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Date: 7<sup>th</sup> June 2021

Dear Sir/Madam,

A meeting of the **PLANNING APPLICATIONS COMMITTEE** will be held in **Council Chamber of the Town Hall, Nuneaton on Tuesday, 15<sup>th</sup> June 2021 at 6.00p.m, with a confidential item considered at 5:00pm.**

Public Consultation on planning applications will commence at 6.00 p.m. (see Agenda Item No. 6 for clarification).

Please note that meetings may be recorded for future broadcast.

Yours faithfully,

BRENT DAVIS

Executive Director - Operations

To: All Members of the Planning  
Applications Committee

Councillor L. Cvetkovic (Chair)  
Councillors S. Croft, K. Evans, B.  
Hammersley, K. Kondakor, S. Markham, B.  
Pandher, M. Rudkin, J. Sheppard (Vice-  
Chair), 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 the Yorkshire 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.

Chair to advise the meeting if all or part of the meeting will be recorded for future broadcast.

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

#### 3. MINUTES - To confirm the minutes of the meeting held on 25<sup>th</sup> May 2021 (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 12)**. 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 )**

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 attached. **(Page )**
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**

**25<sup>th</sup> May 2021**

A meeting of the Planning Applications Committee was held on Tuesday, 25<sup>th</sup> May, 2021, in the Council Chamber.

**Present**

Councillor L. Cvetkovic (Chair)

Councillors: J. Sheppard (Vice-Chair), B. Pandher (attended public section but not confidential item), R. Smith, B. Hammersley, S. Markham, K. Evans, S. Croft, M. Rudkin, K. Kondakor, K Wilson

Apologies: None

PLA1 **Chair's Announcements**

The meeting was being recorded for future publication on the Council's website.

It was proposed by Councillor Sheppard that a letter of thanks be sent to Councillor Bill Hancox from the Chair, to thank him for his hard work on this committee as Chair for many years. The Chair agreed to this proposal and seconded this and a vote was taken on this matter with a show of hands, and this motion was carried. The Chair, Councillor Cvetkovic, will organise for a letter of thanks to be sent.

PLA2 **Minutes**

**RESOLVED** that the minutes of the meeting held on the 20<sup>th</sup> April 2021 be confirmed and signed by the Chair.

PLA3 **Declarations of Interest**

**RESOLVED** that the Declarations of Interest for this meeting are as set out in the Schedule attached to these minutes. In the addition the following was declared:

- a) Councillor Markham declared that she was a member of Warwickshire County Council and was a member in the Outside Bodies of Bedworth Neighbourhood Watch.
- b) Councillor Hammersley declared that he was a member of Warwickshire County Council.
- c) Councillor Rudkin declared that she was no longer a representative of Bedworth Neighbourhood Watch Committee.

- d) Councillor Sheppard declared that she no longer sat on the Outside Bodies listed.

Councillor Kondakor declared that he would be objecting to Item 4, the Anker Service Station, and Councillor Smith declared that he would be objecting to Item 1, Coventry Road, Bulkington. Both Councillors after speaking on these items, left the room and did not take part in the debate or the voting respectively.

PLA4 **Declarations of Contact**

Councillor Evans declared on Item 2 that he had previously been contacted by members of the public when attending a site visit when the item had been before the committee previously and he was substituting on behalf of a fellow councillor.

PLA5 **Exclusion of Public and Press**

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item, it being likely that there would be disclosure of exempt information of the description specified in paragraph 12 of Part I of the Schedule 12A to the Act.

**PART 2: PRIVATE SESSION**

PLA6 **High Hedge Remedial Notice**

**RESOLVED** that an amendment was made to the Remedial Notice as follows:

- a) Cut the hedge to be no taller than 3.5m above ground level by 30<sup>th</sup> November 2021 (or reduced by one third of the total height of the hedge, whichever is the lesser).
- b) Cut the hedge to be no more than 3.0m above ground level by 30<sup>th</sup> November 2022.
- c) Maintain the hedge at 3.5m or lower in perpetuity.

**IN PUBLIC SESSION**

PLA7 **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 PLA5 OF THE PLANNING  
APPLICATIONS COMMITTEE ON 25<sup>th</sup> MAY 2021

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037635: Site 120B005 – Land rear of 71-77 Coventry Road, Bulkington

Applicant: G. Allen

**Public Statements:** Councillor R. Smith

**DECISION**

The application be refused planning permission, for the reasons printed on the agenda and addendum.

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037508: Site 95A001 – Land rear of 32-35 Willis Grove, Bedworth

Applicant: Mr Jo DiMarco

**Public Statements: None**

**DECISION**

The application be refused planning permission for the reasons printed on the agenda.

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037389 – 35 Manor Court Road, Nuneaton, Warwickshire, CV11 5HU

Applicant: Mr Sachin Mehta

**Public Statements:** Mr John Smitton, Mrs C West

**DECISION**

Contrary to officer recommendation, the application be refused planning permission, on the grounds of detrimental impact on visual amenity, the Conservation Area and on residential amenity.

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037402 – Anker Service Station, Weddington Road, Nuneaton, CV10 0AD

Applicant: Mr Shaan Chaudry

**Public Statements:** Councillor K. Kondakor

**DECISION**

The application be refused planning permission for the reasons printed on the agenda

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**Planning Applications Committee  
Schedule of Declarations of Interests – 2021/2022**

	<b>Name of Councillor</b>	<b>Disclosable Pecuniary Interest</b>	<b>Other Personal Interest</b>	<b>Dispensation</b>
	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>
	S. Croft	Employed at Holland & Barrett Retail Ltd	Treasurer of the Conservative Association	
	L. Cvetkovic	Teacher and Head of Geography at Sidney Stringer Academy, Coventry.	Trustee of Bulkington Sports and Social Club Founder of The Bulkington Volunteers.	
	K. Evans	Employed by UK Parliament	. Executive Officer at the North Warwickshire & Bedworth Conservative Association Association Representative of Warwickshire Conservative Area Association	

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
	B. Hammersley	(Will declare if he has any interests at the meeting)		
	K. Kondakor		100PERCENTRENEWABLEUK LTD	
	S. Markham	None	None	
	B. Pandher		Member of Warwickshire County Council Treasurer & Trustee of Nanaksar Gurdwara Gursikh Temple; Coordinator of Council of Sikh Temples in Coventry; Secretary of Coventry Indian Community; Trustee of Sikh Monument Trust Vice Chair Exhall Multicultural Group	
	M. Rudkin	Employee of Coventry City Council	Unite the Union	
	J. Sheppard		Partnership member of the Hill Top and Caldwell Big Local.	
Director of Wembrook Community Centre.			Dispensation to speak and vote on any matters of Borough Plan that relate to the Directorship of Wembrook Community Centre	
Member of the Management Committee at the Mental Health Drop in.				
Champion for Safeguarding (Children & Adults)				
	R. Smith		Chairman of Volunteer Friends, Bulkington; Board of Directors at Bulkington Village Community and Conference Centre Trustee of Bulkington Sports and Social Club	

	K.D. Wilson	Employee of the Courts Service	Non Executive Director with Nuneaton and Bedworth Community Enterprises Limited	Dispensation to speak and vote
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**Planning Applications Committee  
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	S. Croft	Employed at Holland & Barrett Retail Ltd	Treasurer of the Conservative Association	
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	K. Kondakor		100PERCENTRENEWABLEUK LTD	
	S. Markham	None	None	
	B. Pandher		Member of Warwickshire County Council Treasurer & Trustee of Nanaksar Gurdwara Gursikh Temple; Coordinator of Council of Sikh Temples in Coventry; Secretary of Coventry Indian Community; Trustee of Sikh Monument Trust Vice Chair Exhall Multicultural Group	
	M. Rudkin	Employee of Coventry City Council	Unite the Union	
	J. Sheppard		Partnership member of the Hill Top and Caldwell Big Local.	
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Champion for Safeguarding (Children & Adults)				
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	K.D. Wilson	Employee of the Courts Service	Non Executive Director with Nuneaton and Bedworth Community Enterprises Limited	Dispensation to speak and vote
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**Applications for Planning Permission etc.**  
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**Planning Applications**

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Wards:					
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		

# PLANNING APPLICATIONS

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## Item No. 1

**REFERENCE No.** 037330.

**Site Address:** Site 31A002-r/o 1-91a Milby Drive Higham Lane Nuneaton.

**Description of Development:** Removal of condition 28 relating to limited amount of occupations prior to opening of spine road. Application for removal or variation of a condition following grant of planning permission (034076). Remove condition 28 relating to limited number of occupations prior to opening of spine road.

**Applicant:** Mrs Daisy Loates – Persimmon Homes.

**Ward:** WE

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### **RECOMMENDATION:**

Planning Committee is recommended to refuse planning permission, for the reasons as printed.

### **INTRODUCTION:**

Application for removal or variation of a condition following grant of planning permission (034076). Remove condition 28 relating to limited amount of occupations prior to opening of spine road. Site 31A002-r/o 1-91a Milby Drive Higham Lane Nuneaton.

### **SITE LOCATION AND DESCRIPTION:**

The site is approximately 2.5km north of Nuneaton Town Centre and partly abuts the urban area of the St Nicolas Park Estate. The site comprises of approximately 19.06 hectares. The site is part of the Strategic housing Allocation HSG1 and has approval for 453 dwellings that are currently under construction.

The western site boundary which provides the primary vehicular access is off Higham Lane south of Whitehouse Farm and the boundary continues to the corner of Milby Drive. The southern limit of the site bounds the rear gardens of Milby Drive. Milby Drive at this point comprises mainly semi-detached and detached houses/bungalows.

To the south east, the site abuts the rear boundary hedge separating the site from Norwich Close.

To the east, the site abuts the access road to Nuneaton Fields Farm. The approved scheme provides a link across and within Nuneaton Fields Farm to provide a spine road vehicular access, footpaths and cycling link to the proposed development at Callendar Farm which has Outline approval for 850 dwellings, a local centre and community hub and primary school and which has part Reserved Matters approval.

Callendar Farm is then linked to an earlier phase of development, on land known as "Land at 162 The Long Shoot and Callendar Farm South, Nuneaton" which constitutes Phase 1 which has been approved for 150 dwellings (application



reference: 032578) also currently being built out by Jelsons and under the HSG1 Strategic Housing Allocation. This provides a link onto The Long Shoot.

The northern boundary partly abuts the A5 but then steps inwards to follow the hedgeline of the boundary of the proposed Richborough Estate planning application.

### **BACKGROUND:**

Application 034076 was granted planning permission on 10 August 2018, subject to S106 for:

*'Erection of 453 dwellings and associated infrastructure'*

Approved application 034076 is to provide detached, semi detached and terraced houses and some detached bungalows. The scheme comprises a mixture of 1, 2, 3 and 4 bedroom homes, 25% of the properties are affordable housing.

Condition 28 of 034076 requires:

*'No more than 250 dwellings can be occupied until completion and opening of the Northern Link Road is provided between Higham Lane, A5 and/or the A47 The Longshoot'*

This application is being reported to Planning Committee at the request of Councillors Keith Kondakor and Councillor Robert Tromans.

### **RELEVANT PLANNING HISTORY:**

- 037036 - Temporary access to the site for domestic vehicles to afford safety for the public via segregation from site vehicles to be removed once the main access is open. (Undetermined).
- 036989 - Application to vary condition 27 of approval reference 034076. The condition required the main vehicular entrance to be completed and open prior to the 1st occupation. The variation is to amend this to its completion and opening prior to occupation of the 40th dwelling. (Undetermined).
- 036990 - Application to vary condition 4 of approval reference 036451. The condition required the temporary use of the access to cease at the occupation of the first dwelling or the opening of the main approved access. The variation is to amend so that the use of the temporary access will cease prior to occupation of the 40th dwelling or prior to the opening of the main entrance whichever is soonest. (Undetermined).
- 036451 - Temporary access to the site for S184 works and temporary car park. Approved subject to conditions. 09/08/2019.
- 034076 – Erection 453 dwellings and associated infrastructure – Approved subject to S106 and conditions.10/08/2018.

### **RELEVANT PLANNING POLICIES:**

- Policies of the Borough Plan 2019:
  - HSG1 – North of Nuneaton
  - HS2 – Strategic Accessibility and Sustainable Transport
- National Policy Planning Framework (NPPF).
- National Planning Practice Guidance (NPPG).

### **CONSULTEES NOTIFIED:**

NBBC Planning Policy, Stagecoach and WCC Highways.

## **CONSULTATION RESPONSES:**

Objection from:

WCC Highways, NBBC Planning Policy and Stagecoach.

## **NEIGHBOURS NOTIFIED:**

The only nearest affected neighbouring property (Nuneaton Fields Farm) was sent a letter notifying them of the proposed development on the 12<sup>th</sup> October 2020 and a site notice was posted on the same date.

## **NEIGHBOUR RESPONSES:**

There have been 2 objections from 2 addresses, summarised below:

- Belief that this application is a commercially motivated application to avoid the acquiring of third-party land in order to complete the link between Higham Lane and The Longshoot. No material changes in planning considerations have occurred to justify dispensing with condition 28.
- Adverse impact upon Highway safety
- Public Transport services would be unable to access the site.

## **KEY ISSUES AND ASSESSMENT:**

As required by Section 38 (6) of the Planning and Compulsory Purchase Act 2004, the proposed development shall be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

The Development Plan for the area relevant to this application is the Nuneaton and Bedworth Borough Plan 2019. The relevant policies of the Borough Plan are HS2 and HSG1.

The National Planning Policy Framework February 2019 and National Planning Practice Guidance are also material considerations in the determination of this application.

This planning application seeks to remove/vary condition 28 of approved planning application 034076. The proposed removal of the condition would enable the occupation of the full development of 453 dwellings prior to the completion of the northern link (spine) road.

The main consideration is the impact on the Highways and is assessed as follows:

### **1. Assessment of Highway Considerations**

Policy HSG1 (North Nuneaton) of the Local Plan in which the site is located covers approximately 200 hectares, adjoining the northern edge of the Weddington and St Nicholas Park Residential areas of Nuneaton and is to deliver circa 4,419 new dwellings in a mix of dwelling types and sizes. Paragraph 7.29 of the Local Plan states that:

*The policy seeks to ensure that the development of future parcels of land, the subject of individual applications, will be brought forward in an integrated manner in order to deliver wider community and infrastructure benefits for existing and future residents in the north Nuneaton area.*

It continues to state in paragraph 7.31 that:

*7.31 A new distributor link road through the allocation will be provided to include primary access points on Weddington Road, The Long Shoot and Higham Lane. This should be delivered in line with the indicative route shown on the concept*

*plan. The start and end points have already been provided as part of extant planning permissions in these areas. The Strategic Transport Assessment assumed that this link will be fully operational by 2027. It is not included in full in the 2022 assessment as the level of development completed in this area as defined in the Borough Plan trajectory is less likely to trigger the necessity for the full link road. New bus infrastructure will also be required. The width of the main distributor road within the development site must be sufficient to cater for two-way bus movement, in order to allow effective penetration of the site.*

The Strategic Transport Assessment assumed that this link will be fully operational by 2027. It is not included in full in the 2022 assessment as the level of development completed in this area as defined in the Borough Plan trajectory is less likely to trigger the necessity for the full link road, new bus infrastructure will also be required. Paragraph 7.31 of the Borough Plan continues to state that:

*The distributor road should ensure that:*

- all households within the individual developments are within 400 m of a bus stop;*
- a highway link connects all the separate developments to each other and also the adjoining local highway network, and;*
- the minimum width of road is 6.75 m to effectively cater for bus turn movements in order to complement flexible bus routing options.*

To mitigate potential cumulative impacts of HSG1, the transport modelling undertaken by the Highway Authority as part of the Strategic Transport Assessment highlighted a number of strategic road improvements within the vicinity of the development area that would be required and which the development of HSG1 would contribute towards via planning obligations or CIL. This modelling did not make any provision for the delay on the delivery on the provision of this strategic link.

The applicant has not provided any additional modelling in order to further assess the impacts that the proposed removal/variation of this condition would have on the surrounding highway network. The impact of the re-assignment of traffic from both this development site and that of Callender Farm as a consequence of the delay in the delivery of the northern link/spine road would be required to assess the delivery of other identified strategic road improvements which may be brought forward.

The submitted Transport Assessment (TA) by ADC in support of the proposal states that those residents to the rear of the development site would have a further 800 metres walking distance in order to reach schools and local service destinations. The TA does not appear to take account of the connectivity with the local services that are to be provided within the adjacent Callender Farm development in terms of primary school and local service centre, and the provision of the proposed bus services between Higham Lane and the Longshoot.

Consequently, it is considered that by further delaying the delivery of the link road with the Callender Farm development, this will make the development unsustainable and will not encourage residents to make sustainable transport choices reducing cycling and pedestrian connectivity to key services and facilities and preventing bringing forward a viable public transport service to serve the development.

The Highway Authority on assessing the proposal conclude that the above highlighted issues will lead to a significant reliance on private car-based trips which

will result in a detrimental impact upon the effective and efficient operation of the highway network.

Stagecoach have objected on similar grounds to the Highways Authority. Their comments are based on:

- *“The justification is purely based on traffic impacts, and junction capacity. There are significant issues regarding the connectivity of the site within the wider context of HSG1 which are magnified by the urban structure of this part of Nuneaton, given that there is no permeability by cycles or pedestrians to existing development to the south, through which direct access to local facilities and services might otherwise have been available, including existing bus services in St Nicolas Park.”*
- *No such facility has ever been proposed by the applicant, on the basis that it has never been intended that buses would penetrate the site except at the point the wider link road is achieved through the site into adjoining land to the east.*
- *The 6.75m wide spine road within the consented site is thus justified by and reflective of the fact that it forms a key part of this link.*
- *Much is made by the applicant's justification of the parallels with the Redrow site subsequently consented to the north. This reference is really quite spurious - the issue is not simply a matter of the arithmetic of homes and traffic making use of a single junction, it is the delivery of the site in accordance with the adopted development plan for the area, and the wider movement and access strategy for the HSG1 allocation of which this site forms a critical part. Paradoxically I concede, Redrow's site does not form part of the HSG1 allocation; therefore, these matters did not bind on that site at the point that it was determined.*
- *The current guidance from CIHT (2018) suggests a 300m threshold in urban areas to bus stops - not 700m or more as this proposal implies, in the absence of bus penetration into the site. Our guidance is more flexible but it is context specific.*
- *Furthermore, it was agreed that these existing services were inadequate to suitably serve the site and a s106 contribution of £450,000 was agreed to supplement this with a new service penetrating the site, all justified by CIL Reg 122 as being necessary to make the development acceptable. Without completion of the spine road through, or delivery of a suitable bus turning facility at the eastern end of the site, this service is not deliverable and may not be perpetual. Even if a temporary bus turning facility were to be provided, the longer-term viability of any such service will be dependent on the whole HSG1 allocation being served by a single logical route - a point that we have been making assiduously for years, including through representations to the Local Plan.*
- *The policy in HSG1 and supported by the Local Plan IDP has been submitted, duly tested and found sound in order to ensure the principles of sustainable development in NPPF can be achieved.*
- *This application seriously undermines the delivery of the connectivity required to provide a bus service to this site, and the wider HSG1 allocation, contrary to the Council's policy. Whilst it might be considered appropriate to relax the condition to, say 300-350 units to help support the Councils' housing trajectory, and in the light of the arguments presented by the applicant the principles in policy need to be upheld, to avoid an aggravation of the already challenging operating conditions for bus in this and the immediate area, and needlessly elevating the relative attractiveness of single-occupancy car use over sustainable modes, contrary to NPPF paragraphs 102-103.”*

In addition to the above NBBC Planning Policy Team have assessed the proposal and concur with WCC Highways and stagecoaches stance. Stating that Criteria 14 of Borough Plan Policy HSG1 requires “provision of a strategic access road/ spine road through the site, with integrated footway and cycleway provision, provided in order to secure a sustainable pattern of development across the strategic site.

Policy HS2 of the Borough Plan (in part) seeks that developments with transport implications are required to address:

*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.*

*Proposals should target a 15 % modal shift to non-car based uses by including provisions which promote more sustainable transport options.*

*Proposals should be in accordance with the Movement for Growth strategy of Transport for West Midlands, the West Midlands Metropolitan Transport Emissions Framework, as well as associated policies.*

In addition to the Borough Plan Policy, the NPPF (2019) at paragraph 102 clearly states that:

*102. Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:*

- a) the potential impacts of development on transport networks can be addressed;*
- b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;*
- c) opportunities to promote walking, cycling and public transport use are identified and pursued;*
- d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and*

*e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.*

Paragraph 108 of the NPPF confirms that

*108. 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; and*
- c) 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.*

Similarly, paragraph 110 states (in part):

*110. Within this context, applications for development should:*

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*

In addition, paragraph 127 of the National Planning Policy Framework 2019 states (in part):

*127. Planning policies and decisions should ensure that developments:*

- a) 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;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

It is considered that insufficient information has been provided to justify the removal of condition 28 based on the above criteria.

It was also noted that the red line boundary and masterplan for application 034076 includes an access road to link up with the adjacent Callender Farm site. It is understood that access across third party land may be required for a small section of the overall strategic access road, but nonetheless, this was indicated on the original layout plan and delivery of the route was clearly a requirement underpinning the approval of the application.

It is considered that the removal of condition 28 is likely to undermine the potential delivery of a fundamental part of the strategic access route serving the whole of the HSG1 allocation, as there would be no guarantee that the developer would, or could, deliver the route if the 250 dwelling limit is removed.

The application does not provide a clear rationale for requiring the removal of the limit. Assuming land ownership remains an issue, no evidence has been submitted to demonstrate meaningful engagement with any third party to secure agreement to deliver the route. It is the view of NBBC Planning Policy team that removing the limit should be a last resort once all other avenues have been exhausted and once all of the potential impacts are understood.

## 2. Conclusion

Original application 034076 for the erection of 453 dwellings and associated infrastructure was granted on the basis that no more than 250 dwellings can be occupied until completion and opening of the Northern Link Road is provided between Higham Lane, A5 and/or the A47 The Longshoot.

The assessment of 034076 was based on the above assumption and significant concerns have been raised by the Highways Authority regarding the accessibility of the development proposals. In addition, NBBC Planning Policy raise objection, underpinning the concerns of the Highways Authority.

In conclusion, the proposal to remove condition 28 is contrary to Borough Plan Policies HSG1 including paragraphs 7.29 and 7.31: HS2, paragraphs 102, 108, 110 and 127 of the NPPF (2019) and refusal is recommended.

### **REASONS FOR REFUSAL:**

Refusal is recommended due to the following Policies:

- 1(i) Paragraph 102 of the National Planning Policy Framework 2019 states:
  102. Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:
    - a) the potential impacts of development on transport networks can be addressed;
    - b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
    - c) opportunities to promote walking, cycling and public transport use are identified and pursued;
    - d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
    - e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
- (ii) Paragraph 108 of the National Planning Policy Framework 2019 states:
  108. 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; and
    - c) 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.
- (iii) Paragraph 110 of the National Planning Policy Framework 2019 states (in part):
  110. Within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

(iv) Paragraph 127 of the National Planning Policy Framework 2019 states (in part):

127. Planning policies and decisions should ensure that developments:

- a) 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;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

(v) Nuneaton and Bedworth Borough Plan 2019 Policy HS2 – Strategic accessibility and sustainable transport states (in part):

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.
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.

Proposals should target a 15 % modal shift to non-car based uses by including provisions which promote more sustainable transport options.

(vi) Nuneaton and Bedworth Borough Plan 2019 Policy HSG1 – North of Nuneaton states (in part):

Strategic housing site HSG1 will be developed for a mix of residential, schools, local centres and community uses.

Key development principles

1. Provision of at least 4,419 dwellings in a mix of dwelling types and sizes.
2. Potential on-site GP surgery or financial contribution to new GP or expanded surgery in north Nuneaton area.
3. Provision of a district centre and a local centre including community facilities.
4. Provision of 2 form entry primary school (approximately 210 pupils) and funding including provision for early years.
14. Provision of a strategic access road / spine road through the site, with integrated footway and cycleway provision, provided in order to secure a sustainable pattern of development across the strategic site.



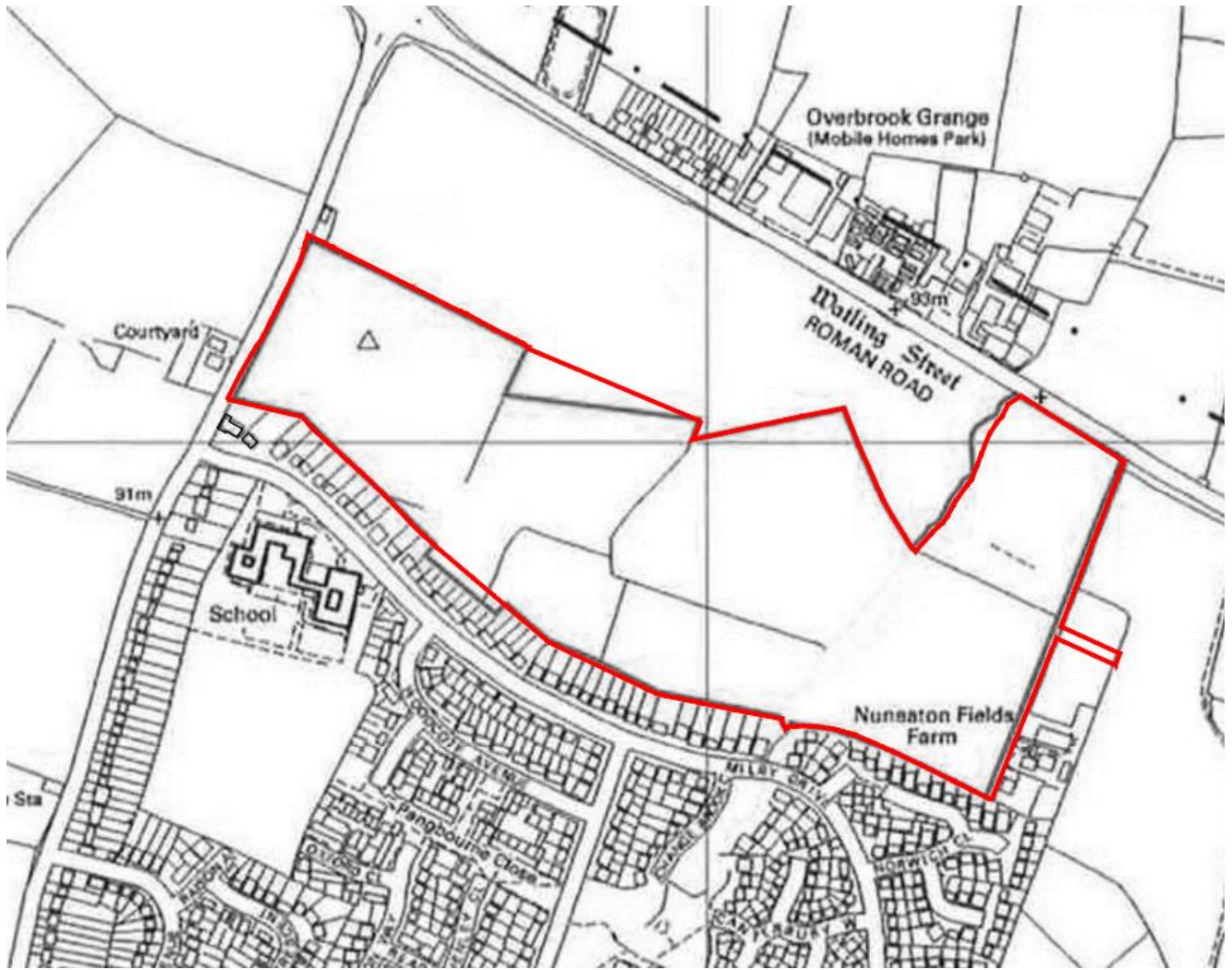
15. Provision of on-site bus infrastructure and contribution to secure diversion of local bus services in order to access the strategic housing site based on dialogue with Warwickshire County Council and bus operators.

Form of development

30. Development will be required to come forward in accordance with the concept plan.

- (vii) The proposal is contrary to these Policies as it is considered that insufficient information has been provided to justify the removal of condition 28. Furthermore, by further delaying the delivery of the link road with the Callender Farm development, this will make the development unsustainable and will not encourage residents to make sustainable transport choices reducing cycling and pedestrian connectivity to key services and facilities and preventing bringing forward a viable public transport service to serve the development. In addition, the removal of condition 28 would lead to a significant reliance on private car-based trips which would result in a detrimental impact upon the effective and efficient operation of the highway network.

The proposal is contrary to Paragraphs 7.29 and 7.31 of HSG1, which seek to ensure that development of the future parcels of land will be brought forward in an integrated manner in order to deliver wider community and infrastructure benefits for existing and future residents in the north Nuneaton area. Without this proposed distributor link road through the allocation, the primary access points on Weddington Road, The Long Shoot and Higham Lane cannot be fully utilised. For this reason, the proposal would be contrary to Criteria 14 of HSG1 as it would fail to secure a sustainable pattern of development across the strategic site.



Location Plan

**REFERENCE No.** 037817.

**Site Address:** Site 52D067 - Land off Eastboro Way, Nuneaton, Warwickshire.

**Description of Development:** Variation of condition 10 of planning permission 035918 to amend when the detailed drawings of the highway mitigation schemes are required to be submitted to prior to occupation of the development, variation of condition 24 of planning permission 035918 to amend when the the details of the provision of water supplies and fire hydrants are required to be submitted to prior to occupation of the development and variation of condition 26 of planning permission 035918 to amend when the details of the sustainable welcome packs are required to be submitted to prior to occupation of the development.

**Applicant:** Ms Jolande Bowater, Crest Nicholson Operations Ltd.

**Ward:** WH

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### **RECOMMENDATION:**

On completion of a Deed of Variation to the original S106 obligation for planning application ref 033926 the Head of Planning be given delegated authority to grant planning permission, subject to the conditions printed.

### **INTRODUCTION:**

This application is for:

- The variation of condition 10 of planning permission 035918 to amend when the detailed drawings of the highway mitigation schemes are required to be submitted to prior to occupation of the development;
- Variation of condition 24 of planning permission 035918 to amend when the the details of the provision of water supplies and fire hydrants are required to be submitted to prior to occupation of the development and
- vvariation of condition 26 of planning permission 035918 to amend when the details of the sustainable welcome packs are required to be submitted to prior to occupation of the development.

Condition 10 of the previous permissions states that the detailed drawings of the highway mitigation schemes are required to be submitted and approved prior to groundwork's, remediation or built construction of any phase of development. Conditions 24 and 26 require the relevant details to be submitted and approved before development in that phase commences.

The site is approximately 14 hectares and consists of four fields. Along the eastern and western boundaries are mature hedgerows. To the north, is the Crematorium which is separated by a dense woodland strip. To the south is Crowhill Park and an existing residential estate. Eastboro way is to the west, with Attleborough Fields Industrial Estate beyond. There are open fields to the east. The levels of the site are highest in the western and central areas and slope down to the north-east, to the River Anker.

## **BACKGROUND:**

This application is being reported to Committee at the request of Councillor Kondakor.

## **RELEVANT PLANNING HISTORY:**

- 037631: Erection of 360 no. dwellings (Approval of reserved matters relating to appearance, landscaping, layout and scale of already approved outline application ref 033926 and varied by application ref 035918): Under consideration.
- 035918: Variation of condition 11 of planning permission 033926 to amend when the delivery of the signalisation scheme at A4254 Eastboro Way/Heart of England Way/Townsend Drive is required to prior to the occupation of the 100th dwelling and variation of condition 13 of planning permission 033926 to amend when the delivery of the signalised toucan crossing is required to prior to the occupation of the development: Approved 23/04/2019.
- 033926: Residential development of up to 360 dwellings with vehicular access off Heart of England Way, including open space, footpaths, landscaping and other infrastructure. (Outline to include access): Approved 05/09/2018.

## **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;
  - DS5- Residential Allocations;
  - SA1- Development Principles on Strategic Sites;
  - HSG10- Attleborough Fields;
  - HS2- Strategic Accessibility and Sustainable Transport and
  - BE3- Sustainable Design and Construction and
- Sustainable Design and Construction SPD 2020.

## **CONSULTEES NOTIFIED:**

Warwickshire Fire & Rescue and WCC Highways.

## **CONSULTATION RESPONSES:**

No objection from:

Warwickshire Fire & Rescue and WCC Highways.

## **NEIGHBOURS NOTIFIED:**

A site notice was erected on street furniture on 10<sup>th</sup> March 2021 and the application was advertised in The Nuneaton News on 17<sup>th</sup> March 2021.

## **NEIGHBOUR RESPONSES:**

There have been 2 objections from 2 addresses as well as 1 from Councillor Kondakor. The comments are summarised below;

1. Necessary to have the designs finalised for both the highways scheme and the water supplies/fire hydrants for fire-fighting purposes before development commences.

2. If development has already commenced, it may make it impossible to change things to accommodate the necessary schemes and then the whole development becomes sub-standard.
3. The infrastructure should be put in place first, before the house building actually commences. Concerned that the Highway mitigation and fire hydrants are not going to be provided at a suitable time.
4. The change to when the sustainable travel packs are approved is less time critical but there is no reason why their contents cannot be approved in principle early on in the process so long as the detailed information is absolutely up-to-date.

## **APPRAISAL:**

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

1. Highway safety & access to sustainable forms of transport
2. Fire Safety

### **1. Highway Safety & Access to Sustainable Forms of Transport**

Planning application 033926 was approved in September 2018 and was an outline application for residential development of up to 360 dwellings. The application also included access. An application for the variation of condition 11 to amend when the delivery of the signalisation scheme at A4254 Eastboro Way/Heart of England Way/Townsend Drive is required to prior to the occupation of the 100th dwelling and variation of condition 13 of planning permission 033926 to amend when the delivery of the signalised toucan crossing is required to prior to the occupation of the development was approved in April 2019 under reference 035918.

Condition 10 of the previous permissions states that the detailed drawings of the highway mitigation schemes are required to be submitted and approved prior to groundwork's, remediation or built construction of any phase of development. The mitigation schemes are those at the A4254 Eastboro Way/Heart of England Way/Townsend Drive, the A4254 Eastboro Way/Crowhill Road Junction, the A4254 Eastboro Way/Avenue Road/B4114 Lutterworth Road/Highfield Road Roundabout junction and the A4254 Eastboro Way Toucan Crossing. Preliminary designs were submitted as part of the outline application but condition 10 requires further detailed drawings to be submitted, as requested by WCC Highways.

This current application proposes to amend that condition to amend when the detailed drawings of the highway mitigation schemes are required to be submitted to prior to occupation of the development. Supporting information has been submitted which states that the reason for seeking this change is the protracted length of time that it routinely takes for highway improvement schemes to receive technical approval through the necessary Section 278 process. A Section 278 agreement is a section of the Highways Act 1980 that allows developers to enter into a legal agreement with the Highways authority to make permanent alterations or improvements to a public highway, as part of a planning approval.

A Reserved Matters applicatoin is currently under consideraton and the applicant has confirmed that they are preparing the information needed to discharge all conditions attached to the outline, including condition 10, but they do not wish to be delayed from making a start on site and commencing development whilst the Section 278 process is underway.

It should also be noted that the timing of delivery of the various highway mitigation schemes is controlled through other conditions attached to the permission. The

A4254 Eastboro Way/Heart of England Way/Townsend Drive scheme is controlled through condition 11 and is required to be delivered prior to first occupation of the 100<sup>th</sup> dwelling. The A4254 Eastboro Way/Crowhill Road Junction scheme is controlled through condition 12 which requires the signalisation scheme to be provided prior to the occupation of the 100<sup>th</sup> dwelling. In relation to the A4254 Eastboro Way/Avenue Road/B4114 Lutterworth Road/Highfield Road Roundabout junction, this is controlled under condition 14 which requires the provision of the junction improvement scheme prior to the occupation of the 300<sup>th</sup> dwelling.

In terms of the toucan crossing on Eastboro Way, this is controlled under condition 13 which requires it to be provided prior to first occupation.

WCC Highways have been consulted and have no objection to the proposed variation. It is not considered that by approving this variation it would lead to a delay in the delivery of the highway mitigation schemes, particularly as that is controlled through separate conditions. It is the developer's responsibility to submit the required detailed drawings to allow any amendments to be made and allow the various schemes to be delivered at the required time. It is therefore considered that the proposed variation of condition 10 is acceptable.

Condition 26 of the previous permissions states that no phase of development shall commence until details of Sustainable Welcome Packs (including public transport information) has been submitted and approved in writing by the Council and that the approved packs shall be provided to each dwelling prior to the first occupation of any dwelling.

This current application proposes to amend that condition to amend when the details are required to be submitted to prior to occupation of the development. The applicant has confirmed that the reason for seeking this change is that the purpose of this condition is to ensure Sustainable Welcome Packs can be provided to each dwelling upon occupation and therefore a reasonable trigger would be for this information to be submitted and approved prior to first occupation. It is considered that this proposed variation is acceptable and would not delay the provision of the packs.

The applications that have been dealt with since the original outline application at this site that include a condition requiring details of sustainable welcome packs are now worded with a trigger point of 'prior to occupation' for details to be submitted rather than pre-commencement. It is the developer's responsibility to submit the required details to allow any amendments to be made and the packs to be provided before the dwellings are occupied. The second part of condition 26 prevents the dwelling being occupied until the packs have been provided to that dwelling. WCC Highways have been consulted and have no objection. It is therefore considered that the proposed variation of condition 26 is acceptable.

## **2. Fire Safety**

Condition 24 of the previous permissions states that no phase of development shall commence until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the Council and that phase of development shall not be occupied until provision has been made in accordance with the approved details.

This current application proposes to amend that condition to amend when the details are required to be submitted to prior to occupation of the development. The applicant has confirmed that the reason for seeking this change is that the purpose of this condition is to ensure that there are adequate water supplies and fire hydrants when the development is occupied, and therefore a reasonable trigger would be for this information to be submitted and approved prior to first occupation. It is considered that this proposed variation is acceptable and would not delay the provision of the water supplies and fire hydrants.

Warwickshire Fire and Rescue have been consulted and have no objection subject to all hydrants at the approved locations being installed and commissioned prior to the occupation of the properties. The second part of condition 24 prevents the development being occupied until the required provision has been made.

### **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:**

4. The development shall not be carried out other than in accordance with the approved plan contained in the following schedule:

<i>Plan Description</i>	<i>Plan No.</i>	<i>Date Received</i>
Site Location Plan	36373-LEA89	12th February 2016

5. Notwithstanding the details submitted, no development shall commence until a Phasing Plan shall be submitted to and approved in writing by the Council. The Phasing Plan shall provide details of the sequence and timing of development across the entire site, including:

- a. The provision of all major infrastructure including accesses, roads, bus stops and shelters, footpaths and cycle ways including pedestrian access to the existing Crowhill Park;
- b. Residential dwellings (including affordable units);
- c. Public open space;
- d. SUDS; and
- e. Ecological and landscaping enhancement areas.

The development, and the release of dwellings for occupation, shall not be carried out other than in accordance with the approved Phasing Plan.

6. No phase of development shall commence until full details and samples of materials proposed to be used in the external parts of any building have been submitted to and approved in writing by the Council. The development shall not be carried out other than in accordance with the approved details.

7. No phase of development shall commence until full details of the boundary treatments, including new walls and fences, have been submitted to and approved in writing by the Council. No dwelling shall be occupied until the boundary treatment to that plot has been carried out in accordance with the approved details.

8. The details required by condition 1(e) shall be carried out within 12 months of the commencement of any phase of development and subsequently maintained in the following manner:

Any tree or plant (including any replacement) which, within a period of five years from the implementation of the scheme, dies, is removed or becomes seriously damaged or diseased, shall be replaced in the next planting season with another of a similar size and species unless the Council consents in writing to any variation.

9. No phase of development shall commence, including any site clearance, until a Construction Management Plan has been submitted to, and approved in writing by, the Council. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) The routeing and parking of vehicles of site operatives, HGV's and visitors;
- ii) Hours of work;
- iii) Loading and unloading of plant and materials;
- iv) Storage of plant and materials used in constructing the development;
- v) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) Wheel washing facilities;
- vii) Measures to control the emission of dust and dirt during construction;
- viii) A construction phasing plan; and
- ix) A scheme for recycling/disposing of waste resulting from construction works.

10. Prior to the occupation of the development, the detailed drawings, in accordance with the preliminary design, for the highway mitigation schemes as identified shall be submitted for review and approval in writing by the Council;

- a. A4254 Eastboro Way/Heart of England Way/Townsend Drive- drawing number 36373 – LEA – 065 Rev. C ;
- b. A4254 Eastboro Way/Crowhill Road Junction- drawing number 36373- LEA – 070 Rev C;
- c. A4254 Eastboro Way/Avenue Road/B4114 Lutterworth Road/Highfield Road Roundabout Junction – Figure 7.4 provided within the Transport Assessment; and,
- d. A4254 Eastboro Way Toucan Crossing – drawing number 36373 – LEA– 080B.

11. Prior to first occupation of the 100th dwelling the signalisation scheme at A4254 Eastboro Way/Heart of England Way/Townsend Drive shall be constructed, located and laid out in general accordance with drawing 36373-LEA-065 Rev C.

12. Prior to the occupation of the 100th dwelling the signalisation scheme at A4245 Eastboro Way/Crowhill Road Junction shall be constructed, located and laid out in general accordance with drawing 36373-LEA-070 Rev C.

13. Prior to the occupation of the development the provision of a Signalised Toucan Crossing on Eastboro Way shall be constructed, located and laid out in general accordance with drawing 36373-LEA- 080 Rev B.

14. Prior to the occupation of the 300th dwelling the provision of the junction improvement scheme A4254 Eastboro Way/Avenue Road/B4114 Lutterworth Road/Highfield Road Roundabout Junction shall be constructed, located and laid out in accordance with Figure 7.4 provided within the submitted Transport Assessment.



15. No phase of development identified on the approved phasing plan shall commence until full details of the provision of car parking, driveways, access and manoeuvring areas, including surfacing, drainage and levels for that phase of development have been submitted to and approved in writing by the Council. No dwelling in that phase shall be occupied until the car parking, driveways, access and manoeuvring areas for that dwelling have been laid out in accordance with the approved details.

16. No phase of development shall commence until full details of the site levels and finished floor levels have been submitted to and approved in writing by the Council. The finished floor levels should be set no lower than 84.42 m above Ordnance Datum (AOD). No construction work shall be carried out other than in accordance with the approved details.

17. No phase of development identified on the approved phasing plan shall take place until full details of the precise alignment, specification and maintenance of dedicated foot and cycle paths for that phase of development have been submitted to and approved in writing by the Council. The development shall not be carried out in accordance with the approved details.

18. No phase of development shall commence until an Ecological and Landscape Management Plan (ELMP) has been submitted to and approved in writing by the Council. The ELMP shall set out how the measures and recommendations detailed in the Ecology Survey will be implemented and maintained. The ELMP shall also include details of:

- Details of further bat surveys of trees to be affected by the development
- Details of planting to provide additional foraging areas for bats
- Details and position of roosting and nesting bricks, tiles, boxes and terraces for bats and breeding birds
- Timing and methodology of site clearance
- A timetable for the implementation of all of the ecological and landscape mitigation and enhancement measures
- Details of a scheme securing future maintenance and retention.

The measures in the ELMP shall not be carried out other than in accordance with the approved details.

19. No phase of development shall commence until a scheme has been submitted to and approved in writing by the Council giving details of all existing trees and hedgerows on the site, those to be retained, and measures for their protection and the protection of root zones, in the course of the development. No tree or hedgerow other than so agreed shall be removed, and no construction works shall commence unless the approved measures for the protection of those to be retained have been provided and are maintained during the course of development.

20. No phase of development shall take place until details of the layout of the open space, including public open space, ecological and landscaping enhancement areas (including ecological buffer zones), boundary details (including knee rail fencing), site securing (including gates, trip rails and kissing gates), surfacing, drainage, bins, seating, amenity lighting, signage and notice/information boards and an adoption proposals plan has been submitted to and approved in writing by the Council. The development shall be carried out and thereafter maintained in accordance with the approved details.

21. No phase of development shall commence until a scheme for the lighting of the housing and associated access roads, parking areas and open spaces has been submitted to and approved in writing by the Council. This scheme should outline how the lighting scheme avoids potential negative effects upon the habitats used by foraging and commuting bats as evidenced by a suitably qualified and experienced ecologist. The development shall not be carried out other than in accordance with the approved details.

22. No development shall take place until detailed surface and foul water drainage schemes for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted and approved in writing by the Council. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:

- a. Provide an assessment of flood risk from all sources of flooding including fluvial, pluvial and groundwater flooding.
- b. Infiltration testing, in accordance with BRE 365 guidance, to be completed and results submitted to demonstrate suitability (or otherwise) of the use of infiltration SuDS.
- c. Demonstrate that the surface water drainage system(s) are designed in accordance with CIRIA C753.
- d. Evidence that the discharge rate generated by all rainfall events up to and including the 100 year plus 40% (allowance for climate change) critical rain storm has been limited to the runoff rates for all return periods as specified in Appendix F of the submitted Flood Risk Assessment (document reference 36373-r001i3).
- e. Demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation system, and outfall arrangements. Calculations should demonstrate the performance of the drainage system for a range of return periods and storms durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- f. Evidence from Severn Trent Water (STW) will be required (where relevant) granting approval of discharge of sewerage to their assets including discharge rate and connection points.
- g. Demonstrate the proposed allowance for exceedance flow and associated overland flow routing.
- h. A foul water drainage scheme including evidence from Severn Trent Water (STW) that there is adequate capacity within their sewerage assets for this development .
- i. Provide a Maintenance Plan to the LPA giving details on how the entire surface water and foul water systems shall be maintained and managed after completion for the life time of the development. The name of the party responsible, including contact name and details, for the maintenance of all features within the communal areas onsite (outside of individual plot boundaries) shall be provided to the LPA.

23. No phase of development shall commence until:

- a. A contaminated land assessment and associated remedial strategy, has been submitted to, and agreed in writing by the Council; No individual phase of development shall commence until:

- b. The approved remediation works are completed on site, in accordance with a quality assurance scheme, agreed as part of the contaminated land assessment;
- c. If during implementation of this development, contamination is encountered which has not previously been identified, the additional contamination shall be fully assessed and a specific contaminated land assessment and associated remedial strategy shall be submitted to and agreed in writing by the Council before the additional remediation works are carried out. The agreed strategy shall be implemented in full prior to completion of the phase of development; and
- d. On completion of the agreed remediation works, a closure report and certificate of compliance, endorsed by the interested party/parties shall be submitted to and agreed in writing by the Council.

24. Prior to the occupation of the development, a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, shall be submitted to and approved in writing by the Council. That phase of development shall not be occupied until provision has been made in accordance with the approved details.

25. No development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Council.

26. Prior to the occupation of the development, details of Sustainable Welcome Packs (including public transport information) shall be submitted to and approved in writing by the Council. The approved packs shall be provided to each dwelling prior to the first occupation of any dwelling.

27. No phase of development shall commence until full details of an acoustic barrier along the western boundary of the site, in accordance with the recommendations in the submitted Noise Report (Document ref. 36373LEArrLEA026i1) received by the Council on 20th September 2016 has been submitted and approved in writing by the Council. No dwelling shall be occupied until the barrier has been erected in accordance with the approved details.

28. No phase of development shall commence until full details of glazing and ventilation to the proposed dwellings, in accordance with the recommendations in the submitted Noise Report (Document ref. 36373LEArrLEA026i1) received by the Council on 20th September 2016 has been submitted and approved in writing by the Council. No dwelling shall be occupied until the glazing and ventilation has been provided in accordance with the approved details.

29. No phase of development shall commence until details of the position of the on-site bus stops have been submitted to and approved in writing by the Council. The development shall not be carried out other than in accordance with the approved details.

30. The development shall not be carried out other than in general accordance with the Illustrative Masterplan (drawing no. 36373 LEA91 Rev B) received by the Council on 9th September 2016 and the Design and Access Statement (ref no. 36673-001) received by the Council on 12th February 2016.



Site Plan

**REFERENCE No.** 037552.

**Site Address:** Cross Keys Inn, Goodyers End Lane. Bedworth. Warwickshire CV12 0HR.

**Description of Development:** Demolition of the existing public house and buildings and erection of one retail unit (Class Use E retail use). (Amended scheme to previous approval reference 034430).

**Applicant:** Mr Andrew Browne, Rudyard Properties Ltd.

**Ward:** HE

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**RECOMMENDATION:**

Planning Committee is recommended to grant planning permission, subject to the conditions printed and a S106 Legal Agreement in relation to Highways road works.

**INTRODUCTION:**

Demolition of the existing public house and buildings and erection of one retail unit (Class Use E retail use). (Amended scheme to previous approval reference 034430) at Cross Keys Inn Goodyers End Lane Bedworth Warwickshire CV12 0HR.

The proposal necessitates the demolition of the existing public house known as the Cross Keys Inn on the corner of Goodyers End Lane and Bowling Green Lane in Bedworth which is a largely two storey public house with ancillary outbuildings. The proposal is for a purpose-built single storey building to provide one single retail unit. (class use A1 now Class Use E) with ancillary storage. The building is to be approximately 343.4 square metres of which the sales area will occupy 233.5 square metres. The application includes a customer car park for 20 car parking spaces, an external Amazon locker and cycle storage.

The existing vehicular entrance off Bowling Green Lane is to be amended. The existing vehicular access off Goodyers End Lane is to be closed off. The delivery area for the retail unit is to the south east side of the building.

The existing public house is two storeys and has a date brick of 1898. The building is set well back from the road and its main frontage is looking onto the crossroads with Bowling Green Lane, with the side having an additional entrance and windows facing onto Goodyers End Lane. To the rear of the building is a walled yard area which is fenced from the car park and which immediately bounds onto the side of the drive and single storey extension of 5 Goodyers End Lane. There are no side windows to this neighbouring property.

To the south side of the building the property currently has a beer garden with children's play area with a 1.5m palisade fence fronting onto Bowling Green Lane. To this area is a single and two storey building with windows largely facing onto the pub and onto 5 Goodyers End Lane. The side of 1 Bowling Green Lane is parallel with

the children's play area boundary and is separated from it by an access leading to the rear of these properties. There are two windows to the side of this neighbouring property one is to a bathroom and one to a landing.

The pub car park is to the front of the building with vehicular accesses off both Bowling Green Lane and Goodyers End Lane.

The front of the public house is painted brick with stone cills and lintels and traditional sash windows to the first floor. There are 3 brick horizontal dentil details to the front with brick detailing to the eaves. There is a projecting two storey bay to the front that includes the main entrance which has a canopy over. This bay is finished in a flat roof above the eaves level. The roof is slate with decorative ridge tiles and finials to the gables. There are two chimneys that both have brick detailing. To the rear are a number of two and single storey extensions.

There is a bus stop and shelter and zebra crossing adjacent to the site on Goodyers End Lane. In terms of the wider area, the proposal is on the crossroads of Goodyers End Lane; Heath Road; Bowling Green Road and Smarts Road; this junction is served by a double roundabout. The site is not in a Local Centre although there is a former branch library; convenience store; veterinary practice and petrol store in close proximity to the site. These existing uses have been operating for a number of years and many have either historical lawful use or were approved under old guidance. There is a primary school within 100 metres of the site and a recognised Local Centre in Smorrall Lane is within 350 metres of the site; Bedworth Town Centre is under 2 kilometres away.

The proposal is to be an 'L' shaped building single storey with the main length of the shop at approx. 22.6m onto Goodyers End Lane and the side facing onto the side boundary of the nearest neighbouring property which is 5 Goodyers End Lane with a length of approximately 22.8m. The main entrance and main elevation is to be facing the car park looking onto the double roundabout with one advertisement panel window to the side of the main entrance and two further advertisement panel frontages facing onto Goodyers End Lane. The elevations facing onto 5 Goodyers End Lane and 1 Bowling Green Lane are blank frontages. The proposal would comprise of one retail unit and an ancillary store.

The proposed new building is to be Russell facing brick with brick piers and a hipped roof in slate tiles above which will be a flat roof. The eaves height is proposed to be 3.8m in height and the tallest part of the roof at 5.6m.

The previous application Allowed at Appeal is still extant until the 21<sup>st</sup> June 2021 and therefore provides a fall-back position if this current application is refused. In fact, the information required for the approval of pre commencement conditions on the previous application have been submitted and the Agent has confirmed that the public house is due to close on the 6<sup>th</sup> June and the Applicant is to take vacant possession on the 7<sup>th</sup> June. The Agent has also advised that demolition notification has been served and the public house is due to be demolished under the current approval as soon as possible after the 7<sup>th</sup> June under that previous permission.

There are some differences between the previous proposal and the current application; the main difference is that the beer garden/children's play area of the public house has now been removed from the application as there is a restrictive covenant on this area. This area was originally to receive part of the building although the main area of it was to be a service yard for deliveries. The building was

originally in one rectangular block and the latest proposal provides it as an L shape. The previous overall building was approximately 400 square metres reduced now to 343 square metres. The number of parking spaces have been reduced by two and the delivery area is now within the car park. The main entrance was originally to have a gabled canopy built on piers and the latest proposal instead as a composite canopy. The plant area has been moved from the side of 5 Goodyers End to within the courtyard of the building adjacent to four new proposed electric vehicle charging parking spaces and the service vehicle parking. The building has also been brought closer to the side boundary with 5 Goodyers End. Although due to concerns about the unacceptable increased impact to this neighbours' rear garden the store area was subsequently stepped in slightly from the original drawings submitted with this latest application.

Whilst the previous application was recommended for approval, Members refused the application on the following five reasons:

1. Contrary to policies since the site is not within a new or existing district or local centre and it has not been adequately demonstrated that the development would not have a significant impact on two nearby local centres on Dark Lane and on Smorrall Lane.
2. Contrary to this policy in that it has not been adequately demonstrated that suitable marketing has been carried out in order to try to retain the building and its existing community use, resulting in an unacceptable loss of a community facility to the detriment of the amenities of the local area.
3. Contrary to policy as not been adequately demonstrated that the impact on the highway safety of the area would not be severe, nor that the traffic generated would be suitable for this site, thereby resulting in a significant detrimental impact on highway safety in the area.
4. The proposed development would result in the total loss of a non-designated heritage asset, the Cross Keys Inn, which would have a significant negative impact upon the historic character of the immediate area and its surroundings. Given the significant importance and total loss of this asset, and the subsequent impact of this loss, the proposed development would undermine the areas distinct historic character.
5. The proposal is contrary policy in that the development would not be in keeping with the design and character of the surrounding area and would result in the loss of an impressive and imposing building and the replacement by a modern unit which would appear out of character, incongruous and over prominent in the street scene in this highly prominent location to the detriment of the visual amenities of the area.

The Appeal was Allowed by the Planning Inspector who considered that reasons 1 – 4 were considered unreasonable and costs were awarded against the Council for these reasons.

### **BACKGROUND:**

Notwithstanding the level of objection, this application is being reported to Committee at the request of Councillor Kyle Evans.

### **RELEVANT PLANNING HISTORY:**

- 034430 Demolition of public house and erection of one retail unit (Class use A1 eg shop). Refused at Committee. Allowed at Appeal (reference APP/W3710/W/17/3189481) 21.06.2018.
- 012653 Illuminated and non-illuminated sign. Approval 12.08.08

- 012574 Retention of smoking shelter to front. Approval 21.08.08
- 010345 Retention of non-illuminated sign. Refused 25.01.06.
- 009597 Increase size of opening between bar and family room. Pitched roof to replace flat roof over porch. Approval 25.03.05
- TP/0601/01 – 007292 Public House signage (amendment to TP/036401). Approval 11.01.02
- TP/036401 – 004463 Public House signage. Split Decision 03.09.01.
- TP/0256/99 – 003173 Illuminated public house signage and post mounted pictorial sign. Approval 11.06.99
- TP/0373/96 – 004579 Covered way and elevational changes in connection with conversion of store to family room. Approval 18.09.96
- 800060 – 021840 Lounge extension. Approval 5.03.80

### **RELEVANT PLANNING POLICIES:**

- Policies of the Borough Plan 2019:
  - DS1 – Presumption in favour of sustainable development
  - DS2 - Settlement hierarchy and roles.
  - DS3 - Development principles.
  - TC3 - Hierarchy of centres.
  - HS1 Ensuring the delivery of infrastructure.
  - HS2 - Strategic accessibility and sustainable transport.
  - HS4 - Retaining Community Facilities
  - BE3 - Sustainable design and construction.
  - BE4- Valuing and conserving our historic environment.
  - Supplementary Planning Guidance / Supplementary Planning Documents.
- Sustainable Design and Construction SPD 2020.
- National Policy Planning Framework (NPPF).
- National Planning Practice Guidance (NPPG).

### **CONSULTEES NOTIFIED:**

Bedworth Society, Cadent Gas, Coal Authority, Historic England, Joint Committee of the National Amenity Societies, NBBC Environmental Health, NBBC Parks, NBBC Planning Policy, NBBC Tree Officer, Nuneaton and North Warwickshire Local and Family History Society, Severn Trent Water, Victorian Society, Warwickshire Police (Architectural Liaison Officer), Warwickshire Police (Place Partnership), WCC Archaeology, WCC Fire Safety, WCC Highways, Western Power Distribution.

Exhall and Ash Green Residents Associations were consulted by email on the 25<sup>th</sup> November 2021.

### **CONSULTATION RESPONSES:**

Objection:

Bedworth Society.

No objection subject to conditions:

NBBC Environmental Health and NBBC Tree Officer.



No objection subject to conditions and S106 Legal Agreement:  
WCC Highways.

No objection subject to note:  
Coal Authority, Warwickshire Police (Architectural Liaison Officer) and WCC Fire Safety.

No objection from:  
NBBC Planning Policy.

No comment:  
Historic England.

No response from:  
Cadent Gas, Joint Committee of the National Amenity Societies, Nuneaton and North Warwickshire Local and Family History Society, NBBC Parks Officer, Severn Trent Water, Victorian Society, Warwickshire Police (Place Partnership), WCC Archaeology and Western Power Distribution.

### **NEIGHBOURS NOTIFIED:**

16, 27, Alice Close, 1 – 15 (odd) 14, 16, 20 – 24 (even), 30, Goodyers End School Bowling Green Lane, 25 Canon Drive, 16 Celandine Way, 1-3 (incl), Garden Grove, 2 – 24 (even), 5 – 11 (odd), Goodyers End Lane, 6 Hayes Green Road, 165 – 171, 228 (Sedgies) (odd), Bedworth Heath Library, Heath Road, 15 Heather Drive, 29 Margaret Ave, 20 Mavor Drive, 16 Potters Road, , 16 River Close, 10 Silver Birch Avenue, 23, 59 Smarts Road, 1, 2, The Tea Garden, 7, Topps Drive, 56 Vicarage Lane, 64 Windmill Road Bedworth and 35 Glenmore Drive Coventry.

Neighbouring properties were sent letters notifying them of the proposed development on the 24<sup>th</sup> November 2020. A site notice was erected on street furniture on the 25<sup>th</sup> November 2020 and the application was advertised in The Nuneaton News on the 25<sup>th</sup> November 2020.

### **NEIGHBOUR RESPONSES:**

There have been 7 objections from 7 addresses. The comments are summarised below;

1. Local residents have use of existing car park particularly where drives have been put up to prevent parking on neighbouring drives.
2. The proximity of Goodyers End School will provide unacceptable risk to young children travelling to and from school. Currently sites busy hours are outside school hours.
3. Should use site for car park beginning and end of the school day to relieve congestion.
4. Cross Keys is an important part of Bedworth's history and oldest in Bedworth and is Listed. To demolish to replace with featureless retail is unthinkable and is irreplaceable. It should have a sympathetic renovation of the existing structure.
5. Pub should be upgraded to serve increasing local residents and is heart of community.
6. Too many jobs being lost in retail.
7. It could be taken over by another landlord.

8. Appeals are expensive but Council should care of residents not just fiscal responsibilities.
9. Entrance is on a main thoroughfare for children.
10. Co Op are only thinking of profit especially when more development goes ahead.
11. Proposal only has a single entrance to the new site where the junction is already congested due to the poor design of the twin roundabout, zebra crossing and bus stop all in close proximity to the site. Will increase bottleneck.
12. Plans show heavy lorries will gain access to the site. The drawings are not to scale and experience shows the lorry drivers would have to perform impossible manoeuvring feats.
13. A further supermarket is not required. There are ten in the local area. Within a mile there is a Co op, Sainsbury's and shops on Heath Road, Smorrall Lane, Dark Lane, and Newdigate Road. Also only two miles from large supermarkets in Bedworth Town Centre and Richo retail park is within close proximity. Its success would lead to other businesses closing leaving unoccupied shop units and encouraging dereliction. This includes an impact to Sedgies which has been trading for 60 years.
14. If the pub has to be knocked down then housing should outweigh another retail unit.
15. Plans take no account of the current dangers the junction currently creates with drivers using this as a short cut.
16. Serious accidents have already happened at the junction.
17. If there is 6 staff parking then it will only leave 8 parking spaces for customers.
18. Potential for negative affect upon the quality of life of the local residents.
19. It will not create new jobs and will just replace old ones.

Comments from Cllr Jasbir Singh with the following concerns:

1. Concerns that will impact on his business 'Sedgies' at Smorrall Lane which has been trading for a number of decades serving the local community.

Ash Green Residents Association have objected on the grounds of:

1. Already been rejected and was only approved at Appeal as the Borough Plan was not up to date.
2. Appears can only comment on access.
3. There will be increased carbon emissions if it goes ahead to detriment of residents and school children and parents. Health must come first.

There have been 27 petitions of objection totalling 300 signatories (some repeated) stating the following comments:

1. Petition against the demolition of the pub.
2. Request Committee refuse it.
3. One of the petitions includes a photograph of a damaged car and states this is one of many accidents at the junction and increase in traffic and deliveries will exacerbate this and shop isn't needed.

The Bedworth Society object on the following grounds:

1. Consider the loss of the Cross Keys would irreparably and unjustifiably harm the character of the local area, depriving it of a heritage asset of high local significance.
2. Was once run by Israel Marshall, who saved hundreds of lives during the Exhall Pit Disaster in 1915.

3. Sainsburys have managed to convert two former public houses into local shops, which have greatly benefitted the local community, whilst retaining heritage assets.
4. The Co-Op demolished the Lord Raglan Inn at Exhall to build a new store, which is only 0.5 miles away.
5. Co Op have abandoned own historic building.
6. The area around the Cross Keys is currently served by other convenience stores, including Sedgwicks and a parade of shops on the corner of Heath Road and Smorrall Lane, less than 0.25m away.
7. When the previous application was refused, work had not begun on the new development in Smarts Road for 92 dwellings which has now commenced and leads onto double roundabout near the site. There is a school nearby, the increased traffic flow (pedestrians, cycles, cars and delivery lorries) from the new estate and a convenience store would be very dangerous.
8. The Bedworth Society does not consider the demolition should take place, and the building should be preserved as a heritage asset. If it cannot be retained as a public house, then it could be converted in some way. Similar to other in the Borough including the award-winning Navigation Inn.

### **APPRAISAL:**

When dealing with the previous application the Inspector considered that the following were the main issues of contention between the parties:

- whether the sequential test which has been applied is adequate, and secondly, the effect of the proposal on the vitality and viability of nearby local centres; and
- whether the public house as a community facility has been adequately marketed; and
- the effect of the proposal on highway safety; and
- whether the Cross Keys Inn is a non-designated heritage asset, and if it is the effect of the proposal on it; and
- the effect of the proposal on the character or appearance of the area.

These have been considered within this current application and the key issues to assess in the determination of this application are;

1. Principle of development and whether the sequential test which has been applied is adequate, and secondly, the effect of the proposal on the vitality and viability of nearby local centres.
2. Loss of a Community Facility and whether the public house as a community facility has been adequately marketed and the loss of the Public House as a potential Heritage Asset.
3. Impact on Residential Amenity.
4. The Impact on Visual Amenity; Character and Appearance of the area.
5. The Impact on Highway Safety and Car Parking.
6. Landscaping and Ecology
7. Conclusion.

#### **1. Principle of development and whether the sequential test which has been applied is adequate, and secondly, the effect of the proposal on the vitality and viability of nearby local centres**

The principle for the demolition and new building and its use has been established by the Allowed Appeal. The previous application was assessed against the previous saved Borough Plan Policies and subsequently with the adoption of the new Borough Plan 2019 the new application has to be assessed against the new Policies.

However, notwithstanding this, the Allowed Appeal and the fact that this Approval is still extant until June 2021 are material considerations for this latest application and the extant consent is a fallback position.

The Town and Country Planning Act 1990 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. Policy DS1 of the Borough Plan 2019 states that proposals that accord with the relevant policies in the Borough Plan will be approved without delay unless material considerations indicate otherwise. This Policy also states the need for the presumption in favour of sustainable development. Similarly, The NPPF paragraphs 10 and 11 states that the presumption in favour of sustainable development is at the very heart of the framework and that if development accords with the development plan or if there are no relevant policies permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The NPPF states that sustainable means ensuring better lives and for us and for future generations and that sustainability refers to positive growth – making economic, environmental and social progress for this and future generations. Policy DS2 of the Borough Plan 2019 states that whilst Nuneaton has the primary role for the Borough, Bedworth forms a secondary role for employment, housing, town centre, leisure, and service provision. Therefore, in principle this proposal within Bedworth is considered to be a sustainable location and an appropriate location for retail.

Policy DS3 – Development principles – states that all new development should be sustainable and high quality and supported by environmental mitigation and that new development within the settlement boundaries will be acceptable subject to there being a positive impact on amenity to the surrounding environment and local infrastructure. (Amenity will be discussed later.) The proposal is within the settlement boundary so providing amenity is not affected the proposal would not be contrary to this Policy and so, again, is acceptable in principle. The sites proximity to housing, schools and bus routes means that the site is considered sustainable. (Although it is felt that patrons would be unlikely to use public transport to visit a local supermarket.). The site is also relatively close to the north eastern point of Strategic Employment Site EMP7 Bowling Green Lane which should provide 26 hectares of employment land.

The proposal could provide economic advantages, the application form predicts that the new development could provide 13 full time and 12 part time jobs. Therefore, the benefit of employment does carry some weight when considering the Golden Thread of approving sustainable development providing it also provides social and environmental benefits which will be discussed separately.

The Cross Keys Inn is not in a current District or Local Centre. The proposed Class uses of 'A1' (retail) now part of Class Use 'E'. Retail is classified as a main town centre use within Annex 2: Glossary of the National Planning Policy Framework (NPPF). The NPPF states that a sequential test should be applied to all main town centre uses which are not in an existing centre and are not in accordance with an up-to-date plan.

*Paragraph of the NPPF 86 states:*

*86. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre*

*nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.*

*Paragraph 90 of the NPPF states:*

*90. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused*

Paragraphs 10.21 and 10.12 of the Borough Plan 2019 considers that there is no need to 'repeat these requirements'. No such sequential test was received for this current application, but one was carried out for the previous application which included looking at the impact to the nearest Local Centre at Smorrall Lane. This report provided by the Applicant stated that; "the Centre gives every appearance of buoyant trading – indeed on the evidence of the parking congestion, it appears to be over-trading – and is clearly not at risk on the basis of its vitality or viability." There is no reason why this reasoning should be any different with this latest application.

Members first reason for refusal on the previous application was that it was considered that the proposal was contrary to the NPPF as the site was not within a new or existing district or local centre and that it had not been adequately demonstrated that the development would not have a significant impact on two nearby local centres on Dark Lane and on Smorrall Lane. However, the Inspector previously concluded in paragraph 8 of the decision notice that:

*Consequently, it has not been demonstrated that the proposal would materially harm the vitality and viability of nearby local centres and it follows that the appeal proposal would not conflict with Paragraphs 24 and 26 of the Framework.*

In addition, in the Inspectors costs statement paragraph 8 he concluded that:

*In relation to reason for refusal No. 1, the Council confirmed at the hearing that they withdrew their objection based on Paragraph 26 of the National Planning Policy Framework (the Framework) regarding the requirement of a Retail Impact Assessment. Furthermore, during the hearing they confirmed that the Council did not have an up-to-date local plan and therefore a sequential test was not required in accordance with Paragraph 24 of the Framework. Therefore, the Council failed to adequately justify and substantiate their reason for refusal.*

Costs were therefore awarded against the Council for this reason for refusal and it is considered that nothing has change in National Policy that would change this especially as there are no specific policies in the Borough Plan 2019 that explicitly forbid out of town retail uses.

Some of the objections received are on the grounds that it will provide competition and therefore impact on existing local stores including Sedgies newsagents, however competition cannot be considered as a planning reason for refusal. Indeed, the Inspector specifically referred to this in his Appeal decision paragraph 15 which stated that:

*15. There was local concern raised in relation to the potential effect of the proposed convenience store on the local shops in the area by way of increased competition and that this could force existing businesses that serve the local community to close. However, competition and choice are not planning matters. I therefore cannot afford them any weight in my decision.*

In principle, it is considered that the site is in a sustainable location. Also, that the sequential test provided on the previous application is still relevant to evidence there is no detrimental impact to the vitality of other businesses and that National Policy has not changed in the meantime nor any new Policies introduced in the Borough Plan 2019 to prevent this proposal and therefore the principle of development of the proposal is considered acceptable, providing other materials considerations are acceptable.

## **2. Loss of a Community Facility and whether the public house as a community facility has been adequately marketed and the loss of the Public House as a potential Heritage Asset**

The Bedworth Society state that the loss of the building would irreparably and unjustifiably harm the character of the local area, depriving it of a heritage asset of high local significance and that the building should be preserved as a heritage asset and if necessary, have a sympathetic conversion. These views were mirrored on the previous application by the Victorian Society but who failed to respond on the current application.

Whilst the Bedworth Society consider it is a non-designated heritage asset the only reasoning, they have given for this is because a previous landlord of the public house was involved in saving hundreds of lives during a Coal Pit disaster in 1915. However, this reason or indeed the buildings age are not enough to justify the building be considered as a non-designated heritage asset and the Council have no further proof to justify why this should be considered as such.

A non-designated heritage asset as defined by the NPPF is 'a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest'. Paragraph 197 and 198 of the NPPF states that:

*197. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

*198. Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.*

Similarly, the new Borough Plan 2019 Policy BE4 for valuing and conserving our historic environment clearly states that applications should include sufficient information and assessment to consider understanding an asset. In this context the proposal will constitute the total loss of the public house, and as such, regard should be had to the loss of value which would be caused by this. The Agent was referred to Policy BE4 about the submission of evidence but due to the Inspectors lack of concern on the previous application they chose not to provide any details to address this Policy.

The building has some architectural features, and the oldest parts appear to date back from the 1890s but from a lay perspective it is a relatively functional building by standards at the time of construction. It appears to have been extended a few times since its original construction to varying degrees of sympathy.

Historic England have been consulted and have responded with a no objection as it is not listed. Warwickshire Museum and Archaeology have not responded this time

and they responded to the previous application as no comment, neither did they request photographs prior to demolition which does indicate that they have no loss of the building.

The Cross Keys Inn is neither statutory listed; nor previously locally listed; or designated as a heritage asset and neither is it within a Conservation Area.

The Borough Plan 2019 states that:

*13.65 In comparison with neighbouring local authorities, the borough has only a small amount of designated historic heritage, reflecting the fact that much of the built environment dates from the late Victorian period and the 20th century. This is an important point, as after 1840, selection criteria for listed buildings became progressively more difficult. It is important, therefore, to protect these designated assets and recognise the borough's wider heritage assets.*

*13.66 The council's list of non-designated heritage assets is in need of review. These locally listed heritage assets include buildings, monuments, and places that contribute to the distinctive local character of the borough. The council therefore plans to undertake a comprehensive review of places of local architectural and historical interest. This will involve the local community in the identification and selection of additional assets.*

*13.67 Locally listed heritage assets are not afforded the same degree of legislative protection (particularly from demolitions and alterations not requiring planning permission) as statutory listed buildings. In line with national guidance, this policy recognises that local heritage deserves a level of protection appropriate to its value.*

Whilst the Council are currently reviewing the local listing this has not yet been carried out and therefore there is no evidence to argue that it should be considered as a non-designated heritage asset and therefore refusal on this basis would be difficult to defend at Appeal.

The loss of a non-designated heritage asset was Members fourth reason for the refusal on the previous application as they considered the loss of a non-designated heritage asset would have a significant negative impact upon the historic character of the immediate area and its surroundings and would undermine the areas distinct historic character.

The Inspector in the last decision stated:

*Non-designated heritage asset?*

*12. The SoCG confirms that the Cross Keys Inn is not a statutory or locally listed building. Notwithstanding this, the Council in their reason for refusal argued that the Cross Keys Inn should be considered as a non-designated heritage asset and that the proposal would result in its total loss. Whilst, I accept that the building is a recognised local landmark and one of the oldest remaining buildings in the immediate area. There is no substantive evidence that demonstrates that the building's heritage significance has been subject to an objective criteria based assessment. Furthermore, whilst the building was built in 1898 and its design and external appearance reflect the late Victorian period, it does not have any features that merit significant architectural or historic value. Therefore, based on the evidence before me and what I heard at the hearing I do not consider that it has been adequately demonstrated that the building should be classified as a non-*

*designated heritage asset. As such the proposal, which would result in the loss of the building, would not conflict with Paragraph 135 of the Framework.*

In relation to costs the Inspector considered that the Council's refusal on this basis was unreasonable and in paragraph 11 he stated:

*11. The Council's fourth reason for refusal related to the Council's assertion that the Cross Keys Inn was a non-designated heritage asset. However, this was in the absence of an objective criteria-based assessment of the building or it being identified on their local list. Therefore, in the absence of evidence-based assessment of the appeal property the Council failed to adequately justify and substantiate this reason for refusal.*

It is considered that if the Inspector previously had any concerns that the building could be considered a non-heritage asset then this would have been made clear at the previous Appeal. Neither has anything changed since this time to consider that this would not be viewed similarly if this new application were refused on this basis. It is therefore considered that there is no evidence to consider it non-designated heritage asset and would be difficult to defend if refused on this basis.

Neighbour objections refer to the loss of a community use in an area where many local pubs have closed. The property has not been brought forward by the public as an Asset of Community Value. The lack of this therefore does carry some weight against refusal on this basis.

Members second reason for refusal last time was that the application had not adequately demonstrated that suitable marketing has been carried out in order to try to retain the building and its existing community use, resulting in an unacceptable loss of a community facility to the detriment of the amenities of the local area.

Policy HS4 - Retaining Community Facilities – states that:

*Proposals for development which would lead to the loss of community facilities will only be permitted where:*

- o adequate alternative facilities and services are available locally; or*
- o access to locally alternative facilities is enhanced; or*
- o replacement facilities are proposed nearby; or*
- o it can be demonstrated that there is no longer a demand for the use, the use is no longer viable/appropriate, and that there is a greater benefit to the area resulting from the proposed use.*

The site to which this proposal relates is a public house and thus, this site is a community facility, although it is not designated as an asset of community value. The policy is constructed in such a way that an application must meet only one of the four bullet points set out within the policy to be found acceptable.

The application refers to this policy and states that the proposed development complies with the policy, but it is not explicit how this is achieved. This is a new Policy since the previous Appeal. The Council's Policy Team originally objected as the Policy requirements states that it has to be proven that there was a greater benefit to the local area from a retail use than a public house. More information was therefore requested and subsequently provided in the form of supplementary information.

This additional information stated:

*The application site is occupied by the Cross Keys, Public House. Public Houses are listed as an example of a community facility in the context of policy HS4. It*



*should however be noted, The Cross Keys Public House is not registered as an Asset of Community Value. Moreover, the redundant pub would be replaced by a convenience store which in itself constitutes a valuable community facility.*

*As detailed within the planning policy comments, Policy HS4 is constructed in such a way that an application must meet only one of the four bullet points set out within the policy.*

*In response to the first point public houses located nearby include but not limited to the following:*

- Plough Inn, Smorrall Lane*
- Royal Oak, Ash Green Lane*
- Old Black Bank, 4 Black Bank*
- The Boat Inn, Blackhorse Road*
- The Greyhound Inn, Sutton Stop*
- Alties, Newtown Road*
- White Horse, Mill Street*
- The Bear & Ragged Staff, King Street*
- The Newdigate Arms, Newdigate Road*
- Travellers Rest, Bulkington Road*
- Mount Pleasant, Leicester Street*

*It's clearly evident that there are a significant number of alternative facilities in the locality, accordingly we consider that the first criteria of policy HS4 is met.*

*Notwithstanding the above we also demonstrate compliance with the fourth point of the policy. The previously approved application was supported by a letter which made clear that the existing Public House was not commercially viable and it was also proactively marketed. This evidence was tested at appeal and considered acceptable. The current pandemic has further exacerbated the viability of the pub and the business remains not commercially viable.*

*Notwithstanding the lack of commercial viability for the Public House there are clear community benefits to the retail proposal as opposed to the underutilised pub. To this end local shops are recognised as a community facility and the social importance of local shops such as a Co-Op food store has been highlighted by the pandemic with reliance heavily upon essential local facilities.*

This information illustrated that there were 11 other public houses near to the Cross Keys Inn and which four of these (Alties, Old Black Bank, Plough Inn, and Royal Oak) appear to be within 20 minutes' walk of the Cross keys Inn with the nearest being just over 1200 metres walking distance from the site. The Warwickshire Local Transport Plan 2011 - 2026 advises that the preferred maximum acceptable walking distance to facilities not within a town centre, is 1200 metres. So, 1200 metres walking distance to a public house, as a maximum, would seem reasonable. It is therefore considered that adequate alternative public houses are available locally.

The Council's Policy Team subsequently removed their objection to the new application. In addition, given that there are other community facilities within the area that include the Children's Centre in Smorrall Lane, the Exhall Old School Community Centre and some activities are run from the nearby school. In addition, there is a former library building opposite the site that could potentially be used for some form of community use.

In terms of viability and marketing, the Case Officer expressed concerns when registering the application that this information had not been updated from the previous application. Indeed, viability is one of the four issues considered in Policy

HS4 and was considered necessary as the viability information received in support of the previous application was over 2.5 years old. This previous information received stated marketing was done in the; 'normal way with details produced and mailshots done for a period in excess of 7 months.' It stated the marketing was 'wide reaching but specifically included pub companies and operators for continued use' and that there were no offers although interest was received from several retailers, but no deal was finalised.

On the previous application Officers considered that the evidence was insufficient as should be based on over 12 months of marketing. The Agents response previously was that this; 'seems an unnecessary and onerous requirement.' A further letter was received to reiterate the original letter and that there was interest for residential use in the site. It was unclear whether any of these deals would have meant the demolition of the pub or its change of use. This response also stated that no signboard had been erected as this could harm the existing commercial business. However, as the Agents have already considered that the viability is limited it is considered that a sign board advertising the property could have given the opportunity for widening other potential offers for the site. Officers therefore previously considered that the evidence of the marketing and the time period for marketing in order to provide another community facility use was not ideal.

In terms of suitable marketing and unacceptable loss of a community facility to the detriment of the amenities of the local area. The Inspector previously stated in his decision that:

*Marketing of a community facility*

*9. Although the Statement of Common Ground (SoCG) confirms that the Cross Keys Inn is not an Asset of Community Value it is clear based on the evidence before me and the representations that I heard at the hearing that it is a facility that is used by the local community. It was argued by the Council that the public house had not been adequately marketed in order to try and retain its community use. However, based on the evidence before me and what I heard at the hearing it was clear that the public house had been the subject of industry standard marketing. Further, it was explained by the appellant that the public house had been offered to the existing operator (Tenant) and property details were distributed widely utilising industry specific mailing lists. A fact that was confirmed by local County Councillor Peter Gilbert who had directly received marketing details of the public house in a private capacity. Moreover, it was explained that the display of marketing boards on premises that are open and operational can have a negative impact on the trading of a public house; with customers often seeking out alternative providers along with the potential for the business to appear closed discouraging passing trade. As such, I accept that this would be likely to have a negative effect on any prospective sale of the property for continued licensed trade use.*

*10. Ultimately, it was confirmed by the appellant at the hearing that there had been no offers to purchase the Cross Keys Inn as a going concern. As such, I conclude that it has been demonstrated that adequate marketing of the property has taken place. Moreover, whilst it is regrettable that the proposal could result in the loss of a local community facility, based on the evidence before me it is highly unlikely that the use of the property as a public house could be sustained in the medium to long term. Consequently, it follows that the proposal would not conflict with Paragraph 70 of the Framework.*

The extra supporting document received this time states that COVID19 has exacerbated the viability of pubs; whilst the pandemic has illustrated the need for local shops and emphasises the community benefits of having retail facilities in comparison to an underutilised public house.

In conclusion, it is considered there is insufficient evidence to consider the public house as a non-designated heritage asset. Policy HS4 specifies that only one of four criteria needs to be met to make a loss of a community facility acceptable. The additional supporting information covers several of the criteria therefore it would be unreasonable to refuse the application on the grounds of this new Policy in terms of loss of a community facility or lack of demonstration of viability.

Furthermore, it is considered that the details provided in terms of the public houses viability and adequate marketing was adequate to satisfy the Inspector previously and that there is no reasoning to consider that time or new policies would change the Inspectors views since the last Appeal.

### **3. Impact on Residential Amenity - Sufficient Separation Gap and Disturbance to Neighbours.**

Policy DS3 of the Borough Plan 2019 states there should not be a negative impact to the amenity of the surrounding environment or residents. Whilst Policy BE3– Sustainable Design and Construction refers to development having to comply with the Council’s Sustainable Design and Construction SPD in order to protect residential amenity of adjacent properties.

In relation to the impact of the building to the neighbouring properties, the proposal is over 13 metres from the boundary with 1 Bowling Green Lane and the impact since the last application has been lessened as the proposed service yard which was meant to be on the piece of land between the proposed retail unit and this property has now been removed. It is therefore considered that there is little or no impact to this property in term of the actual new building form.

In relation to the impact to number 5 Goodyers End Lane, the existing public house is along the majority of the side boundary of this properties garden with a minimum distance to the boundary of 4 to 5 metres for the single storey elements of the pub and between 4.5 to 9 metres from the boundary for the two storey elements. The nearest part of this neighbouring house is extension so cannot be protected.

The proposed plant area was originally to be to the side of this property but is now on the opposite side of the retail unit so is better to this neighbouring property than the previous application in terms of plant noise.

In terms of windows, no front windows will be infringed at 60 degrees as required under paragraph 11.9 of the SPD. The rear original ground floor ground floor windows are not infringed at 60 degrees and will be at least a distance of approximately 12 metres away along the 60-degree line. Therefore, it is considered that it will not provide an undue sense of enclosure to original rear habitable windows especially as the proposal is only single storey.

In relation to the impact to this neighbour’s rear garden the new building will run along the majority of this neighbour’s garden and will be closer to the boundary to this garden than the building previously approved. The previous proposed building was to be set 7.8 metres away from the rear original corner of this neighbours building and this has reduced to 6 metres. The previous approval showed the new

building to be set off the boundary of this neighbour's property by 4 metres at the rear of this neighbouring property and which is now reduced to 2.3 metres. The previous proposal was angled to the boundary so the distance to the boundary reduced further down the garden reduced to 3 metres from the side boundary at the bottom of the garden.

Due to concerns about this increased impact the Agent submitted a shadow diagram showing that the proposal would only be slightly worse than what was previously approved. However, Officers had concerns about the sense of enclosure as well as shadowing and the application was subsequently amended so that the store was reduced in area to provide a further distance to the boundary. The distance along most of the garden is approximately 2.4 metres to the boundary whereas the previous approved plan was between 3 to 4 metres. However, as the nearest amenity space would be outside of the rear of the original house this is almost 7 metres away.

There is no doubt that there will be an impact to this neighbour's garden. However, the eaves height is approximately 3.75 metres, the roof is hipped away from the property and is a maximum of approximately 5.5 metres from the ground level. Therefore, due to the offset with the boundary of this property, the sense of enclosure and impact to the garden is not considered to be unacceptable.

In relation to the comings and goings of customers to the building it has to be considered that the proposal if approved would replace the public house with a supermarket and therefore the site already has commercial activity to neighbouring properties. The application form states that the unit would be open for business 7.00am until 10.00pm Sunday to Mondays. It is considered that the noise from a supermarket would tend to be spread throughout the day rather than being just afternoons and evenings in relation to the activity of a public house. Subsequently if approved the proposal would provide a betterment to neighbouring properties in terms of noise after 10pm. The proposed hours of operation are the same as that approved for the Co Op in Galley Common that was approved in 2014 and which has similar residential neighbouring properties, and which has now been operating for some time.

In relation to the necessary plant such as cooling equipment etc., the submitted noise report states that this can be made acceptable by the provision of an acoustic enclosure to the equipment. Environment Health have no objection to this subject to the noise levels being conditioned. In addition, this has now been repositioned to be further away from neighbouring properties.

In terms of deliveries, it is recognised that there will be different delivery vehicles visiting the site depending on the range of goods delivered. Newspapers and sandwiches would be delivered by a light goods vehicle and it is considered that there would be little impact from these types of deliveries.

The main delivery issue in terms of noise would be from the HGV's used to service the site and it is the impact of these vehicles to the neighbours that need to be considered. A Noise Report submitted with the application identifies whilst deliveries can take 30 minutes; the worst noise breakout from deliveries will be limited to just 2 minutes. The Noise Report does not state what the impact of this 2-minute potential breakout will cause to the neighbouring property. The Noise Report clarifies that there is 17 metres distance from the delivery vehicle to the façade of the nearest dwelling which has increased since the previous application.

The Applicant states that deliveries are necessary from 7.00am. However, The Borough's Environmental Health Officers (EHO's) had concerns about deliveries and wanted deliveries limited to between 08:00 and 18:00 Monday to Friday and 09:00am and 18:00pm Saturday and no deliveries/servicing, including refuse collection, to take place at any time on Sundays or Bank Holidays.

The Service Management Plan has agreed to delivery times for HGV's to be between 9.15am and 3.00pm and 4.00pm and 7.00pm Mondays to Fridays and 9.00am to 4.00pm Sunday and Bank Holidays and 7.00 until 10.00 for the smaller vehicles. The Applicant advised that deliveries were necessary on Sundays and Bank Holidays in order to ensure the shops viability and to maintain the level of goods provided. The Council's Environmental Health have no objection but subject to delivery hours being restricted including bread deliveries in 10 metres ridged vehicles.

In conclusion it is considered that the impact to neighbouring properties in terms of visual amenity and noise is either acceptable or can be made acceptable via conditions.

#### **4. Impact on Visual Amenity, the Impact on Visual Amenity; Character and Appearance of the area.**

Policy DS3 - Development Principles of the Borough Plan 2019 states there should not be a negative impact to the amenity of the surrounding environment. Policy BE3 – Sustainable Design and Construction – states the need to development proposals must be designed to a high standard and contribute to local distinctiveness and character by reflecting the positive attributes of the area.

The proposal is single storey and is of a reasonably contemporary design with a hipped roof with hidden flat roof above (to lessen the overall height) and materials to match the locality. The entrance is proposed to have a canopy. The elevations are to be broken up by brick piers.

Members fifth reason for refusal last time was that the development would not be in keeping with the design and character of the surrounding area and would result in the loss of an impressive and imposing building and the replacement by a modern unit which would appear out of character, incongruous and over prominent to the detriment of the visual amenities of the area.

The design is very similar to that previously approved. The Inspector stated in his previous Allowed decision that:

##### *Character and appearance*

*13. I have carefully considered the Council's concerns in relation to the effect of the proposal on the character and appearance of the area. I accept that the appeal site occupies a prominent position in relation to the junction of Goodyers End Lane with Bowling Green Lane and the convenience store would be materially different in form, design and scale to the existing public house it would replace. However, the appeal site is located in a predominantly suburban area that exhibits a variety of built form. As such, in this site specific context the proposed contemporary single storey building with a hipped roof and materials consistent with the area would not appear jarring or incongruous in the street scene.*

*14. Having reached the above conclusion the proposed development would not result in material harm to the character and appearance of the area. The proposal would therefore be consistent with Policy ENV14 of the Nuneaton and*

*Bedworth Local Plan 2006. This seeks amongst other things to ensure that new development does not harm the scale and character of the locality.*

However, the Inspector did not give costs against this reason for refusal as he stated that:

*12. With regard to the proposals effect on the character and appearance of the area (refusal reason No. 5), I accept that this matter is largely subjective and given that there are material differences between built form of the existing building and that of the proposal, I agree that in reaching their decision members of the planning committee exercised reasonable planning judgement in relation to character and appearance. As such, I do not consider that the Council have acted unreasonably with regard to refusal reason No.5.*

In conclusion it is considered that the proposal will not be detrimental to the visual amenity of the area.

## **5. Impact on Highway Safety and Car Parking**

Policy HS2 – Strategic Accessibility and Sustainable Transport states that proposals with transport implications should address. The policy also requires a 15% modal shift to non-car-based uses and states that electric vehicle charging points would be supported. The planning application contains provision for cycle parking and electric vehicle charging points which assist in compliance with this policy.

Policies DS3; HS1 and HS2 of the Borough Plan 2019 states that development should not have a negative impact on local infrastructure. As there have been changes to the application since the previous determination a Road Safety Audit was requested and received and assessed by WCC Highways.

WCC Highways had no objection to the previous application subject to conditions one of which was ensuring there were no HGV deliveries during school drop off times due to the vicinity of a school and a similar Servicing Management Plan has been provided to show acceptance of compliance to this. Highways considered this was acceptable subject to the proviso that if school hours changed then the restriction times would also need to change.

The proposal shows 20 parking spaces which includes two disabled spaces and three spaces with charging points. Notwithstanding this WCC Highways had concerns with parking space labelled as space 20 because if a van were parked in this space it would impact on invisibility with drivers leaving the site. WCC Highways have subsequently requested that parking space 20 is removed and a barrier placed in this location in order to ensure cars do not park in the area. The Borough's Car Parking Standards 2003 Supplementary Planning Document (SPD) suggest that 1 space per 40 sqm is required which equates to a maximum of 6 parking spaces if the floor space is assessed just using the retail floor space element. However, this SPD is no longer a valid document and is used purely for guidance. The Servicing Management Plan states that parking will be restricted to an hour time limit. In addition, the proposal will provide space for bicycles to encourage sustainable transport to the site.

The surrounding road is largely yellow lined and the proposal is close to a double roundabout and school traffic regularly park further along the road. Hence it is considered essential that customers visiting the site are not displaced onto the road potentially causing highway safety issues. WCC Highways had no objection to the

number of parking spaces but did request £5,000 towards a Traffic Regulations Order to extend the double yellow lines to extend further along Bowling Green Lane.

Highways were concerned that vehicles could pull out in and out of the site across the footpath and similarly pedestrians could walk across the site from any position around the site. This has been overcome by a condition requiring that barriers are provided around the site to ensure that both vehicles and pedestrians enter and exit the site at the correct and safe locations.

Since the previous application, the Planning Class Uses have changed so that the retail (previously 'Class Use A1') has been included in a generic 'Class Use E'. Within this new 'Class Use E' are financial and professional (previously 'Class Use A2'); food and drink (restaurants and cafes 'Class Use A3'); business use (office, research, development and industrial processes acceptable in a residential area previously 'Class Use B1') non-residential institutions (e.g., clinics, health centres, day nurseries and day centres - previously 'Class Use D1') and assembly and leisure (e.g. gymnasiums and indoor recreation – 'Class Use D2'). Whilst the permitted development rights will remain as existing until the 31<sup>st</sup> July 2021, after this date it is possible that legislation may change so that the uses within this 'E Class' can be interchanged without requiring planning permission. Therefore, the retail unit (although unlikely) could change to one of the other uses within Class E without planning permission. WCC Highways objected this time on these grounds and stated due to the potential for the future intensification within the "Class use E and stated that:

*"Use Class E is now proposed. The new Use Class covers many other uses. Can the proposed development be restricted to retail, or could it be used for all the other uses classed in Use Class E? If the site cannot be restricted to retail only then the site will need to be assessed on the uses which could have the greatest impact on the public highway network."*

This new Class Use and permitted development is still very new and the Council's Legal Team acknowledged that it is too new for Court Cases to drive guidance, but that Inspectors at Appeal have considered that conditions restricting the use were neither reasonable or necessary and ran counter to the intention of the 'Class use E'. However, the Council's solicitor then stated that providing there was a genuine reason for such a restrictive condition such as highway safety, then providing the reason for such condition was made clear and could be defended at Appeal, then the condition could be considered reasonable. The Agent has confirmed that they would be willing to accept a restriction to just retail/shop. However, it is worth noting that in the future a new application could be sought to remove this condition or alternatively the condition could be Appealed against.

Despite a no objection from WCC Highways, Members on the previous application considered that it had not been demonstrated that the impact on the highway safety of the area would not be severe, nor that the traffic generated would be suitable for this site. They considered that this would result in a significant detrimental impact on highway safety in the area and was the third reason for refusal. The Inspector in his decision in relation to this reason for refusal stated:

*Highway safety*

*11. It was argued at the hearing that the proposal would generate increased traffic movements, with the potential to conflict with pedestrian and vehicular traffic in the area. I accept that the use of the site as a convenience store would be likely to increase in traffic generated from the site when compared to the existing public house use. However, there was no substantive or technical evidence presented*

*by the Council or any interested parties that demonstrated that such an increase would result in material harm to vehicular and pedestrian traffic. Consequently, there is no evidence before me that would contradict the conclusions of the Highways Authority who raised no objection in relation to highway safety subject to the provision of site specific highway work. As such it has not been demonstrated that the proposed development would result in severe harm to highway safety.*

In addition, the Inspector considered that the reason was unjustified and required costs were made against the Council on these grounds:

*Inspector costs 10.*

*With regard to highway safety (reason for refusal No. 3), the planning committee refused the application contrary to the advice of their professional officers and those of the Highway Authority. The planning committee were provided with clear guidance in relation to any effect of the proposal on highway safety and that any harm could be mitigated by way of suitable conditions. It was on the basis of this professional advice that the applicant had revised and amended their application to meet local highway requirements. Consequently, there is nothing before me that provides reasonable planning grounds for taking a contrary decision to the technical and professional advice of their officers with regard to the third reason for refusal.*

The Transport Statement received for this current application considers that as the retail unit is smaller there will be less vehicular movements than previously anticipated and that there would be 93 less vehicular movements per day than anticipated on the previous application.

WCC Highways objections were removed following discussions, amended plans, suitable agreed conditions and S106 Legal Agreement to extend the double yellow lines in the area. Therefore, in conclusion it is considered that as WCC Highways have no objection, that highway safety is considered acceptable and would not warrant refusal on this basis.

## **6 Landscaping and Ecology**

A Planting Plan has been received suggesting that the existing Pine tree on the corner of the site is removed and replaced. The tree is not a significant specimen and appears somewhat stunted and the Council's Tree Officer has no objection to this tree removal and replacement as they suggested that a Pine tree was not the most suitable for the site as this type of tree has shallow roots and which have likely been affected due to the extensive amount of hardstanding around the tree.

As there are trees surrounding the site, the Council's Tree Officer has requested a n Arboricultural Method Statement and tree root protection via condition which is considered acceptable.

A Protected Species Survey has been provided providing an ecologist site inspection of the buildings and land and has confirmed that the buildings have limited value to bats and that there was found to be low bat activity in the area. However, there is always a likelihood that bats or nesting birds could use the site and therefore best practice should be provided to ensure site clearance and demolition was not carried out during the nesting season and if this was unavoidable during nesting time that the area was searched prior to commencement and a 5m buffer put into place in nesting birds were found and best practice was carried out to ensure no disturbance to bats during demolition.



In regard to the existing beer garden this has now been removed from the application and no longer shown as part of the site. The Agent has advised that this area is to be retained as grass and fenced off from the site and maintained by the occupant. In order to ensure that it is maintained in perpetuity, it is considered appropriate to require a Management Plan for the area in perpetuity via condition if approved.

## 7 Conclusion

It is considered that the previous Allowed Appeal and the Inspectors reasoning at the time as well as the fact that the site still has an extant consent for a larger scheme are both material considerations that weigh heavily in favour of approving the application. The proposal and its amendments have been reassessed against the new Policies of the Borough Plan 2019 and amended NPPF and it is considered that the proposal is in accordance with Policy. It is therefore considered that the principle of development; impact on visual amenity; character and appearance; consideration as a non-designated heritage asset are all acceptable and comply with Policy. Whilst it is a shame to lose a community facility the loss does comply with HS4 of the Borough Plan 2019 and in turn does provide some facilities for the local community. Whilst moving the building closer to 5 Goodyers End lane will increase the impact to this neighbouring property than the previous application, it is still considered acceptable. It is also considered that noise and highways safety can be made acceptable via 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 CONDITONS:

- The development shall not be carried out other than in accordance with the approved plans contained in the following schedule:

<i>Plan Description</i>	<i>Plan No.</i>	<i>Date Received</i>
Servicing Management Plan	October 2020	5 <sup>th</sup> November 2020
Transport Statement	Revised Oct 2020	10 <sup>th</sup> March 2021
Protected Species Survey	October 2020	11 <sup>th</sup> May 2021
Noise Impact Assessment Report	Rev 4 2 <sup>nd</sup> Nov 2020	11 <sup>th</sup> December 2020
Location and Context Plan	001 Rev A	16 <sup>th</sup> February 2021
Proposed Site Plan	003 Rev B	24 <sup>th</sup> May 2021
Proposed Elevations Sheet 1 of 2	005.1	5 <sup>th</sup> November 2020
Proposed Elevations Sheet 2 of 2	004.2 Rev A	16 <sup>th</sup> February 2021
Proposed Floor Plan	006 Rev A	16 <sup>th</sup> February 2021
Roof Plan	007 Rev A	16 <sup>th</sup> February 2021
Planting Plan	001 Rev C	5 <sup>th</sup> November 2021

- Access for vehicles to the site from the public highway shall not be made other than at the position identified on the approved drawings, numbers C2526 02 03 003 Rev B and F20070/01 Rev B (within Transport Statement – revised Oct 2020). The access to the site for vehicles shall not be used unless a bell mouth has been laid out and constructed within the public highway in accordance with the Highway Authority providing the necessary visibility splays into the site for pedestrians crossing.

4. No development including site clearance and demolition, shall commence until an Arboricultural Method Statement, has been submitted and approved in writing by the Council, to include a Tree Root Protection Plan showing the existing trees/hedgerows including those to be removed. To include measures for the protection of the retained trees/hedgerow in the course of the development. The scheme shall show the typical canopy extent of the retained trees at maturity. The submitted information must include details of a no dig methodology where necessary to conform to BS5837:2012. Where hardstanding is to be provided within the Tree Root Protection Areas; details of an appropriate cellular system (specification and installation methodology as per BS5837:2012) is to be submitted and approved and implemented.

No tree or hedgerow other than so agreed within this report shall be removed, and no construction works including site clearance shall commence unless the approved measures for the protection of those to be retained have been provided and are maintained during the course of development. Any tree or plant (including any replacement) which, within a period of five years from the implementation of that phase, dies, is removed or becomes seriously damaged or diseased, shall be replaced in the next planting season with another of a similar size and species unless the Council consents in writing to any variation.

5. No development, including demolition, shall commence until a Construction Management Plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:
  - a) Parking of vehicles of site operatives and visitors;
  - b) Routes for construction traffic.
  - c) Arrangements for turning vehicles on the site including a turning area to enable general site traffic and construction vehicles to leave and re-enter the public highway in a forward gear.
  - d) Any proposed temporary traffic restrictions.
  - e) Hours of working.
  - f) Hours of delivery and collection of construction material. (NB. No deliveries and collections shall occur during peak periods on the highway network (08:00 – 09:00 and 17:00 – 18:00) or during periods when children are going to / or being collected from the local school.
  - g) Measures to prevent mud and other debris being carried onto highway.
  - h) Measures to prevent off-site flooding.
  - i) Pedestrian and cyclist protection.
  - j) Measures to control the emission of noise, dust and dirt during construction
  - k) Site security.
6. In the event the clearance of vegetation and demolition is carried out between March and end of September in any year, the buildings and affected vegetation are to be thoroughly searched by a suitably qualified ecologist immediately prior to clearance. In the event a bird's nest is found this should remain undisturbed and a 5m buffer zone created around the nest including above and below it. The zone is to remain free of construction activities and disturbance until the young have fledged and left. In the event bats are discovered then contractors are to stop work immediately and advice be sought from an experienced ecologist or ornithologist.
7. Notwithstanding the approved plans, no development other than demolition shall commence above the ground floor slab, until full details of the removal of car parking

space 20; provisions to ensure vehicles cannot park where the parking space was; amended footway access into the site and vehicle / pedestrian barrier around the perimeter of the car parking areas must be submitted to and approved in writing by the Council. The approved details are to be implemented prior to the occupation of the site.

8. No development other than demolition shall commence above the ground floor slab until full details of the provision of the access, car parking, boundary treatments, manoeuvring and service areas, including surfacing, drainage and levels have been submitted to and approved in writing by the Council. The development shall not be carried out other than in accordance with the approved details. The building shall not be occupied until the areas have been laid out in accordance with the approved details. Such areas shall be permanently retained for the purpose of parking and manoeuvring of vehicles, as the case may be, and shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto the public highway. No gates shall be hung within the vehicular access to the site so as to open within 6 metres of the near edge of the public highway carriageway.
9. No development other than the demolition and clearance of the existing buildings, shall commence above the ground floor slab, until the exact position and full details (including specification of noise attenuation measures and maintenance schedules) of all external plant, equipment or machinery (including refrigeration equipment, air conditioning units and condensers) have been submitted to and approved in writing by the local planning authority.

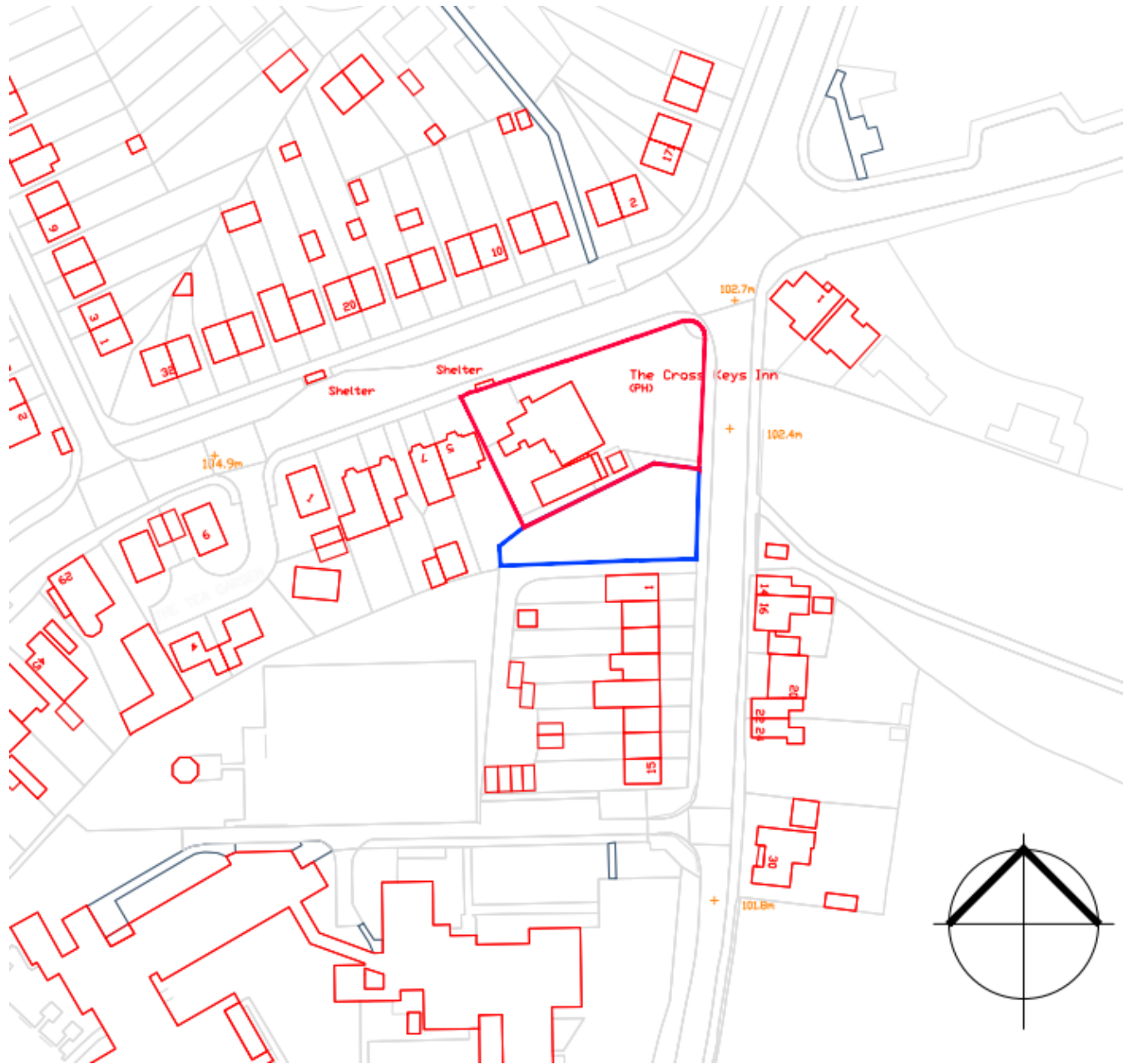
These details shall include the precise location, technical specification, noise ratings, any integral noise attenuation features and maintenance schedules and should demonstrate that all such plant, equipment and machinery achieves a BS 4142:2014 assessment of 'low impact' and machinery does not exceed the existing background noise level (determined to be 45 dB LA90,1 hour between 7am and 9pm and 42 dB LA90, 5 minutes between 9pm and 7am). The noise levels shall be determined at 1 metre from the closest façade of the nearest noise sensitive premises.

The external plant, equipment and machinery shall be installed, operated and maintained thereafter in accordance with the approved details and maintenance schedule.

10. No development, other than the demolition and clearance of the existing buildings, shall commence above the ground floor slab, until details of the noise attenuation fencing (to the western and southern boundaries and for the external plant, including its performance specification, have been submitted to and approved in writing by the local planning authority. The approved fencing shall be erected before first occupation of the development and shall be retained and maintained so as to ensure its continuing effectiveness for the duration of the development.
11. No development, other than the demolition and clearance of the existing buildings, shall commence above the ground floor slab, until details of the bin store, arrangements for the collection, storage, recycling or disposal of all refuse, comprising both trade and customer refuse, have been submitted to and approved in writing by the local planning authority. The approved arrangements shall be implemented, and the associated facilities made available for use before first occupation of the development and shall thereafter be retained for the duration of the development.

12. No development, other than the demolition and clearance of the existing buildings, shall commence above the ground floor slab, until an external lighting scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the luminaires and any columns, including their location, type, specification, expected luminance output, measures to minimise energy consumption and avoid excessive illumination. The agreed scheme shall be implemented prior to first occupation of the development and maintained thereafter for the duration of the development.
13. The development shall not be first occupied until in accordance with the approved plans and:
  - (a) The existing accesses within the public highway not included in the permitted means of access have been permanently closed and the kerbs and public highway reinstated.
  - (b) The new means of vehicular and pedestrian access have been constructed.
  - (c) The customer car park has been constructed, laid out and is available for use including the 2m wide footway link though the site between Bowling Green Lane and Goodyers End Lane,
  - (d) The cycle parking has been provided and is available for use
  - (e) The service area has been completed and is available for use.The elements listed at (b) to (e) inclusive above shall thereafter be retained for their specified purpose for the duration of the development hereby permitted.
14. The development shall not be first occupied until the cage route between the delivery vehicle unloading/loading position and the building access doors are finished with smooth asphalt or similar to minimise noise from cage movement. There should be no discontinuities in the cage route that would result in impact noise.
15. No storage of goods, materials, plant, machinery or equipment except for that approved in condition 9 shall take place other than within the building hereby permitted.
16. The site shall not operate other than in accordance with the approved Servicing Management Plan dated October 2020, including size of vehicles able to service the site; times of deliveries and routing. This shall be adhered to at all times whilst the site is used for the purpose approved. In particular:
  - (a) No vehicle greater than 12.3m in length shall deliver and / or service the site.
  - (b) No Heavy Good Vehicle deliveries/servicing, including refuse collection shall be carried out other than between the hours of 09:15 to 15:15 and 16:00 to 19:00 Monday to Saturday and 09:00 to 16:00 Sundays and Bank Holidays.
  - (c) There shall be no more than two HGV's servicing and / or delivering to the site per day and no more than two deliveries by Light Good Vehicles per day outside of these hours.
  - (d) There shall be no deliveries between the hours of 22:00 and 04:00.
  - (e) Signage is to be provided to the service area to ensure noise is kept to a minimum including engines and radios being turned off during deliveries.
17. The development shall not be occupied until full details of the provision of a litter bin, including its location, have been submitted to and approved in writing by the Local Planning Authority. No use shall commence until the litter bin has been installed in accordance with the approved details. The litter bin shall thereafter be retained in accordance with the approved details.

18. The development shall not be occupied until a Long-Term Maintenance Plan for the former beer garden has been submitted and approved in writing by the Local Planning Authority. The area shall therefore after be maintained in perpetuity to the approved Plan.
19. The development shall not be occupied until the developer has provided electric vehicle (EV) charging points at a rate of; 1 charging point per 10 spaces (unallocated parking) and ensure appropriate cabling is provided to enable increase in future provision.
20. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended (or any order revoking and re-enacting that Order with or without modification) the development shall be used only as a Retail/shop unit formally known as Class Use A1 of the schedule and not for any other purpose.
21. The development shall not be open to customers outside the hours of 07:00 to 22:00 on any day.



Location Plan

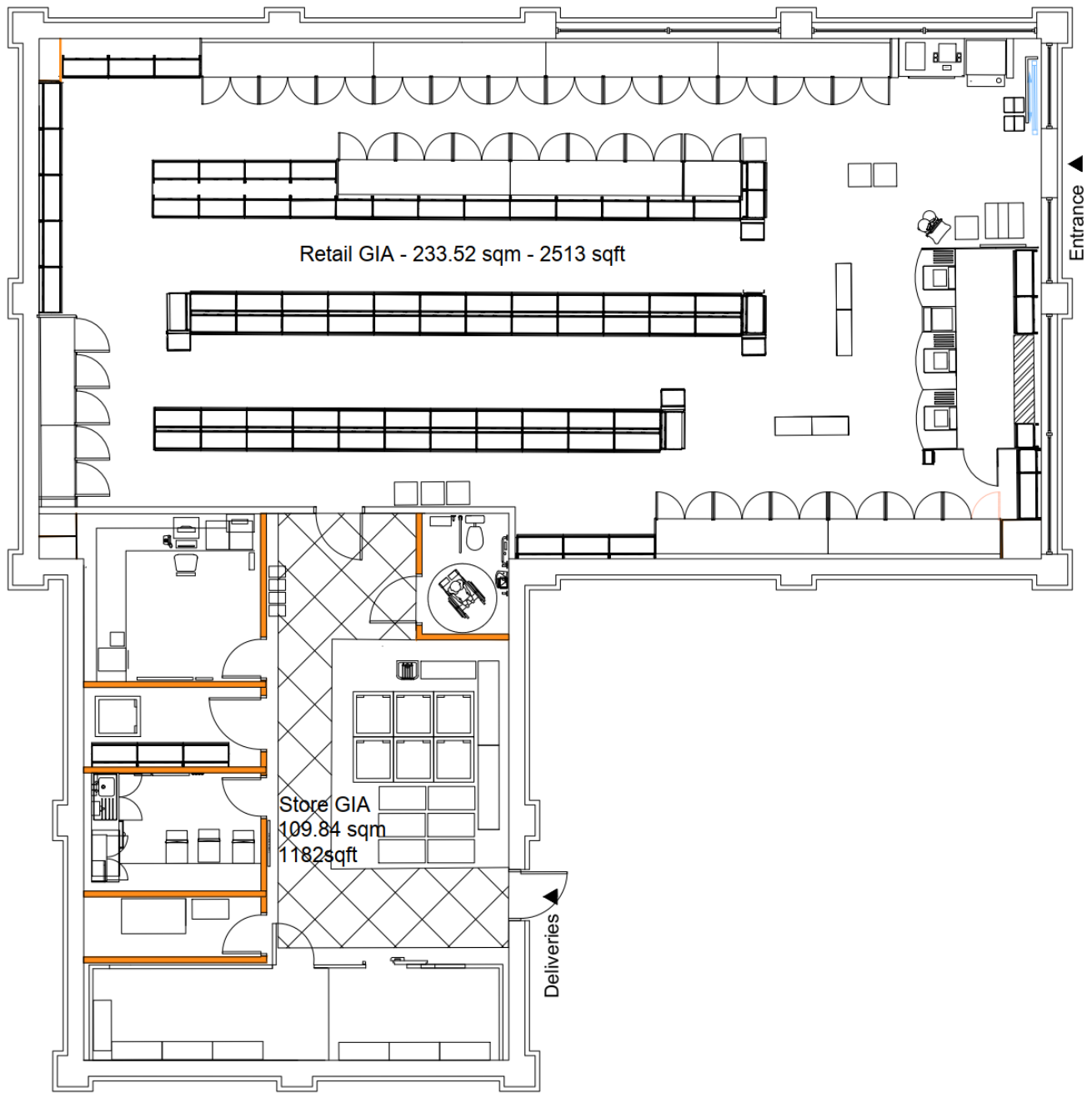


Context Plan

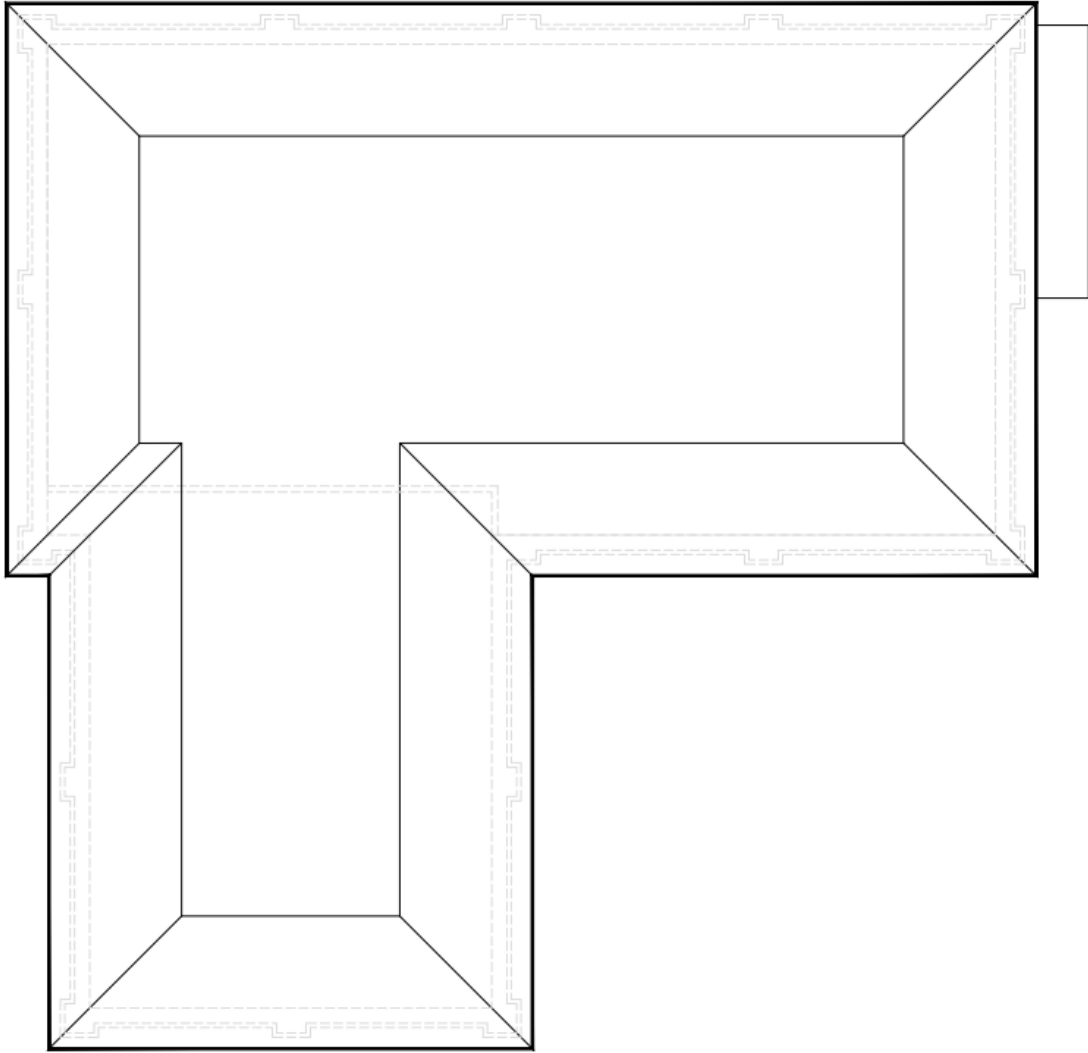


Proposed Site Plan





Proposed Floor Plan

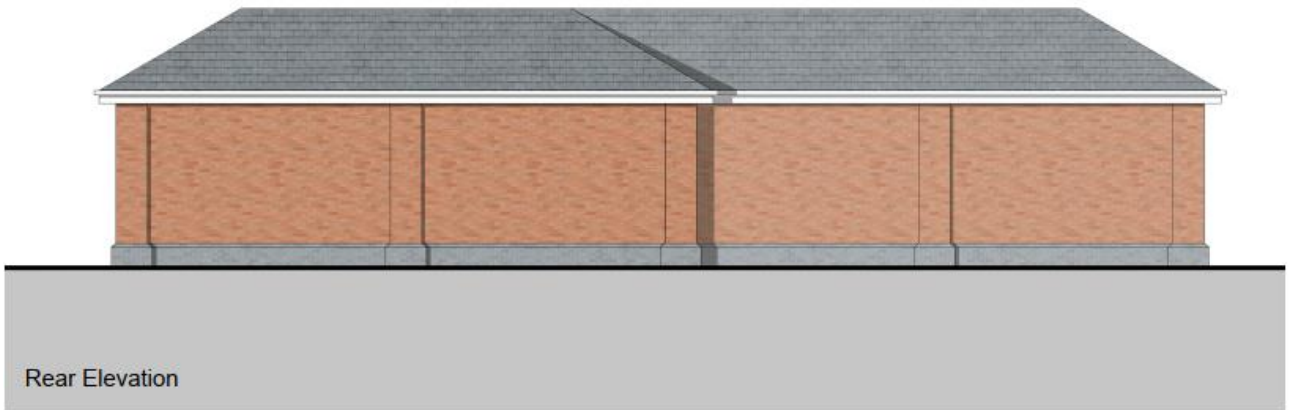


Proposed Roof Plan

Scale 1:50 @ A1 



Proposed Elevations to roads



Proposed Rear and Side Elevation



Existing Goodyers End Lane Streetscene



Proposed Goodyers End Lane Streetscene

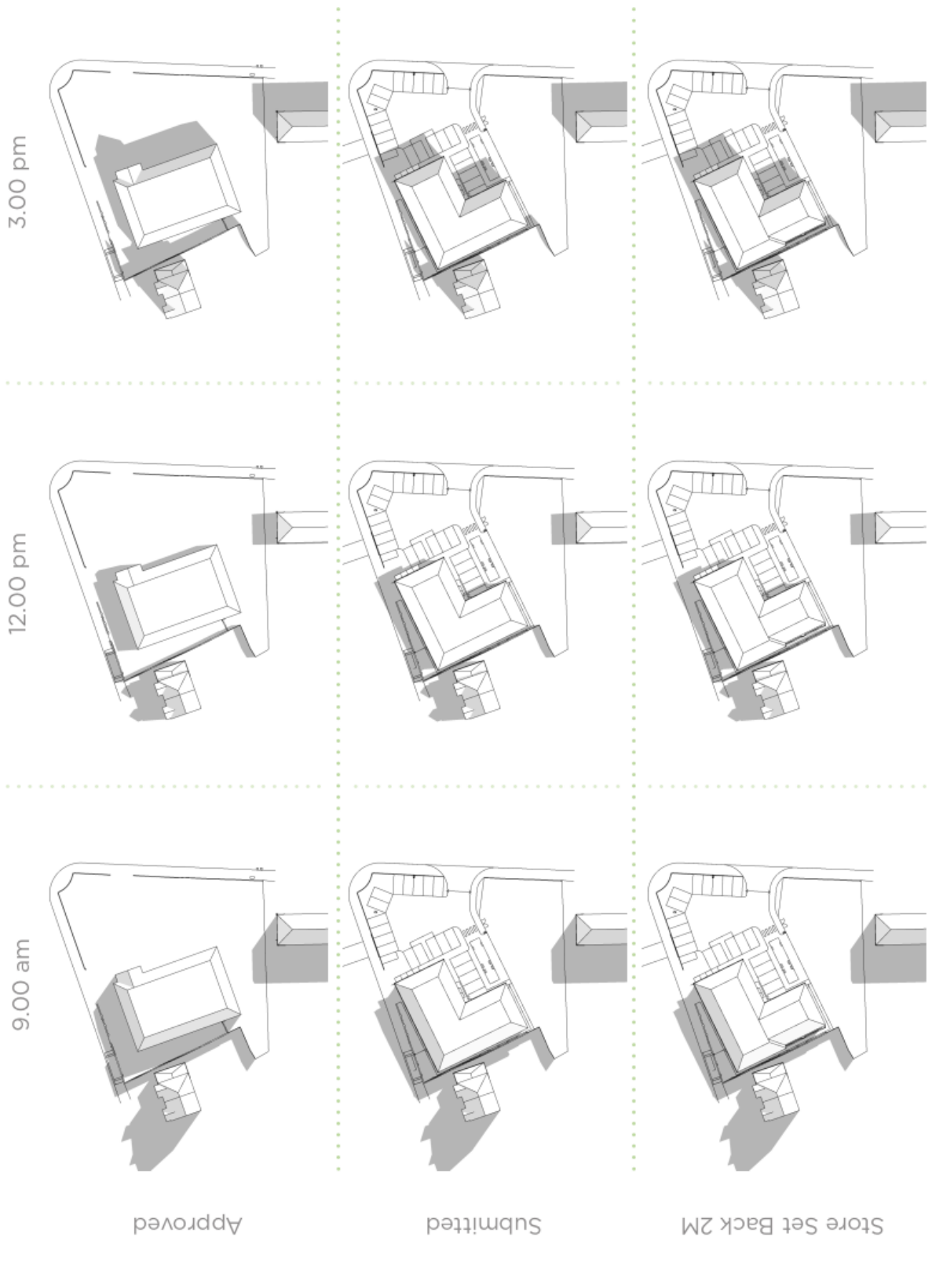
### Existing and Proposed Street Scene from Goodyers End Lane



Existing and Proposed Street Scene from Bowling Green Lane

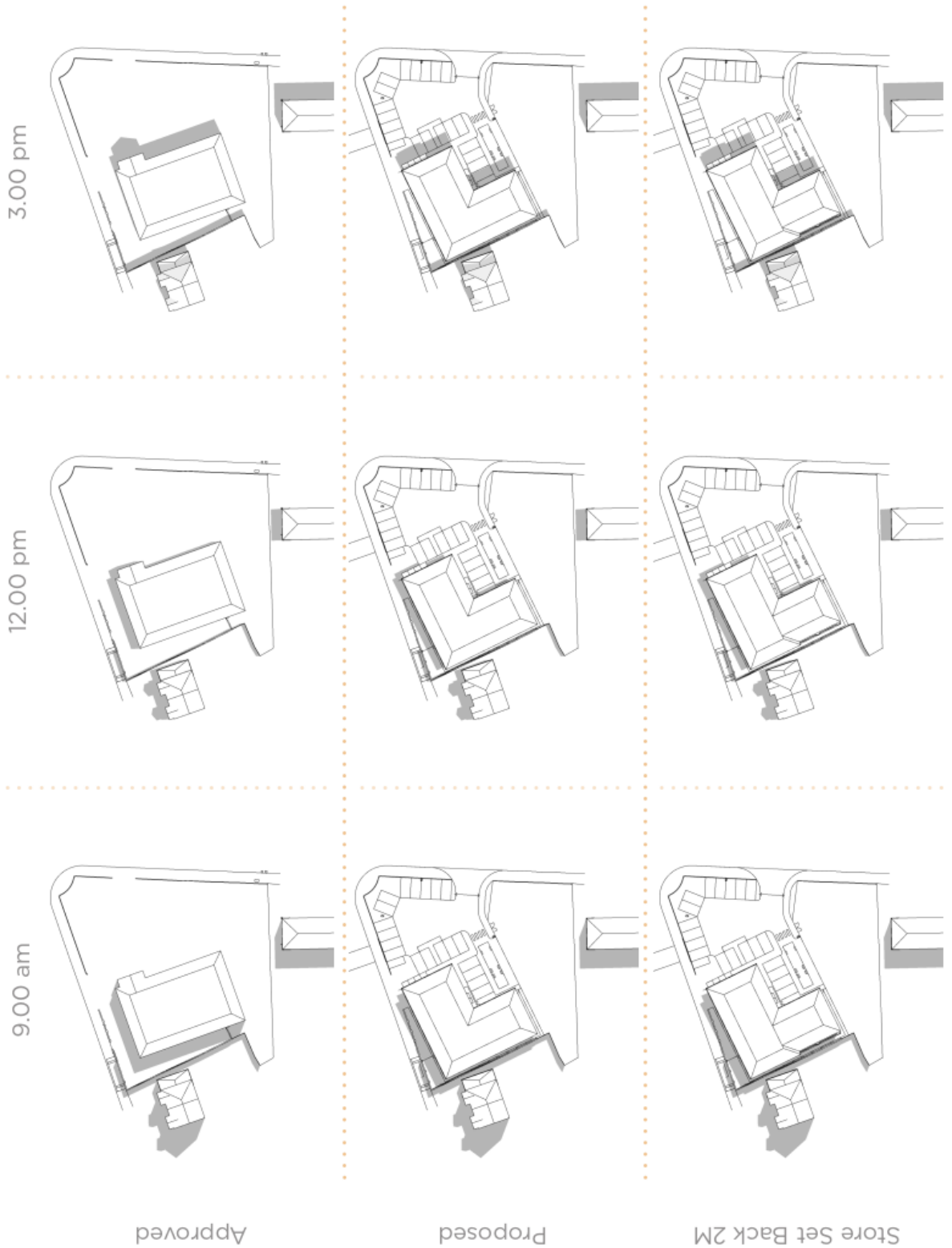


Proposed Perspective



Proposed Shadow Study (21<sup>st</sup> March ) from previously approved plan, initial layout this time and amended layout set back to 2m from the neighbouring property.

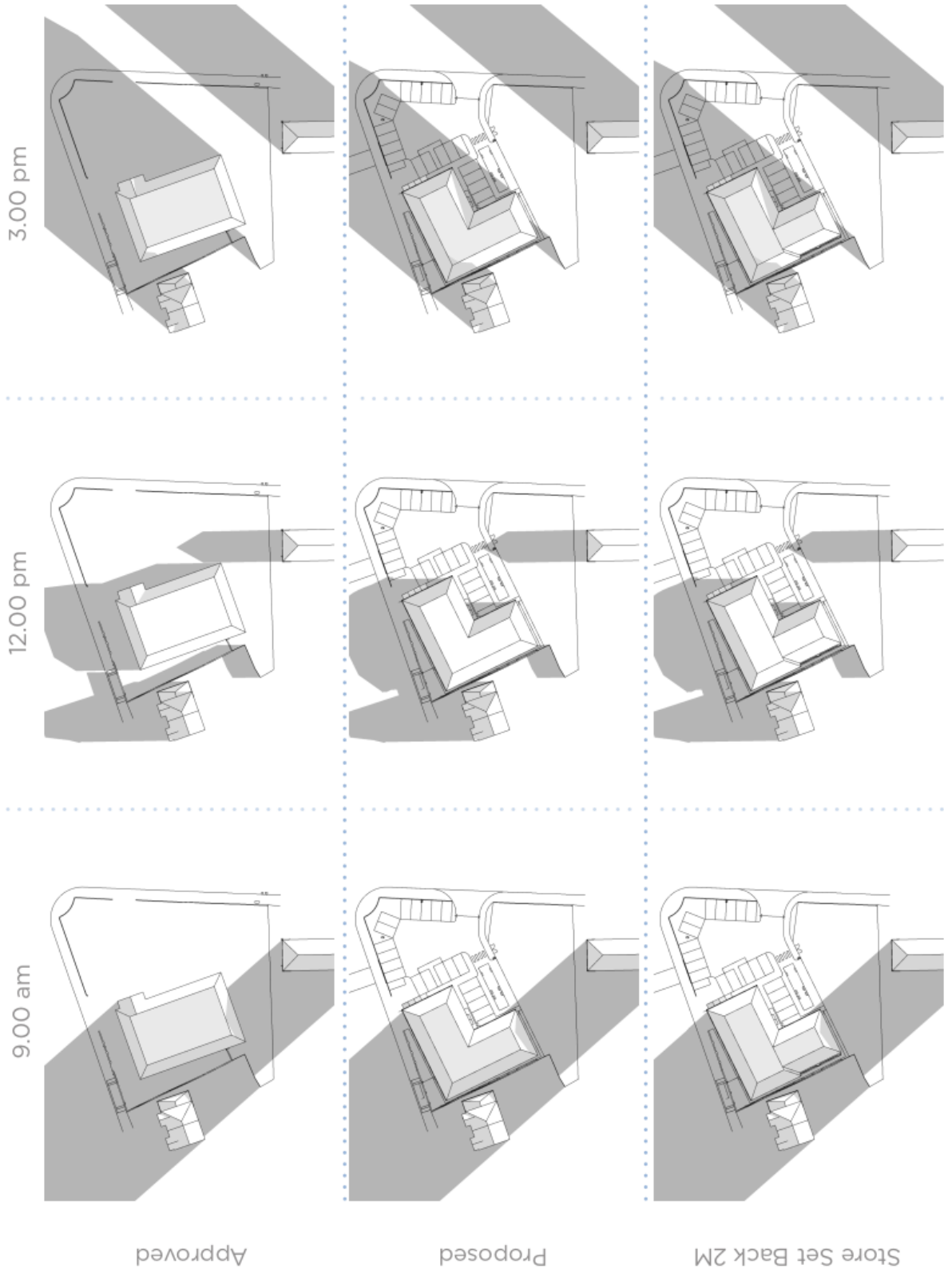




FORMER CROSS KEYS PUBLIC HOUSE,

21<sup>ST</sup> JUNE

Proposed Shadow Study (21<sup>st</sup> June) from previously approved plan, initial layout this time and amended layout set back to 2m from the neighbouring property.



FORMER CROSS KEYS PUBLIC HOUSE, BEC

21ST DECEMBER

Proposed Shadow Study (21<sup>st</sup> October) from previously approved plan, initial layout this time and amended layout set back to 2m from the neighbouring property.

**REFERENCE No.** 037485.

**Site Address:** Whitestone Dental Practice 41 Lutterworth Road Nuneaton, CV11 4LE.

**Description of Development:** Erection of outbuilding for additional consultation room (Dental Surgery - Class E(e) Use).

**Applicant:** Whitestone Dental Surgery.

**Ward:** AT.

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**RECOMMENDATION:**

Planning Committee is recommended to refuse planning permission, for the reasons as printed.

**INTRODUCTION:**

The application is for the erection of outbuilding for additional consultation room (Dental Surgery - Class E(e) Use) at Whitestone Dental Practice at 41 Lutterworth Road, Nuneaton, CV11 4LE.

The proposal is for an outbuilding located in the existing car parking area to the rear of the site, accessed off Cavalier Close. The outbuilding will be used to provide an additional consultation room for the dental practice. The materials from the initial application have been altered to now reflect a more temporary façade, in the form of timber frame and timber cladding. This is to reflect the intended temporary use of the building to provide additional space due to the Covid-19 pandemic.

The site itself currently comprises the main building and external area, which currently provides the car parking for the site. The main building is a large two-storey structure of red brick. The building was subject to a large two storey rear extension which gained consent in July 2019 under reference no. 036456. The roof of the building is detailed with clay tiles and a decorative ridge, chimneys and finial features on the gables. The front of the building is very detailed comprising string courses, decorative brickwork, dentil coursing and brick kneelers to the edge of each gable. There are also stone headers and cils to the front elevation windows.

The site is located to the corner of Lutterworth Road and Cavalier Close. To the rear of the site lies property 9 Cavalier Close, which is a bungalow, consistent with the dwellings within Cavalier Close. This neighbouring property has a single side facing window towards the proposal site, which is obscurely glazed.

To the north of the proposal site lies no. 1 The Nook, which is sited perpendicular to the main building on the proposal site. Although this property is set slightly further back than the other properties on The Nook, the rear garden is still 14 metres from the rear wall to the rear boundary.

## **BACKGROUND:**

This application is being reported to Committee at the request of Councillor Andy Sargent, due to the volume of local opposition.

## **MOST RELEVANT PLANNING HISTORY:**

- 036456: Two storey extension to rear. Approved in July 2019.

## **RELEVANT PLANNING POLICIES:**

- Policies of the Borough Plan 2019:
  - DS1 – Presumption in favour of sustainable development
  - DS3 – Development principles
  - BE3 – Sustainable design and construction
- Sustainable Design and Construction SPD 2020.
- National Policy Planning Framework (NPPF).
- National Planning Practice Guidance (NPPG).

## **CONSULTEES NOTIFIED:**

NBBC Environmental Health, NBBC Planning Policy and WCC Highways.

## **CONSULTATION RESPONSES:**

Objection from:  
WCC Highways

No objection from:  
NBBC Planning Policy and NBBC Environmental Health.

## **NEIGHBOURS NOTIFIED:**

1A, 9 Cavalier Close. Flats 1, 2, 3 of 41, 43 Lutterworth Road. 1, 2, 3, 4, 5 The Nook.

Neighbouring properties were sent letters notifying them of the proposed development on 21<sup>st</sup> October 2020.

## **NEIGHBOUR RESPONSES:**

There have been 3 objections received from 3 addresses. The comments are summarised as follows:

1. Cars visiting the site block Cavalier Close, not enough room in existing car park.
2. Overuse of the site already.
3. Impact from the consultation room being so close to neighbours.

## **APPRAISAL:**

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

1. Principle of the Proposed Development
2. Impact on Residential Amenity
3. Impact on Visual Amenity
4. Impact on Highway Safety

### **1. Principle of the Proposed Development**

The existing use of the site is established as that of a dental practice. The proposal would see the practice expanded through the addition of the proposed outbuilding, which seeks to provide an additional consultation room, including waiting room and toilets.

This Dental practice is located within a residential context, serving a local need. There is unlikely to be a limit on memberships to the practice, NHS dentists usually have a limited capacity for patients, which is usually taken up by local people.

The proposal does not have to be in accordance with all of the relevant policies as it is acknowledged that the policies can pull in different directions. The decision to be made is whether the proposal is in accordance with the general aspirations of the development plan when relevant policies are taken into account. The Town and Country Planning Act 1990 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The relevant Policies of the 2019 Borough Plan therefore need to be considered.

Borough Plan Policy DS3 – Development Principles states that new development within the settlement boundaries, will be acceptable subject to there being a positive impact on amenity, the surrounding environment and local infrastructure.

The proposed development would be within the settlement boundary within a predominantly residential area. In relation to amenity, this will be discussed later.

The proposal is deemed acceptable in principle for the application site, providing that matters on privacy and amenity, including the satisfactory parking of visitor's vehicles are found to be satisfactory.

## **2. Impact on Residential Amenity**

To the rear of the application site lies No. 9 Cavalier Close, this property is a bungalow. There is one side facing window towards the application site which is obscure glazed. To the sub-dividing boundary between this property and the surgery lies a 1.8-metre-high boundary fence, trees and vegetation to various heights, which partially screen the site from the property. Therefore, it is considered that the proposed consultation room will not have a detrimental impact on the residential amenity of the occupiers of No. 9 Cavalier Close.

To the north west of the site is the residential neighbour of 1 The Nook, as mentioned above this neighbour is set perpendicularly to the application site and their rear wall faces towards the site of the application site. The rear garden of 1 The Nook is about 14 metres, as there are no rear windows on the consultation room this distance is over the minimum distance required under paragraph 11.6 of the Sustainable Design and Construction SPD 2020. Therefore, it is considered that the consultation room will not have a detrimental impact on the residential amenity of the neighbour at 1 The Nook.

The Council's Environmental Health Team were consulted on the application. They did raise some concerns of the overuse of the site, due to the volume of people who attend the site for treatment. However, they considered that the proposed outbuilding would not exacerbate noise issues, therefore they had no objection to the proposal.

## **3. Impact on Visual Amenity**

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 127).

Borough Plan Policy BE3 – Sustainable design and construction (in part) states that:

*Development proposals must be:*

1. *Designed to a high standard.*
2. *Able to accommodate the changing needs of occupants.*
3. *Adaptable to, and minimise the impact of climate change.*

*Urban character*

*All development proposals must contribute to local distinctiveness and character by reflecting the positive attributes of the neighbouring area, respecting the sensitivity to change of the generic character types within each urban character area. Key characteristics to review include:*

1. *Current use of buildings*
2. *Ownership/tenure*
3. *Street layout*
4. *Patterns of development*
5. *Residential amenity*
6. *Plot size and arrangement, and*
7. *Built form.*

The existing dwellings in the location have a combination of red brick and render external finishes. The proposal would appear to be of a temporary nature with a design that would not be significantly out of character to the detriment of the surrounding area and street scene.

The site is occupied by an existing dental practice and the proposal does not seek any alterations to the main building facades. The proposal for the siting of a temporary structure within the confines of the existing car parking area to the rear would generally be out of view of the main public domain and neighbouring properties.

It is therefore considered that the proposal would not lead to any significant harm to the visual amenity of the site, street scene or surrounding area. .

#### **4. Impact on Highway Safety**

WCC Highways objected to the application stating that it was contrary to the NPPF. In assessing specific applications for development paragraph 108 of the NPPF (in part) states:

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

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

Paragraph 109 of the NPPF states that:

*109. 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 110 of the NPPF states (in part)

110. Within this context, applications for development should:

- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

WCC Highways have assessed the proposed scheme and raise doubt as to the proposed structure being of a temporary nature. Commenting that the applicant states the additional structure/surgery room is for those with limited mobility.

Notwithstanding, this the proposal would result in the loss of existing parking spaces, therefore those with limited mobility may not be able to park near to the site or be dropped-off or picked-up safely due to a reduction in parking provision. No other mitigation has been submitted and the proposal would increase the number of treatment rooms so could result in an increase in patients visiting the site.

Therefore, as the proposal would remove of some of the existing parking spaces it would in effect reduce access for all (including those with mobility issues) and would increase competition for parking spaces within the dedicated parking area forcing patients to seek alternative parking provision. The area already has limited on street parking within Cavalier Close and has double yellow lines and Traffic Road Orders in place to the corner of Lutterworth Road along with a dedicated bus lay-by within close proximity of the site. This could all potentially be detrimental to the safe free flow of traffic movement on the highway.

## 5. 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.

It is considered that no significant detriment would occur to the residential amenity of neighbouring occupiers, or to the visual amenity of the site, street scene and surrounding area.

However, it is considered that the proposed scheme would reduce the opportunity for people with mobility impairment to access the site due to the loss of existing car parking spaces within the already small parking area to the rear of the premises and increase parking in an area that already has limited on street parking.

### **REASONS FOR REFUSAL:**

Refusal is recommended due to the following Policies:

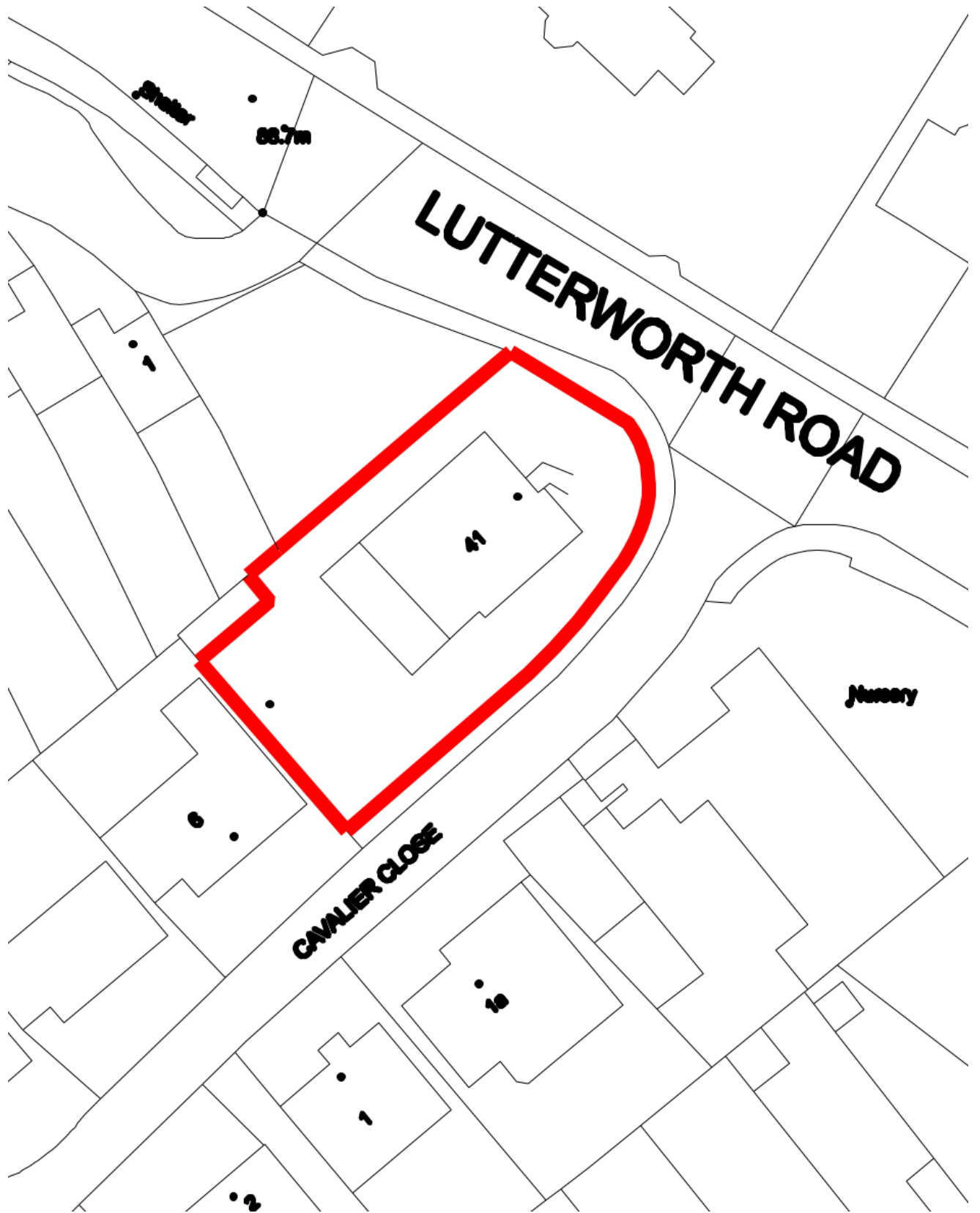
- 1(i) Paragraph 108 of the National Planning Policy Framework 2019 states (in part):
  108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
    - b) safe and suitable access to the site can be achieved for all users:
- (ii) Paragraph 109 of the National Planning Policy Framework 2019 states:
  109. 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.
- (iii) Paragraph 110 of the National Planning Policy Framework 2019 states (in part):

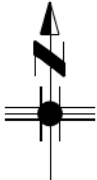
Within the context, applications for development should:

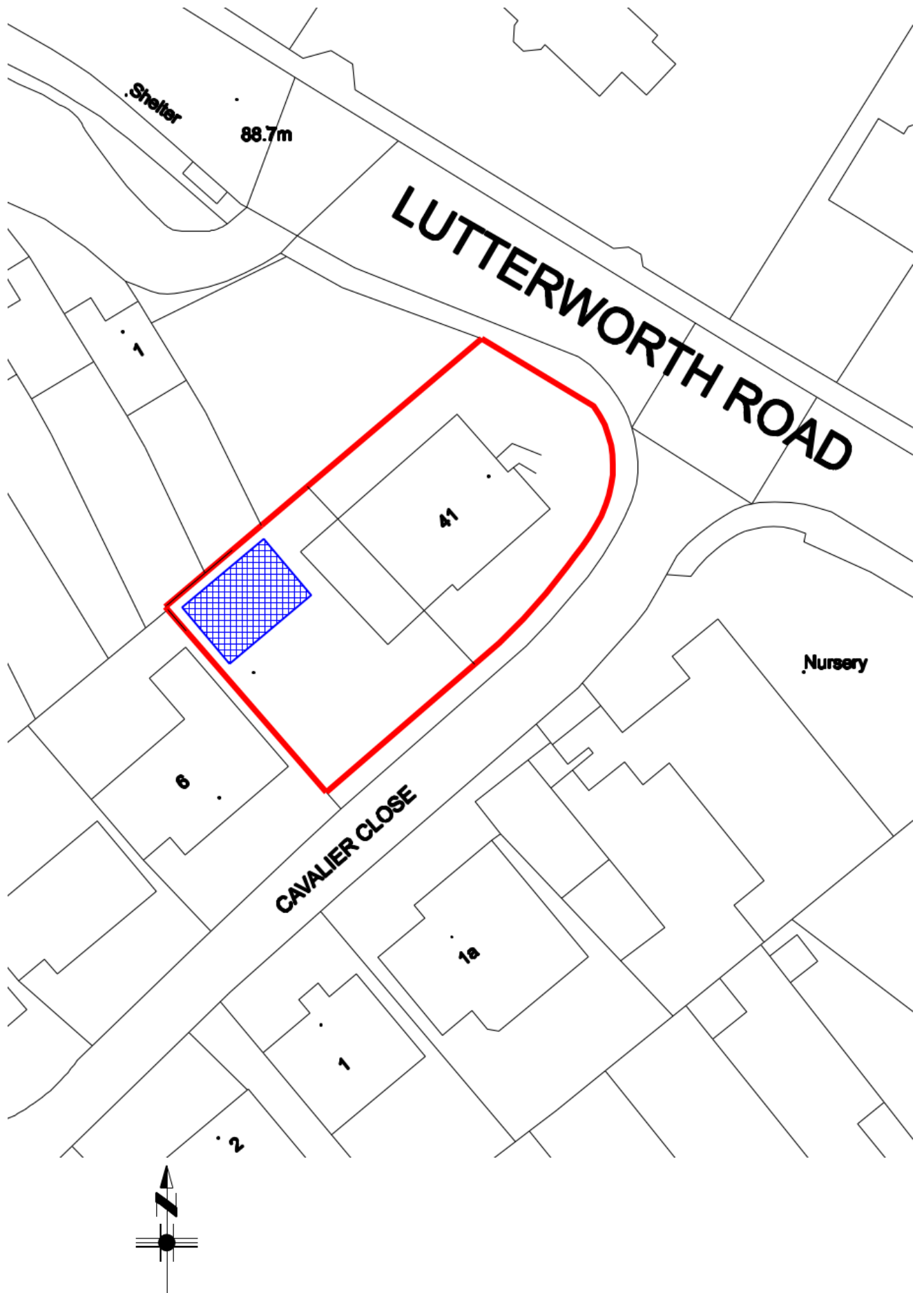
  - (b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport.
  - (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrian, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards.

- (iv) The proposal is contrary to these Policies as it has not been demonstrated that visitors and staff using private transport can be accommodated within the site due to the reduction of existing parking spaces and potential increase of visitors due to the addition of a new consultation room. This could be detrimental for people wishing to visit the site with limited mobility and would increase competition for parking spaces within the dedicated parking area. The situation could also force patients to seek alternative parking provision in an area that already has limited safe on street parking and could be detrimental to the safe free flow of traffic movement on the highway.

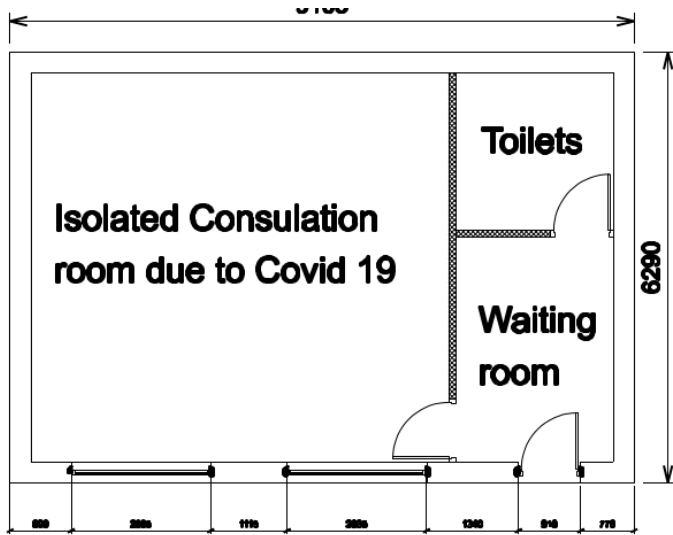




  
Location Plan



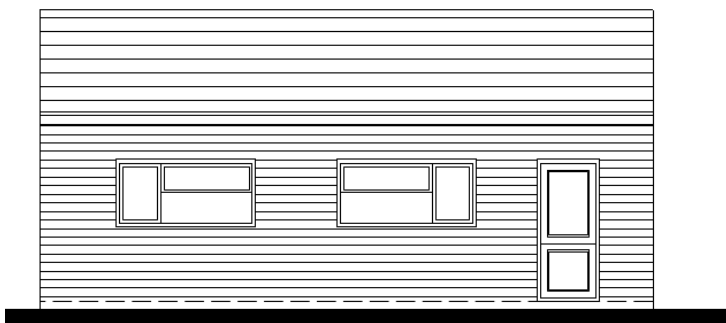
Site Plan



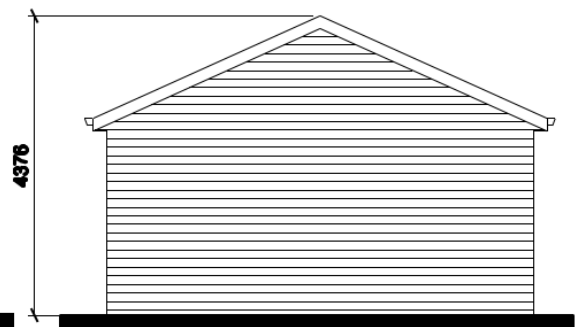
**Proposed Ground Floor Plan**



**Proposed Roof Plan**

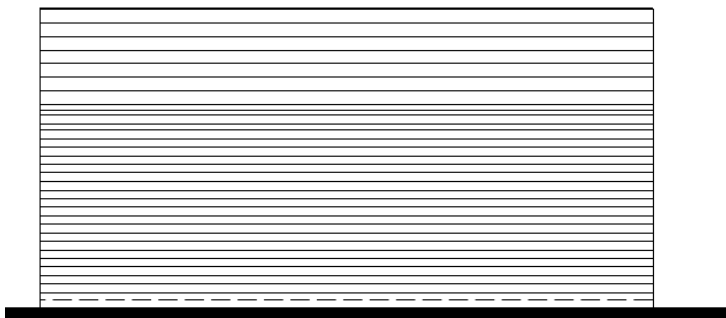


**Proposed Front elevation**

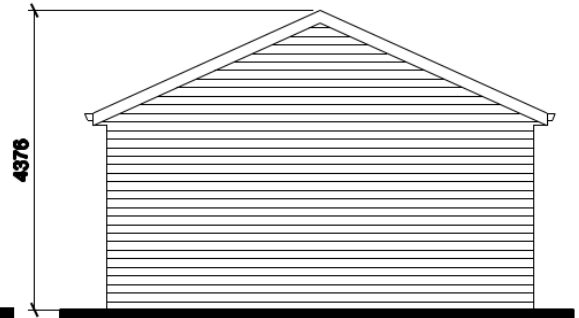


**Proposed Side Elevation**

**TIMBER FRAMED BUILDING  
WITH TIMBER CLADDING**



**Proposed Rear elevation**



**Proposed Side Elevation**

Proposed Plan and Elevations

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)**