18 December 2013

Development Management Committee

Thursday, 9 January 2014 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 meeting held on 5 December 2013 as a correct record.

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

   Report of the Executive Director Economic Regeneration, Growth and Environment

   Attached as a separate document

5. **Results of Planning Appeals**

   Report of the Executive Director Economic Regeneration, Growth and Environment

   5.1 Appeal Decision – Broseley Avenue

   5.2 Costs Decision – Broseley Avenue

   5.3 Appeal Decision 19 Surrey Street

**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
DM57 Apologies for Absence

Apologies for absence had been received from Councillors B Barr, M McLaughlin and S Wright.

DM58 Code of Conduct – Declarations of Interest

There were no declarations of interest received.

DM59 Minutes

Resolved,

That the minutes of the meeting held on 14 November 2013 were agreed as a correct record and signed by the Chair.

DM60 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.

DM61 2013/22541 Former Bruche Police Training Centre off, Bruche Police Training Centre, Greenway, Warrington, WA1 3EG Reserved Matters - Application for approval of all reserved matters for access, appearance, landscaping, layout and scale of proposed development, following demolition of existing buildings on Outline approval 2011/19313 (for residential development of up to 220 new dwellings with associated open space, landscaping and infrastructure)

The Executive Director of Economic Regeneration, Growth and Environment submitted the above application with a recommendation of approval subject to conditions.

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

That application 2013/22541 be approved as per the recommendation subject to amendments to conditions 1, 2 and 8.

DM62 Results of Planning and Enforcement Appeals

A report of the Executive Director of Economic Regeneration, Growth and Environment set out the result of recent appeals along with the Inspector’s findings and the Executive Director’s subsequent comment:

<table>
<thead>
<tr>
<th>Application/Appeal Reference</th>
<th>Location and Description</th>
<th>Committee/Delegated Decision</th>
<th>Appeal Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/21997 APP/M0655/D/13/220561</td>
<td>17 Cawthorne Avenue, Grappenhall, Warrington, Cheshire, WA4 2LP</td>
<td>Refuse</td>
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<tr>
<td>2013/21951 APP/M0655/D/13/2202678</td>
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Resolved,

That the report be noted.

Signed………………………

Dated ..........................
<table>
<thead>
<tr>
<th>Item</th>
<th>Page</th>
<th>App number</th>
<th>App Location/Description</th>
<th>Recommendation</th>
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<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>2013/22625</td>
<td>Land between Joy Lane &amp; Wrights Lane, Burtonwood, Warrington WA5 4DF Full Planning - Proposed golf driving range including a single storey building, fencing, access, car parking &amp; associated landscaping (Resubmission of 2012/20756)</td>
<td>Approve</td>
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DEVELOPMENT CONTROL COMMITTEE DATE: 09-Jan-2014

ITEM 1

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<tr>
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<tbody>
<tr>
<td>Location:</td>
<td>Land between Joy Lane &amp; Wrights Lane, Burtonwood, Warrington, WA5 4DF</td>
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<tr>
<td>Ward:</td>
<td>BURTONWOOD AND WINWICK</td>
</tr>
<tr>
<td>Development:</td>
<td>Full Planning - Proposed golf driving range including a single storey building, fencing, access, car parking &amp; associated landscaping (Resubmission of 2012/20756)</td>
</tr>
<tr>
<td>Date Registered:</td>
<td>15-Oct-2013</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Mr Ditchfield</td>
</tr>
<tr>
<td>8/13/16 Week Expiry Date:</td>
<td>13-Jan-2014</td>
</tr>
</tbody>
</table>

Reason for Referral to Committee

This application is referred to Committee for decision due to an objection from Burtonwood and Westbrook Parish Council and from Councillors Terry O’Neill and John Joyce.

Referral to Development Management Committee for determination is considered to be appropriate for this application as the decision to refuse the previous application (ref: 2012/20756) was made by members of this committee.

Human Rights

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

- Article 8 - The right to respect for private and family life, home and correspondence.
- Article 1 of Protocol 1 - The right of peaceful enjoyment of possessions and protection of property.

Site Location

The application site is located immediately to the north of the main urban area of Warrington, approximately 150 metres to the north of junction 8 of the M62.

The site is bounded by Joy Lane to the north, Burtonwood Road to the east and Wrights Lane to the south and west. The inset village of Burtonwood lies
approximately 1000 metres to the north. The application site is approximately 6.3 hectares in size and is currently in agricultural use.

The application site itself is relatively flat with a gentle slope north to south. Beyond the site the land rises gently to the north up to Burtonwood village. It is well screened from the south and west by scrub planting and broadleaved woodland, which forms part of the boundary planting to the regional employment site of Omega. The remaining boundaries are fairly open with either low hedgerows or no boundary treatment. There is open farmland to the north, west and east. There is a large mature oak tree on the western boundary of the site. There are two residential properties immediately adjacent to the application site. Fingerpost Farm is situated part way along the northern boundary of the application site near the junction of Clay Lane, Burtonwood Road and Joy Lane. Whilst, Highfield is located on Joy Lane near to the northwest corner of the application site.

Proposal

The proposal seeks full planning permission for the creation of a golf driving range that would be open to the public. The development would incorporate a single-storey building which would contain 20 bays, a sitting/teaching area, reception, office, ball store room, toilets and changing rooms. It would also include a landscaped fairway, driveway, car park to accommodate 30 vehicles and landscaped areas around the periphery of the site that would incorporate a wildlife pond, a meadow and woodland planting. The building is proposed to be located at the western end of the site with the car park at the rear and the fairway running in a west to east direction. The main building would measure 86 metres by 7.825 metres with a maximum height of 5.06 metres and includes a 15 metre by 8.81 metre central outrigger on the rear elevation. It would be clad in treated western red cedar with a laurel green eternit roof covering. The fairway would be enclosed by net fencing varying in height between 2.4 metres and 5 metres. The scheme does not include any proposals for floodlighting.

Relevant Planning History


The application was refused on the grounds that the proposal represented inappropriate development within the Green belt by virtue of the unacceptable erosion of openness in this important location between Omega North and Burtonwood village, leading to urban sprawl. Additionally, it was considered that the proposed development would cause unacceptable harm to the amenities of Fingerpost Farm through noise disturbance from golf ball hits. No special circumstances existed to outweigh the harm identified.

This application was refused due to the development was not considered to constitute essential facilities for outdoor sport and recreation; that there would be a visual impact in a rural setting; that the development would cause harm to the living conditions of the occupiers of adjacent residential properties by virtue of noise and visual disturbance; and the resultant encroachment in to the landscaped buffer that forms the boundary of the adjacent Omega development and defines the Green Belt boundary.

Planning Policies

National Planning Policy Framework (NPPF)

Chapter 3 – Supporting a prosperous rural economy
Chapter 4 – Promoting sustainable transport
Chapter 7 – Requiring Good Design
Chapter 8 – Promoting healthy communities
Chapter 9 – Protecting Green Belt land
Chapter 11 – Conserving and enhancing the natural environment

Warrington Unitary Development Plan (UDP)

Policy DCS1 Development Control Strategy
Policy DCS7 Provision and Enhancing of Landscaping in New Development
Policy LUT1 Land Use / Transportation Strategy
Policy LUT2 Transport Priorities in Development Control
Policy LUT20 Parking
Policy GRN1 The Green Belt
Policy GRN2 Environmental Protection and Enhancement
Policy GRN3 Development Proposals in the Countryside
Policy GRN9 Outdoor Activities in the Countryside
Policy GRN22 Protection and Enhancement of Landscape Features
Policy GRN24 Woodland Planting
Policy REP1 Prudent Use of Resources
Policy REP2 Protection of the Best and Most Versatile Agricultural Land
Policy REP10 Noise

Local Plan Core Strategy (LPCS)

Policy CS1 Overall Spatial Strategy – Delivering Sustainable Development
Policy CS4 Overall Spatial Strategy – Transport
Policy CS5 Overall Spatial Strategy – Green Belt
Policy QE3 Green Infrastructure
Policy QE5 Biodiversity and Geodiversity
Policy QE6 Environment and Amenity Protection
Policy QE7 Ensuring a High Quality Place
Policy MP1 – General Transport Principles
Policy CC2 Protecting the Countryside
Notification Responses

An objection has been raised from Councillor Terry O’Neill on the grounds of:

- Impact on the setting of the Green Belt
- Inadequate road infrastructure to serve the development
- Loss of open space to accommodate the hard standing, car parking and large building
- Unacceptable reduction in the openness of the Green Belt – large buffer planted to protect Green Belt from Omega Development
- Very important and narrow Green Belt buffer between Omega and Burtonwood.

An objection has been raised from Councillor John Joyce on the grounds of:

- Concur with and support objections
- Change of use received many objections
- Would like to see traffic plan

5 letters of objections received from neighbouring properties, the main planning points being:

- Amendments do not address main concerns of development in the Green Belt
- Unsuitability of Joy lane for access issues
- If the development is reduced in size there would be viability concerns – will it be a case for future applications to expand
- Green belt is declining around Burtonwood – remaining green belt should be protected at all costs
- Existing land is attractive for wildlife including ground nesting birds
- Previous grounds for refusal have not been addressed.
- Objections same as previous reason for refusal.
- Application the same as previously been refused
- Loss of openness to countryside/green belt
- After omega enough is enough
- Detrimental to rural landscape
- Encroachment into the countryside
- Erosion of buffer between Omega and Burtonwood – vital buffer
- 5m high fence would be 3m from boundary of Finger Post Farm
- Fence intrusive visual feature
- Loss of privacy
- No evergreen trees for screening proposed
- Recommend site visit
- Relatively quiet location – increase in noise levels
- Increase in traffic
- Noise impact from traffic, ball picking up machines and constant ball hits
- Hope “objector fatigue” is not a deciding factor
- Contrary to PPG2
• Inappropriate development
• Several similar facilities in area
• Not an outdoor pursuit
• Sound and light pollution
• Grass curb will be under threat

Consultation Responses

WBC Environmental Health

Concern raised with regard to validity and scope of the submitted noise report. However, agree with conclusion that no statutory nuisance from noise caused by proposed driving range. Notwithstanding this, the frequent hitting of balls from the range may as a result impact on residential amenity unless suitable and reasonable mitigation measures are identified and implemented. Scheme of mitigation required prior to determination. Subject to which conditions relating to acoustic attenuation, contaminated land, no lighting, and hours of use.

WBC Highways

No objections. Proposed site plan 570/01/11C includes a 6m wide site access, sufficient to accommodate two way turning manoeuvres and visibility splay provision of 2.4m x 43m. As the proposed access onto Joy Lane is situated at a point where the carriageway gradually narrows down to below 4.5m, it is proposed to create a passing place on Joy Lane approaches to the site access. The creation of a passing place and maintenance of visibility splays should be ensured via planning condition.

The applicant proposes that 30 car parking spaces are provided on site and this is acceptable for the scale of the proposed driving range. As it is essential that the spaces are made available and retained to stop vehicles parking on Joy Lane a planning condition should be attached to any permission to secure their retention.

In view of the above, no highway issues are anticipated.

WBC Arboricultural Officer

No objections. There is a large area of native woodland planting on the southern boundary of the site, which is proposed to be retained. The intention to augment this planting with additional woodland planting, both along the southern, eastern and northern boundaries is welcomed. The revised access arrangements, shown on Drg no. 570/01/12E, will allow for the retention of the mature Oak tree on Wrights Lane, as such the proposals are considered to be acceptable from an arboricultural point of view. There are no precise details (numbers, species, sizes, centres or maintenance regime) of the proposed landscaping scheme. The provision of native woodland planting, of appropriate sizes and numbers with an adequate maintenance regime should be secured by condition(s).
WBC Natural Environment Officer

No objections. The applicant is proposing to allocate a proportion of the northern section of the site as meadow for ground nesting bird habitat, which will include a pond and associated landscaping. This is welcomed and should provide additional foraging habitat for bats and other species. The revised access arrangements, shown on Drg no. 570/01/12D, will allow for the retention of the mature Oak tree on Wrights Lane. Conditions are recommended relating to the time of year when site clearance can be undertaken; the provision of nesting habitat for roosting bats and birds; the provision of a habitat management plan and limiting the level of lighting at the site.

Observations
Preamble

This application is a resubmission of a previously refused application for a golf driving range and associated works (ref: 2012/20756). That application was considered by the Development Management Committee on 30th May 2013 with an officer recommendation for approval. However, a decision was made to refuse the application. The application was refused on the following grounds:

1) The proposed development would result in an unacceptable reduction of openness in green belt in this location - where the role of green belt is considered to be of particular importance as it protects openness between the northern edge of Omega North, and the village of Burtonwood. The proposed development would erode this openness unacceptably, and therefore be inappropriate in green belt - as set out in paragraph 89 of the National Planning Policy Framework (NPPF) - insofar as it would not preserve the openness of green belt. The proposal would lead to the sprawl of development beyond the northern planting buffer of Omega North and would not safeguard the countryside from encroachment. In terms of paragraphs 87 and 88 of the NPPF, no very special circumstances exist which outweigh the potential harm to the openness of green belt, and the potential harm to living conditions by reason of noise. The proposed building would also, therefore, conflict with policy GRN1 of the adopted Warrington UDP and policy CS4 of the emerging Local Plan Core Strategy. And;

2) Noise from golf ball hits would cause unacceptable harm to the living conditions of occupiers of Finger Post Farm. The proposal would, therefore, be in conflict with policies GRN2 (criterion 9); REP10 (criterion 10); DCS1 (criterion 1); REP10; and HOU7 (criterion 2) of the adopted Warrington UDP and with policies CS1 and QE6 of the emerging Local Plan Core Strategy for Warrington.

In terms of the first reason for refusal the building has been reduced from 94m in width to 86m which reduces the footprint of the proposed building by
62.6sqm. The position of the northern high ball fence has been moved southward from the boundary of Finger Post Farm by 8m. In response to the second issue, the application has been supported by a specialist acoustic report titled “Assessment of Noise from Golf Ball Hits”.

**Principle of Development**

The site for the proposed development (6.3 hectares) lies in the open countryside in the north of the borough between the main urban area of Warrington and the inset village of Burtonwood. It is designated as Green Belt on both the adopted Warrington Unitary Development Plan (UDP) proposals map and the emerging Local Plan Core Strategy (LPCS) proposal map.

In consideration of the previous application it was concluded by officers that the proposed development would be “appropriate” development within the Green Belt. However, since that recommendation a High Court judgement (*Fordent Holdings Ltd v SoS for CLG*) has found that the use of land within the Green Belt is not appropriate development. The National Planning Policy Framework identifies in paragraph 89 and 90 those forms of development which, as an exception, are considered to be appropriate in a Green Belt location. These exceptions do not relate to the use of land. In the light of this judgement the proposed use of the application site for a golf driving range is considered to be inappropriate development in the Green Belt. The applicants accept this and, in a letter dated 5th December 2013, state that, “it is acknowledged that a change in use of land from agriculture to a golf driving range with associated car parking would be inappropriate development in the Green Belt”.

It is acknowledged that paragraph 89 of the NPPF states that new buildings relating to the provision of appropriate facilities for outdoor sport and recreation (providing openness is preserved) is appropriate development in the Green Belt. However, as the application proposals are provided in association with an inappropriate use which has not been established, it is considered that these too would represent inappropriate development.

Paragraph 87 of the National Planning Policy Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that 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. Consideration of whether very special circumstances exist is explored later in the report following consideration of all other matters to identify whether any other additional harm exists.

**Loss of Agricultural Land**

Policy REP2 of the adopted UDP states that development will not be permitted on the best and most versatile agricultural land (defined as Grades 1, 2 and 3a) in the borough whilst Policy CC2 of the emerging LPCS indicates
that development proposal in the countryside which accord with Green Belt policy will be supported provided that it can be demonstrated that there would be no detrimental impacts on agricultural interests. The proposals involve the development of Grade 2 agricultural land. However, the majority of the site would remain open and free from development. Therefore, it is considered that there would not be a significant loss of agricultural land and the land could be easily reverted to agricultural use if required. As such this would not represent additional harm which weighs against the proposed development.

**Design Considerations (Impact on Landscape and Openness of Green Belt)**

In terms of the detailed design Policies GRN2, DCS1 and GRN3 of the UDP require that development proposals in the countryside should ensure that; the detailed siting of any development is compatible with the rural character of the surrounding area and is not intrusive in the landscape; relates satisfactorily to its rural setting both in terms of its immediate impact and from distant views, and that vehicle and cycle parking facilities are provided in accordance with the Council’s parking standards. Policies GRN2 and DCS1 require all development to protect visual amenity. Whilst, Policy GRN3 requires that for development proposals in the countryside any associated servicing and parking facilities or plant, equipment or storage is not intrusive. Policies CS1, QE7 and CC2 of the emerging LPCS have similar criteria.

The application site is located on gently sloping land that rises up towards Burtonwood Village to the north and slopes down towards the M62 Motorway to the south. There is a change in level of approximately 10 metres between these two points with a change in level of approximately 2 metres across the application site. The site is concealed from view from the M62 and land further to the south by established structural planting around the northern boundary of the Omega regional employment site. Warehousing that is under construction will minimise any views of the application site still further when it is completed. In addition the site is not easily visible from Burtonwood Village to the north. The proposals will maintain existing landscape features, including mature trees and hedgerows where they exist and will supplement this with additional native planting. In this instance it is not considered that the proposal would lead to countryside encroachment. To this extent the proposal suitably safeguards the countryside from encroachment and is compliant with such a purpose in the National Planning Policy Framework.

This proposal includes a building that has been reduced slightly in size from the scheme that was previously refused consent in May. The building is to be constructed of timber with an eternit roof covering and would have a fairly utilitarian appearance. Notwithstanding its length it would have a fairly low profile with the majority of the structure being only 4 metres in height. The building together with the associated car parking and access road would only occupy a small proportion of the overall site and would be positioned in the least visually intrusive location within the site (southwest corner) being bordered on two sides by the established landscaping buffer for the adjoining Omega site. The majority of the site would remain as open grassland, albeit managed.
In addition to the operational development described above, the proposals also include the erection of mesh fencing to prevent balls straying outside of the fairway. The fencing varies in height from 2.4 metres up to 5 metres. The driving range is to be fenced with 4 metre high mesh fencing to the south and north, with the exception of the section to the rear of Finger Post Farm where it is proposed to extend up to 5 metres. The eastern curved end of the driving range around the end of the fairway is proposed to be 2.4 metres. Additional acoustic fencing may be necessary along/close to the boundary with garden areas to Finger Post Farm (see later sections of this report).

The application is supported by a Visual Impact Assessment (VIA) (by Agathoclis Beckmann Landscape Architects dated May 2012), which assesses the landscape impact of the development, including the proposed fencing. Whilst accepting that there would be some visual impact of the development from some vantage points, particularly until the additional landscaping has become established the overall conclusion is that the proposed development would appear as a clearing in a wooded area, with the proposed building being a low key, visually unobtrusive structure, largely hidden by planting (paragraph 54 of assessment) and any distant views would be limited to views from the north east and to a lesser extent the east. It is considered that the VIA that has been undertaken presents a fairly accurate reflection of the existing conditions around the site and the likely visual impact of the proposals. It is accepted that the development would have an impact on the appearance of the essentially open and rural character of the application site. However, it is not considered that the impact would be significantly detrimental.

It is noted that the proposal does not include any external lighting of the fairway. Lighting would have the potential to significantly harm the openness/character of this part of the Green Belt, resulting in encroachment (contrary to the purposes of the Green Belt), and with an adverse visual impact. It is therefore imperative, to restrict the installation of any lighting of the fairway whatsoever. It is not clear whether the absence of lighting would affect the viability of the proposal, particularly in the winter months, but it is noted that this may be offset by long operational hours in the summer months.

**Residential Amenity**

Policies DCS1, GRN2, GRN9 of the UDP seek to protect the amenity of nearby residents from harm due to noise, smells, vibrations and visual intrusion. In addition, policy REP10 does not permit development that would result in harm to the health or amenity of people living nearby through noise pollution. Policy QE6 of the emerging LPCS contains similar criteria.

The level of vehicular traffic will be restricted by the number of bays available and the opening hours will also be limited to 8am to 8pm (it is noted in the winter months the operational hours would be shorter due to lack of fairway lighting). Therefore it is considered that the development will not have an unacceptably adverse impact on neighbouring properties from vehicular
movements. Both of the properties (Highfield and Finger Post Farm) that lie immediately adjacent to the site have fairly substantial screening within their own boundaries which will limit the visual impact of the development from those properties. Additional landscaping between Finger Post Farm and the application proposals is now being proposed.

The previous application was refused on the grounds that there would be an impact on the amenity of Finger Post Farm through noise and disturbance resulting from ball hits. This application has been supported by an Assessment of Noise from Golf Ball Hits (prepared by Hepworth Acoustics). The assessment includes a noise survey which was carried out on a Sunday to measure noise levels at the nearest residential property (Finger Post Farm). The report concludes that noise calculations for the highest noise resulting from the driving range, when all bays are in use, would be below the ambient noise levels at Finger Post Farm, and that there would be no detrimental impact on residential amenity resulting from the use.

The Council’s Environmental Protection Officer has raised concern with regard to the survey. Firstly, they consider that noise from the construction of the Omega site may have influenced the monitoring results, and that the survey may have been an “unmanned”. Consequently noise “events” could not be logged. Furthermore, individual golf clubs and drivers produce a different amount of noise and it is not clear from the submitted assessment whether the noise level monitored was from a ‘quieter’ or ‘louder’ type of driver. Therefore, there are some definite inherent uncertainties in the data presented and the conclusions which have been arrived at. No account has also been made of the directionality of the noise from a hit, especially when the driver is used within an enclosure. The effects of the acoustic shelter has not been ascertained either, and it is possible that without suitable acoustic padding to the walls, ceiling and floors, that noise might actually be increased in the forward direction due to reinforcement of the noise by the hard reflecting surfaces within the shelter.

The assessment has then provided a worst case scenario of all 20 ranges operating with each range firing at 120 balls hit per hour per range so is 2400 hits per hour, normal use is suggested as 5 ranges used at the same rate, which would be 600 hits per hour. The balls being hit from the driving range will be associated with a definite ‘click’ noise as the club strikes the ball and this is still likely to be an audible click from each hit which would be detectable at both of the nearest residential properties. This click is not likely to be audible inside properties as the building structure and glazing will attenuate the noise satisfactorily, but in the garden areas, without any attenuation, the noise may be detectable.

The report suggests that there would be no statutory noise nuisance caused from the hitting of golf balls and this is not disputed by the Councils Environmental Protection Officer. However, as identified above there is some concern over whether broader amenity disturbance would be caused by the distinct noise of golf strikes which would be a repetitive occurrence. To mitigate this possible disturbance acoustic fencing adjacent to Finger Post
Farm along with acoustic absorption materials within the building itself have been suggested by Environmental Protection.

The applicant has agreed in principle to provide an element of mitigation and those suggested mitigation measures will be assessed by Environmental Protection prior to Committee. The measures would possibly include acoustic treatment to the driving range area and acoustic fencing (approximately 2 – 2.5 metres in height) / additional landscaping close to the boundary (ie garden areas) of Finger Post Farm. The provision of such a fence (it could be a translucent material) would have a further impact on amenity but not to an extent that would justify the refusal of planning permission.

In addition to the above a restriction of operating hours has been recommended by Environmental Protection which limits the opening of the site to between 08:00am and 20:00pm.

On balance, it is considered that subject to satisfactory mitigation (ie by planning condition) the proposed development would not cause significant harm to the amenity of nearby residential properties. The Council’s Environmental Protection service is satisfied that the proposal would not result in any statutory nuisance and that it would be possible to suitably safeguard residents from noise from hitting balls by way of the implementation of an acoustic scheme.

Highways

The proposed development would not generate a significant increase in traffic levels or have any material impact upon the highway network. Access is proposed from Joy Lane to the north of the site. The proposal includes a 6m wide site access, sufficient to accommodate two way turning manoeuvres and visibility splays of 2.4m by 43m in both directions. As the proposed access onto Joy Lane is situated at a point where the carriageway gradually narrows down to below 4.5m, it is proposed to create a passing place on Joy Lane on approach to the site access. The creation of a passing place and maintenance of visibility splays will ensure adequate visibility and access/egress to the site. The level of parking provision proposed is in accordance with the Council’s standards and is considered to be acceptable.

In conclusion, there are no objections to the proposals from a highway perspective (there are no objections from WBC Highways), subject to the imposition of suitable conditions to ensure the provision and retention of the passing place on Joy Lane and the visibility splays.

Biodiversity

The Natural Environment and Rural Communities Act (2006), places a duty on local authorities to have regard to the conservation of biodiversity in exercising their functions. One of the key aspects of the NPPF is that planning decision should aim to conserve and enhance biodiversity and incorporate it into and around developments. Paragraph 118 indicates that
where a planning decision would result in significant harm to biodiversity which cannot be mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for then planning permission should be refused. Policy GRN22 of the UDP requires development proposal to identify and protect important landscape features and Policy GRN24 seeks to ensure that new development for recreational activities that require extensive land and which are appropriate development in the Green Belt to provide for the establishment of trees and woodland. LPCS Policies QE3 and QE7 have similar aspirations.

The application is supported by an Ecological Impact Assessment (by Cameron Crook Associates dated Oct 2011). The survey was carried out at an appropriate time of the year and to national recognised standards. Notwithstanding the age of the survey, the Councils Natural Environment Officer is satisfied that the report is acceptable. The report identifies that no European Protect Species are present on site, however bats were found to be using the site for foraging/commuting. Ground nesting birds (UK and Cheshire Priority Species) were confirmed as using the site for breeding purposes.

The proposals would result in the loss of an agricultural field which is presently used by ground nesting birds. However, the applicant proposes to retain a proportion of the northern section of the site as meadow for ground nesting bird habitat. This area will also contain a pond and associated landscaping. No lighting is proposed with the scheme. Therefore, it is considered that the proposals will provide additional foraging habitat for bats whilst maintaining nesting habitat for breeding birds and other species and retain key landscape features that have high biodiversity value. In addition, the indicative landscaping proposals indicate a significant amount of additional woodland planting that could provide further foraging areas for priority farmland bird species if accompanied by a suitable habitat management plan.

Consideration of Very Special Circumstances

As identified above the application represents inappropriate development within the Green Belt and should only be allowed where very special circumstances exist which clearly outweighs the harm that would be caused. The assessment of the application is different from the previous application in that the proposal is inappropriate in green belt terms (ie given the recent High Court decision). However, the proposal would result in establishment of a new sport/leisure facility close to the urban area and in addition it is not considered that proposal would have a significant impact on openness of the green belt. Any perceived harm relating to residential amenity from the striking of balls and could be suitably mitigated. The proposal would not result in any statutory noise nuisance.

The applicants have advanced the argument that very special circumstances do exist. They have cited the *Fordent Holdings Ltd v SoS for CLG* judgement,
where the judge opined that “Merely because a proposed development is inappropriate does not mean that there is a prohibition on it. The categories of what constitute very special circumstances are not closed”. Paragraph 81 of the NPPF states that local planning authorities “should plan positively to enhance the beneficial use of the Green Belt such as looking for opportunities to provide opportunities for outdoor sport and recreation”.

The judgement, goes on to state, “That a proposal accords with the policy set out in Paragraph 81 is in principle capable of being a material consideration relevant to a decision as to whether very special circumstances have been made out. Thus it would be open to the promoter of a proposal to create a sports facility of the hypothetical type I am now considering to argue that any necessary change of use should be permitted because the proposed change of use accorded with the policy set out in Paragraph 81 and for that and other reasons, very special circumstances had been established”.

The application proposals are clearly for a beneficial use within the Green Belt, through the provision of an opportunity for outdoor sport and recreation, which is in accordance with, and advocated by, paragraph 81 of the NPPF.

The applicants also identify that the proposal would provide a high quality recreational facility on the edge of an urban area, and that one of the key roles to achieving sustainable development is to support healthy communities. The proposal would be in accordance with paragraph 73 of the NPPF which states that “access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities”.

The proposal would enhance the beneficial use of the Green Belt to that of a sport and recreation “use”, in accordance with the NPPF, while also providing an opportunity for access to sport and recreation which would contribute towards health and well-being. It is considered that these would amount to very special circumstances (as alluded to in the High Court judgement) which would outweigh the harm, by reason of inappropriateness, and the very slight harm through reduction of openness which would result from the application proposals.

**Summary**

The proposal represents inappropriate development within the Green Belt, which should only be permitted where very special circumstances exist, which clearly outweigh all the harm identified. In addition to the inappropriateness, additional harm to the openness of the green belt has been identified, however only slight weight has been attached to this harm.

It is noted that the scheme has the potential to cause disturbance to the amenity enjoyed by nearby residential properties. However, this can be suitably mitigated and conditions are recommended.

The proposal is for a use which is promoted within the Green Belt as detailed in paragraph 81 of the National Planning Authority which, along with its
contribution to health and wellbeing, would represent very special circumstances which outweighs the harm by virtue of inappropriateness and the other slight harm identified.

It is considered that there would be no detrimental harm caused to the landscape, highway safety, or protected species.

The proposal would have some impact on the essentially open and rural character of the green belt. However it is not considered that the proposal would have such a severe impact as to conflict with the purposes of the green belt – namely that of safeguarding the countryside from encroachment.

On balance the proposed development is considered to be acceptable and as such the application is recommended for approval.

Recommendations

Approve subject to conditions

Conditions

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in strict accordance with the submitted details and approved plans referenced Promap Location Plan, 570/01/06, 570/01/10, 570/01/11 C, 570/01/12 E, 570/01/13 C and 570/01/14 A received by the Local Planning Authority on 15th October 2013.

3. No site clearance/vegetation removal shall be carried out on the site between 1st March and 31st August inclusive in any year, unless approved in writing by the Local Planning Authority.

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

5. Prior to the commencement of development, details of the precise location and method of construction of the proposed passing place on Joy Lane shall be submitted to and agreed in writing by the Local Planning Authority. The passing place shall be constructed in accordance with the agreed details prior to the first use of the site access onto Joy Lane and shall be retained and kept clear and available for use at all times thereafter.

6. Prior to the commencement of development a scheme for protecting from construction damage, all trees/shrubs/hedgerows shown to be retained on the approved plans (570/01/11 C) and 570/01/12 E) shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before any site works
commence and shall be retained during the period of construction.

7. Prior to the commencement of the use and notwithstanding the indicative details shown on the approved plans, precise details of all hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include; the size, species and spacing of planting and the areas to be grassed; buffer strips to provide foraging areas for priority farmland bird species; details of the pond to ensure that it is suitable as a wildlife habitat; finished levels or contours; any minor artefacts and structures, including distance markers and the perimeter nets and a programme of works. There shall be no ancillary structures on the driving range other than the distance markers. The approved landscaping scheme shall be implemented in accordance with an agreed timescale. If any trees, plants or shrubs within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

8. Prior to the commencement of development, a scheme for the incorporation of features suitable for use by roosting bats and birds shall be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be implemented prior to the completion of construction.

9. Prior to the first use of the access onto Joy Lane, visibility splays of 2.4 metres by 43 metres shall be provided in each direction and shall be retained thereafter with nothing being erected or allowed to grow above a height of 0.6m within the visibility splays unless otherwise agreed in writing with the Local Planning Authority.

10. Prior to the commencement of the use, details of the construction of the proposed vehicular access, including any gate or other means of obstruction, and the car park shall be to be submitted to and approved in writing by the Local Planning Authority. The access and car park shall be laid out and surfaced in accordance with the approved details and retained in the approved format thereafter. Any gate or other means of obstruction across the access shall be positioned at least 5 metres back from the edge of the carriageway and shall be constructed to open inwards.

11. Prior to the commencement of the use a habitat management plan shall be submitted to and approved by the Local Planning Authority. The plan shall include:

(i) a description and evaluation of the features to be managed;
(ii) ecological trends and constraints on the site that may influence management;
(iii) the aims and objectives of management;
(iv) appropriate management options for achieving the aims and objectives;
(v) prescriptions for management actions;
(vi) preparation of a work schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
(vii) personnel responsible for the implementation of the plan; and
(viii) monitoring and remedial/contingency measures triggered by monitoring.

The agreed habitat management plan shall be carried out as approved.

12. Customers shall not be permitted to use the driving range on site before 08.00hrs or after 20.00hrs on any day.

13. No external lighting or floodlights, including moveable lights, shall be installed for fairway illumination purposes whatsoever.

14. Prior to the commencement of the development hereby permitted, details of acoustic mitigation measures to reduce the impact on the residential amenity of nearby properties shall be submitted to the Local Planning Authority and approved in writing. Specifically the detail shall include the scale, positioning and height of acoustic fences to protect external amenity areas of Finger Post Farm and also details of acoustic absorption materials to line the ceilings and walls of the individual tee positions on the main driving range shelters. The approved measures shall be installed prior to first operation and shall be retained and maintained thereafter.

15. Unless otherwise agreed with the Local Planning Authority (LPA), development works of any kind shall not begin until the following conditions have been satisfied and discharged by the LPA and written approval to commence development works has been issued by the LPA. All requirements to be completed in accordance with the following guidance references: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

A: CHARACTERISATION: With specific consideration to human health, controlled waters and wider environmental factors, the following must be provided (as required) to fully characterise the site in terms of potential risk to sensitive receptors:

- Preliminary Risk Assessment (PRA or Desk Study)
- Intrusive Site Investigation
- Generic Quantitative Risk Assessment (GQRA)
- Detailed Quantitative Risk Assessment (DQRA)
- Remedial Options Appraisal

PRA is the minimum requirement. DQRA only to be submitted if GQRA findings require it. The investigation(s) and risk assessment(s) must be undertaken by competent persons and all findings must form the subject of a written report.
B: SUBMISSION OF A REMEDIATION & VERIFICATION SCHEME: If required by Section A, a remediation scheme must be agreed with the LPA to ensure the site is suitable for the intended use and mitigate risks to human health, controlled waters and environmental receptors. Proposals should be derived from the Remedial Options Appraisal and form the subject of a written Remediation & Verification Strategy Report, detailing proposed remediation measures/objectives and how proposed remedial measures are to be verified/validated. All must be agreed in writing with the LPA.

16. Unless otherwise agreed with the Local Planning Authority (LPA), occupancy or use of the development shall not be permitted until the following conditions have been satisfied and discharged by the LPA. All requirements to be completed in accordance with the following guidance references: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

A: REMEDIATION & VERIFICATION: The remediation scheme approved by the LPA shall be carried out in accordance with the agreed Remediation Strategy and remedial works shall be verified in accordance with the agreed Verification Strategy. Following completion of all measures, a Verification/Validation/Completion Report must be produced and submitted to the LPA for approval.

B: REPORTING OF UNEXPECTED CONTAMINATION: Unexpected or previously-unidentified contamination encountered during development works must be reported immediately to the LPA and works halted within the affected area. Contamination must then be characterised by intrusive investigation and risk assessment reporting, with remediation/verification measures (if required) being agreed with the LPA. An updated Remediation & Verification Strategy Report must then be submitted to the LPA for approval and procedures followed as per Section A of this Condition.

C: LONG-TERM MONITORING & MAINTENANCE: If required as part of the agreed remediation scheme, monitoring and/or maintenance of remedial measures may be required to be carried out post-completion of development works and in accordance with the ‘Model Procedures for the Management of Land Contamination’ (Ref: CLR11) guidance document, published by DEFRA and the Environment Agency. Following completion of all works, findings must form the subject of a written report and be submitted to the LPA for approval.
Reasons

1. To ensure that the Local Planning Authority retains the right to review unimplemented permissions and to comply with Section 91 (as amended) of the Town & Country Planning Act 1990.

2. For the avoidance of doubt and to define the permission.

3. To ensure the protection of wildlife and its supporting habitat so as to accord with Policies GRN2 and GRN21 of the Warrington Unitary Development Plan and Policies CS1 and QE5 of the emerging Warrington Local Plan Core Strategy.

4. In the interest of visual amenity so as to accord with Policies DCS1, GRN2, GRN3 and GRN9 of the Warrington Unitary Development Plan and Policies QE7 and CC2 of the emerging Warrington Local Plan Core Strategy.

5. In the interests of highway safety so as to accord with Policies DCS1, LUT2 and GRN3 of the Warrington Unitary Development Plan and Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy.

6. To ensure the retention of features which are important to the character and amenity of the surrounding area so as to accord with Policies DCS1, GRN2, GRN9 and GRN22 of the Warrington Unitary Development Plan and Policies QE3, QE7 and CC2 of the emerging Warrington Local Plan Core Strategy.

7. In the interests of improving the visual amenity of the area and to promote wildlife interests so as to accord with Policies DCS1, DCS7, GRN2, GRN3, GRN22, GRN23 and GRN24 of the Warrington Unitary Development Plan and Policies QE3, QE7 and CC2 of the emerging Warrington Local Plan Core Strategy.

8. In order to promote wildlife interests in accordance with Policies GRN2 and GRN21 of the adopted Warrington Unitary Development Plan and Policies CS1 and QE5 of the emerging Warrington Local Plan Core Strategy.

9. In the interests of highway safety so as to accord with Policies DCS1, LUT2 and GRN3 of the Warrington Unitary Development Plan and Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy.

10. In the interests of highway safety so as to accord with Policies DCS1, LUT2 and GRN3 of the Warrington Unitary Development Plan and Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy.

11. To ensure the protection of wildlife, their supporting habitat and to secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy and to accord with Policies DCS1, GRN2, GRN3 and GRN21 of the Warrington Unitary Development Plan and Policies QE5, QE7 and CC2 of the emerging Warrington Local Plan Core Strategy.

12. In the interests of residential amenity so as to accord with Policies DCS1 and GRN3 of the Warrington Unitary Development Plan and Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy.
13. To prevent light pollution in the Green Belt and in order to protect residential amenity and to safeguard protected species from the effects of light spill so as to accord with the requirements of Policies DCS1, GRN2, GRN3 and GRN9 of the adopted Warrington Unitary Development Plan and Policies CS1, QE5 and QE6 of the emerging Local Plan Core Strategy.

14. In the interests of residential amenity so as to accord with Policies DCS1 and GRN3 of the Warrington Unitary Development Plan and Policies CS1 and QE6 of the emerging Warrington Local Plan Core Strategy.

15. To mitigate risks posed by land contamination to human health, controlled water and wider environmental receptors on the site (and in the vicinity) during development works and after completion, in accordance with Policy REP8 of the adopted Local Plan (23 January 2006); Policy QE6 of the Submitted Local Plan Core Strategy (September 2012); and Paragraph 121 of the National Planning Policy Framework (March 2012).

16. To mitigate risks posed by land contamination to human health, controlled water and wider environmental receptors on the site (and in the vicinity) during development works and after completion, in accordance with Policy REP8 of the adopted Local Plan (23 January 2006); Policy QE6 of the Submitted Local Plan Core Strategy (September 2012); and Paragraph 121 of the National Planning Policy Framework (March 2012).

Informatives

1. The Local Planning Authority has worked positively and proactively with the applicant to ensure that the proposal is an appropriate and sustainable form of development. The Local Planning Authority has therefore implemented the requirements set out in paragraphs 186-187 of the National Planning Policy Framework.
Appendix 1 – Proposed Plans

Location Plan – showing context in relation to Burtonwood village and M62.
Proposed Site Plan

Appendix 2 – Photographs of Site

View looking west across application site
View looking west towards Finger Post Farm

View looking south across site from Joy Lane
View looking east, from western end of site
TITLE OF REPORT: Appeal decisions for period between 25th November and 11th December.

1. PURPOSE OF THE REPORT

1.1 To advise members of the results of the above planning appeals.

- Land off Broseley Avenue, Culcheth – appeal allowed.
  - Costs Decision – allowed.
- 19 Surrey Street, Latchford – appeal dismissed.

2. REPORT BODY

2.1 The Inspector’s reports and appeal decisions are attached.

*Allowed Appeal*

2.2 Planning permission and an award of costs have been granted for outline consent for two detached dwellings on land off Broseley Avenue.

2.3 The Inspector acknowledged points made by the Council, in respect of the sites relationship to low key dwellings of Brookfield Road. However they considered there are already many 2-storey dwellings on Brookfield Road, albeit of dormer bungalow design, and did not see a reason why an appropriate 2-storey design could not be achieved to harmonize with the street scene. Many of the houses of dormer construction have first floor windows in their front gable with the dormers on the side elevations. Therefore, although there are 2-storey dwellings along the road, they are of a lower height than the Broseley Avenue houses.

The Inspector concluded that the proposal need not have a harmful effect upon the character and appearance of the site and the street-scene. They therefore found no conflict with Warrington Unitary Development Plan, 2006 Policies DCS1, GRN2 and HOU3.
2.4 The overall feeling given by the Inspector was that this was not the right opportunity to control the layout, appearance and scale of the dwellings, as the Council would be able to assess those in a reserved matters application. The applicants sought outline permission and did not offer details on the layout, appearance and scale of each dwelling, to hang our hats on.

2.5 A full award of costs has been granted against the Council. The Inspector considered that Members did not appear to give sufficient weight to the specific advice of officers’ professional advice. The Inspector identified a particular paragraph of the report to committee.

The Inspector did acknowledge that matters of character and appearance are judgement calls and Members are not bound to accept the advice of officers, they were of the view that no evidence was before them to substantiate why committee took a different view, especially when the rationale behind the reason for refusal sat outside the remit of this application. Those considerations would be able to be debated in a reserved matters application. Effectively the committee had pre-judged a matter that was not yet before it.

The Inspector deemed this to amount to unreasonable behaviour resulting in unnecessary and wasted expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs was justified.

Dismissed Appeal

2.6 The Inspector dismissed the appeal at 19 Surrey Street in Latchford. The appeal was against the Council’s refusal of outline planning permission for a detached three bedroom house under delegated powers. The Council’s reasons for refusal were three fold:

a) The living conditions of occupiers of nearby residential properties, with particular regard to potential overlooking; privacy; outlook and overshadowing;
b) The character of the street scene and the need to prevent a cramped and visually awkward form of development;
c) Safe and adequate parking and access arrangements.

The Inspector concluded that the proposal would not be harmful in regard to highway safety (c) and the amount of parking provision proposed. Nevertheless they did consider that the harm caused to the character and appearance of the area and the living conditions of neighbouring occupants as a result of the development proposed clearly outweighed the benefits of the scheme. (a & b)

3. CONFIDENTIAL OR EXEMPT
3.1 Not confidential or exempt.

4. FINANCIAL CONSIDERATIONS
4.1 None.
5. RISK ASSESSMENT
5.1 No risks identified.

6. EQUALITY AND DIVERSITY/EQUALITY IMPACT ASSESSMENT
6.1 Not required.

7. CONSULTATION
7.1 No required.

8. REASON FOR RECOMMENDATION
8.1 To inform Members of the results of appeals.

9. RECOMMENDATION
9.1 That members note the appeal decisions.

10. BACKGROUND PAPERS
10.1 None

Contacts for Background Papers:

<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
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</tbody>
</table>
Appeal Decision

Site visit made on 4 November 2013

by Siobhan Watson BA(Hons) MCD MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2013

Appeal Ref: APP/M0655/A/13/2202844
Land to the South of Leigh Golf Club, Broseley Avenue, Culcheth, Warrington.

- 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 David Senior against the decision of Warrington Borough Council.
- The application Ref 2013/21330 dated 12 February 2013, was refused by notice dated 9 May 2013.
- The development proposed is the erection of one single storey and one two storey dwelling.

Application for Costs

1. An application for costs was made by Mr David Senior against Warrington Borough Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for the erection of one single storey and one two storey dwelling at Land to the South of Leigh Golf Club, Broseley Avenue, Culcheth, Warrington in accordance with the terms of the application, Ref 2013/21330, dated 12 February 2013, and the plans submitted with it, subject to the conditions in the Schedule.

Procedural Matters

3. I have amended the address of the site from that stated on the application form to make it clearer. I have also altered the description of development from that stated on the application form as the proposal was amended during the course of the application from two 2-storey dwellings to one two storey dwelling and one single storey dwelling.

4. The application was submitted in outline with only access to be determined at this stage although an indicative plan was submitted showing a footprint of the proposed dwellings. The appellant has made it clear that layout is reserved for subsequent approval and the footprint is shown to demonstrate that 2 dwellings can fit on the site. I have dealt with the appeal on this basis.
Main Issue

5. The main issue is the effect of the proposal upon the character and appearance of the site and the street-scene with particular regard to the proposed 2-storey dwelling.

Reasons

6. The Council says that the proposed single storey dwelling would be appropriate within the street-scene and I have no reason to disagree with this assessment.

7. The site is situated at a point in the street where Brookfield Road and Broseley Avenue meet. Broseley Avenue has a mature, leafy and spacious character and dwellings tend to be large, 2-storey and set behind well landscaped frontages.

8. Brookfield Road has a very different open plan character and the dwellings are of a more simple, modern and smaller design. The houses on this road tend to be single storey or of a 2-storey dormer construction. Many of the houses of dormer construction have first floor windows in their front gable with the dormers on the side elevations. Therefore, although there are 2-storey dwellings along the road, they are of a lower height than the Broseley Avenue houses.

9. The dwellings on Broseley Avenue are not particularly visible from the site with the exception of No 17 which is opposite. Therefore, I acknowledge the Council's concerns that the site is located in an area that is visually related to the more low key dwellings of Brookfield Road as opposed to the larger ones on Broseley Avenue.

10. Nevertheless, the application is in outline and therefore it is up to the Council to control the layout, appearance and scale of the dwellings at reserved matters stage. As there are already many 2-storey dwellings on Brookfield Road, albeit of dormer bungalow design, I see no reason why an appropriate 2-storey design could not be achieved to harmonize with the street scene.

11. I note third party comments that 2 houses would appear “squashed” on the site but, in my estimation, the subdivision of the site would not result in any significant disparity with other plot sizes on the road. Therefore, with a suitable layout and detailed design, there is no reason why 2 houses should appear cramped.

12. Views of the adjoining Green Belt would be somewhat affected by building upon the site and this would slightly change the appearance of the street-scene. However, a well-designed scheme can ensure that there would be no significant harm to the overall character and appearance of the road.

13. Having regard to the outline nature of the scheme, I conclude that the proposal need not have a harmful effect upon the character and appearance of the site and the street-scene. I therefore find no conflict with Warrington Unitary Development Plan, 2006 Policies DCS1 which indicates that development should preserve or enhance the character and appearance of the area; GRN2 which indicates that development should not detract from attractive built environments, including the setting, form and character of settlements and that it should protect visual amenity; and HOU3 which indicates that housing
development should be well designed and planned so as to enhance the character and quality of the local environment.

14. I have also had regard to emerging LP policy QE7 which seeks to ensure that development should harmonise with the scale and proportions of adjacent buildings; and I find no conflict with this.

Other Matters

15. I note third party comments that the dwellings would be built upon a greenfield site. However, the site is located within the settlement boundary of Culcheth and would therefore be located in a sustainable location. In addition, Policy SN1 of Warrington Council’s emerging Local Plan Core Strategy (LP) indicates that the Council will support small scale, low impact, infill development within all of the Borough’s defined settlements. The Council accept that this proposal would represent infill development for the purposes of this policy. Whilst not fully adopted as part of the development plan, the policy is at a very advanced stage having been subject of a public examination with no modifications proposed. Therefore I afford it significant weight.

16. In addition, I recognise that paragraph 53 of the National Planning Policy Framework (NPPF) says that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. However, I have not been made aware of any specific local plan policy to resist such development, and in any event, I do not find any harm to the local area.

17. I also note comments that there is poor drainage on the site but I have attached a condition to ensure that the site would be adequately drained.

18. I am conscious that the land is next to a Site of Importance for Nature Conservation. Nevertheless, the submitted Habitat Survey shows that there is no evidence of protected species on the site and I have attached a condition to protect wildlife that might visit the site during the course of construction.

Conditions

19. I have considered the conditions suggested by the Council in light of the advice in Circular 11/95 The Use of Conditions in Planning Permissions. In addition to the standard time implementation condition and conditions requiring submission of reserved matters it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord and such a condition is imposed. To protect local living conditions drainage details are required to secure satisfactory drainage. It is not necessary to impose a condition requiring one of the dwellings to be single storey as it is clear in the description of the development that this is what has been applied for. In the interest of highway safety a condition has been imposed in relation to the provision of the access however, no condition has been imposed requiring visibility splays as these are shown on the approved plan as being across the public highway and therefore they already exist. A condition has been imposed to protect wildlife during the construction period as the site is close to potential habitats of protected species. Bird boxes are required to protect and enhance the biodiversity of the
site; conditions have been imposed to protect the trees on the site; details of the bollards are required in the interest of the protection of the public right of way. I have not imposed a condition in relation to contaminated land as there are no identified land quality risks with the site and therefore such a condition is not necessary. I have not attached conditions relating to materials or landscaping as these will be covered by the reserved matters.

**Conclusion**

20. For the above reasons the appeal is allowed.

*Sibhan Watson*

INSPECTOR

**SCHEDULE**

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: 10-183(SU)450 Rev *; 10-183(PL)400 Rev A; 10-183(PL)401 Rev B; but only in respect of those matters not reserved for later approval.

5) The dwellings shall not be occupied until the means of vehicular access has been constructed in accordance with the approved plans. The accesses shall be retained thereafter.

6) No Development shall commence until potential amphibian refuges are removed from the site and the development shall be carried out in accordance with the precautionary measures for the protection of wildlife contained in Section 5 paragraphs 3-16 of the submitted CES Ecology Extended Phase 1 Habitat Survey, January 2013. The timescale for the implementation of these mitigation measures, including the clearance of amphibian refuges, shall be submitted to and agreed in writing before the commencement of the development. The measures shall be implemented in accordance with the approved details.

7) No development shall commence until details of 2 timber bird boxes to be installed on the site are submitted to and approved in writing by the local planning authority. The bird boxes shall be installed before the first occupation of any dwelling and retained thereafter.
8) Development shall be carried out in accordance with the recommendations for tree protection contained in the Tree Protection Plan and Appendix 4 of the submitted Arboricultural Report Impact Assessment and Method Statement dated 27 April 2013. The erection of fencing for the protection of any retained tree shall be completed before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.

9) Development shall not commence until details of tree pruning along the northern boundary of the site is submitted to and approved in writing by the local planning authority. The pruning shall be carried out in accordance with the approved details before the commencement of development.

10) No development shall take place until a scheme for foul and surface water drainage of the site has been submitted to and approved in writing by the local planning authority. No part of the development hereby permitted shall be brought into use until the approved drainage scheme has been implemented, and the foul and surface water drainage scheme shall be retained thereafter.

11) No development shall commence until full details of the bollards to be erected across the footpath have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before the first occupation of any dwelling and retained thereafter.
Costs Decision

Site visit made on 4 November 2013

by Siobhan Watson BA(Hons) MCD MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2013

Costs application in relation to Appeal Ref: APP/M0655/A/13/2202844
Land to the South of Leigh Golf Club, Broseley Avenue, Culcheth, Warrington.

- 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 David Senior for a full award of costs against Warrington Borough Council.
- The appeal was made against the refusal of outline planning permission for the erection of one single storey and one two storey dwelling.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. As detailed in my appeal decision, I have found that the proposed scheme would be acceptable in relation to its effect on the character and appearance of the street-scene. This issue was the basis of the Council’s concerns.

4. The recommendation in the committee report was that planning permission should be granted. In circumstances where officers’ professional advice is not followed, the Circular states that an Authority is expected to produce relevant evidence on appeal to support the decision.

5. Members appear to have given little weight to the specific advice of its Officers who clearly advised them “The site sits on the end of a row of detached single storey dwellings and gable front dwellings with windows and accommodation at first floor. Accommodation and openings at first floor are therefore a feature of the surrounding streetscene....It is considered that in principle the single and two storey dwelling could be sympathetically designed within the reserved matters application to reflect the modern architectural style and materials of the dwellings along Brookfield Road.”
6. The Council provided a detailed analysis of the character and appearance of the area in its appeal statement and I was able to verify this analysis at my visit. Indeed I agree with the Council that the 2-storey dwellings on Broseley Avenue are of a very different character and appearance to the dwellings on Brookfield Road. I also agree that the dwellings on Broseley Avenue, with the exception of No 17, are visually unrelated to the street-scene of the appeal site.

7. Nevertheless, although paragraph B18 of the Circular acknowledges that character and appearance are matters of judgement and that paragraph B20 says that Councils do not have to accept the advice of officers, I had no evidence to substantiate why the Committee disagreed with the planning officer’s view that a 2-storey dwelling could, at reserved matters stage, be designed to reflect the other modern 2-storey ones on Brookfield Road. In this respect, the committee had pre-judged a matter that was not yet before it.

8. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.

 Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Warrington Borough Council shall pay to Mr David Senior, the costs of the appeal proceedings described in the heading of this decision.

10. The applicant is now invited to submit to Warrington Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Siobhan Watson

INSPECTOR
Appeal Decision

Site visit made on 19 November 2013

by Victoria Lucas-Gosnold  LLB MCD MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2013

Appeal Ref: APP/M0655/A/13/2202385
19 Surrey Street, Latchford, Warrington, WA4 1HE

- 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 K Murphy against the decision of Warrington Borough Council.
- The application Ref 2013/21806, dated 14 May 2013, was refused by notice dated 18 July 2013.
- The development proposed is a detached three bedroom house.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all other matters reserved. However, plans were submitted with the application, together with other supporting documents. Those details have been taken into consideration in coming to a view on the proposal.

Main Issues

3. The main issues are:
   - The effect of the development proposed on the character and appearance of the area;
   - The effect of the development proposed on the living conditions of neighbouring occupants, with particular regard to privacy, outlook and light; and
   - The effect of the development proposed on highway safety, with particular regard to parking and access.

Reasons

Character and appearance

4. The appeal site forms part of the garden curtilage for No. 19 Surrey Street (No. 19) and contains a single storey garage. The site is in a built up, urban area and is surrounded by dwellings on all sides. The surrounding road network comprises narrow streets, lined by groups of predominantly terraced and semi-detached properties (although No. 19 itself is detached). The appeal site is wedge shaped, lined by railings and has an access point situated behind No. 80 Cumberland Street. Notwithstanding that the appeal site is currently
overgrown and unkempt; the site does represent a small area of open space which introduces a feeling of spaciousness and variety into the otherwise tight urban grain of the streetscene. As such, it does make a limited positive contribution to the character and appearance of the area in its current form. A previous planning application at the site was refused by the Council for similar reasons as those given for this appeal proposal.

5. Due to the wedged shape of the site, it has a long frontage but is narrower in width. The plans show that the proposed dwelling, and associated car parking, would largely fill the plot leaving little space about the building. As such the proposed dwelling would have a cramped appearance that would be seen as an incongruous feature in the streetscene. This would detract from the existing spacious quality of the appeal site and the positive contribution it makes to the character and appearance of the area.

6. The plans show that the rear garden would be long and narrow. Based on the information before me, I therefore also have concerns that the proposed dwelling would provide very limited, useable outdoor amenity space for future occupants to sit out in or relax. This adds to the harm that I have identified.

7. As the application to which this appeal relates was submitted in outline with all matters reserved, I have considered whether the proposal could be re-designed or re-sited within the plot to overcome the concerns I have identified. However, the application form and submitted plans clearly indicate that the appellant intends to construct a three bedroom detached house. Given the narrow width of the site there are limited opportunities to re-orientate it within the plot or to increase the space about the proposed dwelling. For these reasons, I consider that the harm I have identified could not be overcome by re-designing the proposal before me.

8. Accordingly, I conclude that the proposal would be harmful to the character and appearance of the area. The proposal would therefore conflict with policies DCS1 and GRN2 of the Warrington Unitary Development Plan (Operative date 23rd January 2006) (UDP) which, among other things, state that development proposals should preserve or enhance the character and appearance of the area, and protect residential and visual amenity.

Living conditions

9. Policy HOU13 of the UDP states, among other things, that privacy and daylighting standards will be assessed by reference to recommended distances. These include that for conventional house types up to two storeys in height, a minimum distance of 21 meters between main face elevations containing windows of living rooms; and a minimum distance of 13 metres between main face elevations containing windows of living rooms, and windows of living rooms and a gable or windowless elevation. Although the policy does not specifically refer to separation distances in relation to rear gardens, I consider that it is reasonable to apply the 13 metre minimum distance when considering this issue as outdoor amenity areas form an important part of the private space about a dwelling which contributes towards an occupants enjoyment of their property.

10. Measurements taken by the Council indicate that the separation distances between the proposal and the rear garden areas of neighbouring dwellings on Cumberland Street would between 9 and 9.5 metres. Whereas separation
distances between the proposal and the habitable room windows of dwellings on Surrey Street would be approximately 12 metres. The proposal would therefore breach the guidelines in this regard.

11. If the appeal were to succeed, conditions could be imposed to ensure that a suitably high fence was erected along the site boundary with Surrey Street. This would screen the ground floor windows of the proposed dwelling so as to overcome privacy concerns in relation to dwellings opposite on Surrey Street. The plans show that three first floor windows, serving a landing and two bedrooms, would face directly towards dwellings on Surrey Street. The two bedroom windows would face directly towards bedroom and living room windows of dwellings on Surrey Street.

12. The plans also show that two first floor windows, serving a bathroom and bedroom, would face directly towards rear gardens on Cumberland Street. Given the close proximity of the proposal to rear gardens and also bedroom and living area windows, the proposal would result in additional overlooking for neighbouring occupants when using those areas to sit in and relax. The proposal by reason of its scale and height would also dominate the outlook of neighbouring occupants when viewed from these rooms and gardens, particularly given the open aspect that residents currently enjoy. This would result in a loss of privacy and an overbearing form of development which would be harmful to their living conditions.

13. The site is orientated north-east to south-east. As such, it does lie within the trajectory of the sun. As a result of this, and due to the close proximity of neighbouring dwellings, were a two storey dwelling to be constructed on the appeal site I consider that it would result in the loss of sunlight during the early part of the day to those properties. In particular, the rear windows of neighbouring dwellings on Cumberland Street would be likely to be affected. The loss of early morning sunlight to windows serving bedrooms would be particularly harmful to the living conditions of neighbouring occupants as it is at this time of day that bedrooms are most likely to be in use. I note the photograph submitted by the appellant of Surrey Street in this regard. However, this was taken at 1:00 PM rather than during the early morning which is when the proposal would be most likely to cast a shadow on neighbouring properties.

14. I appreciate that the separation distances between neighbouring dwellings may already breach the guidelines. However, the current separation distances represent the existing situation for the occupants of those dwellings. Policy DCS1 of the UDP states, among other things, that development proposals should preserve the amenities of near neighbours. I have found that the proposal would be harmful to the living conditions of the occupants of neighbouring dwellings and therefore would not preserve the existing standards of privacy, outlook and light which they currently enjoy. Therefore, this consideration does not outweigh the harm that I have identified.

15. As the application was submitted in outline, I have considered whether the proposal could be re-designed to overcome these concerns. Whilst it may be possible to re-position some windows, given the confines of the site and the scale of the dwelling proposed there are limited opportunities for re-designing the proposal. I therefore cannot be certain that the proposal could be accommodated on the site without the harm that I have identified occurring.
16. I therefore conclude that the proposal would be harmful to the living conditions of neighbouring occupants with particular regard to privacy, outlook and light. The proposal would therefore conflict with policies HOU13 and DCS1 of the UDP. The proposal would also conflict with one of the core planning principles of the National Planning Policy Framework (the 'Framework') which state, among other things, that planning should always seek to secure a good standard of amenity for all existing occupants of land and buildings (paragraph 17).

**Highway safety**

17. The Design and Access Statement submitted with the application indicates that two off-street parking spaces would be provided and this is also shown on the submitted plans. However, due to the wedge shaped site, the spaces taper from approximately 5.8 metres in depth to 4.8 metres towards Shrewsbury Street. The Council have drawn my attention to paragraph 4.29 of the Warrington Design Guide\(^1\) which states, among other things, that a hardstanding requires a minimum length of 5.5 metres. Although the first part of paragraph 4.29 does explicitly refer to garages, it is within a section entitled 'Private Drives (Single Drives). It is therefore reasonable to apply this requirement to the proposal in so far as it relates to the two parking spaces proposed. As such, both spaces proposed would be shorter than the minimum length. Based on the information before me, I am in agreement with the Council that only one useable off-street parking space would be provided.

Given the confines of the site, I consider that there would be limited opportunities to re-design the site in order to provide two off-street parking spaces.

18. The Council have stated that, as the proposal is for a detached three bedroom house, they would seek to secure two off-street parking spaces. I note in this regard that the Council’s car parking standards are expressed as maximums (Appendix 3 of the Warrington Design Guide). Several local residents have expressed concerns regarding the effect of the proposal in terms of its potential to increase demand for on-street parking in the area. The appellant disputes this and evidence has been submitted to support each opposing view. Based on the information before me, and observations I was able to make during the site visit, it does seem to me that there is a high level of demand for on-street parking in the area. However, one useable off-street parking space would be provided as part of the proposal. There is little substantive evidence before me to suggest that this would not be sufficient to meet the parking needs of future occupants of the proposed dwelling.

19. The Design and Access Statement states that access for the parking space proposed would be from Surrey Street. This would be close to the junction with Shrewsbury Street. Given this close proximity, I appreciate the Council’s concerns that vehicles reversing off the site at this point could increase the potential for conflict with vehicles and pedestrians, leading to highway safety concerns. However, I must also have regard to the existing situation. There is currently a single storey garage on the site which has an access point adjacent to Cumberland Street. The garage in its existing form could be used to park a car which would need to either reverse into or out of the site. As the application was submitted in outline, it may be possible to re-design the access

\(^1\) Although I have been provided with a copy of the document, it is undated.
and parking layout so as to utilise the existing access. Therefore, the proposal would not be materially different to the existing situation. I therefore find no harm in this regard.

20. Accordingly, I conclude that the proposal would not be harmful to highway safety, with particular regard to parking and access. The proposal would therefore not conflict with policies LUT1 and LUT20 of the UDP which state, among other things, that development should improve road safety though the careful design of new development; and make provision for safe, secure and accessible off-street car parking in the interests of highway safety.

Other Matters

21. The appeal site is within walking distance of the town centre and other services and its sustainability characteristics are recognised in this regard. I also appreciate that the appellant may have had an expectation that the plot could be developed and that he considers that the re-development of the site is needed rather than a bit of gardening to tidy it up. However these matters do not outweigh the harm that I have identified.

22. I note the appellant’s reference to the Council’s list of suggested conditions submitted with the appeal documents as a ‘double indemnity approach’. However, this is a standard approach with appeal casework and is on a without prejudice basis. The fact that the council have submitted the list in no way weakens the Council’s case.

23. Although several remarks of a personal nature have been made, they have not been relevant to my determination of this appeal. I have had regard only to the planning merits of the case before me.

24. Policies from the Council’s Submission Local Plan Core Strategy (September 2012) have also been referred to. However as that document has not been formally adopted by the Council, I have given the policies only limited weight in my decision.

Conclusion

25. Although I have found that the proposal would not be harmful in regard to highway safety, I conclude that the harm caused to the character and appearance of the area and the living conditions of neighbouring occupants as a result of the development proposed do clearly outweigh this consideration. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Victoria Lucas-Gosnold

INSPECTOR