cartridge Lane, Grappenhall WA4 4SH
Mrs Christine Cross of Clifflane Farm, as above.
Mr Robert Cross Of Clifflane Farm, as above

FOR THE LOCAL PLANNING AUTHORITY:

Mr Michael Davies Principal Planning Officer, Warrington Borough Council
Mr Garry Legg Development Plans Officer, Warrington BC
Mr Stephen Burgoyne Planning Policy Officer, Development Plans, Warrington BC

DOCUMENTS

1 A Guide to Multiple System Atrophy by the MSA Trust (A)
2 Report on the Suitability of Property at Clifflane Farm for Occupant who has Multiple System Atrophy (A)
3 Draft Policies SN1 and CS2 of the pre-publication draft Warrington Core Strategy (C)
Appeal Decision

Site visit made on 16 October 2012

by Clive Sproule  BSc MSc MSc MRTP IMIEvSc CEnv
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 November 2012

Appeal Ref: APP/M0655/H/12/2177521
Lidl UK GMBH, Thelwall Lane, Warrington, Cheshire WA4 1LJ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by Mr Ed Whalley, Lidl UK GMBH against the decision of Warrington Borough Council.
- The application Ref 2012/19559, dated 13 February 2012, was refused by notice dated 20 April 2012.
- The advertisement proposed is a 48 page colour billboard.

Decision

1. The appeal is dismissed.

Main Issues

2. These reflect the Council’s reasons for refusal and are the effect of the proposed display on the visual amenity of the area, and on public safety.

Reasons

Visual Amenity

3. This part of Thelwall Lane contains a mixture of commercial and residential land uses, and transport infrastructure. Various displays are present in the street scene, including billboards of comparable size to the appeal proposal, which would be 3.0m tall by 6.0m wide, and elevated on timber supports 1.5m above ground level.

4. The proposed display would be located next to a car park at the junction of Thelwall Lane and Kingsway South. Development served by the car park is set back significantly from the junction. The expanse of car parking and circulation areas between the store and the junction provide this townscape with a considerable sense of openness.

5. The billboard would be within a landscaped area to the north of the junction between parking bays and the highway. It would face across Kingsway South and be viewed by the occupiers of the dwellings and business premises on the opposite side of the road, and by users of the highway. Although there is some planting in this area, it would not provide a specific backdrop or screening for the proposed display, and indeed if it did, it would appear somewhat incongruous in such an open townscape.
6. There is street furniture and other signage around the perimeter of the car park, and the proposed display would provide additional marketing opportunities for its users. However, unlike other displays of a similar scale in the area, the proposed billboard would not have the immediate backdrop of a building, nor would its positioning provide a screening related context for its location. Despite the presence of large commercial buildings in the locality, by its scale, form and positioning the appeal proposal would be viewed as a substantially isolated structure between the openness of the car park and the highway. These factors would cause it to be a prominent and strident feature in the townscape that would be unacceptably harmful to the visual amenity of the area.

Public safety

7. Turning to the second main issue, Thelwall Lane and Kingsway South are busy thoroughfares for vehicular and pedestrian traffic in Warrington. The northern approach to and exit from the junction on Kingsway South would provide the most direct views of the billboard. Traffic movements at this junction are controlled by traffic lights, which along with the road layout and markings ensure that the movements are clear and predictable.

8. Signs on the highway noted it to be a high collision route. However, accident data has not been supplied and observed traffic speeds were not excessive as road users approached or left the junction where the display would be positioned.

9. Consequently, I consider that drivers exercising a reasonable standard of care for their own and other’s safety would be able to note the presence of the display, at a glance in passing or when stopped at the traffic lights, and without significant distraction from road conditions. I therefore conclude on the second main issue that it has not been demonstrated that the proposed display would be unacceptably harmful to public safety.

10. The Council’s reasons for refusal refer to policies DCS1 and GRN2 of the Warrington Unitary Development Plan, and paragraph 67 of the National Planning Policy Framework. However, the Regulations require that decisions be made only in the interests of amenity and where applicable, public safety. Local and national planning policies have been taken into account in relation these matters.

Conclusion

11. Although the proposal would not be harmful to public safety, I have found that it would be detrimental to visual amenity and this harm would not be mitigated by the scope of possible conditions. I conclude that the appeal should be dismissed.

C Sproule

INSPECTOR
Appeal Decision

Site visit made on 29 November 2011

by Kay Sheffield BA(Hons) DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 December 2011

Appeal Ref: APP/M0655/A/11/2159797
Agency Bar and Grill, St Austins Lane, Warrington, Cheshire, WA1 1HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mrs T Nabi against the decision of Warrington Borough Council.
- The application Ref 2011/18396, dated 6 June 2011, was refused by notice dated 2 August 2011.
- The application sought variation of a condition attached to a planning permission for the erection of restaurant and bar on two floors with associated toilets and service areas, application Ref 2003/00184, dated 19 July 2004.
- The condition in dispute is No. 7 which states that: No customer shall be admitted to, or allowed to remain on the premises outside the hours of 09.00 and 23.30 Monday to Saturday and 09.00 and 23.00 on Sundays.
- The reason given for the condition is: To ensure the protection of residential amenity in accordance with Policies DCS1 and TCD17 of the Warrington Unitary Development Plan (Revised Draft).

Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is whether the disputed condition is reasonable and necessary to protect the living conditions of the occupiers of nearby residential properties with regard to noise and disturbance.

Reasons

3. The planning permission granted by the Council in 2004, which allowed the erection of the restaurant, restricted the opening times to 09.00 and 23.30 Monday to Saturday and 09.00 and 23.00 on Sundays. The appeal proposes to extend the opening hours in order to allow people to be admitted or remain on the premises between the hours of 09.00 and 03.00 on Mondays to Sundays.

4. The appeal site is located within Warrington Town Centre in an area where the surrounding uses include offices, telephone exchange, library and museum, and residential. The residential use is accommodated in a modern three storey block of apartments located opposite the appeal site on St Austins Lane and the distance separating the two buildings is approximately 16 metres.

5. The apartments are built close to the back of the footway and the frontage which faces the appeal site contains windows to main habitable rooms. The Council has stated that these windows, which serve bedrooms and lounges, are
fitted with standard glazing which provides no heightened protection to external noise. The appellant has not disputed this assertion and I saw nothing on site to suggest anything to the contrary.

6. The appellant has referred to the measures taken within the premises to control noise emanating from it, as required by the Premises Licence. However, these measures would have no effect on the noise which would be generated by patrons once they have left the building. Such noise would be from the raised voices or laughter of people congregating outside, and taxis arriving and leaving and the associated opening and closing of the doors of the vehicles.

7. During the evening the level of noise generated by people leaving the appeal site may not be significant in the context of ambient noise levels. However, during the early hours of the morning, when levels are generally lower, the noise generated could easily exceed that which residents might reasonably expect to experience at that time.

8. In view of the level of noise attenuation measures and the proximity of the appeal site to windows serving bedrooms, the amount of noise generated could be significant and give rise to a level of disturbance which would harm the living conditions of the occupiers of the apartments. This would be contrary to Policies REP10 and DCS1 of the Warrington Unitary Development Plan, 2006, which seek to preserve the living conditions of near neighbours from a significant increase in ambient noise levels.

9. The presence of public houses and other similar establishments which are normally open late were noted at the eastern end of St Austins Lane together with the appellant’s contention that noise from other establishments is clearly audible outside the appeal site. However, no opening times were displayed on these establishments and no history regarding these uses or substantive evidence regarding noise levels has been submitted. In any event, these establishments are sufficiently remote from the apartments not to have the same potential as the appeal site to cause nuisance to its occupants from patrons leaving the site.

10. The appellant submits that the proposed opening times would be in line with those specified within the Premises Licence. However, the closing times set out in the licence vary between 01.00 hours on Mondays to Thursdays, 02.30 hours on Fridays to Sundays and 03.00 on New Years Eve. Whilst there is clearly a discrepancy between these times and those proposed, I am unaware of any legal requirement for the opening hours specified in the planning permission and the licence to correspond. The licence therefore carries insufficient weight to overcome the concerns identified regarding the harm which the longer opening hours would cause to the living conditions of the occupiers of neighbouring properties.

11. For these reasons, and having had regard to all other matters raised, I conclude that the disputed condition is reasonable and necessary to protect the living conditions of the occupiers of nearby residential properties with regard to noise and disturbance. The appeal is therefore dismissed.

Kay Sheffield
INSPECTOR
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<td>2011/19014</td>
<td>PROSPECT FARM, PROSPECT LANE, RIXTON-WITH-GLAZEBROOK, WARRINGTON, WA3 6EH&lt;br&gt;Retrospective application for upgrade of existing track surface&lt;br&gt;Approved as per report</td>
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<td>2012/19709</td>
<td>PROSPECT FARM, PROSPECT LANE, RIXTON-WITH-GLAZEBROOK, WARRINGTON, WA3 6EH&lt;br&gt;Proposed change of use to provide a clay pigeon shooting club, clubhouse and associated parking&lt;br&gt;Refused as per report – decision based on the plans and information considered when the report was written</td>
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<td>PROSPECT FARM, PROSPECT LANE, RIXTON-WITH-GLAZEBROOK, WARRINGTON, WA3 6EH&lt;br&gt;2m high boundary fence (lawful development certificate)&lt;br&gt;Approved as per report</td>
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<td>2012/20972</td>
<td>LAND AT ASTON AVENUE, BIRCHWOOD PARK, WARRINGTON&lt;br&gt;Application for approval of reserved matters following outline approval 2012/19696 - Erection of office accommodation, formation and alteration of access, landscaping, car parking and associated development&lt;br&gt;Approved as per report but subject to an amendment to the BREEAM conditions so that it reads:-&lt;br&gt;No development shall be commenced until an energy statement (including a series of proposals and a timetable for implementation) has been submitted to the Local Planning Authority for approval. This shall include the incorporation of renewable or low carbon technology to provide at least 10% of predicted energy demand. The</td>
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development shall be built in accordance with the approved energy statement and timetable. Reason: In the interests of sustainability having regard to the NPPF, Policy QE1 of the Warrington Core Strategy and Warrington SPD: Design and Construction

2012/20993

RIVER MERSEY WARRINGTON FLOOD RISK MANAGEMENT SCHEME PHASE 2, FARRELL STREET, HOWLEY LANE, RIVERSIDE CLOSE AND WHARF STREET, WARRINGTON

Reserved matters application for Phase 2 of the Mersey Warrington Flood Risk Management Scheme Phase 2 (excluding Scottish Power sub station)

Approved as per report subject to the following amendments to planning conditions

Amendment to Condition 4 to make reference to the need to have a qualified ecologist on site when trees are being removed

Extra Condition 5 – Development to be in accordance with the approved landscaping scheme unless the Local Planning Authority agrees to amendments..

Additional Informative – the applicant is asked to consult and engage with local residents/communities in terms of the timing and details of proposed works