

Enquiries to:  
Committee Services

Telephone Committee Services: 024 7637 6220

Direct Email:  
committee@nuneatonandbedworth.gov.uk

Date: 10<sup>th</sup> November 2023

Dear Sir/Madam,

A meeting of the **PLANNING APPLICATIONS COMMITTEE** will be held in **Council Chamber of the Town Hall, Nuneaton on Tuesday, 21 November 2023 at 6.00p.m**

Public Consultation on planning applications with commence at 6.00pm (see Agenda Item No. 6 for clarification).

Please note that meetings may be recorded for future broadcast.

Yours faithfully,

BRENT DAVIS

Chief Executive

To: All Members of the Planning  
Applications Committee

Councillors L. Cvetkovic (Chair),  
C. Cape, M. Green, B. Hammersley,  
J. Hartshorn, S. Markham, B. Pandher,  
J. Sheppard (Vice-Chair), E. Shiers,  
R. Smith and K. Wilson.

# AGENDA

## PART I - PUBLIC BUSINESS

### 1. EVACUATION PROCEDURE

A fire drill is not expected, so if the alarm sounds please evacuate the building quickly and calmly. Please use the stairs and do not use the lifts. Once out of the building, please gather outside Lloyds Bank on the opposite side of the road.

Exit by the door by which you entered the room or by the fire exits which are clearly indicated by the standard green fire exit signs.

If you need any assistance in evacuating the building, please make yourself known to a member of staff.

Please also make sure all your mobile phones are turned off or set to silent.

The meeting will be live streamed to YouTube and will be available to view via the NBBC website.

### 2. APOLOGIES - To receive apologies for absence from the meeting.

### 3. MINUTES - To confirm the minutes of the meeting held on 19<sup>th</sup> September 2023, attached (**Page 5**).

### 4. DECLARATIONS OF INTEREST

To receive declarations of Disclosable Pecuniary and Other Interests, in accordance with the Members' Code of Conduct.

#### Declaring interests at meetings

If there is any item of business to be discussed at the meeting in which you have a disclosable pecuniary interest or non-pecuniary interest (Other Interests), you must declare the interest appropriately at the start of the meeting or as soon as you become aware that you have an interest.

Arrangements have been made for interests that are declared regularly by members to be appended to the agenda (**Page 11**). Any interest noted in the Schedule at the back of the agenda papers will be deemed to have been declared and will be minuted as such by the Democratic Services Officer. As a general rule, there will, therefore, be no need for those Members to declare those interests as set out in the schedule.

There are, however, TWO EXCEPTIONS to the general rule:

1. When the interest amounts to a Disclosable Pecuniary Interest that is engaged in connection with any item on the agenda and the member feels that the interest is such that they must leave the room. Prior to leaving the room, the member must inform the meeting that they are doing so, to ensure that it is recorded in the minutes.

2. Where a dispensation has been granted to vote and/or speak on an item where there is a Disclosable Pecuniary Interest, but it is not referred to in the Schedule (where for example, the dispensation was granted by the Monitoring Officer immediately prior to the meeting). The existence and

nature of the dispensation needs to be recorded in the minutes and will, therefore, have to be disclosed at an appropriate time to the meeting.

**Note: Following the adoption of the new Code of Conduct, Members are reminded that they should declare the existence and nature of their personal interests at the commencement of the relevant item (or as soon as the interest becomes apparent). If that interest is a Disclosable Pecuniary or a Deemed Disclosable Pecuniary Interest, the Member must withdraw from the room.**

Where a Member has a Disclosable Pecuniary Interest but has received a dispensation from Standards Committee, that Member may vote and/or speak on the matter (as the case may be) and must disclose the existence of the dispensation and any restrictions placed on it at the time the interest is declared.

Where a Member has a Deemed Disclosable Interest as defined in the Code of Conduct, the Member may address the meeting as a member of the public as set out in the Code.

**Note: Council Procedure Rules require Members with Disclosable Pecuniary Interests to withdraw from the meeting unless a dispensation allows them to remain to vote and/or speak on the business giving rise to the interest.**

**Where a Member has a Deemed Disclosable Interest, the Council's Code of Conduct permits public speaking on the item, after which the Member is required by Council Procedure Rules to withdraw from the meeting.**

5. DECLARATIONS OF CONTACT

Members are reminded that contacts about any Planning Applications on this agenda must be declared before the application is considered.

6. APPLICATIONS FOR PLANNING PERMISSION ON WHICH THE PUBLIC HAVE INDICATED A DESIRE TO SPEAK. EACH SPEAKER WILL BE ALLOWED 3 MINUTES ONLY TO MAKE THEIR POINTS – the report of the Head of Development Control, attached (**Page 14**).

Members of the public will be given three minutes to speak on a particular item and this is strictly timed. The chair will inform all public speakers that: their comments must be limited to addressing issues raised in the agenda item under consideration: and that any departure from the item will not be tolerated.

The chair may interrupt the speaker if they start discussing other matters which are not related to the item, or the speaker uses threatening or inappropriate language towards Councillors or Officers and if after a warning issued by the chair, the speaker persists, they will be asked to stop speaking by the chair. The chair will advise the speaker that, having ignored the warning, the speaker's opportunity to speak to the current or other items on the agenda may not be allowed. In this eventuality, the chair has discretion to exclude the speaker from speaking further on the item under consideration or other items of the agenda.

7. APPLICATIONS FOR PLANNING PERMISSION ON WHICH NO MEMBER OF THE PUBLIC HAS INDICATED A DESIRE TO SPEAK – the report of the Head of Development Control.
8. ANY OTHER ITEMS which in the opinion of the Chair of the meeting should be considered as a matter of urgency because of special circumstances (which must be specified).

**NUNEATON AND BEDWORTH BOROUGH COUNCIL**

**PLANNING APPLICATIONS COMMITTEE**

**19<sup>th</sup> September 2023**

A meeting of the Planning Applications Committee was held on Tuesday, 19<sup>th</sup> September 2023, in the Council Chamber and was live streamed and recorded for future publication on the Council's website.

The meeting followed a site visit in relation planning application 039622 - 2 Osprey Close, Nuneaton, Warwickshire.

**Present**

Councillor L. Cvetkovic (Chair)

Councillors: C. Cape, M. Green, B. Hammersley, S. Markham, B. Pandher, J. Sheppard (Vice-Chair), E. Shiers, R. Smith, K. Wilson and S. Harbison (substituting for Councillor J. Hartshorn).

Apologies: Councillors J. Hartshorn.

PLA23 **Minutes**

**RESOLVED** that the minutes of the meeting held on the 29<sup>th</sup> August 2023 be approved and signed by the Chair.

PLA24 **Declarations of Interest**

Councillor M. Green declared that he has been appointed Director at the Holy Spirit Catholic Multi Academy Company as of 12th September 2023.

Councillor K. Wilson declared an interest in items 039519 (site 51A073) and 039700 (site 51A074) as the Cabinet Portfolio Holder. He confirmed he will be making any decision based on information from the Planning Department only.

As Councillor S. Harbison was a substitute Councillor for this meeting, his declarations were not detailed in the Schedule attached to the agenda.

**RESOLVED** that the declarations of interests are as set out in the Schedule attached to these minutes, with the addition of the Declarations of Interests for Councillor M. Green, Councillor K. Wilson and Councillor S. Harbison who is a substitute Councillor for this meeting.

PLA25 **Declarations of Contact**

All Members declared they had received contact from the applicant of application 039622 (2 Osprey Close) in the form of a statement sent to them via Officers. All Councillors confirmed they had given no indication to the applicant in relation to what they would say or how they would vote.

Cllr K. Wilson declared he has also been contacted by numerous residents of Osprey Close, but has given no indication to the residents in relation to what he would say or how he would vote. Cllr M. Green declared he knows a resident of Osprey Close, but has not spoken to the resident about this item.

**IN PUBLIC SESSION**

PLA26 **Planning Applications**

**(Note: Names of the members of the public who submitted statements or spoke are recorded in the Schedule).**

**RESOLVED** that decisions made on applications for planning permission are as shown in the attached schedule, for the reasons and with the conditions set out in the report and addendum, unless stated otherwise.

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Chair

**SCHEDULE OF APPLICATIONS FOR PLANNING PERMISSION AND RELATED MATTERS REFERRED TO IN MINUTE PLA26 OF THE PLANNING APPLICATIONS COMMITTEE ON 19<sup>th</sup> SEPTEMBER 2023**

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039622 - 2 Osprey Close, Nuneaton, Warwickshire. CV11 6TF

Applicant: Mr Vineet Trivedi

**Public Speakers:** Andy Bowers  
John Colley  
Councillor J. Gutteridge (Ward Councillor)

**DECISION**

That planning permission be granted, subject to the conditions printed in the agenda.

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039092 - The Lodge School Walk, Nuneaton, Warwickshire. CV11 4PJ

Applicant: Trye

**Public Speaker:** Richard Trye (Applicant)

**DECISION**

That planning permission be granted, subject to the conditions printed in the agenda and that:

- a) the condition relating to materials used be strengthened to ensure the development is in keeping with the heritage and character of the surrounding area; and
  - b) permitted Development Rights falling within Classes A (enlargement, improvement or other alteration of a dwellinghouse) and E (buildings etc incidental to the enjoyment of a dwellinghouse) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) be removed from the 5 plots closest to the eastern boundary of the site.
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039519 – “Site 51A073” – Ex Co-op buildings and car park, Abbey Street,  
Nuneaton. Warwickshire. CV11 5BU  
Applicant: Nuneaton and Bedworth Borough Council

**DECISION**

That planning permission be granted, subject to the conditions printed in the agenda.

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039700 - “Site 51A074” 17-23 Abbey Street  
Applicant: Nuneaton and Bedworth Borough Council

**DECISION**

That planning permission be granted, subject to the conditions printed in the agenda.

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## Planning Applications Committee - Schedule of Declarations of Interests – 2023/2024

|  | Name of Councillor   | Disclosable Pecuniary Interest                                 | Other Personal Interest   | Dispensation   |
|--|--|--|---|--|
|  | General dispensations granted to all members under s.33 of the Localism Act 2011 |  |   | Granted to all members of the Council in the areas of: <ul style="list-style-type: none"> <li>- Housing matters</li> <li>- Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992</li> <li>- An allowance, payment given to members</li> <li>- An indemnity given to members</li> <li>- Any ceremonial honour given to members</li> <li>- Setting council tax or a precept under the Local Government Finance Act 1992</li> <li>- Planning and Licensing matters</li> <li>- Allotments</li> <li>- Local Enterprise Partnership</li> </ul> |
|  | C. Cape  | Director of Capability Coaching and Consultancy Ltd.           | Member of the following Outside Bodies: <ul style="list-style-type: none"> <li>• Armed Forces Covenant Meeting</li> </ul> Member of Attleborough Community Matters Group<br>Member of the Royal British Legion<br>Member of the Adult Social care and Health Overview and Scrutiny Committee at WCC             |  |
|  | L. Cvetkovic (Chair)   | Head of Geography (Teacher), Sidney Stringer Academy, Coventry | The Bulkington Volunteers (Founder);<br>Bulkington Sports and Social Club (Trustee)<br><br>Member on the following Outside Bodies: <ul style="list-style-type: none"> <li>• Building Control Partnership Steering Group</li> </ul>  |  |
|  | M. Green   | Employed by Horiba Mira – Engineering Technician               | Chair of Education Standards Committee – St Thomas More School.<br>School Appeals Panel Member Our Lady of the Angels Church.<br>President – St Vincent De Paul Society Nuneaton.<br>Director – Holy Spirit Catholic Multi Academy Company.<br>Member of the George Eliot Fellowship<br>Member of Other Bodies: |  |



|  | Name of Councillor       | Disclosable Pecuniary Interest   | Other Personal Interest  | Dispensation   |
|--|--------------------------|--|--|--|
|  |                          |  | <ul style="list-style-type: none"> <li>• Friendship Project for Children.</li> <li>• Nuneaton Education Strategy Group</li> </ul>  |  |
|  | B. Hammersley            | County Councillor – W.C.C.   | Member on the following Outside Bodies: <ul style="list-style-type: none"> <li>• Hammersley, Smith and Orton Charity</li> </ul>  |  |
|  | J. Hartshorn             | Employed by ASDA Nuneaton  | Member of Nuneaton Conservatives   |  |
|  | S. Markham               | County Councillor – WCC (Portfolio Holder for Children’s Services)                       | Governor at Ash Green School<br>Member of the following Outside Bodies: <ul style="list-style-type: none"> <li>• Nuneaton and Bedworth Sports Forum</li> <li>• Warwickshire Direct Partnership</li> <li>• Warwickshire Waste Partnership</li> <li>• Sherbourne Asset Co Shareholder Committee</li> <li>• Hammersley, Smith and Orton Charities</li> </ul>  |  |
|  | B. Pandher               |  | Member of Warwickshire County Council<br><br>Treasurer & Trustee of Nanaksar Gurdwara Gursikh Temple;<br>Coordinator of Council of Sikh Temples in Coventry;<br>Secretary of Coventry Indian Community;<br>Trustee of Sikh Monument Trust<br>Vice Chair Exhall Multicultural Group<br><br>Member of the following Outside Bodies: <ul style="list-style-type: none"> <li>• Foleshill Charity Trustee – Proffitt’s Charity</li> </ul> |  |
|  | J. Sheppard (Vice-Chair) |  | Partnership member of the Hill Top and Caldwell Big Local.<br><br>Director of Wembrook Community Centre.<br><br>Member of Labour Party.  | Dispensation to speak and vote on any matters of Borough Plan that relate to the Directorship of Wembrook Community Centre |
|  | E. Shiers                | Employed by and Director of Cannon Enterprise Ltd. Director of The Fresh Dessert Company | The Labour Party<br>Coventry East Credit Union<br><br>Member of the Pride in Camp Hill Board.  |  |

|  | Name of Councillor | Disclosable Pecuniary Interest  | Other Personal Interest  | Dispensation |
|--|--------------------|---|--|--------------|
|  |                    |   | <p>Member of the governing board for Camp Hill Primary School.</p> <p>Member of the Board of Trustees of Camp Hill Community Association.</p> <p>Volunteer for Coventry and Warwickshire District RSPCA.</p>   |              |
|  | R. Smith           |   | <p>Chairman of Volunteer Friends, Bulkington;<br/>Trustee of Bulkington Sports and Social Club;<br/>Director of NABCEL;</p> <p>Member of the following Outside Bodies:</p> <ul style="list-style-type: none"> <li>• A5 Member Partnership;</li> <li>• PATROL (Parking and Traffic Regulation Outside of London) Joint Committee;</li> <li>• Building Control Partnership Steering Group</li> <li>• Bulkington Village Community and Conference Centre</li> <li>• West Midlands Combined Authority and Land Delivery Board</li> </ul>   |              |
|  | K.D. Wilson        | Acting Delivery Manager, Nuneaton and Warwick County Courts, HMCTS, Warwickshire Justice Centre, Nuneaton | <p>Deputy Chairman – Nuneaton Conservative Association</p> <p>Corporate Tenancies: properties are leased by NBBC to Nuneaton and Bedworth Community Enterprises Ltd, of which I am a Council appointed Director.</p> <p>Representative on the following Outside Bodies:</p> <ul style="list-style-type: none"> <li>• Director of Nuneaton and Bedworth Community Enterprises Ltd (NABCEL)</li> <li>• Coventry, Warwickshire and Hinckley &amp; Bosworth Joint Committee</li> <li>• District Council Network</li> <li>• Local Government Association</li> <li>• Director of Coventry and Warwickshire Local Enterprise Partnership Ltd (CWLEP)</li> <li>• West Midlands Combined Authority</li> </ul> |              |

## Planning Applications Committee - Schedule of Declarations of Interests – 2023/2024

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**Planning Applications Committee**  
**21<sup>st</sup> November 2023**

**Applications for Planning Permission etc.**  
**Agenda Item Index**

**Planning Applications**

| <b>Item No.</b> | <b>Reference</b> | <b>Ward</b> | <b>Address</b>  | <b>Page No.</b> |
|-----------------|------------------|-------------|---|-----------------|
| 1.              | 039677           | AB          | Site 51A073 - Ex Co-op buildings and car park Abbey Street Nuneaton Warwickshire CV11 5BU | 15              |
| 2.              | 039369           | WE          | Site 28B003 - Land off Weddington Road, Nuneaton, Warwickshire                            | 34              |

**Applications for Noting**

| <b>Item No.</b> | <b>Reference</b> | <b>Ward</b> | <b>Address</b>                                | <b>Page No.</b> |
|-----------------|------------------|-------------|---|-----------------|
| 3.              | 039687           | HE          | 228 Heath Road Bedworth Warwickshire CV12 0BN | 69              |

| <b>Wards:</b> |            |    |            |    |               |
|---------------|------------|----|------------|----|---------------|
| AB            | Abbey      | AR | Arbury     | AT | Attleborough  |
| BA            | Barpool    | BE | Bede       | BU | Bulkington    |
| CH            | Camp Hill  | EX | Exhall     | GC | Galley Common |
| HE            | Heath      | KI | Kingswood  | PO | Poplar        |
| SL            | Slough     | SN | St Nicolas | WB | Wembrook      |
| WE            | Weddington | WH | Whitestone |    |               |

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## Item No. 1

**REFERENCE No.** 039677

**Site Address:** Site 51A073 - Ex Co-op buildings and car park Abbey Street Nuneaton Warwickshire CV11 5BU

**Description of Development:** Erection of a flexible Class E use at Plot 3 and multistorey car park at Plot 4 (Approval of reserved matters relating to appearance, landscaping, layout and scale of already approved outline application ref 037658)

**Applicant:** Nuneaton and Bedworth Borough Council

**Ward:** AB

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### **RECOMMENDATION:**

Planning Committee is recommended to grant planning permission, subject to the conditions printed.

### **INTRODUCTION:**

This application is for the erection of a flexible Class E use at Plot 3 and multistorey car park at Plot 4. It is an application seeking approval of reserved matters relating to outline permission 037658. That application was a hybrid application consisting of a full application for a hotel and an outline application for for a mixed-use town centre development comprising flexible uses for retail, leisure, restaurants and 'makers space' (Class E), medical uses (Class E), residential (Class C3) and multistorey and surface car parking with associated means of access.

The Site is within Nuneaton Town Centre and is 2.42 hectares in area. To the north is Abbey Street with Jubilee Way to the west and Queens Road to the south. There are residential properties to the west, on the other side of Jubilee Way. The site is surrounded by a mixture of uses including retail and commercial. Nuneaton Town Centre Conservation Area adjoins the site. The site was previously a surface level car park and a mix of retail buildings to the east.

### **BACKGROUND:**

The following matters are to be considered at this stage:

- Layout – the way in which buildings, routes and open spaces are provided within the development and their relationship to buildings and spaces outside the development.
- Scale – the height, width and length of each building proposed in relation to its surroundings.

- Appearance – The aspects of a building or place which determine the visual impression it makes, including the external built form of the development.
- Landscaping – Treatment of private and public space to enhance or protect the site's amenity through hard and soft measures, for example, through planting of trees or hedges or screening by fences or walls.

The following matter was considered at the outline stage:

- Access – accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.

This application is being reported to Committee as it is a major application involving Council owned land.

### **RELEVANT PLANNING HISTORY:**

- 039519: Erection of a flexible Class E or Cinema use at Plot 5 and a flexible Class E use at Plot 6 and hard and soft landscaping of public realm area (Approval of reserved matters relating to appearance, landscaping, layout and scale of already approved outline application ref 037658): Approved 22/09/2023.
- 039160: Erection of a foodhall at Plot 1A and a building at Plot 2 comprising flexible Class E space on the ground floor and residential development of 30 dwellings (Approval of reserved matters relating to appearance, landscaping, layout and scale of already approved outline application ref 037658): Approved 11/02/2023.
- 039548: Non material amendment to approval 037658 to show amendments to the vertical parameters for Plots 4, 5 and 6: Approved 11/05/2023.
- 039542: Non material amendment to approval 038706 to show obscure glazing to all windows at first and second floor on the east elevation: Approved 11/05/2023.
- 038706: Partial demolition and refurbishment of existing buildings and the erection of a digital skills and innovation centre to include further education college and ancillary uses (Class F1) and a public restaurant (Class E): Approved 17/01/2023.
- 039096: Non material amendment to approval 037658 to show amendments to the horizontal and vertical parameters for Plot 1A and horizontal parameters for Plot 2: Approved 30/08/2022.
- 038696: Non material amendment to approval 037658 to show amendments to the footprint parameters of building 2: Approved 31/03/2022.
- 037658: Hybrid planning application for (i) full planning application for the demolition of buildings, erection of hotel (Class C1) with associated access, car



parking and landscaping/public realm and (ii) outline planning application (including access) on remainder of Abbey Street car park and buildings fronting, including properties to the rear for a mixed-use town centre development comprising flexible use for retail, leisure, restaurants and 'makers space' (Class E), medical uses (Class E), residential (Class C3), multistorey and surface car parking with associated means of access, public plaza for public and other events, public realm and landscaping: Approved 07/01/2022.

### **RELEVANT PLANNING POLICIES:**

- National Policy Planning Framework (NPPF).
- National Planning Practice Guidance (NPPG).
- Nuneaton & Bedworth Borough Council Borough Plan 2019:
  - DS1 – Presumption in favour of sustainable development;
  - DS2 – Settlement Hierarchy and Roles;
  - DS3 – Development Principles;
  - TC1 – Town centre requirements;
  - TC2 – Nature of town centre growth;
  - HS1 – Ensuring the Delivery of Infrastructure;
  - HS2 – Strategic Accessibility and Sustainable Transport;
  - NE4 – Managing Flood Risk and Water Quality;
  - BE1 – Contamination and Land Stability;
  - BE3 – Sustainable Design and Construction and
  - BE4 – Valuing and Conserving our Historic Environment
- Sustainable Design and Construction SPD 2020.
- Transport Demand Management Matters SPD 2021.
- Air Quality SPD 2020.

### **CONSULTEES NOTIFIED:**

Cadent Gas, Environment Agency, Historic England, National Amenities Society, NBBC Environmental Health, NBBC Parks, NBBC Planning Policy, NBBC Refuse, NBBC Town Centres, NBBC Tree Officer, Severn Trent Water, Warwickshire Fire & Rescue, Warwickshire Fire Safety, Warwickshire Police (Architectural Liaison Officer), WCC Archaeology, WCC Flood Risk Management, WCC Health, WCC Highways.

### **CONSULTATION RESPONSES:**

No objection subject to conditions from:  
WCC Highways

No objection from:

Historic England, NBBC Environmental Health, NBBC Planning Policy, NBBC Refuse, NBBC Tree Officer, Warwickshire Fire Safety, WCC Archaeology, WCC Flood Risk Management

No response from:

Cadent Gas, Environment Agency, National Amenities Society, NBBC Parks, NBBC Town Centres, NBBC Tree Officer, Severn Trent Water, Warwickshire Fire & Rescue, Warwickshire Police (Architectural Liaison Officer), WCC Health

### **NEIGHBOURS NOTIFIED:**

1-49 (odd), 64-72 (even), Flats 1-4 (inc) 72 High Street; 34-40 (even) Pool Bank Street; Cannon Sports 19, Bet Fred 21, Socialites 21a, Warren James 21b, Shoe Zone 21c, Label Nuneaton 23, Bonmarche 25/27, Cooks the Bakery 29, Age UK 31, Kevin Joseph Salon 31a, Bull & Young 32, Iceland 34-36, Ali's Hair & Beauty 35, Concepts 37, Lord Hop 38, Nuneaton Sports Nutrition 40, Exclusively Yours, Loft Photography Studio, Full Length & Fabulous 42, Natural Nail Care 46, Martins Pet Supplies 48, Flat over 48, Anthony's Bistro 48a, H Johnson & Son 50-52, Next units 13-14 Ropewalk Queens Road; 2, 4, British Heart Foundation 6-14, Flat 1- 6, Toppers Fish Bar 16-18 Stratford Street; Myton Hospices 11, HD Nails 12, DMK Grocery 13/14, The Blue Bear PH 15, Flat 1 15, 16, Time-House of Games 22, Dominoes Pizza 23 a&b, John Christopher Hairdressers 23c, 23f, The Printer People 24, India Red 25, PET X Training 98, Flat over 98, Johns Hair Design 104, Beasley & Co 105, DC Leake 106, Milano Pizza 107, Rear ground floor flat, flat 1 & flat 2 107, Mutual 111, 112, Siamo 113, African Supermarket 114, Flat 114d, Flat 114e, Flat 114f, Flat 114g, Flat 114h, Flat 114i, Flat 114j, Abbey Craft 115, Crossed Gurka 115, Flat 1 & Flat 2 115, Castillos 116, 116a, West East 117, First Floor Flat 117, 117b, Best One 118, 118a, 118b, 118c, 118d, 118e, Bromfield Solicitors 120, 120a, 120b, 120c, 120d Abbey Street; Kumon Study Centre 1, Heatwave 3, Nuneaton Mobility 9, Kimberleys Occasions 11, Sally Beauty 15 New Century Way

Neighbouring properties were sent letters notifying them of the proposed development on 8<sup>th</sup> June 2023. Site notices were erected on street furniture on 12<sup>th</sup> June 2023 and the application was advertised in The Nuneaton News on 28<sup>th</sup> June 2023.

### **NEIGHBOUR RESPONSES:**

There have been 2 objections from 2 addresses The comments are summarised below;

1. Access and exit out of the multistorey car park needs careful consideration.
2. Are parking bays, ramps and turning widths big enough for today's bigger cars?
3. Does design cater for increasing weights of electric vehicles?
4. Can not see any provision for electric vehicle charging.
5. Design needs cladding to brighten it up.

There has been 1 letter of objection received from Cllr Kondakor. The comments are summarised below;

1. More importance needs to be given to cycles in the new multistorey carpark.
2. The type of cycle rack should be in accordance with Transport demand management SPD.

## **APPRAISAL:**

The key issues to assess in the determination of this application are;

1. The principle of the development,
2. Visual amenity,
3. Residential amenity,
4. Highway safety and accessibility,
5. Flood risk and drainage,
6. Heritage and archaeology,
7. Ecology & biodiversity,
8. Conclusion

### **1. The Principle of Development**

The National Planning Policy Framework (NPPF) establishes the need for the planning system to achieve sustainable development and it breaks down sustainable development in to three key constituents which are; economic, social and environmental dimensions (paragraphs 7 and 8). The NPPF also sets out a presumption in favour of sustainable development (paragraph 11). In broad terms, this means that the application should be approved providing that it is in accordance with the development plan and other policies within the NPPF, unless material considerations or adverse impacts indicate otherwise (paragraph 11). The presumption in favour of sustainable development is also set out in Policy DS1 of the Borough Plan (2019) which should be seen as a golden thread running through both plan making and decision taking.

The principle of the development has already been established through the approval of the outline permission. The outline planning permission parameters indicate that Plot 3 is to be used as a flexible space of between 1,585 and 2,515 sq. metres for uses under Class E. The building will provide 1,614 sq metres of Class E floorspace. To facilitate the approved uses, the building has been designed to be a blank canvas internally to provide suitable flexibility for operator fit out. The building has been designed within the approved vertical and horizontal parameters. The multi storey car park at Plot 4 is designed in compliance with the approved parameters in terms of height and footprint. The parameters indicated a maximum provision of 450no. car park spaces and 303no. spaces are proposed plus 15no. disabled spaces and 30no. EV spaces.

### **2. Visual Amenity**

Paragraph 130 of the NPPF states, in part, that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). Policy BE3 of the Borough Plan states that all development proposals must contribute to local distinctiveness and character and some of the key characteristics to review include street layout, plot size and arrangement and built form.

The existing scale of development within the town centre ranges between two to five storeys. The proposed buildings have been designed to reflect the existing and emerging site context. In particular, they seek to create a new scale and standard of design that will attract visitors and residents to the site. The proposed scale of both Plots 3 and 4, when read in the context of the Hotel to the north, Plots 5 and 6 to the north and the residential building at Plot 2 to the east, will be appropriate to the wider site context. Plot 3 will be largely screened from Roanne Ringway via the existing buildings along the southern boundary of the site. The lower levels of the multi storey car park at Plot 4 will be partly screened via existing and proposed vegetation and existing and proposed buildings. Both plots are within the horizontal and vertical parameters on the outline approval and it is considered that they are appropriate for the existing and proposed surrounding built context.

The materials for Plot 3 provide a contemporary architectural aesthetic that reflects the function of the buildings through the use of a limited palette of high quality, low maintenance materials. The front elevation uses modular curtain walling to define active frontage to the new square with recessed opening to entrance inspired by existing Abbey Street Arcade. Large glazed areas clad in glazed curtain walling with dark coloured framework are proposed to accentuate the prominent frontage. The main ground level façade uses red brick to compliment the character of Nuneaton. Render is proposed on the upper levels to visually breakdown the massing as well as reflect the characteristics of the existing Abbey Street elevations. In terms of the multi storey car park at Plot 4, the materials provide a crisp and uncomplicated contemporary architectural aesthetic that reflects the function of the building through the use of a limited palette of low maintenance materials. A modular steel frame structure with full mesh façade panels to achieve a secure, vandal proof and fire resistant structure is proposed. There is a condition on the outline permission which requires details of the proposed materials to be submitted and approved. NBBC Planning Policy have no objection to the design.

### **3. Residential Amenity**

Policy BE3 of the Borough Plan (2019) states that all development proposals must contribute to local distinctiveness and character and one of the key characteristics to review is residential amenity. In terms of the impact on neighbouring properties, to the west, the rear of the properties on High Street face the application site. The nearest properties would be over 60 metres away from Plot 4 with these distances also across Jubilee Way and therefore it is not considered that their amenities would be significantly affected. In terms of within the site, there are proposed flats at the first, second and third floors of Plot 2. These would be approximately 25 metres away from the side elevation of Plot 3 which is therefore acceptable. Plot 2 is also at an angle and therefore would not directly face Plot 3.

In relation to the requirements of Policy BE3, addendums to the BREEAM assessment submitted with the outline application have been submitted for Plot 3. This shows that a BREEAM, 'Very Good' rating can be achieved for this plot which meets the requirement of this policy.

NBBC Environmental Health have been consulted and have no objections as there are conditions on the outline permission relating to noise, including details of all proposed plant and equipment.

#### **4. Highway Safety & Accessibility**

The NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users (paragraph 110). Access was considered and approved as part of the outline application.

The NPPF outlines the need for planning to promote walking, cycling and public transport and to make the fullest possible use of these (paragraph 104). It also states that growth should be focused on locations which are or can be made sustainable (Paragraph 105). The outline proposals aimed to increase connectivity and permeability through the site. Two new pedestrian routes were proposed as part of the outline application on a north-south axis through the site, connecting Queens Road and Abbey Street. These pedestrian routes will be situated either side of a proposed new public square situated centrally in the site. These are incorporated into the proposed layout.

There is a condition imposed upon the outline permission that requires details of parking provision to be provided for each phase. Details will be provided to discharge this condition prior to the commencement of development.

The multistorey car park will provide 303no. spaces plus 15no. disabled spaces and 30no. electric vehicle charging spaces. A further 45no. surface spaces are also provided which were approved under application 039519 (including 2no. disabled spaces and 4no. electric vehicle charging spaces). There are 63no. spaces serving the hotel. Therefore, not counting the disabled and EV spaces, the multi storey car park and surface parking provide a total of 342no. spaces. The end uses are not yet known but would be within Use Class E. Taking into account the floor space of each plot and the proposed residential properties and the requirements of the Transport Demand Matters SPD, the maximum number of spaces required would be 340. It is therefore considered that this level of provision is acceptable.

An independent traffic survey was undertaken as part of the outline application which surveyed the use of the previous car park on a working day. This showed that the existing car park only reached 48% occupancy at 11:45am, that the car park was 16% occupied by 9am and 18% occupied at 5pm. There is also spare car parking provision within Nuneaton Town Centre and that the current demand within this car park can be absorbed within existing car parks.

A Transport Assessment was submitted with the outline application. This assessment confirmed that the total number of trips likely to be generated by the development is within the allowance previously assessed by Warwickshire County Council when it devised a strategic model in support of the Transforming Nuneaton initiative. A further Transport Statement has been submitted with this reserved matters application. WCC Highways have no objection but have commented on parking provision for the proposed college.

However, that application was approved under application 038706 with dedicated parking provision and it is assumed that this will utilise the wider parking provision in the town centre. WCC Highways have commented that the authorities are committed to reducing emissions throughout the county. Part of that is encouraging people to travel by other means and also to be smart about access. The multi storey car park will provide 36no. secure cycle parking spaces to complement the wider provision externally within the plaza and in other plots within the wider development. These accord with the Transport Demand Matters SPD through the use of suitably spaced Sheffield stands. The stands will be within a secure cage with electronic access control. Access will be controlled via an App, downloadable to the user's phone. The lock on the cage will be Bluetooth and activated by the phone and all details will be on the cycle storage facility. There will be CCTV coverage site wide, as well as cameras within the multistorey car park. The storage is also located by the entrance and exit and as a result there would be natural surveillance.

There is a condition on the outline permission for real-time information boards to be provided before the multi storey car park is brought into use so that drivers approaching the site can continue to other car parks if Abbey Street is full. WCC Highways have stated that the impact on the public highway network may not be severe.

Plot 3 will be serviced in a similar manner to the agreed and approved approach for Plot 2 in that bins will be moved by the building management to a collection area adjacent to Abbey Street. NBBC Refuse have no objections.

## **5. Flood Risk & Drainage**

The principles agreed at the outline application stage have been carried through to this reserved matters application and surface water drainage from these specific plots will outfall into the wider Abbey Street development. WCC Flood Risk Management Team have been consulted and have no objection.

## **6. Heritage & Archaeology**

Under s66 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990, NBBC in determining the submitted application, has a statutory duty to have special regard to the desirability of preserving the special interest and setting of listed buildings. Case law has established that considerable importance and weight should be given to this duty. The NPPF states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, putting them into viable uses consistent with their conservation, as well as the desirability of new development making a positive contribution to local character and distinctiveness (paragraph 197). The NPPF also requires when considering the impact of development on the significance of a designated heritage asset that great weight should be given to the asset's conservation. Conservation is defined by the NPPF as 'the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance.' (Annex 2)

Policy BE4 of the Borough Plan (2019) states that development proposals which sustain and enhance the borough's heritage assets including listed buildings, conservation areas scheduled monuments, registered parks and gardens, archaeology, historic landscapes and townscapes, will be approved. It also states that development affecting a designated or non-designated heritage asset and its setting will be expected to make a positive contribution to its character, appearance and significance.

The Abbey Street site adjoins the Nuneaton Town Centre Conservation Area and so will have an impact on the setting of a heritage asset, although Plots 3 and 4 do not adjoin the conservation area and it is considered that their development would lead to less than substantial harm to the significance of the conservation area.

The NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (paragraph 202). The National Planning Practice Guidance confirms that public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress. In this case, in terms of economic benefits, the proposal represents a major driver of investment in the future which would contribute to improving the overall vibrancy of the town. It would also bring social benefits such as places to meet and opportunities for social interaction.

In relation to archaeology, the proposed development lies within an area of archaeological potential, located at least partly within the probable extent of the medieval settlement of Nuneaton. An archaeological assessment was submitted with the outline application. WCC Archaeology requested a condition securing a Written Scheme of Investigation for a programme of archaeological evaluative work and an Archaeological Mitigation Strategy as part of the outline application and have confirmed they have no comments on the reserved matters application.

## **7. Ecology and Biodiversity**

The NPPF outlines a need to minimise the impact of proposed developments on biodiversity, as well as contributing to and enhancing this where possible (paragraph 174 and 180). It particularly highlights the need to consider the impact on ecological networks, protected wildlife, priority species and priority habitats. Such issues were assessed as part of the outline application and that permission includes conditions relating to lighting, further survey work being undertaken, landscaping and ecological mitigation such as bat bricks.

The main area of public realm is proposed at the heart of the main site and will provide hard and soft landscaping. The landscape levels and layout were approved via the reserved matters 039519 which NBBC Parks and NBBC Tree Officer had no objection to. The materials and plant species are to be agreed via the relevant outline planning condition.

## 8. Conclusion

In conclusion, the NPPF promotes a presumption in favour of sustainable development, and in line with the Planning and Compulsory Purchase Act 2004 states that decisions should be made in line with an adopted Development Plan, unless material considerations indicate otherwise. The site is a brownfield site within Nuneaton Town Centre and complies with the policies within the Borough Plan (2019). The principle of the development has been established through the approval of outline permission 037856.

The potential impacts of the proposed development in relation to residential amenity, visual amenity, highway safety, flood risk and drainage, heritage and archaeology and ecology and biodiversity have all been considered. The assessment has subsequently shown that there would be no adverse impacts in some instances. However, where potential adverse impacts are identified, it would be possible to mitigate against this through the use of planning conditions.

Taking into account the above assessment, it is consequently considered that the proposed development would be in accordance with the development plan and other policies within the NPPF. Furthermore, there are no material considerations or adverse impacts which indicate that the application should be refused. It is therefore considered that the proposed development would achieve sustainable development which should consequently be approved subject to conditions.

### REASONS FOR APPROVAL:

Having regard to the pattern of existing development in the area, relevant provisions of the development plan, as summarised above, and the consultation responses received, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan, would not materially harm the character or appearance of the area or the living conditions of neighbouring occupiers and would be acceptable in terms of traffic safety and convenience.

### SCHEDULE OF CONDITIONS:

#### Schedule 1

The details and plans contained in Schedule 1 be approved in accordance with Condition 1(a) Layout, (b) Scale, (c) Appearance and (e) Landscaping of approval reference 037658 granted on 7<sup>th</sup> January 2022 subject to the additional condition contained in Schedule 2.

#### 1. Schedule of approved documents

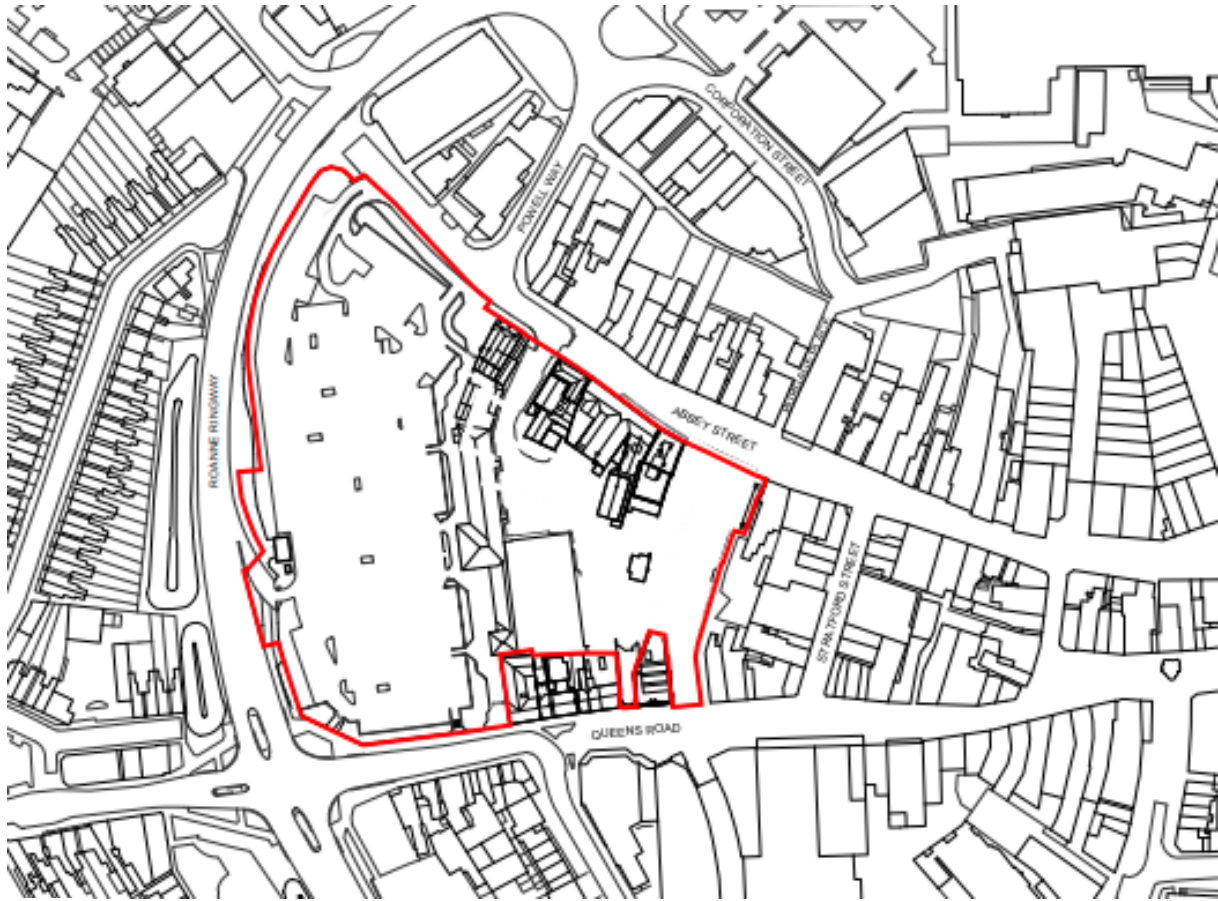
| <i>Plan Description</i>   | <i>Plan No.</i>    | <i>Date Received</i>          |
|---------------------------|--------------------|-------------------------------|
| Site Location Plan        | 0328-00001-A       | 2 <sup>nd</sup> June 2023     |
| Proposed Site Plan        | 0328-80000-A RMA 3 | 31 <sup>st</sup> October 2023 |
| Plot 3- Ground Floor Plan | NTN-03-10000 B     | 2 <sup>nd</sup> June 2023     |
| Plot 3- First Floor Plan  | NTN-03-10001 B     | 2 <sup>nd</sup> June 2023     |
| Plot 3- Second Floor Plan | NTN-03-10002 B     | 2 <sup>nd</sup> June 2023     |
| Plot 3- Roof Plan         | NTN-03-10003 B     | 2 <sup>nd</sup> June 2023     |
| Plot 3- North &           | NTN-03-11000 B     | 2 <sup>nd</sup> June 2023     |



|   |                              |                                 |
|---|------------------------------|---------------------------------|
| South Elevations<br>Plot 3- East &<br>West Elevations | NTN-03-11001 B               | 2 <sup>nd</sup> June 2023       |
| Plot 4- Level 0 and 1                                 | NTN - HUB - 04 00 0300 S4 P1 | 17 <sup>th</sup> July 2023      |
| Plot 4- Levels 2 & 3                                  | NTN - HUB - 04 01 0301 S4 P1 | 17 <sup>th</sup> July 2023      |
| Plot 4- Levels 4 & 5                                  | NTN - HUB - 04 04 0302 S4 P1 | 17 <sup>th</sup> July 2023      |
| Plot 4- Levels 6 & 7                                  | NTN - HUB - 04 06 0303 S4 P1 | 17 <sup>th</sup> July 2023      |
| Plot 4- Levels 8 & 9                                  | NTN - HUB - 04 04 0304 S4 P1 | 17 <sup>th</sup> July 2023      |
| Plot 4- North &<br>South Elevations                   | NTN - HUB - 04 ZZ 0330 S4 P1 | 17 <sup>th</sup> July 2023      |
| Plot 4- East &<br>Elevations                          | NTN - HUB - 04 ZZ 0331 S4 P1 | 17 <sup>th</sup> July 2023 West |
| Plot 4- Section 05                                    | NTN - HUB - 04 ZZ 0315 S4 P1 | 17 <sup>th</sup> July 2023      |
| Plot 4- Section 11                                    | NTN - HUB - 04 ZZ 0320 S4 P1 | 17 <sup>th</sup> July 2023      |

## **Schedule 2**

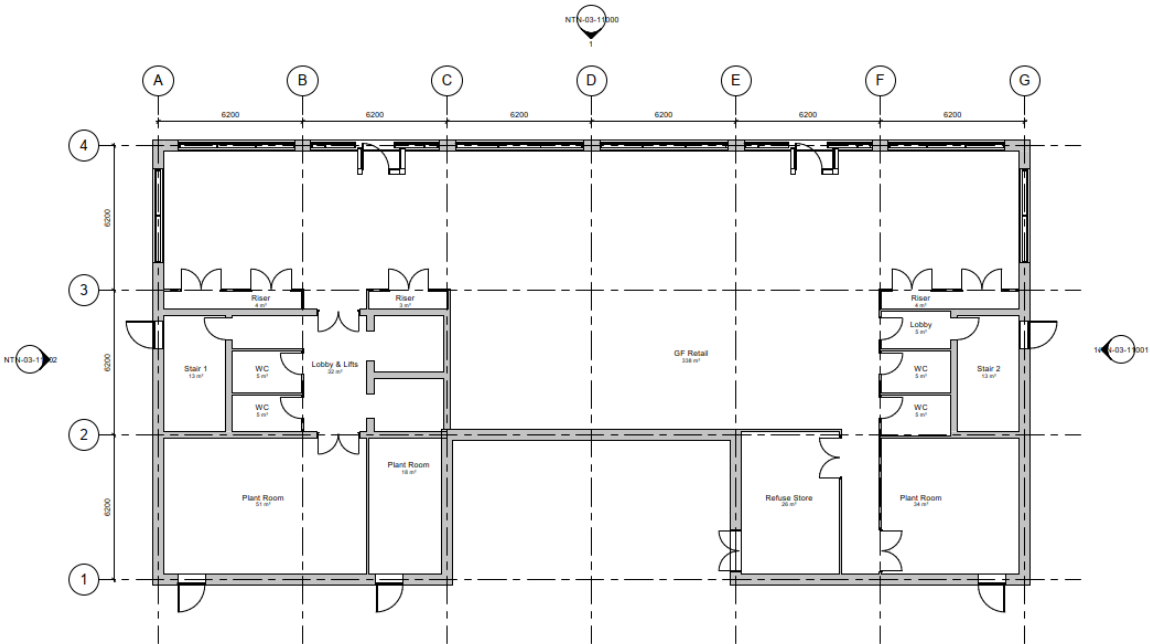
a. Glare shall not be created upon the public highway by the lighting sources within the car park or by vehicles manoeuvring around the car park.



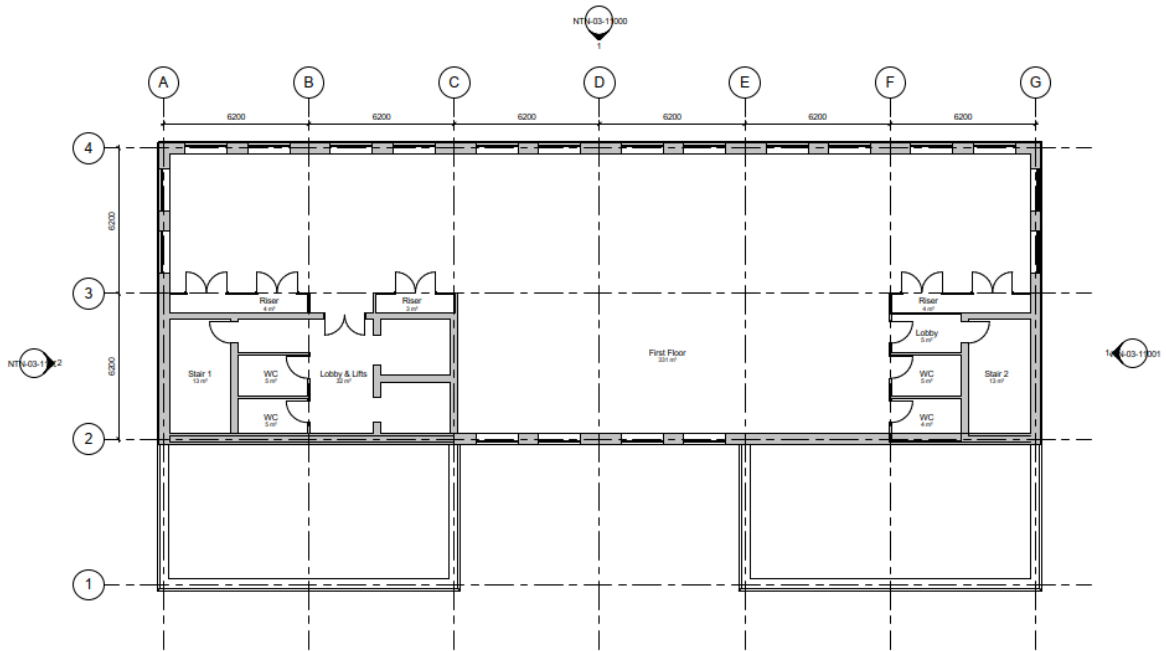
Site Location Plan



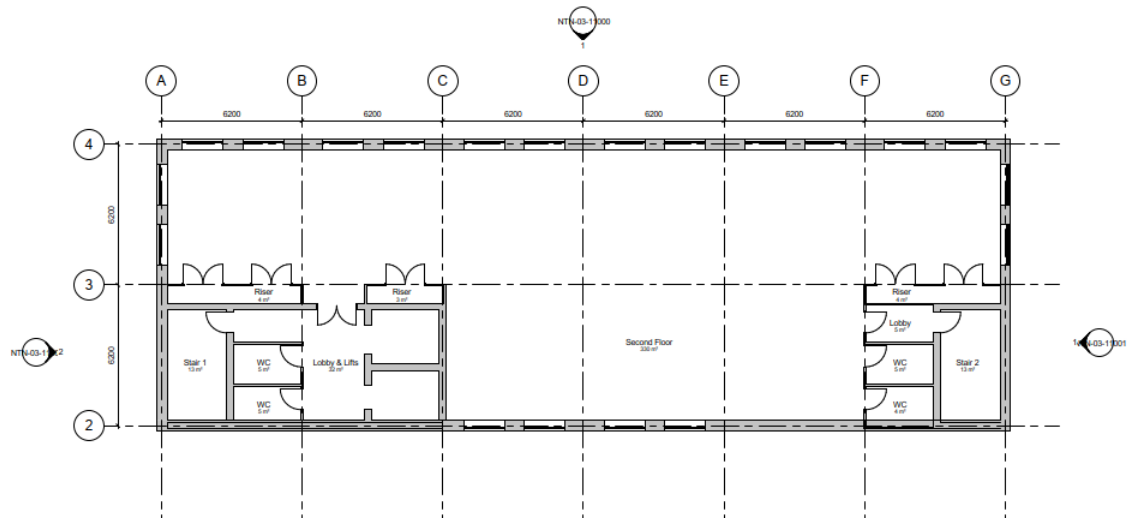
Proposed Site Plan



Plot 3- Ground Floor Plan



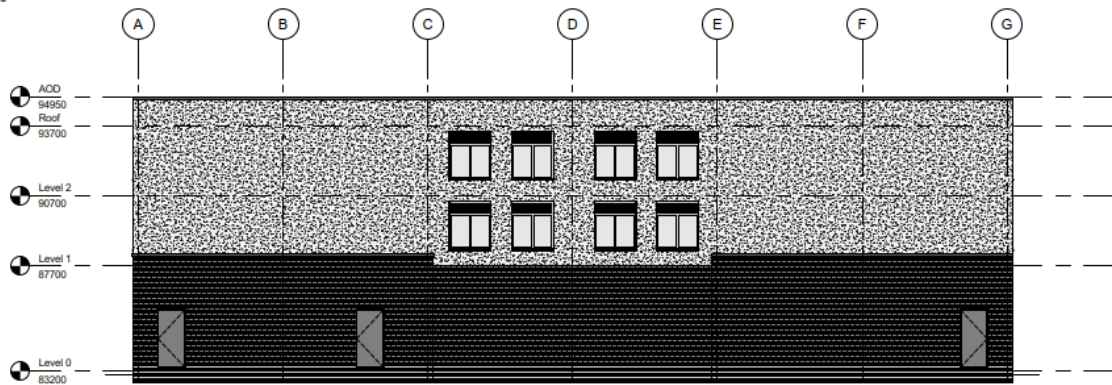
Plot 3- First Floor Plan



Plot 3- Second Floor Plan

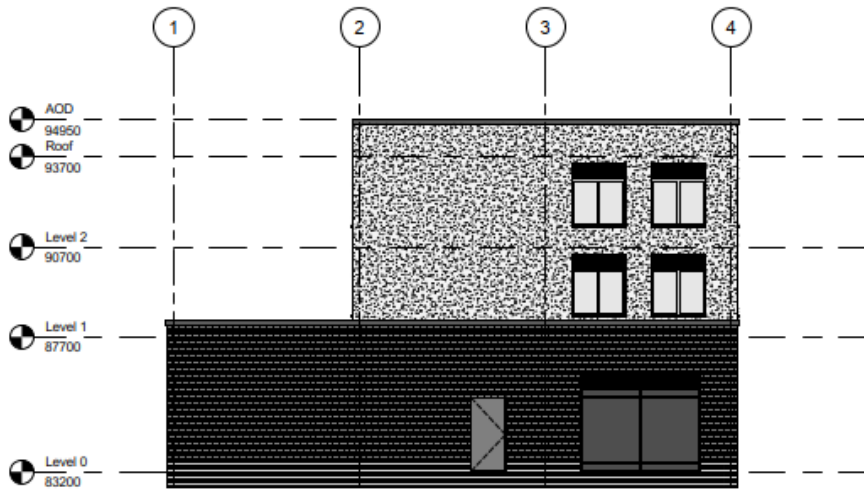


North  
1 : 100

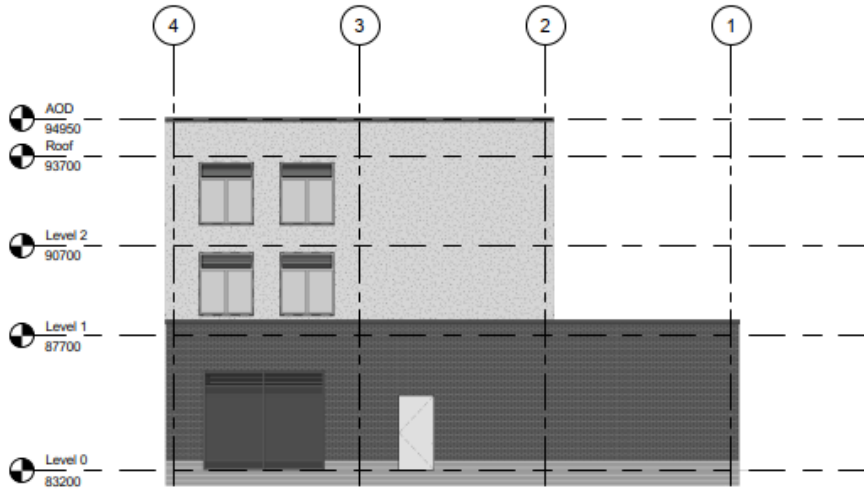


South  
1 : 100

Plot 3- North & South Elevations

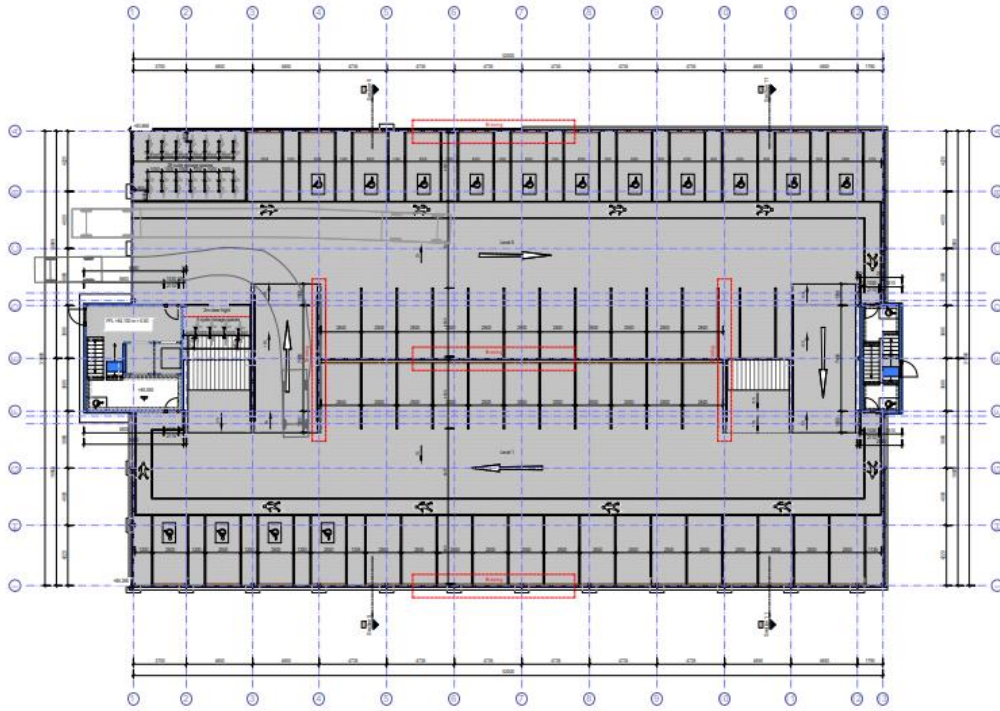


**East**  
1 : 100

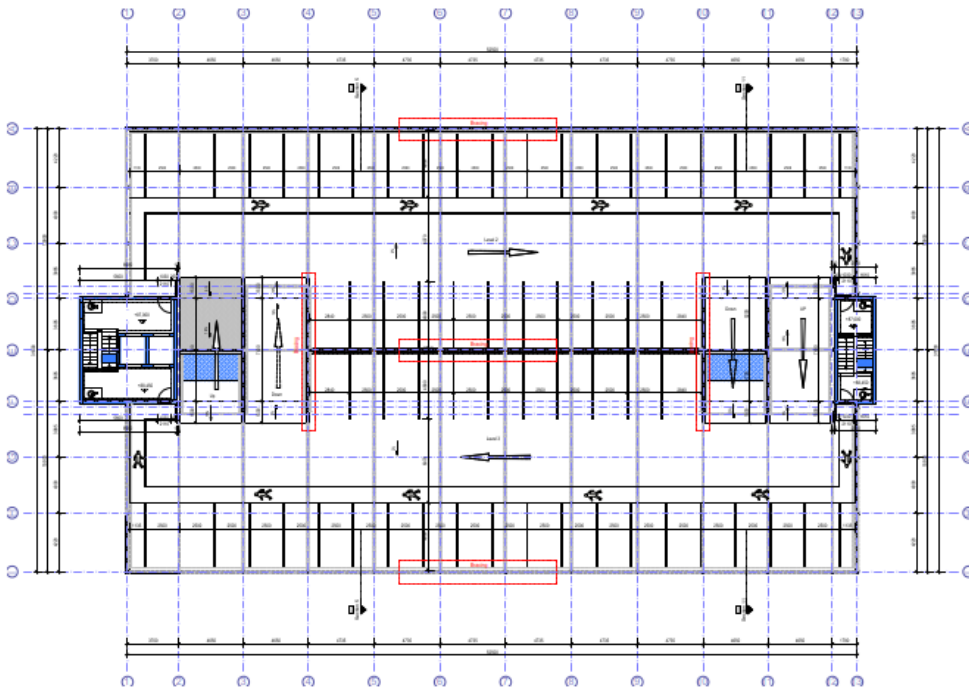


**West**  
1 : 100

Plot 3- East & West Elevations

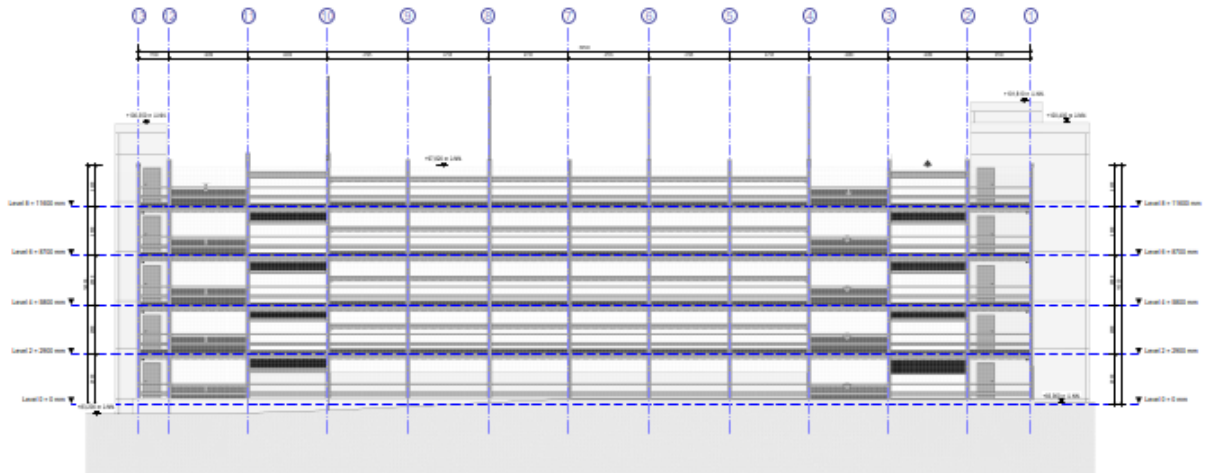


Plot 4- Level 0 & 1

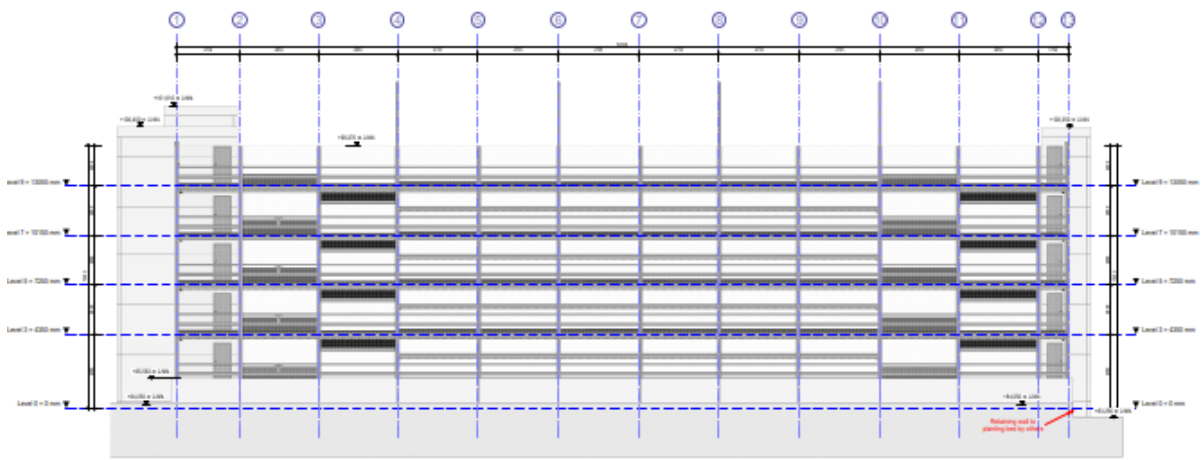


Level 2 / 3  
M 1:100

Plot 4 Level 2 & 3



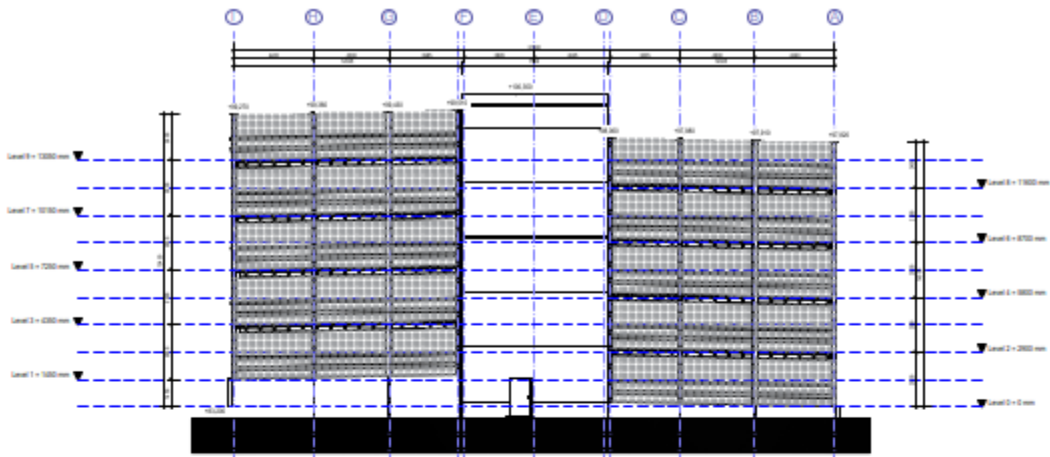
North elevation



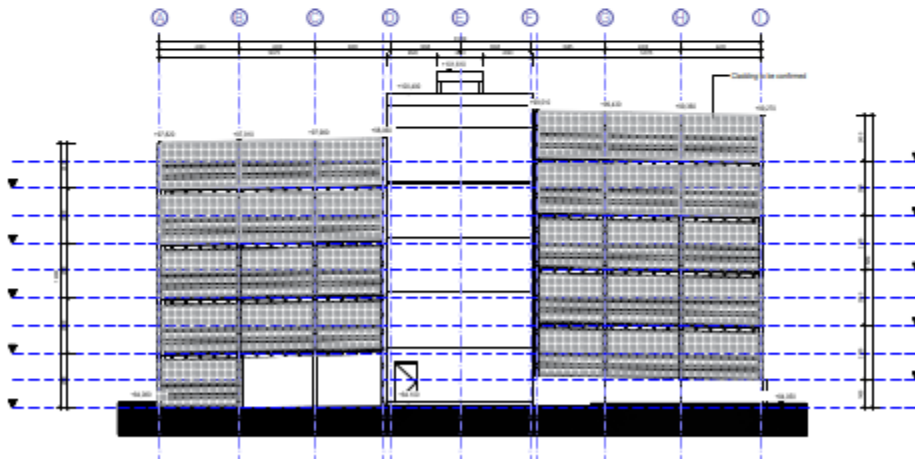
South elevation

Plot 4- North & South Elevations





East  
S 1:100



West  
S 1:100

Plot 4- East & West Elevations

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## Item No. 2

**REFERENCE No.** 039369

**Site Address:** Site 28B003 - Land off Weddington Road, Nuneaton, Warwickshire

**Description of Development:** Erection of up to 700no.dwellings with public open space, retail unit (use class F2), landscaping, and sustainable drainage system (SuDS) and vehicular access point from Weddington Road (outline including access)

**Applicant:** Gladman Developments Ltd

**Ward:** WE

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### **RECOMMENDATION:**

Planning Committee is recommended to make a resolution to refuse planning permission and defend the appeal against non-determination on that basis for the reasons as printed.

### **INTRODUCTION:**

This application is for the erection of up to 700no.dwellings with public open space, retail unit (use class F2), landscaping, and sustainable drainage system (SuDS) and vehicular access point from Weddington Road. It is an outline application including access. The application site is greenfield and extends across an area of approximately 47.5 hectares and currently accommodates three agricultural fields of arable crop with hedgerow boundaries. Several drainage channels and boundary hedgerows cross the site, forming field boundaries. The site also has public footpaths running through it. The site is located along the western edge of Weddington to the south of Weddington Road and adjacent to a disused railway line, now Weddington Country Walk and National Cycle Route 52. To the north and west is predominantly agricultural land. To the south of the site is an agricultural field through which the river Anker runs. To the east is residential development.

### **BACKGROUND:**

As noted above, this is an outline application. Apart from the principle of development the following matter is also to be considered at this stage:

- Access – accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.

The following matters are reserved to be considered at a future stage and do not form part of the application:

- Layout – the way in which buildings, routes and open spaces are provided within the development and their relationship to buildings and spaces outside the development.
- Scale – the height, width and length of each building proposed in relation to its surroundings.
- Appearance – The aspects of a building or place which determine the visual impression it makes, including the external built form of the development.
- Landscaping – Treatment of private and public space to enhance or protect the site's amenity through hard and soft measures, for example, through planting of trees or hedges or screening by fences or walls.

### **RELEVANT PLANNING HISTORY:**

- 035538: Residential development of up to 775 dwellings with public open space, A1 retail unit, landscaping and sustainable drainage system and vehicular access. Outline with all matters reserved except for access. Includes widening of part of footpath N26 to provide emergency access: Refused 30/04/2019.

### **RELEVANT PLANNING POLICIES:**

- Nuneaton & Bedworth Borough Council Borough Plan 2019:
  - DS1- Presumption in favour of sustainable development;
  - DS2 – Settlement Hierarchy and Roles;
  - DS3- Development Principles;
  - DS5- Residential Allocations;
  - DS8 – Monitoring of Housing Delivery
  - SA1- Development Principles on Strategic Sites;
  - H1- Range and mix of housing;
  - H2- Affordable Housing;
  - TC3- Hierarchy of Centres;
  - HS1 – Ensuring the Delivery of Infrastructure;
  - HS2- Strategic Accessibility and Sustainable Transport;
  - HS5- Health;
  - HS6- Sports and exercise;
  - NE1- Green Infrastructure;
  - NE2- Open Space;
  - NE3- Biodiversity and Geodiversity;
  - NE4- Managing Flood Risk and Water Quality;
  - NE5- Landscape Character;
  - BE1- Contamination and Land Stability;
  - BE3- Sustainable Design and Construction and
  - BE4- Valuing and Conserving our Historic Environment
- Affordable Housing SPD 2020.
- Sustainable Design and Construction SPD 2020.
- Air Quality SPD 2020.
- Transport Demand Matters SPD 2021.
- Open Space and Green Infrastructure SPD 2021.

- National Policy Planning Framework (NPPF).
- National Planning Practice Guidance (NPPG).

### **CONSULTEES NOTIFIED:**

Cadent Gas, Environment Agency, George Eliot Hospital Trust, Hinckley & Bosworth Borough Council, Leicestershire County Council Highways, Natural England, National Highways, NBBC Environmental Health, NBBC Housing, NBBC Parks, NBBC Planning Policy, NBBC Refuse, NBBC Sports Development, NBBC Tree Officer, Network Rail, North Warwickshire Borough Council, NHS Coventry & Warwickshire Integrated Care Board, Severn Trent Water, Warwickshire Fire & Rescue, Warwickshire Fire Safety, Warwickshire Police (Architectural Liaison Officer), Warwickshire Police (Place Partnership), Western Power Distribution, WCC Archaeology, WCC Flood Risk Management, WCC Highways, WCC Infrastructure, WCC Rights of Way.

### **CONSULTATION RESPONSES:**

Objection from:

Leicestershire County Council Highways, National Highways, NBBC Planning Policy, NBBC Tree Officer, North Warwickshire Borough Council, WCC Highways

No objection subject to conditions from:

Environment Agency, Natural England, NBBC Environmental Health (noise), Warwickshire Fire & Rescue, Warwickshire Fire Safety, WCC Archaeology, WCC Flood Risk Management, WCC Rights of Way

No objection subject to Planning Obligations from:

George Eliot Hospital Trust, NBBC Sports Development, NHS Coventry & Warwickshire Integrated Care Board, WCC Infrastructure

No objection from:

Hinckley & Bosworth Borough Council, NBBC Refuse, Warwickshire Police (Architectural Liaison Officer)

Comment from:

NBBC Environmental Health (air quality)

No response from:

Cadent Gas, NBBC Environmental Health (contamination), NBBC Housing, NBBC Parks, Network Rail, Severn Trent Water, Warwickshire Police (Place Partnership), Western Power Distribution

### **NEIGHBOURS NOTIFIED:**

451 (Ashleigh), 453 (Avondale), 455,457,459 Weddington Road; Canal Farm,1 & 2 Canal Farm Cottages Tuttle Hill; 2-62 (even) Adderley Avenue; 2-10 (even) Vines Lane; The Grange, Anker Cottage Farm, Nursery House, The Beeches, Fincher Place, Puefey Lodge, Greenacre, 1-10 (inc) The Courtyard Caldecote Lane Caldecote; 17 (Primrose Cottage), 18 (Hayfield) Weddington Lane Caldecote.

Neighbouring properties were sent letters notifying them of the proposed development on 17<sup>th</sup> January 2023. Site notices were erected on street furniture on 19<sup>th</sup> January 2023 and the application was advertised in The Nuneaton News on 1<sup>st</sup> February 2023.

## **NEIGHBOUR RESPONSES:**

There have been 67 objections from 62 addresses as well as 2 objections with no address provided. The comments are summarised below;

1. Not enough schools
2. Not enough medical facilities.
3. Traffic in and out and out of Weddington is it an extreme high.
4. Loss of countryside and open fields.
5. Increased flooding
6. Lack of local shops and facilities.
7. Impact on and loss of wildlife.
8. Increase in traffic and congestion.
9. Do not need any more new homes.
10. Impact on future generations.
11. Roads and infrastructure can't cope.
12. Increased air and noise pollution.
13. Loss of agricultural land.
14. Inappropriate development as site not allocated in the Borough Plan.
15. Overload the sewerage system.
16. Biodiversity loss.
17. Loss of Green Belt land.
18. Nuneaton is turning into a giant housing estate.
19. Encroachment into Caldecote.
20. Loss of views.
21. It would not bring anything positive to Weddington or the surrounding areas.
22. This area of Nuneaton has been overdeveloped.
23. Loss of privacy.
24. Increased light pollution.

## **APPRAISAL:**

The key issues to assess in the determination of this application are;

1. The principle of the development,
2. Affordable Housing,
3. Visual amenity and landscape character,
4. Residential amenity,
5. Highway safety and accessibility,
6. Uses on the site,
7. Flood risk and drainage,
8. Air quality,
9. Ecology and Biodiversity,
10. Heritage and archaeology,

11. Contamination and land stability
12. Planning obligations,
13. Conclusion

### **1. The Principle of Development**

The National Planning Policy Framework (NPPF) establishes the need for the planning system to achieve sustainable development and it breaks down sustainable development into three key constituents which are; economic, social and environmental dimensions (paragraphs 7 and 8). The NPPF also sets out a presumption in favour of sustainable development (paragraph 11). In broad terms, this means that the application should be approved providing that it is in accordance with the development plan and other policies within the NPPF, unless material considerations or adverse impacts indicate otherwise (paragraph 11). The presumption in favour of sustainable development is also set out in Policy DS1 of the Borough Plan (2019) which should be seen as a golden thread running through both plan making and decision taking.

Policy DS2 of the Borough Plan sets out the hierarchy and roles for each settlement in the borough with Nuneaton having the primary role for employment, housing, town centre, leisure and service provision.

The site is located outside of the settlement boundary and is located within the open countryside for planning policy purposes.

Policy DS3 of the Borough Plan states that all new development will be sustainable and of a high quality, fully supported by infrastructure provision, as well as environmental mitigation and enhancement, as required in the policies contained within the Plan. It goes on to state that new development within the settlement boundaries, as shown on the proposals map, will be acceptable subject to there being a positive impact on amenity, the surrounding environment and local infrastructure. Further, it states that new unallocated development outside the settlement boundaries, as shown on the proposals map, is limited to agriculture, forestry, leisure and other uses that can be demonstrated to require a location outside of the settlement boundary.

NBBC Planning Policy have advised that the site is not allocated for residential development in the Borough Plan. They also state that the Inspector's Report on the Examination of the Borough Plan addressed the issue of further development to the north of Nuneaton. The Inspector identified the area was not a sustainable location for development citing the distance from employment sites in the south, access to town centre facilities, healthcare and lack of public transport to Coventry. The report states:

*“Extending further into the area of non-Green Belt land to the north of Nuneaton would result in peripheral growth some distance from the town centre, the larger employment sites to the south of the town, the hospital and from good transport links to Coventry. The latter is significant given a key element of the housing requirement is meeting the City's needs. The result would be a ‘top heavy’ spatial strategy well beyond reasonable cycling distances and direct public transport*

*linkages to Coventry. It would not be a sustainable pattern of development or the most appropriate strategy”.*

It also states:

*“The significant issue for future growth in Nuneaton is the fact that land north of Nuneaton comprises the principal undeveloped area of the Borough that is not Green Belt. Unsurprisingly it has been a consistent area of focus and to some extent provides a logical direction of growth during the plan period. Whilst it can accommodate an appreciable proportion of the Borough’s growth to 2031, there are sound reasons why the Plan should not allocate further development in this direction.*

*On submission, the Plan allocated 3,331 homes on land north of Nuneaton. Through subsequent consents to 1 April 2018 this number has increased to 4,419 homes. Broadly, this one location already accounts for nearly a third of the housing requirement. The land identified in the Plan is well-related to existing housing and forms the next logical extension to the town at this location as evidenced through the SHLAA and SA. Accordingly, additional peripheral areas of land would be further removed from existing jobs and services in Nuneaton and planned facilities yet to be built north of Nuneaton including the link road and additional schools. Additional peripheral development at this location would result in a disjointed and unsustainable pattern of development.*

*There also needs to be realism about what can be delivered in one sizeable direction of growth. Whilst past build out rates are to be treated with caution, expanding north of Nuneaton yet even further would result in a scale of development well beyond what the market has previously sustained, even in buoyant years.”*

The proposal relates to the erection of residential development which does not fall within any of the development categories supported within Policy DS3 and the proposal therefore results in conflict with the provisions of this policy.

It is recognised that the applicant has challenged the Council’s 5 year housing land supply in the submitted planning statement. A previous application (ref no. 035538) for the development of up to 775no. dwellings on this site was previously considered by the council and was refused planning permission. However, the principle of the development was not considered to be unacceptable as the Council could not demonstrate a 5 year housing land supply at that time and as a result, the application was refused on highway safety grounds only. Consideration should therefore be given to any changes to the Council’s 5 year housing land supply position since determining the previous application.

The NPPF states that to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed (paragraph 60). Consequently, the NPPF sets out that local

planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement (paragraph 74).

Annex 2 of the NPPF sets out that to be deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. It goes on to state that where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

Consideration should be given to the recently issued Inspectors' decision of appeal APP/W3710/W/22/3301839 relating to planning application reference 037294 at Tunnel Road, Nuneaton. In this appeal decision which related to the erection of residential development located beyond the development boundary, the Inspector discussed the Council's housing land supply. Within the appeal itself, the Council's position was that it could demonstrate a deliverable supply of 6,819 dwellings which equates to 5.67 years, whilst the appellant asserted the Council's supply would be calculated as either 4.68 or 4.94 years (depending on which of the two alternative calculation approaches is adopted).

In summary, the appellant disputed the deliverability of 8 allocated sites to include HSG2, HSG3, HSG4, HSG5, HSG7, HSG9, HSG10 and HSG11, as set out within the Borough Plan 2019. The Inspector carried out a review of each of the sites and when having regard to the definition of deliverability set out within the NPPF and Paragraph 007 (Reference ID: 68-007-20190722) of the Planning Practice Guidance, and when also having regard to the evidence put forward by the appellant and the Council during the course of the appeal. In summary, the Inspector discounted a total of 876 dwellings which reduced the Council's supply from 6,819 to 5,943, equating to a 4.94 years supply. The Inspector therefore concluded that the Council was unable to demonstrate a 5 year supply of deliverable housing sites.

On the basis of the above, the Inspector engaged paragraph 11 (d) of the NPPF (2023) which sets out that the policies that are most important for determining the application should be considered out-of-date, and the 'tilted balance' was engaged. On the basis that the Inspector concluded the development plan policies to be out of date, the conflict identified with the Borough Plan 2019 were afforded diminished weight in the decision making process, however the Inspector did still confirm that the identified conflict with the development plan did still weigh against allowing the proposal.

Following this appeal decision, NBBC Planning have prepared a report which sets out how the Council has sought to obtain further evidence on the 8 sites challenged (as set out above) and has reviewed its assumptions on the delivery of sites highlighted by the Inspector. The Council has also looked at whether any further sites which would feed into the supply have come forward since the Inspector's decision. An updated 5 year housing land supply calculation has been carried out and provides the Five Year Housing Land



Supply (5YHLS) calculation as of 1<sup>st</sup> April 2023, for the five year period from 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2028. The summary has been produced in accordance with the National Planning Policy Framework (2023) and associated national planning policy guidance. The calculation is based on the housing requirement of 14,060 dwellings set out in the Nuneaton and Bedworth Borough Plan covering the period 2011-2031.

In calculating the 5YHLS, the Council has accounted for the shortfall from previous years and accommodated it over the remainder of the plan period (the “Liverpool method”). The Council is utilising a stepped trajectory, delivering a target of 502 dwellings per annum for 2011-2018 and 812 dwellings per annum for 2018-2031. In accordance with Government guidance, a 20% buffer has been applied to address historic under-delivery. The shortfall in delivery has totalled 1,541 dwellings between 2011 and 2023.

The 5YHLS is based on the updated 2023 Housing Trajectory containing the full list of deliverable housing sites. This comprises permitted sites (with both full and outline permission), prior notification sites, strategic housing allocations, non-strategic housing allocations and resolution to grant sites. The trajectory sets out the sites considered to be deliverable within 5 years. A 10% deduction for non-implementation of small sites equating to 18 dwellings per year, and a windfall allowance of 22 dwellings per year, has been applied based on past trends.

**Five Year Supply Calculation (utilising the Liverpool method)**

|   |                 |
|---|-----------------|
| Dwellings needed per year   | 812             |
| Actual completions  | 6033            |
| What should have been completed in the <b>12 years</b>  | 7574            |
| Shortfall in the <b>11 years</b>  | -1541           |
| Housing supply needed over next 5 years (Stepped Trajectory 812 x5)   | 4060            |
| Short fall spread over the remainder of the plan period i.e. <b>1541/8</b>  | -192.63         |
| Shortfall rounded up (per year)   | <b>193</b>      |
| Total shortfall for the next 5 years ( <b>193 x 5</b> )   | 965             |
| Need plus the short fall ( <b>4060 + 965</b> )  | 5025            |
| Per annum ( <b>5025/5</b> )   | 1005            |
| 20% buffer (of the Total need plus the shortfall)   | 1005            |
| Number of dwellings required over 5 years plus the 20% buffer ( <b>5025 + 1005</b> )  | 6030            |
| Dwellings needed per year over 5 year period ( <b>6012/5</b> )  | 1206            |
| Supply:<br>Full Planning permission: 944 dwellings<br>Outline Planning permission: 268 dwellings<br>Prior Notification: 13 dwellings<br>SHLAA sites: 510 dwellings<br>Allocations: 4845 dwellings<br>Resolution to Grant Sites: 0<br>Windfalls and Prior Approvals: 110<br>10% deduction for non-completion on small sites: -90 | <b>6600</b>     |
| <b>Number years supply (6600/1206)</b>  | <b>5.472637</b> |

On the above basis, the Council is able to demonstrate a deliverable 5 year housing land supply and for the purposes of the NPPF (paragraph 11 (d)), the policies which are most important for determining the application are not considered to be out-of-date. Therefore, the 'tilted balance' is not engaged and the Council should assess the proposal in line with the development plan and any other material planning considerations.

Even if a 5 year housing land supply could not be demonstrated, Policy DS8 provides that: "... Where additional housing sites need to be brought forward, initial priority will be given to sustainable sites, including town centre redevelopment opportunities in Nuneaton and edge of settlement sites, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits."

The foregoing reflected the Local Plan Inspector's report: "...Where there is a need to deliver in the short term and there is not a deliverable supply, then the basic contingency may well be the release of additional sites. Where this is demonstrably necessary, the priority should be the redevelopment opportunities emerging in Nuneaton town centre

and elsewhere at the edge of settlements in accordance with the modified settlement hierarchy in Policy DS2.”

Thus, even if a 5 year housing land supply could not be demonstrated, the focus would be on redevelopment opportunities in Nuneaton town centre and elsewhere in the Borough at the edge of settlements. The development of this application site is thus not supported as a location by this contingency policy.

As set out in the NPPF (paragraph 12), where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The site is located outside of the settlement boundary where the principle of new open market residential development would fail to accord with the provisions of Policy DS3 of the Borough Plan. The proposal would therefore result in additional housing being located outside of the defined settlement boundaries which would undermine the Council's strategic housing aims. NBBC Planning Policy also object to the proposal on its failure to accord with the strategic aims of the Borough Plan 2019.

In summary, the proposal is not considered to represent a sustainable form of development and there are no material planning considerations which indicate that the principle of the development should be assessed other than in accordance with the Council's development plan. Therefore, the principle of the development is considered to be unacceptable.

Consideration has been given to the loss of agricultural land. The NPPF defines 'best and most versatile agricultural land' as land within grades 1, 2 and 3 of the Agricultural Land Classification (Annex 2). The Agricultural Land Classification of the proposed site indicates that small areas of the site to the south and southwest are grade 2 (considered to be of very good agricultural quality) and a larger band from south west to north east is considered to grade 3a (considered to be good quality agricultural land), with the remaining site area classed as grade 3b (of moderate quality). The application would therefore result in the loss of best and most versatile agricultural land, however, there are no Borough Plan Policies which would warrant a refusal of the application on this ground alone. Additionally, Natural England have been consulted on the application and have not objected to the proposal on this basis. Nevertheless, the loss of such land is a negative impact to be weighed in the planning balance.

## **2. Affordable Housing**

Policy H2 of the Borough Plan requires 25% of all new developments to be affordable on sites of 15 dwellings or more. The application proposes 25% of the dwellings to be affordable which is therefore acceptable. As this is an outline application, no further details have been submitted in relation to the affordable housing mix or the location. This would form part of subsequent reserved matters and an assessment would be made at that time regarding compliance with Planning Policy and the Affordable Housing SPD.

In terms of general market housing, Policy H1 of the Borough Plan states that development is required to provide a mix of housing types, sizes and tenures based on the need and demand identified in the most up to date Strategic Housing Market Assessment (SHMA), as well as the characteristics of the surrounding area. As this is an outline application, no further details have been submitted in relation to the housing mix. This would form part of subsequent reserved matters and an assessment would be made at that time. Any subsequent reserved matters application will need to align with the most recently published housing mix as detailed in the Housing and Economic Development Needs Assessment (HEDNA).

### **3. Visual Amenity & Landscape Character**

The NPPF states that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (paragraph 130). Policy BE3 of the Borough Plan states that all development proposals must contribute to local distinctiveness and character and some of the key characteristics to review include street layout, plot size and arrangement and built form. As this is an outline application, details of design and layout are not to be considered at this stage and would form part of a future reserved matters application.

The NPPF establishes the importance of recognising the intrinsic character and beauty of the countryside (paragraph 174). Policy NE5 of the Borough Plan states that major development proposals must demonstrate how they will conserve, enhance, restore or create a sense of place, as well as respond positively to the landscape setting in which the development proposal is located.

Nuneaton and Bedworth Borough Council commissioned a Landscape Character Assessment in 2012 which was updated in 2016. This uses Landscape Character Assessment as a decision-making tool to classify the landscape into distinctive areas based on the interaction between landform, geology, land use, vegetation pattern and human influence. Its role is to ensure that future change does not undermine the characteristics or features of value in a landscape. In 2022, the Council commissioned FPCR to undertake a review of the Nuneaton and Bedworth Landscape Character Assessment (2012). The Landscape Character Assessment (2023) is based upon the original assessment prepared by TEP in 2012 and has been updated as required. The Landscape Character Assessment (February 2023) replaces the 2012 version and provides the most up-to-date landscape character information for the borough.

In terms of landscape hierarchy, Policy NE5 sets out that major development proposals must take account of the landscape strategy set out in the Landscape Character Assessment. Outside of the strategic sites and urban area, developers must show they have sequentially considered development opportunities in areas of least landscape value first, prior to any development proposals being permitted in higher value landscape character areas. The areas of search will follow the landscape hierarchy in the order set out below:

1. Restore and create
2. Enhance and restore
3. Enhance
4. Conserve and enhance
5. Conserve

The TEP Land Use Designations Study (2012): Volume 3: Site analysis and Selection, describes the Landscape Character of this land parcel as Anker Valley Estate Farmlands (the particular site was referred to as NB13). The landscape value was considered to be 'Moderate' strength and stated: "The remainder of the landscape is rural with prominent linear woodlands. Urban edges are frequently visible although to the west around Weddington the land is more rural and retains a village edge appearance which would be adversely altered if development became more prominent in the landscape."

This specific parcel of land was stated as having 3 out of 5 moderate conformance with Green Belt criteria. The study states that parcels which perform and make a strong contribution to criteria 2 (to prevent neighbouring towns from merging into one another) and 4 (to preserve the setting and special character of historic towns) in particular were considered as more suitable as potential land for inclusion as Green Belt. This parcel did not make a contribution to these two criteria and therefore was not considered appropriate for Green Belt designation. The study goes on to say that "the key characteristics that need to be conserved include farmland contained by intact hedgerows and clusters of hedgerow trees, linear copse woodlands and wooded streams.' Any change which made urban development more prominent would have a negative effect on rural character." Furthermore, the land is identified as a 'sensitive landscape' with 'important landscape features'.

The study also states that this parcel has a distinctive character. The landscape makes an important contribution to the setting of this edge of Nuneaton around Weddington. Weddington Country Walk is a disused railway and prominent wooded feature. To the north of this, the landscape is more rural in character with large arable fields and long views. Development is not often visible in this landscape.

Following the first stage of landscape work which informed the Borough Plan 2019 which comprised of a landscape character assessment of the Borough, landscape policy review and a study to identify the likely constraints to future development within the Borough that involved site analysis and selection, a second stage was carried out which involved an individual landscape and visual appraisal of potential development areas that have been identified by Nuneaton and Bedworth Borough Council. This site formed part of PDA2, Parcel 2A. This found the key features of the landscape character area to be generally a rural landscape in combination with visible urban edges, fields are bounded by well maintained hedgerows of mixed species and ditches along field boundaries are common and linear woodland along the disused railway are prominent. It found that it had an attractive landscape character and had a generally peaceful setting. Parcel 2A also forms an important part of rural views on the northern approaches into Nuneaton and is prominent in views from the PRoW network and wider landscape. In terms of landscape

capacity and scope for mitigation, it was considered that although mitigation through linear woodland planting would not be inappropriate, this parcel if developed would remain detached from the existing urban settlement by Hartshill Ridge and the disused railway line, which create strong definition and screening of the existing urban edge. Parcel 2A was considered to have very limited landscape capacity for development and was not recommended in landscape terms to be taken forward to LDF.

With regard to landscape hierarchy, paragraph 12.68 of the Borough Plan 2019 (within Policy NE5) states that it is recognised that some areas in landscape terms are less able to adapt to accommodating development than others. This is reflected in the landscape strategies. Landscape character assessment assumes that all landscapes have the potential to accommodate development, provided it is in keeping with their key characteristics. However, changes which do not respect the landscape's key characteristics and features are likely to be detrimental to the local landscape character. Mitigation therefore is likely to be least achievable/sympathetic in high quality landscapes, and more achievable where the landscape character is of a lesser quality. For this reason, the council will take a more restrictive approach to development in the highest quality landscapes, and direct development to landscapes of lesser value.

The applicant has submitted with the application and Landscape and Visual Impact Assessment (LVIA). The application does not appear to have considered development areas of least landscape value first and so does not meet the requirements of Policy NE5. The LVIA states that whilst there will be a loss of agricultural land to residential development, the scheme mitigates this with a number of generous green corridors, extensive swathes of public open space and new landscaping in addition to the retention of existing landscape features. Overall, there will be a partial loss of and alteration to some existing landscape characteristics, and whilst the introduction of new elements will be evident, these will not necessarily be uncharacteristic to the receiving landscape. Overall, visual effects will range between moderate/ minor to minor adverse upon visual receptors with effects mostly localised and limited to the immediate setting of the site.

It is considered that the proposed development of the site for up to 700no. dwellings with associated facilities on a greenfield site, albeit with some areas of open space and landscaping in place, would represent a substantial adverse change for the site itself and would not conserve or enhance the strength of character and the sites landscape condition. The application does not appear to have considered development areas of least landscape value first and therefore does not meet the requirements of Policy NE5. The scheme would fail to enhance the character of the landscape in this location and the residential development of the site would fail to accord with the recommendations of the Land Use Designations Study 2012. In addition, the proposal would also fail to accord with the requirements of the NPPF (paragraph 174) which seeks to contribute to and enhance the natural and local environment and recognise the intrinsic character and beauty of the countryside.

#### 4. Residential Amenity

BE3 of the Borough Plan states that all development proposals must contribute to local distinctiveness and character and one of the key characteristics to review is residential amenity. As this is an outline application, the layout is not being considered. Any future reserved matters application would need to ensure that distance standards are met in relation to the existing properties and within the site, in compliance with the Sustainable Design & Construction SPD 2020.

The NPPF states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability (paragraph 174). A noise assessment has been submitted with the application. This states that the dominant noise sources affecting the development site are road traffic on Weddington Road and rail movements on the Tamworth to Rugby and Nuneaton North Chord Railway lines. Mitigation requirements will depend upon the detailed design of the proposed development and such measures could include acoustic ventilation to be installed in living rooms and bedrooms located nearest to, and with a direct line of sight of, Weddington Road and the West Coast Mainline Railway. Alternatively, to meet the required noise levels, living rooms and bedrooms could be located on the screened side of the proposed buildings, away from the main sources of noise. NBBC Environmental Health have no objection subject to conditions covering an acoustic barrier, a noise attenuation scheme and an hours condition restricting construction hours.

However, the noise report does not take into account the potential noise impacts from the employment allocation to the north-east of the site which is under the jurisdiction of North Warwickshire Borough Council. The E4 allocation in the North Warwickshire Local Plan 2021 is for new employment provision south of the A5 which extends to the A444 and adjoins the far north-east corner of the application site. This allocation is for B2 General Industrial development which by definition is not suitable or appropriate in a residential area. There is an outstanding outline planning application (ref no. PAP/2022/0423) submitted to North Warwickshire Borough Council (NWBC) to progress with and implement this allocation. The development description is for:

“Extension of MIRA Technology Park to comprise employment use (Class B2); associated office and service uses (Class Eg); storage (Class B8); new spine road; car parking, landscaping and enabling works - All matters reserved”

The noise report has not demonstrated that there would be no adverse or unacceptable impact on the residential amenity of future occupiers of its proposals as a consequence of this allocation, particularly from additional HGV traffic generation, lighting, noise, air quality and 24 hour working. North Warwickshire Borough Council have objected on this basis. The previous application was not refused on this ground as at that time the Local Plan had not been adopted and NWBC were not dealing with an application on the site. As the Local Plan is adopted and an application has been submitted it is considered that this issue carries more weight.

The NPPF states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established (paragraph 187). NWBC object on this basis. It has not been demonstrated that that the proposed development would not lead to unacceptable restrictions being placed on the operations and activity undertaken by the future occupiers of the allocated site E4.

## **5. Highway Safety & Accessibility**

The NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users (paragraph 110). Vehicular access to the site will be taken from a new four-arm roundabout on Weddington Road, approximately 250m north of the existing Weddington Road/Lower Farm Way roundabout. The NPPF also states that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (paragraph 110) and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (paragraph 111).

Policy HS2 of the Borough Plan sets out that transport proposals in line with those identified in the Coventry and Warwickshire Local Enterprise Partnership Strategic Economic Plan, Warwickshire County Council Local Transport Plan 2011 - 2026 and Warwickshire County Council Cycle Network Development Plan will be approved. The Policy goes on to state that where a development is likely to have transport implications, planning applications are required to clearly demonstrate how the following issues are addressed:

1. How the development ensures adequate accessibility in relation to all principal modes of transport.
2. Whether the development identifies suitable demand management measures.
3. The impact on air quality and measures proposed to ensure impact is not exacerbated. The council would support measures such as the provision and integration of infrastructure which may help to deal with the issues of air quality, such as electric vehicle charging points.
4. The connectivity of the development to strategic facilities.
5. How the development delivers sustainable transport options in a safe way that link to the wider transport network.
6. Whether the proposal will meet acceptable levels of impact on existing highways networks and the mitigation measures required to meet this acceptable level.

A Transport Assessment (TA) has been submitted with the application. WCC Highways have reviewed this and the application and have raised an objection.

In terms of trip generation, the assumptions adopted in the TA are considered acceptable, however, these should ideally be reflective of site location and mode choice identified



locally and in comparison to other similar sites. WCC Highways have confirmed that they tend to prefer these are more refined at planning application stage rather than adopting those assumed in strategic Local Plan modelling.

In relation to traffic surveys, these were undertaken by the applicant in June 2022. At the time of issuing the survey permits Warwickshire County Council advised that they were expecting to recommence modelling surveys from September onwards, but will be checking their long term monitoring data before making that decision. WCC Highways are still experiencing significant changes in travel behaviour and any new surveys that the applicant commissions will have to be compared against their long term monitoring equipment in the area. Since this time Department for Transport have advised that in 2022 patterns are more normal, but it is too soon to regard them as stable in relation to undertaking surveys for strategic model updates. Therefore the County Council will be commencing model update surveys from 2023 onwards.

On this basis, WCC Highways would not accept the use of the submitted survey data to challenge the validity of the Nuneaton and Bedworth Wider Area (NBWA) Paramics model and would insist that the model is used in its current form with no changes to the underlying assumptions relating to traffic data, until such a time a model is available of the area with up to date data and sufficient in scope to ascertain the strategic impacts of the development.

In terms of traffic growth, the applicant is presenting traffic growth information from Tempro when area specific growth information in accordance with the adopted Local Plan and utilising approved trip generation from approved planning applications, is available through extraction of forecast flows from the NBWA model. Due to the focussed growth in this area relating to the adopted plan and committed development, it is not possible to use this Tempro data to assess site access as stated in the Transport Assessment.

In relation to the modelling approach, the assessment years are not in line with requirements of the NPPF and WCC Highways require an end of Local Plan assessment, especially as this is an unallocated site. 2027 as final assessment year is not acceptable. The traffic distribution in the Transport Assessment discusses the use of Census and Mobile Network Data. However, only census data has been presented. This approach does not adhere to WCC Highways modelling protocol or scoping advice. Census has been used to assess site access distribution. This should be informed by the NBWA model. Using census which predates all committed development and is not inclusive of allocations is not an acceptable methodology. As an unallocated site in close proximity to the A5, it is required to assess the implications of the development on the performance of the A5, especially with regard to the Longshoot-Dodwells junction, which did formerly have a committed RIS2 scheme which has now been removed from the RIS. As a result, Warwickshire County Council, Leicestershire County Council and National Highways have drawn up a tri-partite agreement which requires any unallocated development and larger allocations to assess their impact on the junction through an agreed VISSIM model assessment.

In terms of site access assessments, these should be undertaken in accordance with the modelling protocol and the inputs to isolated junction modelling should be informed the NBWA microsimulation modelling. As such, WCC Highways confirm that none of the assessments submitted on site accesses are acceptable and presenting them in the manner is misleading and does not account for Local Plan and committed development growth accurately.

National Highways have been consulted on the application and have submitted a consultation response which recommends that the application should not be approved for a period of three months. They state that at present they do not have a sufficient level of information to assess the impact of the development on the operation of the Strategic Road Network (SRN), notably the A5 Corridor. They require provision of the strategic modelling which has been undertaken to ascertain the impact on the development proposals on the SRN and identify where mitigation is required. This is important to enable the development to come forward in a sustainable manner. In addition, they require an assessment of the development proposals through the A5 VISSIM Model, in accordance with the modelling protocol which has been agreed with Leicestershire County Council and Warwickshire County Council. They also note that in the submission there is a reference to a modal shift of 15% from single car occupancy to other mode. However, there is no clear strategy at present of how this would be completed except mention of a sustainable travel steering group and a sustainable transport fund and they have requested further clarity on the process and identification of a sustainable transport strategy. It should also be noted that the Inspector's Report on the Examination of the Nuneaton and Bedworth Borough Plan (April 2019) advised at paragraph 293 that *'the assumed modal shift to be targeted at 15% is aspirational but realistic.'*

The NPPF outlines the need for planning to promote walking, cycling and public transport and to make the fullest possible use of these (paragraph 102). It also states that growth should be focused on locations which are or can be made sustainable (Paragraph 104). The submitted Development Framework Plan shows that pedestrian and cycle access will be achieved from numerous points around the perimeter of the site which includes footways from the vehicular access point and footpaths from the south and south-east which provide connections into neighbouring residential areas and route 52 of the National Cycle Network. The site is close to the existing bus network, with the closest bus stop being within 400m of the site access and 500m to the centre of the site. However, it is also proposed to either provide new stop(s) on Weddington Road adjacent to the site or divert a service into the site subject to further post-application discussions with key stakeholders. Policy TC3 of the Borough Plan states that any new residential development should be within 1,200m walking distance of a district or local centre. The distance to the nearest existing local centres are significantly greater than this and therefore the application is proposing the provision of a new local centre. This would consist of a small retail store alongside up to 3 smaller units and parking spaces, electric vehicle charging and parcel drop off. NBBC Planning Policy Team have confirmed that that the central location, and the provision of additional retail units means the proposal does meet the requirements of Policy TC3 and they do not object on that basis. Policy TC3 also states that any new residential development should be within 8 minutes motor

vehicle drive time to a district centre. Both Horeston Grange district centre which is located to the south-east of the site and Nuneaton Town Centre are situated within an 8 minute drive of the site.

## **6. Uses on the site**

In addition to the residential development on the site, a number of other uses are proposed. Green Infrastructure comprises 27.1ha (equivalent to 57% of the total site area) and is based upon delivering accessible functional well designed green spaces. The submitted Development Framework Plan shows an illustrative layout with open space provision to include a community orchard, LEAP, NEAP, skatepark or BMX track together with allotment provision of 20no. plots and an area set aside for future expansion. The total formal Publicly Accessible Greenspace is 18.13 hectares. It appears that the provision is in accordance with the Open Space & Green Infrastructure SPD apart from the requirements for equipped play which appears to be below the required level of provision. However, as this an outline application with only access being considered at this stage, this level of detail would form part of a future reserved matters application. Conditions and provisions in a S106 agreement can be added to ensure that the provision meets the Council's requirements.

## **7. Flood risk and drainage**

The NPPF requires that consideration is given to the potential impact of flooding on new development whilst also ensuring that flood risk is not increased elsewhere as a result of it (paragraphs 159 and 167). It also sets out a sequential risk-based approach to the location of development to steer this away from the areas at highest risk. Further guidance is provided on flooding and flood risk in the National Planning practice Guidance. Borough Plan Policy NE4 also deals with Managing Flood Risk. Using the Environment Agency's Fluvial Flood mapping the site is within Flood Zones 1, 2 and 3. However, the proposed developable area of the site is contained within Flood Zone 1 which has a low level of fluvial flood risk.

The NPPF (paragraphs 157 and 158) describe the principles of the Sequential Test, which aims to steer new development to areas with the lowest probability of flooding. The Sequential Test is a decision-making tool designed to promote sites at little or no risk of flooding in preference to sites in areas at higher risk. The proposed developable area is contained within Flood Zone 1 and therefore complying with the aims of the Sequential Test. A Flood Risk Assessment has been submitted with the application. This states that much of the site is within areas of very low risk from pluvial flooding. Areas of low risk are restricted to field boundaries and the banks of the central watercourse, likely representing where hedgerows intercept overland flow and convey flow towards the central watercourse. There are no major flow routes of surface water runoff identified from the map that would pose a risk to the site. The overall risk of pluvial flooding to the site can be considered low. The Environment Agency has no objection subject to conditions.

In terms of surface water drainage, the proposed drainage strategy incorporates the use of attenuation basins with flow control to limit the discharge of surface water to the watercourse. This will promote sustainable drainage of the site and not exacerbate any

downstream flooding of the central watercourse and the River Anker. WCC Flood Risk Management have no objection subject to conditions.

In order to count towards the Public Open Space figure, any detailed drainage strategy would also need to accord with the Accessible Sustainable Drainage Systems (ASUDS) detailed design standards provided at Part 7 of Appendix 1 of the Council's Open Space and Green Infrastructure SPD (2021). Such a matter could be secured through the imposition of a planning condition and would also be a matter to address at the relevant reserved matters stage when layout is sought for approval.

## **8. Air Quality**

The NPPF states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified (paragraph 186). Policy HS2 of the Borough Plan 2019 states that where a development is likely to have transport implications, planning applications are required to clearly demonstrate the impact on air quality and measures proposed to ensure impact is not exacerbated. An Air Quality Briefing Note has been submitted with the application. This states that an air quality assessment was prepared in 2018 to accompany a planning application for a proposed development at Weddington Road (ref no.035538). In January 2022 an updated air quality assessment was prepared, considering the latest air quality modelling tools and data but it did not consider updated traffic data as it was unavailable. At the time of writing the briefing note, revised traffic data was still unavailable but once received the assessment prepared in January 2022 would be updated. NBBC Environmental Health have commented that until an updated air quality assessment report has been submitted by the applicant, that includes the updated traffic data, they are unable to provide comments relating to air quality for this application.

The submitted air quality assessment is therefore considered to be incomplete. On this basis, whilst the applicant may be able to demonstrate that the air quality impacts of the scheme could be acceptable, the details submitted to support the proposal are insufficient to determine the air quality impacts in full and that the air quality impacts of the proposal would be acceptable when having regard to the threats to human health. Therefore, the application fails to demonstrate that the proposal would be compliant with the requirements of Policy HS2 of the Borough Plan, the guidance set out within the NPPF (paragraphs 185 and 186) or the Air Quality SPD (2020) and section 18 of the Sustainable Design & Construction SPD (2020)

## **9. Ecology & Biodiversity**

The NPPF outlines a need to minimise the impact of proposed developments on biodiversity as well as contributing to and enhancing this where possible (paragraph 174 and 180). It particularly highlights the need to consider the impact on ecological networks, protected wildlife, priority species and priority habitats. Policy NE3 of the Borough Plan sets out that development proposals will ensure ecological networks and services, and

biodiversity and geological features are conserved, enhanced, restored and, where appropriate, created. The policy further states that development proposals affecting the ecological network and/or important geological features will be accompanied by a preliminary ecological assessment and/or, where relevant, a geological assessment. An ecological appraisal and an arboricultural assessment have been submitted with the application. The ecological appraisal demonstrates that the number of ecological constraints identified at the site is limited and restricted to a typical range of protected species issues and the usual need to retain trees and hedgerows while giving consideration to bats, nesting birds and reptiles. The appraisal makes a number of recommendations for biodiversity mitigation and enhancement measures which includes using soft landscaping using native and ecologically important species, a sensitive lighting strategy and the installation of bat and bird boxes which can be secured through conditions. To date, NBBC Parks have not commented on the findings of the ecological appraisal. It is noted that that previous application on the site was not refused on ecological grounds.

The Arboricultural Impact Assessment demonstrates that most hedgerows shall remain unaffected by the proposals, retained and incorporated into the scheme. The majority of existing tree cover is also unaffected by the development proposals and will become part of the additional structural buffer landscaping. To facilitate the new access, alterations to the current road layout and in order to accommodate the required visibility splays a number of trees require removal. Trees T1-T4, T37, T38, T39 and T40 along with the sections of G1 surrounding these shall all be removed. The most significant losses shall be the category B which are moderate quality trees (T1, T2, T4, T38, T39 and T40). Several small sections of the internal hedgerows H4, H6 and H7 would require removal to facilitate the proposed primary street layout. NBBC Tree Officer has commented that trees T1-4 and T38-40 are being removed purely to facilitate design and if the trees can be retained, then they should. The applicant's Highways consultant has provided a rationale behind the proposed roundabout and comments on the design which would be required for a signalised junction. In terms of road safety, a roundabout requires all drivers to slow on approach, this is to give-way to potential oncoming traffic, but also adjust to be able to safely move through the roundabout which requires vehicles to deflect from a straight path. This is very important due to future connectivity between the site and MIRA, to/from which there will be strong active travel connectivity, and so passing vehicle speeds are a key consideration. For a residential site in a peripheral location such as this, a compact roundabout offers a safer alternative to signals in this location. In relation to bus access, through discussions between the applicant and WCC Public Transport and Stagecoach, both wish to divert buses into the site in order to maximise the accessibility of services. This requires the internal road network to loop in order to offer the potential for bidirectional services through the site. Therefore a roundabout, with two site access arms fulfils this function without the need for an additional access locations which would otherwise need to be delivered and would have greater effect on the frontage as more land would be taken. In terms of tree loss, the location selected was carefully reviewed in light of the topographic survey information and to minimise tree loss. The preliminary design has been carefully optimised to minimise tree loss along the frontage whilst also complying with design standards and guidance. A signalised layout would require some

widening on approach, to facilitate a right turn lane from the A444 (north-west). Lanes are typically around 3.0m, meaning over a short distance on approach the road would need to be at least 9.0m wide, plus space for a refuge (1.2m to 2.0m). A width of 10.2m on the north-west approach to optimise operation would therefore be needed. A secondary access location (to allow buses to loop) would be a priority junction and offer a secondary access point. These would require visibility splays (potentially in-line with higher design speed standards), which would result in more extensive tree loss along the frontage. Alternative priority and signalisation schemes have been considered in the past and they do require the removal of vegetation and trees within these visibility splays.

NBBC Tree Officer has commented that if the trees cannot be retained then suitable mitigation should be sought. The Arboricultural Impact Assessment covers mitigation and states that the proposed mitigation strategy is to deliver new tree planting close to the original position of the removed material alongside Weddington Road in order to directly mitigate the loss of tree cover required for the proposed main access into the site. Suitable mitigation can be secured by a condition, requiring full details to be submitted alongside any reserved matters application seeking approval of layout and landscaping.

On the basis of the above, it is not considered that the loss of trees would be a reason for refusal. It is also noted that that previous application on the site was not refused on the loss of trees.

The ecological appraisal concludes that the development is not anticipated to result in any significant residual negative effects on important ecological features and could secure around a 15% net gain in habitat biodiversity, post development. A Biodiversity Offsetting Report has also been submitted which states that the proposed scheme will lead to the delivery of a total net gain in biodiversity of 15.26 for habitats and 1.42 for linear features. However, the application is not supported by the submission of the full biodiversity metric spreadsheet to demonstrate the inputs which have been used within the biodiversity impact calculation. The Council's Open Space and Green Infrastructure SPD (2021) requires the submission of the full spreadsheet calculation and underpinning maps of habitat areas used to input into the calculation to allow the inputs to be reviewed and to allow the Council to assess whether a net loss of biodiversity has been avoided. The SPD also sets out the required documents to accompany an outline planning application and specifically states that the submission must include the full calculation in an editable excel format as well as any other summaries of outcomes presented as text / images etc. The Council would also expect to see accurate pre and post-development habitat plans to accompany a Biodiversity Impact Assessment. Therefore, whilst the development may be able to secure a biodiversity net gain on site, the application has not been supported by sufficient supporting information to demonstrate the full biodiversity impacts of the proposal. In the absence of a detailed biodiversity offsetting metric to quantify the impact and to calculate an appropriate level of compensation to replace the lost habitat, it cannot be ascertained that the proposal would result in a biodiversity net gain which would accord with the biodiversity mitigation hierarchy.

## 10. Heritage & Archaeology

Under s66 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990, NBBC in determining the submitted application, has a statutory duty to have special regard to the desirability of preserving the special interest and setting of listed buildings. Case law has established that considerable importance and weight should be given to this duty. The NPPF states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, putting them into viable uses consistent with their conservation, as well as the desirability of new development making a positive contribution to local character and distinctiveness (paragraph 197). The NPPF also requires when considering the impact of development on the significance of a designated heritage asset that great weight should be given to the asset's conservation. Conservation is defined by the NPPF as 'the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance.' (Annex 2)

Policy BE4 of the Borough Plan states that development proposals which sustain and enhance the borough's heritage assets including listed buildings, conservation areas scheduled monuments, registered parks and gardens, archaeology, historic landscapes and townscapes, will be approved.

An Archaeology & Heritage Statement has been submitted with the application. The site does not contain any designated heritage assets. NWBC have raised an objection as it is intended to designate a Conservation Area at Caldecote. Substantive work including local consultation has already taken place. A Conservation Area Character Appraisal and Management proposal was prepared in August 2022 by NWBC. The Heritage Statement has been updated to include an assessment of this potential conservation area. The closest point of the proposed conservation area boundary is 0.22km north-west from the edge of the site boundary. Whilst there could be some impact on the character and appearance of the conservation area, as it has not yet been designated it is considered that this issue can only be afforded limited weight and would not be considered to be a reason for refusal. There are some designated heritage assets within the proposed Caldecote conservation area, namely Church of St Theobald and St Chad (grade II\*), the pair of chest tombs which are around 5 metres to the north of this church (grade II), and the chest tomb which is approximately 1.5metres south of the chancel of this church (grade II). However, these are located in the north-western part of the proposed conservation area, approximately 1km from the boundary of the application site. It is therefore considered that there would be no harm to their setting.

The Church of St James is a grade II Listed Building and is located approximately 0.5km southeast from the site. There is no intervisibility between this designated heritage asset and the site. It is not considered that the proposed development would create harm to the setting of the church, particularly as there is a relatively new development between the site and the church.

The statement highlights that there is potential for previously unrecorded archaeological remains to survive within the proposed development. Based upon the evidence recorded within the surrounding area as well as from the results of the geophysical survey undertaken across the site, it is considered that this potential is low to moderate for finds of all periods. WCC Archaeology have been consulted and are of the opinion that there is a significant potential for this site to contain within it archaeological remains dating from the prehistoric, Roman, and early medieval periods. WCC Archaeology have no objection subject to a condition covering a Written Scheme of Investigation for a programme of archaeological work to take place prior to the approval of any reserved matters application.

## **11. Contamination & Land Stability**

The NPPF set out that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination and to ensure that contaminated land does not affect the health of the future occupiers of new development (paragraphs 178 and 180). Policy BE1 of the Borough Plan also requires that development proposals located on or adjacent to land which may have been subject to contamination and/or land instability will need to demonstrate that measures can be taken to effectively mitigate the impacts of land contamination and instability on public health, environmental quality, the built environment and general amenity and that the development site is or will be made suitable for the proposed final use. Although NBBC Environmental Health have not responded to the consultation, given the site has been in agricultural use for a number of years there could be potential for contamination issues and therefore it is considered prudent to add the standard contaminated land conditions if the application was approved.

## **12. Planning Obligations**

The NPPF sets out that the planning obligations should be considered where otherwise unacceptable development could be made acceptable. However, paragraph 57 of the NPPF 2023 notes that these obligations should only be sought where they meet all of the following tests:

- a. necessary to make the development acceptable in planning terms;
- b. directly related to the development; and
- c. fairly and reasonably related in scale and kind to the development.

Paragraph 93 of the NPPF also outlines the need for planning to take account of and support local strategies to improve health, social and cultural well-being for all, and deliver sufficient community and cultural facilities and services to meet local needs.

Section 122 (2) of the CIL Regulations reiterates that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is compliant with these three tests. It is therefore necessary to have regard to these three tests when considering the acceptability of planning obligations.



| <b>Organisation</b>                    | <b>Request For</b>  | <b>Contribution</b>   | <b>Notes</b>   |
|--|---|---|--|
| <b>NBBC Parks</b>                      | Provision and maintenance of play and open space  | Awaiting response   |  |
| <b>WCC Education</b>                   | Monies for the provision and improvement of schools   | £6,243,981  | No discussions have taken place in respect of this request.  |
| <b>CCG</b>                             | Provision of healthcare facilities  | £932,802 towards of a new primary medical care facility or £562,681 towards improvements to existing off-site primary medical care facilities | No discussions have taken place in respect of this request.  |
| <b>George Eliot Hospital NHS Trust</b> | Provision of healthcare services at George Eliot Hospital   | £783,333  | No discussions have taken place in respect of this request.<br>Not considered to be CIL compliant. |
| <b>NBBC Sports Development</b>         | Provision and maintenance of sports and leisure facilities  | £1,332,621  | No discussions have taken place in respect of this request.  |
| <b>NBBC Housing</b>                    | Provision of affordable housing   | 25% provision of affordable housing   | No discussions have taken place in respect of this request.  |
| <b>WCC Infrastructure</b>              | Improvement, enhancement and extension of the facilities or services of a specified library service point | £15,322   | No discussions have taken place in respect of this request.  |
|  | Sustainable travel information  | £7,000  | Can be provided through a condition  |
|  | Maintenance and improvements of public rights of way within a 1.5 mile radius of the site.                | £31,078.48  | No discussions have taken place in respect of this request.  |
|  | Provisions to support road safety initiatives within the community associated within the development      | £35,000   | No discussions have taken place in respect of this request.  |

|  |  |                        |   |
|--|--|------------------------|---|
|  | Bus Service Provision to serve the new development | £1,098,300             | No discussions have taken place in respect of this request. |
|  | Maintenance of bus shelters                        | £5,000                 | No discussions have taken place in respect of this request. |
|  | Maintenance of RTI displays                        | £4,000                 | No discussions have taken place in respect of this request. |
|  | Replacement of RTI displays                        | £2,500 per RTI display | No discussions have taken place in respect of this request. |

### 13. Conclusion

In conclusion, the NPPF (2023) promotes a presumption in favour of sustainable development, and in line with the Planning and Compulsory Purchase Act 2004 states that decisions should be made in line with an up-to-date adopted Development Plan, unless material considerations indicate otherwise.

The Council can currently demonstrate a 5 year housing land supply as set out within the above report and therefore the development of this site for residential housing would fail to accord with the provisions of Policy DS3 of the Borough Plan 2019 given its location outside of the settlement boundary.

WCC Highways are not satisfied that the development proposals will not have a detrimental impact on the safety, operation or capacity of the local highway network, and therefore the application is not considered to accord with the guidance set out within the NPPF, the requirements of Policy HS2 of the Borough Plan and policies LUT3, LUT4 and LUT5 of Warwickshire Local Transport Plan 3 (2011-2026).

The development would represent a substantial adverse change for the site itself and would not conserve or enhance the strength of character and the sites landscape condition. The application does not appear to have considered development areas of least landscape value first and would fail to enhance the character of the landscape in this location and the residential development of the site would fail to accord with the recommendations of the Land Use Designations Study 2012, contrary to the NPPF and Policy NE5 of the Borough Plan.

It has not been adequately demonstrated that there would be no adverse or unacceptable impact on the residential amenity of future occupiers of the application site as a consequence of allocation E4 in North Warwickshire's Local Plan 2021, particularly from additional HGV traffic generation, lighting, noise, air quality and 24 hour working or that the proposed development can be integrated effectively with existing businesses and would not lead to unacceptable restrictions being placed on the operations and activity undertaken by the future occupiers of allocation E4 in North Warwickshire's Local Plan 2021.

In terms of air quality, whilst the applicant may be able to demonstrate that the air quality impacts of the scheme could be acceptable, the details submitted to support the proposal are insufficient to determine the air quality impacts in full and that the air quality impacts of the proposal would be acceptable when having regard to the threats to human health.

The application has not been supported by sufficient information to demonstrate the full biodiversity impacts of the proposal. In the absence of a detailed biodiversity offsetting metric to quantify the impact, and to calculate an appropriate level of compensation to replace the lost habitat, it cannot be ascertained that the proposal would result in a biodiversity net gain which would accord with the biodiversity mitigation hierarchy.

It is recognised that the scheme would result in economic benefits relating to the creation of construction related jobs throughout the construction period and social benefits through the provision of additional market and affordable housing. However, these identified benefits are considered to be demonstrably outweighed by the environmental and social impacts of the proposal which relate to the addition of up to 700 residential dwellings on an undeveloped site located outside of the settlement boundary which would undermine the strategic housing aims of the Council's Borough Plan. The proposals would also lead to a loss of BMV agricultural land which weighs against the proposal. Additionally, the creation of a development which would result in an unacceptable impact on highway safety, landscape, as well as potential unacceptable air quality impacts would result in further environmental and social impacts which would outweigh the identified economic and social benefits.

There are no other material planning considerations which indicate the application should be assessed other than in accordance with the adopted development plan and on this basis, the application is recommended for refusal.

## **REASONS FOR REFUSAL:**

1. i) Paragraph 12 of the NPPF (2023) states:

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-

to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

ii) Policy DS3 of the Nuneaton and Bedworth Borough Plan 2019 states:

All new development will be sustainable and of a high quality, fully supported by infrastructure provision, as well as environmental mitigation and enhancement, as required in the policies contained within this Plan. New development within the settlement boundaries, as shown on the proposals map, will be acceptable subject to there being a positive impact on amenity, the surrounding environment and local infrastructure. New unallocated development outside the settlement boundaries, as shown on the proposals map, is limited to agriculture, forestry, leisure and other uses that can be demonstrated to require a location outside of the settlement boundaries.

iii) This application is contrary to these policies in that the site is located outside of the settlement boundary. The proposal would therefore result in additional housing being located outside of the defined settlement boundaries which would undermine the Council's strategic housing aims. The proposal is not considered to represent a sustainable form of development and there are no material planning considerations which indicate that the principle of the development should be assessed other than in accordance with the Council's development plan. The principle of the development is therefore considered to be unacceptable.

2. i) Paragraph 174 of the NPPF (2023) states:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

ii) Policy NE5 of the Nuneaton and Bedworth Borough Plan 2019 states:

Major development proposals must demonstrate how they will conserve, enhance, restore or create a sense of place, as well as respond positively to the landscape setting in which the development proposal is located. Developers must take account of the Land Use Designations Study and landscape guidelines when preparing their landscape strategy.

#### Key characteristics and distinctiveness

Major development proposals must demonstrate that they are in balance with the setting of the local landscape, respect the key characteristics and distinctiveness of that landscape, and in particular show how the proposal will:

1. Conserve or enhance important landmark views.
2. Conserve, enhance or create boundary features and field patterns.
3. Conserve and where necessary enhance the strength of character and landscape condition.

#### Landscape hierarchy

Major development proposals must take account of the landscape strategy set out in the Landscape Character Assessment. Outside of the strategic sites and urban area, developers must show they have sequentially considered development opportunities in areas of least landscape value first, prior to any development proposals being permitted in higher value landscape character areas. The areas of search will follow the landscape hierarchy in the order set out below:

1. Restore and create
2. Enhance and restore
3. Enhance
4. Conserve and enhance
5. Conserve

iii) This application is contrary to these policies in that would represent a substantial adverse change for the site itself and would not conserve or enhance the strength of character and the sites landscape condition. The application does not appear to have considered development areas of least landscape value first and would fail to enhance the character of the landscape in this location and the residential development of the site would fail to accord with the recommendations of the Land Use Designations Study 2012.

3. i) Paragraph 174 of the NPPF (2023) states:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

(ii) Policy DS3 of the Nuneaton and Bedworth Borough Plan 2019 states:

All new development will be sustainable and of a high quality, fully supported by infrastructure provision, as well as environmental mitigation and enhancement, as required in the policies contained within this Plan. New development within the settlement boundaries, as shown on the proposals map, will be acceptable subject to there being a positive impact on amenity, the surrounding environment and local infrastructure. New unallocated development outside the settlement boundaries, as shown on the proposals map, is limited to agriculture, forestry, leisure and other uses that can be demonstrated to require a location outside of the settlement boundaries.

iii) This application is contrary to this policy in that it has not been adequately demonstrated that there would be no adverse or unacceptable impact on the residential amenity of future occupiers of the application site as a consequence of allocation E4 in North Warwickshire's Local Plan 2021, particularly from additional HGV traffic generation, lighting, noise, air quality and 24 hour working (contrary to section 18 of the Sustainable Design & Construction SPD 2020).

4. i) Paragraph 187 of the NPPF (2023) states:

Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have

unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

ii) This application is contrary to this policy in that not been adequately demonstrated that that the proposed development can be integrated effectively with existing businesses and would not lead to unacceptable restrictions being placed on the operations and activity undertaken by the future occupiers of allocation E4 in North Warwickshire's Local Plan 2021.

5. i) Policy 110 of the NPPF (2023) states:

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

ii) Policy HS2 of the Nuneaton and Bedworth Borough Plan 2019 states:

Transport proposals in line with those identified in the Coventry and Warwickshire Local Enterprise Partnership Strategic Economic Plan, Warwickshire County Council Local Transport Plan 2011 - 2026 and Warwickshire County Council Cycle Network Development Plan will be approved.

Where a development is likely to have transport implications, planning applications are required to clearly demonstrate how the following issues are addressed:

1. How the development ensures adequate accessibility in relation to all principal modes of transport.

2. Whether the development identifies suitable demand management measures.

3. The impact on air quality and measures proposed to ensure impact is not exacerbated. The council would support measures such as the provision and integration of infrastructure which may help to deal with the issues of air quality, such as electric vehicle charging points.

4. The connectivity of the development to strategic facilities.

5. How the development delivers sustainable transport options in a safe way that link to the wider transport network.

6. Whether the proposal will meet acceptable levels of impact on existing highways networks and the mitigation measures required to meet this acceptable level

iii) This application is contrary to these policies in that it has not been adequately demonstrated that the development will not have a detrimental impact on the safety, operation or capacity of the local and strategic highway network.

6. i) Paragraph 185 of the NPPF (2023) states:

Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

ii) Paragraph 186 of the NPPF (2023) states:

Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

iii) Policy HS2 of the Nuneaton and Bedworth Borough Plan 2019 states:

Transport proposals in line with those identified in the Coventry and Warwickshire Local Enterprise Partnership Strategic Economic Plan, Warwickshire County Council Local Transport Plan 2011 - 2026 and Warwickshire County Council Cycle Network Development Plan will be approved.

Where a development is likely to have transport implications, planning applications are required to clearly demonstrate how the following issues are addressed:



1. How the development ensures adequate accessibility in relation to all principal modes of transport.
2. Whether the development identifies suitable demand management measures.
3. The impact on air quality and measures proposed to ensure impact is not exacerbated. The council would support measures such as the provision and integration of infrastructure which may help to deal with the issues of air quality, such as electric vehicle charging points.
4. The connectivity of the development to strategic facilities.
5. How the development delivers sustainable transport options in a safe way that link to the wider transport network.
6. Whether the proposal will meet acceptable levels of impact on existing highways networks and the mitigation measures required to meet this acceptable level

iv) This application is contrary to these policies in that it has not been adequately demonstrated what the air quality impacts would be from the development and that the air quality impacts of the proposal would be acceptable when having regard to the threats to human health (contrary to section 5 of the Air Quality SPD 2020 and section 18 of the Sustainable Design & Construction SPD 2020)..

7. i) Paragraph 174 of the NPPF (2023) states:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help

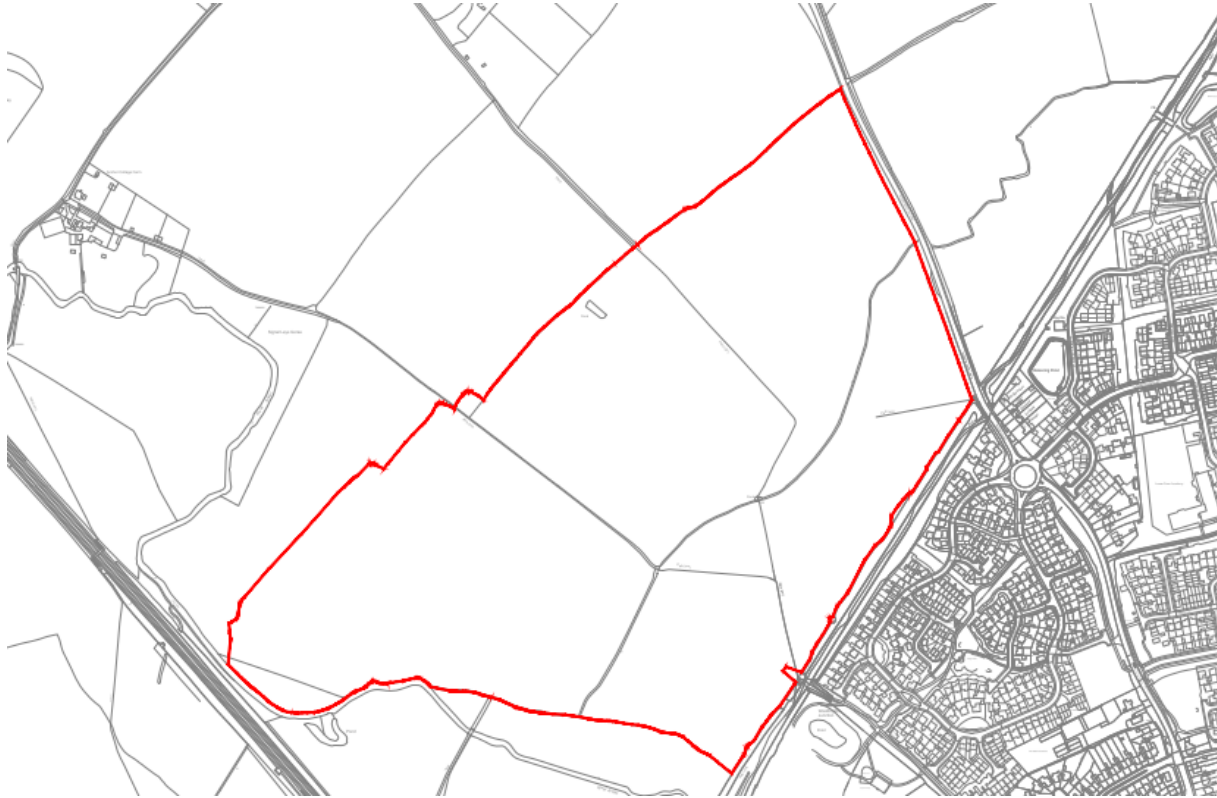
to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

ii) Policy NE3 of the Nuneaton and Bedworth Borough Plan 2019 states:

Development proposals will ensure ecological networks and services, and biodiversity and geological features are conserved, enhanced, restored and, where appropriate, created.

iii) The application is contrary to these policies in that it has not been supported by sufficient supporting information to demonstrate the full biodiversity impacts of the proposal. In the absence of a detailed biodiversity offsetting metric to quantify the impact and to calculate an appropriate level of compensation to replace the lost habitat, it cannot be ascertained that the proposal would result in a biodiversity net gain which would accord with the biodiversity mitigation hierarchy.



Site Location Plan



Development Framework Plan

## APPLICATION FOR NOTING

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Item No. 3

**REFERENCE No.** 039687

**Site Address:** 228 Heath Road Bedworth Warwickshire CV12 0BN

**Description of Development:** Application for a Lawful Development Certificate for existing use of the attached single storey garage for storage purposes in connection with the existing shop

**Applicant:** Cllr Jasbir Singh

**Ward:** HE

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### **RECOMMENDATION:**

Planning Committee is recommended to give delegated authority to the Assistant Director – Governance and Democracy to issue the certificate of lawfulness.

### **INTRODUCTION:**

This application for a Lawful Development Certificate for the existing use of the attached single storey garage for storage purposes in connection with the existing shop at 228 Heath Road, Bedworth, Warwickshire, CV12 0BN.

As this is a Lawful Development Certificate, this is a legal test and is therefore not open for debate by Members.

Sedgies is located close to the junction between Heath Road, Smarts Road, Bowling Green Lane, and Goodyers End Lane in Bedworth. The property, as existing, is split into four sections, on the ground floor there is a hot food takeaway (Use Class Sui Generis), a shop (Use Class) and a garage and then a residential flat (Use Class C3). The use of the hot-food takeaway was determined as part of an historic application submitted and approved in 2022. The surrounding area is predominantly residential, however there is a veterinary practice, a petrol station, and a car mechanics directly adjacent.

This application has been submitted with supporting evidence to show that the ground floor attached garage, shown edged red on the attached plan, has been used continuously for a period in excess of 10 years for the storage of newspapers and stock for the shop and as such is now lawful.

### **BACKGROUND:**

This application is being reported to Committee as the applicant is a local Ward Councillor.

## **RELEVANT PLANNING HISTORY:**

- 038626 - Certificate of lawfulness relating to the existing hot food takeaway use (Sui Generis) to the rear of the shop (E) – Certificate Granted in 2022
- 000047 - Erection of detached dwelling (outline) – refused in 2004
- 007371 - Rear extension to shop – refused in 1996

## **NEIGHBOURS NOTIFIED:**

A site notice was erected on street furniture on 30<sup>th</sup> June 2023.

## **NEIGHBOUR RESPONSES:**

There have been no objections.

## **APPRAISAL:**

Generally, applications for a Certificate of Lawful Use differ from standard planning applications in that they require the Council to make a legal interpretation of the legislation as it relates to the specific proposal. Under section 191 of the Town and Country Planning Act 1990, it states that an applicant can ascertain whether—

- (a) any existing use of buildings or other land is lawful;
- (b) any operations which have been carried out in, on, over or under land are lawful; or
- (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful. This can be done by applying for a certificate of lawfulness. This application is seeking to ascertain that the existing use of the garage for the storage of newspapers and stock for the shop is lawful.

In accordance with Circular 10/97, CLU applications have to be considered on the basis of the evidence available and in accordance with the legal test of the ‘balance of probability’ with the ‘burden of proof’ being firmly with the applicant.

A planning use can be considered as lawful if the use was carried out by the granting of planning permission if the change falls within permitted development (within the General Permitted Development Order) or if the use has continually operated without enforcement action for at least 10 years.

The main consideration when determining this application is whether the applicant has provided sufficient evidence to show that on the balance of probability the use has continually operated without enforcement action for at least 10 years.

## **Previous Enforcement Action**

There is no previous planning enforcement action on record for 228 Heath Road.

## **Adequate Evidence**

The application form states that the use began in 2009 and it has operated continuously since 2009. To support this claim, the agent has provided the following documents:

1. A letter, signed by a vendor that the shop buy their newspapers and magazines from.
2. A letter, signed by a neighbour.

3. A letter, signed by an ex-employee.
4. A letter, signed by an ex-employee and ex-tenant of the first floor flat.
5. A letter, signed by the current tenant of the first floor flat.

The letters from different stakeholders clearly state that the garage has been used continuously for at least 10 years as storage for the ground floor shop. The 2 letters signed by the ex-tenant and current tenant confirm that their tenancy never included access to the flat and the vendor and ex-employee state that the garage was regularly used as storage for newspapers and other items that the shop will use. These are the only evidence submitted and none are sworn affidavits, but we, as the local planning authority, have no reason to dispute their authenticity or any claims that the information that they state is false in any way.

NBBC Legal were consulted on the submitted evidence and they returned a response that the statements will carry some weight and they do confirm that the use is shown to have operated for over 10 years and there is evidence that it occurred on a continuous basis. Furthermore, the legislation, states that:

*“If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.”*

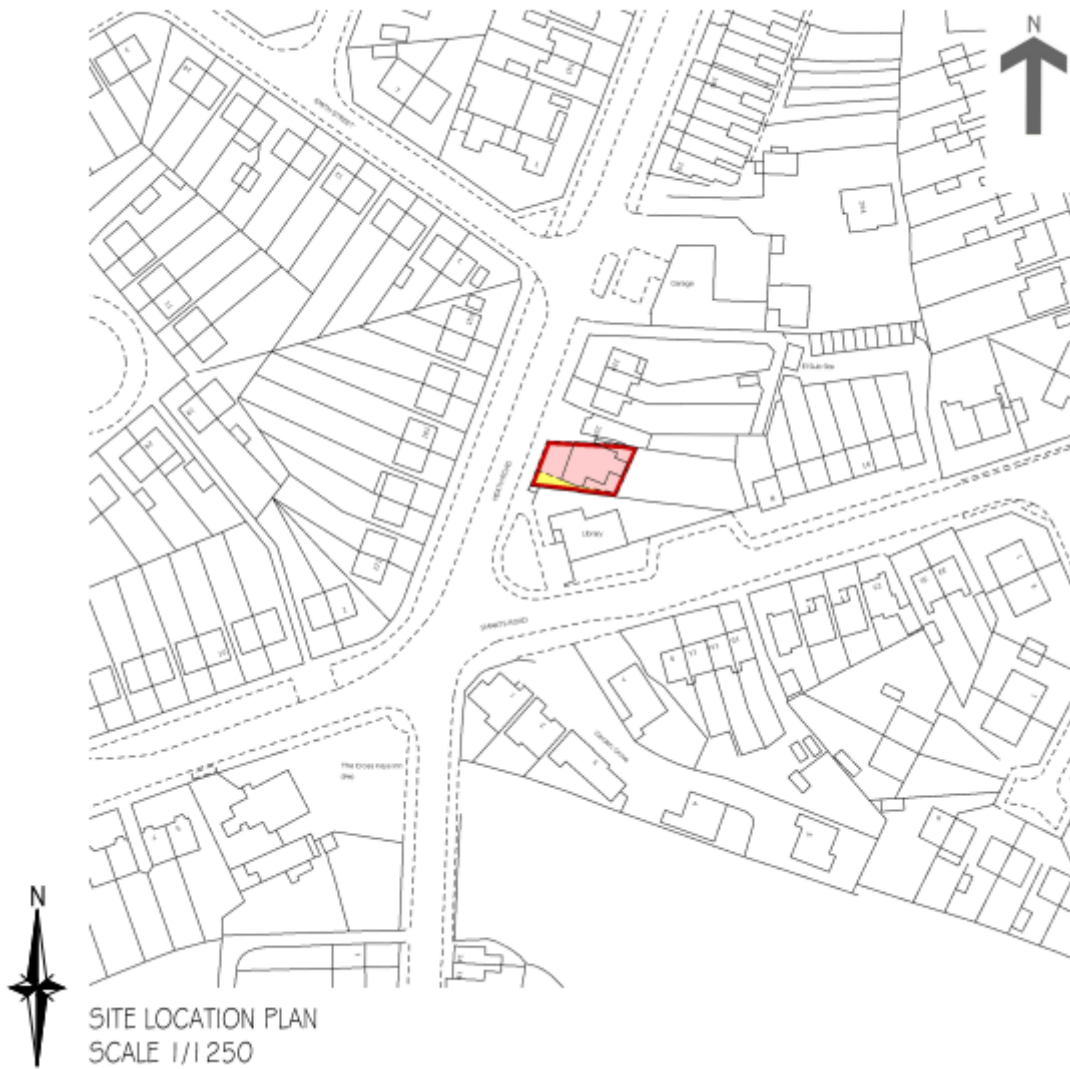
The National Planning Practice Guidance ‘Lawful development certificates’ paragraph 6 states that:

*“In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.”*

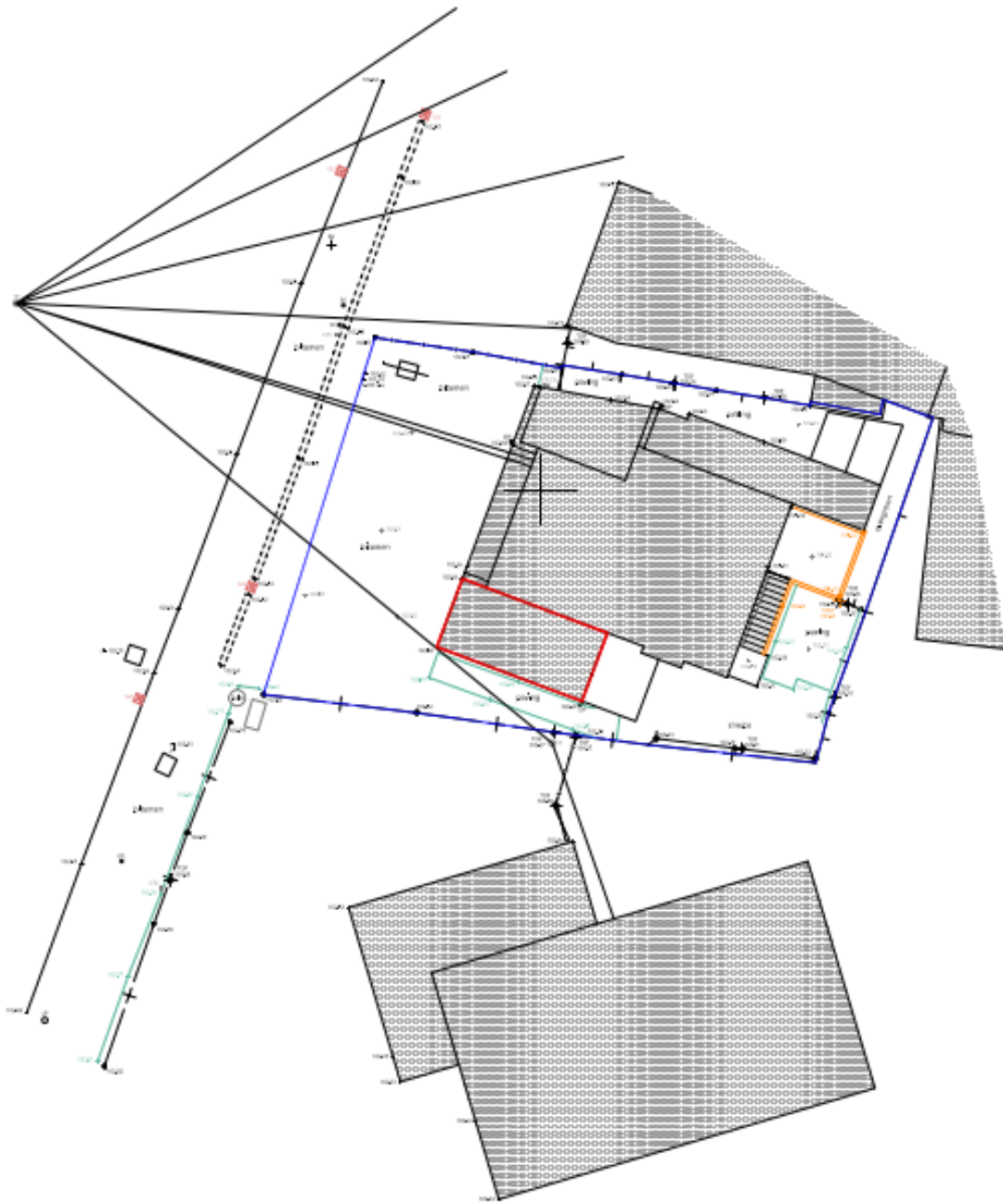
### **Conclusion**

As local planning authority, we have no evidence contradicting the evidence submitted and the legal department have confirmed that on the balance of probabilities the evidence which has been provided is unambiguous and sufficiently precise to justify the granting of a certificate for the existing use.

Therefore, on balance a certificate of lawful use can be issued.







PROPOSED SITE BLOCK PLAN  
SCALE 1/200

THERE ARE NO TREES BEING AFFECTED BY THE PROPOSAL AND THE PLANS SHOWS AN INDICATION OF THE BOUNDARY SHRUBS ON SITE.

## Glossary

Adoption – The final confirmation of a local plan, or planning document, by a local planning authority.

Advertisement consent – A type of consent required for certain kinds of advertisements, such as shop signs and hoardings. Some advertisements are allowed without the need for an application by the Town and Country Planning (Control of Advertisement) (England) Regulation 2007.

Affordable housing – Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for f

uture eligible households or for the subsidy to be recycled for alternative affordable housing provision.

Authority monitoring report – A report that allows the Local Authority to assess the extent to which policies and proposals set out in all the local development documents are being achieved.

Appeal – The process by which a planning applicant can challenge a planning decision that has been refused or had conditions imposed.

Area action plan – A document forming part of the local plan containing proposals for a specific defined area.

Article 4 direction – A direction restricting permitted development rights within a specified area. They are often used in conservation areas to provide protection for things like windows, doors, chimneys, etc.

Brownfield – Land which has had a former use.

Conservation area – An area of special architectural or historic interest, the character and appearance of which are preserved and enhanced by local planning policies and guidance.

Conservation area consent – Consent needed for the demolition of unlisted buildings in a conservation area.

Consultation – A communication process with the local community that informs planning decision-making.

Certificate of lawfulness – A certificate that can be obtained from the local planning authority to confirm that existing development is lawful. Change of use – A material change in the use of land or buildings that is of significance for planning purposes e.g. from retail to residential.

Character appraisal – An appraisal, usually of the historic and architectural character of conservation areas.

Community – A group of people that hold something in common. They could share a common place (e.g. individual neighbourhood) a common interest (e.g. interest in the environment) a common identity (e.g. age) or a common need (e.g. a particular service focus).

Community engagement and involvement – Involving the local community in the decisions that are made regarding their area.

Design and access statement – A short report accompanying a planning permission application. Describes design principles of a development such as layout, townscape characteristics, scale, landscape design and appearance.

Design Code - A design code provides detailed design guidance for a site or area they prescribe design requirements (or 'rules') that new development within the specified site or area should follow.

Development – Legal definition is “the carrying out of building, mining, engineering or other operations in, on, under or over land, and the making of any material change in the use of buildings or other land.”

Development management control – The process of administering and making decisions on different kinds of planning application.

Development plan – A document setting out the local planning authority's policies and proposals for the development and use of land in the area.

Duty to co-operate – A requirement introduced by the Localism Act 2011 for local authorities to work together in dealing with cross-boundary issues such as public transport, housing allocations or large retail parks.

Economic development – Improvement of an area's economy through investment, development, job creation, and other measures.

Enforcement – Enforcement of planning control ensures that terms and conditions of planning decisions are carried out.

Enforcement notice – A legal notice served by the local planning authority requiring specified breaches of planning control to be corrected.

Environmental impact assessment – Evaluates the likely environmental impacts of the development, together with an assessment of how these impacts could be reduced.

Flood plain – An area prone to flooding.

Front loading – An approach to community engagement in which communities are consulted at the start of the planning process before any proposals have been produced. General (Permitted Development) Order The Town and Country Planning General (Permitted Development) Order is a statutory document that allows specified minor kinds of development (such as small house extensions) to be undertaken without formal planning permission

Greenbelt – A designated band of land around urban areas, designed to contain urban sprawl (not to be confused with 'greenfield').

Greenfield site – Land where there has been no previous development (not to be confused with Greenbelt).

Green infrastructure – Landscape, biodiversity, trees, allotments, parks, open spaces and other natural assets.

Green space – Those parts of an area which are occupied by natural, designed or agricultural landscape as opposed to built development; open space, parkland, woodland, sports fields, gardens, allotments, and the like.

Green travel plan – A package of actions produced by a workplace or an organization setting out how employees, users or visitors will travel to the place in question using options that are healthy, safe and sustainable, and reduce the use of the private car.

Highway authority – The body with legal responsibility for the management and maintenance of public roads. In the UK the highway authority is usually the county council or the unitary authority for a particular area, which can delegate some functions to the district council.

Historic parks and gardens register – The national register managed by English Heritage which provides a listing and classification system for historic parks and gardens.

Housing associations – Not-for-profit organisations providing homes mainly to those in housing need.

Independent examination – An examination of a proposed neighbourhood plan, carried out by an independent person, set up to consider whether a neighbourhood plan meets the basic conditions required.

Infrastructure – Basic services necessary for development to take place e.g. roads, electricity, water, education and health facilities.

Inquiry – A hearing by a planning inspector into a planning matter such as a local plan or appeal.

Judicial review – Legal challenge of a planning decision, to consider whether it has been made in a proper and lawful manner.

Legislation – The Acts of Parliament, regulations, and statutory instruments which provide the legal framework within which public law is administered.

Listed buildings – Any building or structure which is included in the statutory list of buildings of special architectural or historic interest.

Listed building consent – The formal approval which gives consent to carry out work affecting the special architectural or historic interest of a listed building.

Local authority – The administrative body that governs local services such as education, planning and social services.

Local plan - The name for the collection of documents prepared by a local planning authority for the use and development of land and for changes to the transport system. Can contain documents such as development plans and statements of community involvement.

Local planning authority – Local government body responsible for formulating planning policies and controlling development; a district council, metropolitan council, a county council, a unitary authority or national park authority.

Material considerations – Factors which are relevant in the making of planning decisions, such as sustainability, impact on residential amenity, design and traffic impacts.

Micro-generation – The small-scale generation of renewable energy usually consumed on the site where it is produced.

Mixed use – The development of a single building or site with two or more complementary uses.

National Planning Policy Framework (NPPF) – The government policy document first adopted in 2012 was updated in 2021. The NPPF introduces a presumption in favour of sustainable development. It gives five guiding principles of sustainable development: living within the planet's means; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly.

Neighbourhood planning – A community initiated process in which people get together through a local forum or parish or town council and produce a neighbourhood plan or neighbourhood development order.

Non-determination – When a planning application is submitted and the local authority fails to give a decision on it within the defined statutory period.

Operational development – The carrying out of building, engineering, mining or other operations in, on over, or under land; part of the statutory definition of development (the other part being material changes of use of buildings or land).

Permitted development – Certain minor building works that don't need planning permission e.g. a boundary wall below a certain height.

Policy – A concise statement of the principles that a particular kind of development proposal should satisfy in order to obtain planning permission.

Parking standards – The requirements of a local authority in respect of the level of car parking provided for different kinds of development.

Plan-led – A system of planning which is organised around the implementation of an adopted plan, as opposed to an ad hoc approach to planning in which each case is judged on its own merits.

Planning gain – The increase in value of land resulting from the granting of planning permission. This value mainly accrues to the owner of the land, but sometimes the local council negotiates with the developer to secure benefit to the public, either through section 106 planning obligations or the setting of a community infrastructure levy.

Planning inspectorate – The government body established to provide an independent judgement on planning decisions which are taken to appeal.

Planning obligation – Planning obligation under Section 106 of the Town and Country Planning Act 1990, secured by a local planning authority through negotiations with a developer to offset the public cost of permitting a development proposal. Sometimes developers can self-impose obligations to pre-empt objections to planning permission being granted. They cover things like highway improvements or open space provision.

Planning permission – Formal approval granted by a council allowing a proposed development to proceed. Planning Practice Guidance (PPG) The government's PPG can be read alongside the NPPF and is intended as a guidebook for planners. It is not a single document but an online resource which is kept current through regular updates. Presumption in favour of sustainable development The concept introduced in 2012 by the UK government with the National Planning Policy Framework to be the 'golden thread running through both plan making and decision taking'. The National Planning Policy Framework gives five guiding principles of sustainable development: living within the planet's means; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly.

Public inquiry – See Inquiry.

Public open space – Open space to which the public has free access.

Public realm – Areas of space usually in town and city centres where the public can circulate freely, including streets, parks and public squares.

Regeneration - Upgrading an area through social, physical and economic improvements.

Retail – The process of selling single or small numbers of items directly and in person to customers. The use category defined as Class E in the Town and Country Planning (Use Classes) Order 1987 (as amended).

Rural – Areas of land which are generally not urbanised; usually with low population densities and a high proportion of land devoted to agriculture.

Scheduled ancient monument – A nationally important archaeological site, building or structure which is protected against unauthorised change by the Ancient Monuments and Archaeological Areas Act 1979.

Section 106 – see Planning obligation.

Sequential test – A principle for making a planning decision based on developing certain sites or types of land before others, for example, developing brownfield land before greenfield sites, or developing sites within town centres before sites outside town centres.

Setting – The immediate context in which a building is situated, for example, the setting of a listed building could include neighbouring land or development with which it is historically associated, or the surrounding townscape of which it forms a part.

Space standards – Quantified dimensions set down by a local planning authority to determine whether a particular development proposal provides enough space around it so as not to affect the amenity of existing neighbouring developments. Space standards can also apply to garden areas.

Supplementary planning document – Provides detailed thematic or site-specific guidance explaining or supporting the policies in the local plan.

Sustainable development – An approach to development that aims to allow economic growth without damaging the environment or natural resources. Development that “meets the needs of the present without compromising the ability of future generations to meet their own needs”.

Town and Country Planning Act 1990 – Currently the main planning legislation for England and Wales is consolidated in the Town and Country Planning Act 1990; this is regarded as the ‘principal act’.

Tree preservation order – An order made by a local planning authority to protect a specific tree, a group of trees or woodland. Tree preservation orders (TPOs) prevent the felling, lopping, topping, uprooting or other deliberate damage of trees without the permission of the local planning authority.

Use classes order – The Town and Country Planning (Use Classes) Order 1987 (as amended) is the statutory instrument that defines the 8 categories of use of buildings or land for the purposes of planning legislation. Planning permission must be obtained to change the use of a building or land to another use class.

Urban – Having the characteristics of a town or a city; an area dominated by built development. Urban design – The design of towns and cities, including the physical characteristics of groups of buildings, streets and public spaces, whole neighbourhoods and districts, and even entire cities.

Urban fringe – The area on the edge of towns and cities where the urban form starts to fragment and the density of development reduces significantly.

| Use  | Use Class up to 31 August 2020 | Use Class from 1 September 2020 |
|--|--------------------------------|---------------------------------|
| Shop not more than 280sqm mostly selling essential goods, including food and at least 1km from another similar shop                | A1                             | F.2                             |
| Shop   | A1                             | E                               |
| Financial and professional services (not medical)  | A2                             | E                               |
| Café or restaurant   | A3                             | E                               |
| Pub or drinking establishment  | A4                             | Sui generis                     |
| Take away  | A5                             | Sui generis                     |
| Office other than a use within Class A2  | B1a                            | E                               |
| Research and development of products or processes  | B1b                            | E                               |
| For any industrial process (which can be carried out in any residential area without causing detriment to the amenity of the area) | B1c                            | E                               |
| Industrial   | B2                             | B2                              |
| Storage or distribution  | B8                             | B8                              |

| Use   | Use Class up to 31 August 2020 | Use Class from 1 September 2020 |
|---|--------------------------------|---------------------------------|
| Hotels, boarding and guest houses   | C1                             | C1                              |
| Residential institutions  | C2                             | C2                              |
| Secure residential institutions   | C2a                            | C2a                             |
| Dwelling houses   | C3                             | C3                              |
| Use of a dwellinghouse by 3-6 residents as a 'house in multiple occupation'   | C4                             | C4                              |
| Clinics, health centres, creches, day nurseries, day centre   | D1                             | E                               |
| Schools, non-residential education and training centres, museums, public libraries, public halls, exhibition halls, places of worship, law courts | D1                             | F.1                             |
| Cinemas, concert halls, bingo halls and dance halls   | D2                             | Sui generis                     |
| Gymnasiums, indoor recreations not involving motorised vehicles or firearms   | D2                             | E                               |
| Hall or meeting place for the principal use of the local community  | D2                             | F.2                             |
| Indoor or outdoor swimming baths, skating rinks, and outdoor sports or recreations not involving motorised vehicles or firearms                   | D2                             | F.2                             |

Changes of use within the same class are not development. Use classes prior to 1 September 2020 will remain relevant for certain change of use permitted development rights, until 31 July 2021. The new use classes comprise:

**Class E (Commercial, business and service uses),**

**Class F.1 (Learning and non-residential institutions)**

**Class F.2 (Local community uses)**