

East Area Planning Committee

5th August 2015

Application Number: 15/00930/OUT

Decision Due by: 30th June 2015

Proposal: Demolition of existing timber yard buildings and 2 x 1 bed flats. Outline planning application (seeking details of access, appearance, layout and scale) for the redevelopment of the site to erect a 60 bed care home on three floors. Provision of 20 car parking spaces, cycle parking, bin storage and ancillary works. Conversion and restoration of 2 bedsits to street frontage to form single 1 bed house. (Amended plans) (Additional Information)

Site Address: 474 Cowley Road, **Appendix 1.**

Ward: Cowley Marsh Ward

Agent: Mr Mark Doodes

Applicant: Montpelier Estates Ltd

Recommendation: Approve with conditions.

Reasons for Approval

- 1 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.
- 2 The development would make efficient use of land, providing specialist residential accommodation for the elderly at a sustainable location. Whilst the land represents a key employment site as identified in policy CS28 of the Oxford Core Strategy, it currently provides only a relatively small number of jobs, which would be greatly exceeded by those created by the proposed development. The building proposed is of a suitable scale and appropriate design with landscaped gardens and required levels of car parking. Additional cycle parking can be secured by condition. Subject to the imposition of relevant planning conditions, then on balance the development can be supported in accordance with the principles and requirements of the Oxford Local Plan, Oxford Core Strategy, Oxford Sites and Housing Plan, and National Planning Policy Framework (NPPF).

- 3 For the reasons set out in this report comments on the development received from statutory bodies or third parties do not amount individually or collectively to a reason to refuse planning permission. The relevant bodies have been consulted and the issues raised properly address by condition.

Conditions

1. Time limits for commencement.
2. Reserved matters.
3. Development in accordance with submitted plans.
4. Materials.
5. Architectural detailing.
6. Obscure glazing to end windows.
7. Landscape implementation.
8. Tree protection.
9. Landscape management plan.
10. Boundary treatment.
11. External lighting.
12. Natural Resource Impact Analysis
13. Construction travel plan.
14. Construction environmental management plan.
15. Travel Plan
16. Surface water drainage scheme.
17. Provision of fire hydrant.
18. Ground contamination.
19. Unexpected contamination.
20. Petrol / oil interceptors.
21. Cooking smells.
22. Habitat creation.
23. Repeat ecological survey.
24. Details of employment training.
25. Public art.

Legal Agreement and Community Infrastructure Levy (CIL):

The development is eligible for a contribution of £18,092.26 under CIL arrangements.

Principal Planning Policies:

Oxford Local Plan 2001-2016

- CP1 - Development Proposals
- CP6 - Efficient Use of Land & Density
- CP8 - Design Development to Relate to its Context
- CP9 - Creating Successful New Places
- CP10 - Siting Development to Meet Functional Needs
- CP11 - Landscape Design
- CP13 - Accessibility
- CP14 - Public Art
- CP18 – Natural Resource Impact Analysis
- CP19 - Nuisance
- CP22 - Contaminated Land

TR1 - Transport Assessment
TR2 - Travel Plans
TR3 - Car Parking Standards
TR4 - Pedestrian & Cycle Facilities
TR14 - Servicing Arrangements
NE14 - Water and Sewerage Infrastructure
NE15 - Loss of Trees and Hedgerows
EC1 - Sustainable Employment

Core Strategy

CS9 - Energy and natural resources
CS10 - Waste and recycling
CS12 - Biodiversity
CS13 - Supporting access to new development
CS14 - Supporting city-wide movement
CS17 - Infrastructure and developer contributions
CS18 - Urban design, town character, historic environment
CS19 - Community safety
CS24 - Affordable housing
CS28 - Employment sites

Sites and Housing Plan

HP1 - Change of use of Existing Homes.
HP9 - Design, Character and Context
HP14 - Privacy and Daylight

Other Planning Documents

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance
- Supplementary Planning Documents (SPDs) and Technical Advice Notes (TANs)

Public Consultation

Statutory Consultees Etc.

- Environment Agency: No objection subject to conditions relating to further intrusive site investigations.
- Thames Water: Provision to be made to ensure storm flows are attenuated or regulated into receiving public network through on or off site storage; petrol / oil interceptors required.
- County Council: Strategic Comments: Sustainable location; support application subject to conditions.
- County Council: Property: No Objection; request CIL funds are apportioned for improved library facilities plus other facilities such as waste management, museums, adult day care etc.
- County Council: Highways: Request CIL funds be spent on improvements to bus services, pedestrians and cyclists at Cowley Centre; improvements to radial and orbital routes; real time bus passenger information; suggest conditions be imposed relating to surface water drainage, maintenance of access and parking areas; Construction Travel Plan required; updating of travel plan required; cycle

parking poorly located; level of car parking within maximum standard.

Individual Comments:

The main points raised were:

- timber yard is valuable community asset.
- loss of privacy;
- inadequate car parking provision;
- increased activity and vehicle movements at weekends;
- two story building preferred;
- height of building excessive;
- no reduction in traffic movements;
- traffic will exacerbate poor conditions and congestion on Cowley Road;
- rear vehicle access to neighbouring houses requested;
- concerns about drainage and localised flooding;
- support development;
- concern about risks to children and pets during construction; and
- development may remove trees and may not be ecologically friendly.

In addition to the above the applicant consulted 200 households in the locality by circulating details of the proposals. Public consultation events were also held on 27th April and 19th May 2015. The main points raised in response centred on the wish to retain existing trees to the perimeter of the site; the potential for light spillage; the boundary treatment to the rear of the properties at 474 to 490 Cowley Road; potential for overlooking; and drainage issues from the existing use of the site.

Finally at the time of writing the Oxford Design Review Panel (ODRP) is undertaking a review of the proposal. Its conclusions will be reported verbally at committee.

Officers Assessment:

Background to Proposals.

1. The planning application relates to a rectangular parcel of land measuring 0.34 ha. (0.9 acres) set behind and to the south - west of nos. 474 to 490 Cowley Road. It is accessed from a single point nearly opposite the junction with Gillian's Way. To the north - west are the rear gardens of inter - War residential properties at Milton Road, and to the south a car repair business set behind 496 to 510 Cowley Road. To the south - west are grounds of the Elder Stubbs Allotments and beyond that a modern residential cul de sac at Bhandari Close. The wider locality is generally residential in character.

Appendix 1 refers.

2. The site itself is occupied by Powells' timber yard, a long established local business which is vacating the site and whose trade has declined in recent times following increased competition from other wholesale and retail suppliers of timber products. The site itself is currently occupied by a series of undistinguished sheds occupying two thirds of the site. Car parking exists for

perhaps a dozen vehicles, to allow sufficient space for the manoeuvring of larger commercial vehicles. To the street frontage an Edwardian terraced house within the application site was converted and extended many years ago into poor quality residential accommodation consisting of 2 small flats and 2 bedsits.

3. The proposed development entails clearance of the site and construction of a 3 storey building forming a residential care home catering for 60 elderly residents, together with car parking and landscaped gardens. The applicants indicate that in common with other towns and cities Oxford is experiencing a growing number and proportion of elderly people. Whilst acknowledging that there is an increased focus on the provision of “extra care” accommodation for the elderly which promotes independent living, equally there remains a proportion of the elderly population who through illness or infirmity require alternative arrangements. In this case residents are typically frail elderly in need of care and support, some of whom may be suffering with conditions such as dementia.
4. Partial demolition and refurbishment of the accommodation to the street frontage is proposed in order to provide a single house with rear garden, to be let or sold independent of the residential care home.
5. Officers consider the principal determining issues in this case to be:
 - principle of use of land for the proposed development;
 - site layout and built forms;
 - relationship to neighbouring properties;
 - highways, access and parking;
 - loss of existing residential accommodation;
 - landscaping; and
 - sustainability

Principle of Use of Land for Proposed Development.

6. The application site is indicated to be a key employment site under policy CS28 of the Core Strategy. The policy seeks to retain employment at such sites and indicates that regeneration would only be permitted if it:
 - *“secures or creates employment important to Oxford’s local workforce; and*
 - *allows for higher - density development that seeks to make the best and most efficient use of land; and*
 - *does not cause unacceptable environmental intrusion or nuisance.”*
7. This policy was adopted before the publication of the National Planning Policy Framework (NPPF) however which takes a more flexible approach. Paragraph 22 of the NPPF reads:

“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the

allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities”.

8. In this case the current timber yard employs 23 staff, 5 of whom are part time. The proposed development would employ at least 70 staff made up of 6 qualified nursing staff, 44 care assistants, 16 catering and household staff and 4 administration and maintenance staff. Whilst the proposed development would not recruit employees with the same sets of skills as the existing use, it would nevertheless employ a range of professional, skilled and semi - skilled staff and over three times as many in numbers. Allowing for some part time working the development would amount to approximately 55 FTE employees. The home would be run by a general manager with a nursing qualification and background, and staffing levels would be subject to Care Quality Commission (CQC) standards, taking into account the particular medical needs of the residents. Generally however a minimum of 1 nursing staff member per 5 residents is a required standard during daytime hours, with a reduced level at night.
9. The site itself is poorly located in terms of access for large commercial vehicles delivering and collecting timber as it falls within an essentially residential area with poor access and limited manoeuvring space for large vehicles. More typically an edge of town location within a commercial environment would be sought now for such a use. A financial viability statement accompanying the planning application also suggests redevelopment for either office or other commercial use may not prove viable or attractive given the various costs likely to be incurred in bringing forward a development. Other uses such as general housing or student accommodation may be viable, but would not reproduce employment numbers and would not be supported.
10. Whilst policy CS28 of the Core Strategy seeks to protect Class B (Business) jobs and sites, as indicated above this is caveated now by the NPPF that other forms of employment may be acceptable if future business use of the site is unlikely to be forthcoming. This approach was supported in an appeal decision in Warwick where the current applicant sought a very similar residential care home on land allocated within the local plan for the district for Class B (Business) employment use. In allowing the appeal in that case the Inspector concluded:

“Notwithstanding that the appeal scheme is not one of the uses sought by LP policy SC2, for the reasons set out above it is concluded that the appeal scheme would not undermine the employment land objectives for Warwick District or at Tournament Fields set out in the development plan.”
11. The full text of the decision letter is attached as **Appendix 2** to this report.
12. Given the circumstances of the current proposals and the more flexible approach to employment sites encouraged by the NPPF, then a good case is made that the proposed use can be supported. It would generate significant

employment levels at a site where only limited employment is currently present and where other forms of employment use may not prove attractive to the market. Moreover the site would remain a Key Employment Site as it would retain and expand its employment base. Nor would the use of the land for a residential care home set any sort of precedent for other key protected employment sites such as the Business Park or Science Park which are more likely to be viable and attractive for business uses as they do not require demolition and ground preparation works; they occupy large plots; they have easy access to the ring road; and they possess the potential for higher densities of occupation.

13. On other matters commercial development of over 2,000 would usually be eligible for a financial contribution towards affordable housing. Paragraph 7.3.5 and policy CS24 of the Core Strategy indicate respectively:

“Commercial development can worsen the existing housing situation by encouraging workers in housing need to move to Oxford. The City Council will expect such developments to contribute towards the need for affordable housing in Oxford.”

“Planning permission will only be granted for commercial development that provides affordable housing to meet additional demand created.”

14. However there is a specific caveat in the Affordable Housing and Planning Obligations SPD at paragraph 2.3 which excludes residential care homes of this type from this requirement:

“Care homes and nursing homes that are not self - contained are not required to provide for affordable housing. Similarly, specialist or supported housing schemes provided and managed by a local authority or partner Registered Provider that are not self - contained (eg accommodation for the homeless or vulnerable people) need not provide for additional affordable housing.”

15. Lastly the applicant indicates an intention to recruit staff locally and to provide local job and job training opportunities wherever possible, both during construction and occupation of the development. It would also seek to source materials and services relevant to the design, construction, operation and maintenance of the development from local sources. These initiatives are supported.

Site Layout and Built Forms.

16. The planning application is made in outline, but with details of access, appearance, layout and scale sought for approval at this stage, with only landscaping to follow as a “Reserved Matters” application in the event of approval being granted.
17. The 3 storey building is essentially in the form of a “T” with the entrance being to the head of the T facing north - east, its position largely being dictated by the form of the building and plot it would occupy. Demolition of some of the buildings to the Cowley Road frontage allows an independent single 1 bed

house to be provided, together with small rear garden. It also permits a two way 5.2m access to be created, plus 1.5m footway to one side. 20 car parking spaces, including 2 for disabled use are provided to the frontage of the building, together with turning / servicing space, entrance forecourt and cycle and bin stores. To the north - west and south - west sides of the site, landscaped gardens are proposed measuring approximately 465 sq m and 275 sq m, though full details are not provided at this stage. Lighting columns and low level lighting are provided to the entrance and around the building, details of which can be secured by condition. Close boarding fencing and masonry walling would form the boundaries to the site.

18. The architecture of the building is simple and unobtrusive with light coloured facing brickwork to the bulk of the elevations, though much of the second floor and other selected areas would be rendered. Although the roof material is not specified, the submitted drawings appear to indicate a shallow pitched standing seam metal roof. At the point of entrance to the building, a single storey extension and canopy extends into the forecourt and car park. This leads to an open reception area where an informal café is located plus office accommodation, hardressers' and nurses' station.
19. Internally all 60 residents' rooms have en suite facilities, though separate rooms are also provided on each floor for assisted baths. Meals are provided in dining areas provided at each floor, with lift access available to all levels. These are flexible spaces which can also be used for social or other purposes. The main kitchen area is at second floor level, where the laundry and staff changing and other facilities are also provided. A separate access from the vehicle service area leads to a service lift directly to these facilities. All ground floor residents' and day rooms have direct access into the landscaped gardens, though for safety reasons none of the upper floor rooms have balconies. In all 21 residents' rooms are provided at ground floor level, 23 at first floor and 16 at second floor. The building is fully disabled accessible throughout.
20. In summary the new building proposed is relaxed and even low key, intended to fit comfortably within its residential context where brick and rendered buildings under pitched roofs predominate, but without replicating existing styles. Located where it is the building would be seen from neighbouring residential properties and from the Elder Stubbs allotments site, from which vantage points it is intended to appear as a new but discreet part of the local vernacular. From more public areas such as Cowley Road the building would be seen only in glimpses. Subject to receiving further details of the finer architectural treatment, final choice of materials, brickwork, colour of render etc, then officers would not seek to oppose the design approach adopted.

Relationship to Neighbouring Properties.

21. The proposed building would occupy a rather smaller footprint than the existing collection of large sheds on the site and is more centrally located. It would rise to 8.35m to eaves and 9.2m to the ridge of its shallow pitched roof. This compares favourably with some of the existing sheds which themselves

rise to over 8m at ridge. Moreover the rear spine to the T shaped building draws the accommodation well away from the boundaries of the application side. Nevertheless the potentially most affected properties are 9 to 15 (odd) Milton Road, and 476 to 490 (even) Cowley Road.

22. In terms of the former properties, as now proposed the north - western wing of the frontage range would be set at approximately 5.5m from the common boundary. This is a two storey element only however with the main 3 storey flank wall approximately 9m from the same boundary. This in turn means that the distances between facing elevations are about 25m and 29m respectively. The rear wing is further away still, generally at about a distance of nearly 40m. In the flank wall of the frontage range there are only 2 facing windows at upper levels, each obscured glazed and providing light to a central corridor only. As there are currently sheds to the timber yard along much of the boundary to these Milton Road properties which are intended to be replaced by landscaping and tree planting, then overall their outlook is much improved with any issues of privacy addressed accordingly.
23. Turning to the Cowley Road properties, these have reasonable sized rear gardens of approximately 20m, meaning that the window to window distances between the rear of these properties and the proposed care home would be approximately 38m or more. Again at these distances any issues of privacy are addressed.
24. To the remaining elevations, a car repair business exists to the south - east and the Elder Stubbs allotments to the south - west where no issues of overlooking exist such as to oppose the development.
25. Overall therefore the development is compliant with the requirements of policy HP9 of the Sites and Housing Plan.

Highways Access and Parking

26. Access to the site is taken from the existing point on Cowley Road, but with the width of the access and visibility improved over current arrangements. The widened access would be 5.2m with 1.5m footway, leading to 20 car parking spaces including 2 disabled spaces, plus cycle parking and turning and manoeuvring space for service vehicles. Local Plan parking requirements are expressed as maxima with residential care homes and nursing homes set at 1 space per 3 rooms, or 20 spaces in this case as proposed. Although some 70 staff would be employed at the site, there would be a 3 shift system in operation commencing at 7.00am, 3.00pm and 11.00pm. Naturally there would be greater numbers during the normal working day. Bearing in mind the good public transport links to the site with a 5 minute service on the City – Blackbird Leys route plus other services, and the fact that none of the residents would be car drivers, then officers are satisfied that sufficient car parking is provided to cater for staff, servicing and visitor requirements
27. For cycle parking the requirements are expressed as minima, and in this case provision is made for 12 cycles. These are rather inconveniently located to the

north - west side of the building and set to the rear of a car parking space. They are not shown as under cover. In view of the high cycle usage in Oxford and the fact that the applicant hopes to recruit staff locally, it is suggested that additional cycle parking should be provided to encourage sustainable means of accessing the site for both staff and visitors. In view of its current poor location, it is suggested that the cycle parking be relocated and provided under cover. An alternative location may be to the south - east corner of the site which may involve some adjustment to the servicing and turning area there.

28. In terms of traffic generation the transport assessment accompanying the planning application indicates that there are likely to be 61 vehicle movements into the site each 24 hour day and 63 movements out, with 4 arrivals and 4 departures in the morning peak hour of 8.00am to 9.00 am, and 4 arrivals and 6 departures in the evening peak of 5.00pm to 6.00pm. This is equivalent to one vehicle movement every 6 to 8 minutes on the local network and represents a 40% reduction on vehicle movements to the timber yard. Although there would be regular deliveries to the new development, there would be no heavy goods vehicles of the type now entering the timber yard.

29. A Travel Plan also accompanies the planning application with the aim of reducing the proportion of staff travelling by car to the development, and targeting a 10% annual increase in the proportion of staff walking or cycling to the development. A Travel Plan Coordinator is to be appointed, and travel information provided to all staff, plus maps of cycling and walking routes from key points of origin. The Travel Plan would investigate the potential for cycle training and assistance for the purchase of a cycle. It would also encourage car sharing, presumably aimed at those living further afield, and consider charging for the use of parking spaces if necessary and appropriate. Officers would support all these initiatives.

Loss of Existing Residential Accommodation.

30. Policy HP1 of the Sites and Housing Plan would ordinarily oppose the loss of residential accommodation to other uses. In this case the original Edwardian end of terrace house has been extended and converted in the past to form two small flats and 2 bedsits. The accommodation is poor however, and demolishing the extensions allows a better and wider access to the site to be created, whilst still allowing the original house to be converted back to a single bedroom end of terrace house with small rear garden of approximately 32 sq m. More particularly the main development itself provides specialist residential accommodation for some 60 residents in a purpose built development. Officers have concluded therefore that the balance of advantage lies in permitting the development with its additional specialist accommodation.

Landscaping.

31. The planning application includes an Arboricultural Report which records the quality and value of the existing trees on the site and adjacent to its boundaries. In the main these are located along the north - west and south -

west boundaries. The tree survey identifies 5 sycamores, 2 common ash, 1 plum and 3 groups of Cyprus trees. The survey was undertaken in accordance with BS5837:2012 and lists 4 trees as Category B (of moderate visual quality) and 6 Category C (of low quality). The remaining tree is a self seeded mature common ash located along the south - west boundary hard against an existing building. It has little public amenity, has previously been pollarded, and has a limited life expectancy. It is therefore recommended for removal in line with good arboricultural practice.

32. The planning application is submitted in outline but with only the details of landscaping to follow in a further "Reserved Matters" planning application. Nevertheless the intention is to reinforce planting along the boundaries of the site whilst creating two formal gardens either side of the rear wing to the development which all residents of the development can enjoy. Suitable conditions are suggested accordingly.

Sustainability

33. A Natural Resource Impact Analysis (NRIA) accompanies the planning application and seeks to meet the minimum requirements of policy CP18 of the Oxford Local Plan. As a building with relatively high energy requirements, an emphasis is put of a "fabric first" approach through the use of high thermal insulation to meet BREEAM Green Guide ratings. The building would be naturally ventilated throughout, with the potential to incorporate photovoltaics etc in terms of on - site renewables. Water efficiency sanitary ware would be incorporated, and rainwater harvesting considered. High efficiency boilers and other appliances would be utilised and materials reused wherever possible with at least 70% of demolition waste diverted from landfill.

34. Although the intention is to meet and exceed a minimum score of 6 on the NRIA checklist, with a minimum score in each category of energy efficiency, renewables, use of materials and water resources, not all the details of how this would be achieved are confirmed in the analysis. A condition is therefore recommended requiring additional information be submitted for subsequent approval.

Other Matters.

35. Drainage and Flood Risk. The application site lies within Flood Zone 2 as designated by the Environment Agency, that is to say it falls outside the 1 in 100 year flood risk level, plus 20% for climate change, of 59.65AOD. Nevertheless as a precautionary measure the development would be constructed with a 300mm freeboard and finished floor level of 60.00AOD. In terms of runoff, the whole of the site is currently given over to hard surfaces. In these proposals the introduction of landscaped garden areas reduces the amount of hard surfaces from 3,300 sq m to 2,350 sq m, a reduction of 28%. Moreover sustainable drainage techniques would be included for new hard surfaced areas of car parking etc, though soakaways are not appropriate due to shallow ground conditions consisting of firm Oxford clay. Nevertheless surface runoff is envisaged to reduce by 40% as a consequence of the

development.

36. In terms of the foul system, it is intended to discharge to the existing connection to the foul sewer in Cowley Road.
37. Neither the Environment Agency nor Thames Water raise objection to these arrangements.
38. Ground Contamination. As a brownfield site with a history of saw mill and timber yard activity for 65 years or more the potential exists for a degree of ground contamination. In addition a further commercial use has existed for many years on the land to the immediate south - east of the site. A Phase 1 Geo Environmental Report accompanies the planning application accordingly. It concludes that there is a moderate risk of ground contamination being present and recommends that further ground investigations be undertaken. Environmental Development colleagues concur with this recommendation. The required surveys and analysis can be secured by condition.
39. Biodiversity. An ecological survey of the existing buildings on site was undertaken in January of this year. No bats or habitats for other species were found. Nevertheless an opportunity exists to make provision for future wildlife and biodiversity enhancement. It is recommended that a mix of bat and bird boxes be incorporated into the development accordingly. It is suggested that 6 integrated swift boxes are incorporated (3 to the north - east elevation, and 3 to the north - west elevation), together with 8 bat roosts, (4 to the south - west side and 4 to the south - east side). Details of these facilities can be secured by condition.

Conclusion.

40. The proposed development seeks permission for a residential care home where there is a growing demand from an increasing aging population. The development would employ significantly more than the existing timber yard and the use of the land for its new purpose reflects the most recent government advice in the NPPF, but without prejudicing the Key Employment status of this site. Car and cycle parking can be provided to meet Local Plan requirements whilst traffic generation would be reduced, and heavy goods vehicle movements removed. Although there is a loss of poor quality residential units, they are replaced by a single house and a facility accommodating 60 elderly residents within a development of unobtrusive design with landscaped gardens.
41. Committee is recommended to support the proposals accordingly.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers

of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission subject to conditions, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers: 15/00930/OUT

Contact Officer: Murray Hancock

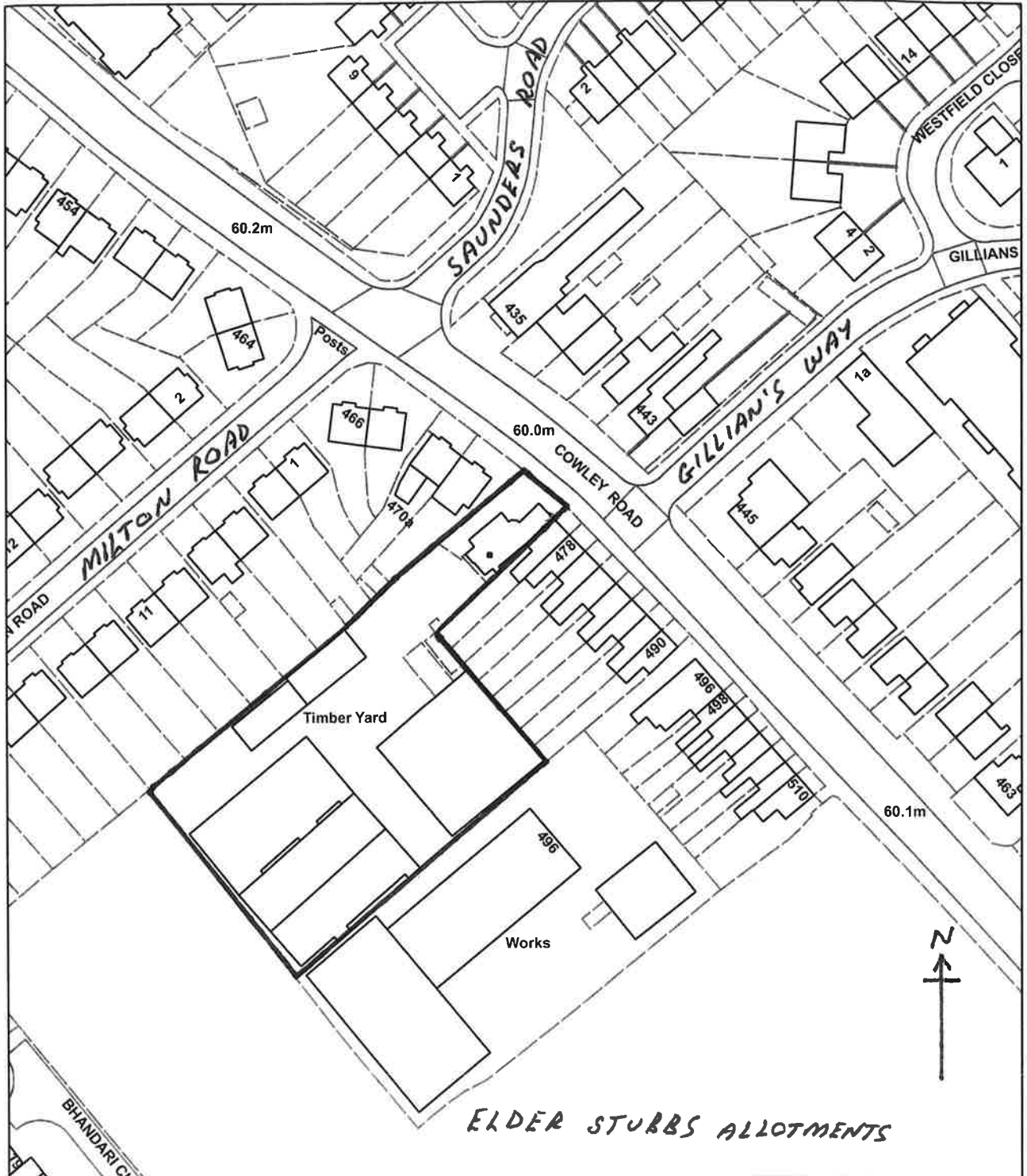
Extension: 2153

Date: 24th July 2015

15/00930/OUT

474 Cowley Road

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Ordnance Survey 100019348.





Appeal Decision

Hearing held on 1 November 2011

Site visit made on 1 November 2011

by Elaine Benson BA (Hons) Dip TP MRTPI

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

Decision date: 22 December 2011

Appeal Ref: APP/T3725/A/11/2155266

Plot Number 8002, Tournament Fields, Edge Hill Drive, Warwick CV34 6LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Montpelier Estates Ltd against the decision of Warwick District Council.
- The application Ref W10/1564, dated 22 November 2010, was refused by notice dated 31 May 2011.
- The development proposed is the erection of a three storey building to provide a care home for residents suffering from dementia and brain acquired injuries (Use Class C2) with new vehicular access, parking and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a three storey building to provide a care home for residents suffering from dementia and brain acquired injuries (Use Class C2) with new vehicular access, parking and landscaping at Plot Number 8002, Tournament Fields, Edge Hill Drive, Warwick in accordance with the terms of the application, Ref W10/1564, dated 22 November 2010, subject to the conditions on the attached schedule.

Main Issues

2. The effect of the proposed development on the availability of employment land in the District and on the development of adjacent allocated employment land; and whether a satisfactory living environment for future occupiers of the care home could be achieved.

Reasons

3. It is proposed to erect a 3 storey care home for 90 residents with dementia or brain acquired injuries. The specialist C2 use requires a secure environment, with care provided on a constant basis. Accommodation would be arranged in clusters to provide a homely environment for residents and facilities for residents and their visitors would be provided.
4. The building would be located towards the northern end of the wider Tournament Fields site and would front onto Edge Hill Drive. There are offices opposite and land at the side and rear is undeveloped. Three-storey apartments on the opposite corner are part of a recent, large scale housing development. To the rear of the site, approximately 60 m away to the south west is the A46 flyover, which is partly screened by trees at ground level. To

the south is the A429. The site is to the east of the recently improved junction 15 of the M40 motorway and has good strategic connections to surrounding conurbations and motorways.

Employment Land

5. Tournament Fields is a site of some 16 ha allocated as an employment area in the Warwick District Local Plan 1996-2011 (LP). It has planning permission for B1 (business), B2 (general industry) and B8 (storage and distribution) uses. A maximum of 55% of the gross floor space can be developed for B1 use, of which almost half has been developed or has planning permission. In 2010 planning permission was granted for a private hospital to the south of the site as an exception to development plan policies.
6. The aim of Policy PA6 of the West Midlands Regional Spatial Strategy 2008 is to ensure the provision and maintenance of a range of readily available employment land to meet the needs of the regional economy. Saved LP Policy SC2 seeks to protect employment land from development for non-employment purposes, unless certain criteria are met, of which the most relevant is that the proposal would not have the effect of limiting the level and quality of land available for employment. Employment uses are defined as B1, B2 and B8 in the supporting text to policy SC2.
7. Although the C2 care home use is not an employment use in accordance with the LP's definitions, the equivalent of 70 full-time jobs would be created and it is anticipated that most staff would be local. Whilst this number is likely to be lower than would result from an office development of a similar scale, industrial or warehouse uses could result in fewer jobs. The employment generating use of the site should be seen in the context of recent Ministerial Statements which seek to encourage economic activity and job creation.
8. The *Warwick District Employment Land Review - Final Report - April 2009* (ELR) recognises the need to maintain and expand the employment base of the District. It rates Tournament Fields as the largest, highest rated employment site in respect of market and physical ranking and sustainability. It is considered attractive to the market and particularly to businesses such as IT, utilities and high-tech manufacturing/office sectors. However, the ELR states that its location is not as sustainable as those within or on the edge of centres and that development in this area would lead to increased traffic flows on the local and strategic highway network. It also indicates that the site is only suitable for office development because of the adjacent residential development, noting that this conclusion would need to be given consideration through the Local Development Framework process.
9. The Council's Annual Monitoring Report as of April 2010 indicates an average annual take-up rate of employment floorspace of around 5.66 ha per annum over the period 1989 to 2010. Thus the Council concludes that the industrial and distribution market in Warwick and the surrounding area is relatively healthy despite the wider economic downturn and anticipates that this trend will continue, providing sufficient sites are made available. Whilst recognising a reduction in demand for general manufacturing premises in the region, the Council's evidence is that there is still a regional need for premises suitable for light industry, assembly and small scale storage and warehousing.

10. Additionally, there appears to be a good take-up of large B8 and B2 buildings at national and regional level, particularly on unconstrained sites in accessible locations and within the automotive industry. This trend could also lead to increased demand for B2 and B8 premises from component suppliers. Some erosion of employment land supply, notably at the Gallagher Business Park, lends support to the Council's view that the retention of employment land flagship sites such as Tournament Fields is more critical.
11. The Council considers that Tournament Fields meets the key requirements of B2/B8 occupiers, particularly large operators and that there are no better competing locations elsewhere in the district. A number of alternative locations were discussed at the hearing, although their site specific circumstances are not directly comparable to Tournament Fields. It is concluded that large-scale B2/B8 occupiers have a choice of alternative sites which are deliverable and suitable to meet their requirements for sizeable sites away from housing, limited environmental controls and with good access to motorways.
12. In the appellants' view, Tournament Fields could not accommodate the large scale distributors referred to by the Council as the criteria set out above could not be met and because the estate road network had been designed to cope with smaller scale developments, although little technical evidence of this was provided. The appellants stated that the decision not to market the site for large scale uses was also based on the Council's response to informal enquiries about the erection of a large B2/B8 building in the 1990s. The Council has no record of this matter. It was agreed at the hearing that any proposals would be considered on their individual merits.
13. Small-scale distributors have similar requirements to those set out above, although they can locate on smaller sites, provided there are no restrictions on operating hours or access by HGV vehicles and significant internal heights can be achieved. If located towards the centre of the wider Tournament Fields site, small-scale B2 or B8 operations would be sufficiently distant from surrounding homes to avoid harming the living conditions of residents.
14. The appellants conceded that they aim to encourage high quality office schemes. Their limited marketing for B2/B8 uses had concentrated on attracting prestigious end-users by providing small-scale, good quality design and layouts. There is little evidence to conclude that the available plots on the site have not been taken up through a lack of marketing. In addition, the site is visible from a number of major roads, which also advertises its presence.
15. There is no doubt that Tournament Fields could make a substantial contribution towards employment floorspace. However, plots have been available for a range of uses for some years, including during peaks of economic activity. The site has been marketed continually and its planning policy context is known, as demonstrated by a series of planning applications. Despite some success, some 30 acres of land remain available for development.
16. The appeal proposal would result in a small part of this floorspace being taken up by development falling outside the 'B' use classes. There would be a direct loss of about 0.4 ha of employment land as a result of the appeal proposal contrary to LP policies. However, there is sufficient evidence to indicate that the proposed location of the care home would not deter future investment into Tournament Fields and that the conflict with LP Policy SC2 would not harm the overall employment objectives of the development plan.

17. In accordance with LP Policy SC2, it is also necessary to assess whether there would be constraints on land adjacent to the appeal site resulting from the need to protect the living conditions of the care home residents. A material reduction in the amount and quality of available employment land could be contrary to development plan objectives.
18. In support of its argument, the Council referred to a site in Cannock where nearby houses and residential care accommodation have significantly reduced the market attractiveness of an industrial area due to consequential restrictions on B2/B8 operations. The Council suggests that the proposed development would have a similar effect. However, the information provided indicates that the site specific circumstances are significantly different to the appeal site and limited weight can therefore be given to this example.
19. In any event, the appeal site is close to existing noise-sensitive residential buildings. Within this context it is unlikely that noise or nuisance generating B2 or B8 uses would be acceptable on the appeal site or adjacent plots, whether or not the appeal proposal went ahead.
20. The Council indicates that there were special factors which led to the decision to grant planning permission for a hospital on the Tournament Fields site as an exception to employment policies. These factors included an oversupply of employment land, a larger number of jobs than would be created by a warehousing use, the difficulties in identifying sites for hospitals and the need for a distinctive building at the gateway link to Tournament Fields. The Council committee report stated at that time that the relationship of the hospital site to the remaining employment land was acceptable and that the loss of the land was not critical to ensuring a proper supply of employment land. It now appears that the hospital scheme is unlikely to progress, however the impact of the appeal scheme on employment land supply would be similar.
21. Notwithstanding that the appeal scheme is not the one of the uses sought by LP Policy SC2, for the reasons set out above it is concluded that the appeal scheme would not undermine the employment land objectives for Warwick District or at Tournament Fields set out in the development plan. Furthermore, it is relevant that it would be contrary to the clients' commercial interests to permit a use that could harm future investment in Tournament Fields' remaining development plots. It is also noted that existing and prospective occupiers of the wider development site required assurances that Tournament Fields would not become a major industrial or distribution area.
22. In conclusion, it has not been demonstrated that the loss of employment land for defined employment uses would be greater than the land-take required to accommodate the proposed care home or that the quality of the adjoining land would be diminished. These factors, along with the other matters that weigh in favour of the scheme, prevail over the degree to which employment land planning policies would be breached.

Living Conditions of Future Residents

23. A noise impact survey was carried out in accordance with the Noise Exposure Categories (NEC) set out in Planning Policy Guidance Note 24: *Planning and Noise* (PPG24). A Planning Noise Assessment (PNA) was submitted with the application. The existing primary noise source is traffic using the M40, A46 and A429, with the main contributor being the eastern sweep of the A46 where the

trunk road joins the A429 to Warwick and M40 southbound slip road. The survey results show that at worst, the site falls into NEC B.

24. The Council agrees that the suggested noise mitigation measures would create a satisfactory noise environment within the proposed building in respect of traffic noise, unless windows were opened to control temperature and ventilation. However, an appropriate heating and ventilation system would be installed, including individual room controls. Furthermore, it is likely that the residents of this care home would be incapable of dealing with such matters themselves. It is concluded that there would be a satisfactory living environment in this regard.
25. Some of the care home garden areas would be subject to traffic noise. But as most residents are unlikely to go outside and those that do would probably be outside for only short periods, this factor would not in itself be sufficient to justify refusing the application. In any event a number of the gardens would be shielded against traffic noise by the proposed building. A condition is imposed to control the use of the building to that applied for so that any alternative uses, including others falling within Use Class C2, which might have different amenity space requirements can be assessed in accordance with the circumstances pertaining at that time.
26. Potentially, B1, B2 or B8 operations on the plots around the appeal site could cause noise and disturbance, including from industrial processes, ventilation plant and deliveries at unsociable hours. The Council is concerned that such effects may not be effectively controlled, even when Best Practical Means have been adopted. The uses which are most likely to be acceptable within the locality have been considered and there is sufficient evidence to demonstrate that the type and range of noise levels that may be generated can be adequately predicted. Solutions are available to achieve noise levels appropriate to a care home environment.
27. Furthermore, all potential uses would be subject to environmental and planning controls to control layouts and the location of any plant, machinery and vehicle related areas. Such measures would permit the care home, residential and any acceptable potential commercial land uses to coexist in this location. Moreover there are additional safeguards as the appellants control the entire Tournament Fields site. Taking all these factors in to account, it is concluded that future uses of land adjacent to the appeal site could be controlled to prevent harm to the living conditions of the care home residents.
28. The approved hospital was considered compatible with potential employment uses. Whilst hospital patients are transitory and would not be affected by noise nuisance to the same degree as permanent residents, useable gardens would be provided at the care home and its internal environment would be protected from harmful external noise by soundproofing measures. Few material differences between the potential impacts on hospital patients and the care home residents have been identified.
29. The suitability of various types of locations for the proposed care home were discussed at the hearing, including residents' need for peace and quiet and the personal experiences of one of the Council's officers. The appellants indicated that they do not convert existing buildings as compliance issues render such schemes unviable. The appeal proposal should be assessed on its own merits and it is clear that the internal environment of the care home would be

designed to satisfy the requirements of residents and registration bodies, and there is a legal requirement to comply with disability legislation.

30. The evidence indicates that the proposed development would provide a satisfactory form of accommodation for future occupiers. Subject to the use of appropriate acoustic performance measures for glazing and ventilation, the 'good' standard of internal noise levels during the daytime and night-time could be achieved in accordance with British Standard 8233 *Sound insulation and noise reduction for buildings – Code of Practice* and the requirements of PPG24 would be complied with. Furthermore, as the wider site is developed, it is likely that new buildings would help to screen traffic noise and, potentially, future commercial noise. It is concluded that there would be no harm to the living conditions of the care home's residents and the appeal proposal complies with the requirements of Policy DP2 of the LP.

Other Matters

31. There are no policies within the LP in respect of C2 uses or health care provision. The appellant referred to a number of statements and reports by Government Ministers and the Department of Health, relating to the need for housing support and specialist provision for various groups, including people with dementia. One of the objectives of Planning Policy Statement 3: Housing is to ensure that everyone has the opportunity to live in a decent home, particularly those who are vulnerable or in need. This objective is reiterated by the Draft National Planning Policy Framework which is relevant in so much as it is consistent with extant national planning policy and guidance.
32. The Council and County Council do not dispute the need for the type of health care to be provided by the appeal scheme. The site is close to a large number of dwellings where staff might live and is accessible by public transport. Whilst it was stated that the majority of residents with dementia would be unlikely to venture outside, the local centre is around 0.5 km from the proposed care home. There would be opportunities for residents to walk or be taken to the shops or other facilities, thus assisting their rehabilitation and supporting the creation of a sustainable community. There was little convincing evidence that the proposed care home would adversely affect healthcare services due to its location, as suggested by the Council.
33. Adequate car parking is proposed to meet the Council's maximum standards and additional on street spaces are available locally. Parking and access matters were addressed by the submitted Transport Statement. No objections were raised by the Highways Authority. The design, massing and external appearance of the care home would be of high quality and in keeping with the surrounding area. Its height would comply with the requirements of the *Framework Brief for South West Warwick 2000* which was adopted as Supplementary Planning Guidance following a period of public consultation and *The Employment Land Development Brief 2003* which encourage 3 storey developments on most parts of Tournament Fields.
34. A flood defence scheme is being progressed out in the locality which when completed would take the appeal site out of the flood zone. The submitted flood risk assessment indicates that there would be no adverse flooding effect, subject to the implementation of a flood compensation scheme on adjacent land. The Environment Agency states that a scheme has been agreed and raises no objections to the appeal proposal. As full details of the scheme were

not provided with the appeal, a condition has been imposed requiring details of flood compensation works and their implementation and details of storm water and foul sewage disposal.

35. References were made to the draft National Planning Policy Framework. With the exception of where it reflects extant policies discussed above, this is a draft policy that has yet to be confirmed and can only carry limited weight.

Conclusions

36. The Ministerial Statement, Planning for Growth (March 2011) emphasises the key role of the planning system to enable sustainable development that would support economic growth. The Statement is consistent with the Government's overarching objective of achieving sustainable economic growth as set out in Planning Policy Statement 4: Planning for Sustainable Economic Growth. The care home would secure economic growth and investment in local jobs and these factors have been weighed alongside the environmental and social evidence.
37. Having regard to the current economic conditions and uncertainty about the uptake of the remaining plots on Tournament Fields, the objectives set out in Planning for Growth and other recent Ministerial statements gives significant weight to these considerations. These factors, along with the longer-term benefits of providing for the existing and future needs of an ageing population and people with brain injuries, would benefit the local economy and help achieve the wider objectives of the development plan.
38. All other matters have been taken into account but do not outweigh the conclusions set out above. Accordingly the appeal should be allowed.

Conditions

39. Conditions controlling the use of the care home, requiring measures to prevent external noise intrusion, details of flood compensation works and their implementation and details of storm water and foul sewage disposal are necessary for the reasons given above. Additional conditions requiring details of landscaping and its implementation and preventing external lighting of the building are needed to protect the visual amenities. Compliance with the submitted renewable energy scheme is required to ensure that adequate provision is made for the generation of energy from renewable energy resources.
40. To promote sustainable transport choices, a condition is imposed requiring compliance with the submitted Travel Plan. To ensure highway safety, details of the surfacing of the access, visibility splays and parking and delivery spaces are required. In the interests of proper planning and for the avoidance of doubt, a condition is imposed which sets out the approved plan numbers. Where necessary the wording of the Council's suggested conditions has been amended to more closely relate to Circular 11/95.

Elaine Benson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The premises shall be used as a care home for residents suffering from dementia and brain acquired injuries and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 3) The building envelope of the proposed facility shall be constructed in such a manner so as to ensure that levels of external noise intrusion shall not exceed an $L_{Aeq,T}$ of 30 dBA in all habitable rooms on the basis of existing noise levels incident upon any point on the proposed building facade.
- 4) Development shall not commence until compensatory flood storage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority.
- 5) Development shall not commence until details of the means of disposal of storm water and foul sewage have been submitted to and approved in writing by the local planning authority. These works shall be carried out as approved prior to the first occupation of the building.
- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) No lighting shall be fixed to the external walls or roof of the building hereby permitted, or on any open land within the application site.
- 8) The development hereby permitted shall not be occupied until the measures set out in the BREEAM LZC Feasibility Study (18 November 2010) submitted as part of the application have been implemented in accordance with the approved details. The works undertaken shall be retained thereafter and maintained in accordance with manufacturers' specifications.
- 9) The development hereby permitted shall be operated in accordance with the measures set out in the Green Travel Plan which forms part of the submitted Transport Statement. The approved measures shall continue to be implemented in full thereafter.
- 10) The access to the site for vehicles shall not be used in connection with the development until it has been surfaced with a bound material for a distance of 7.5 metres as measured from the near edge of the public highway carriageway in accordance with details to be approved in writing with the local planning authority.

- 11) The development shall not be occupied until visibility splays have been provided to the vehicular access to the site, passing through the limits of the site fronting the public highway, with an 'x' distance of 2.4 metres and 'y' distance of 43 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.
- 12) The development shall not be occupied until space has been provided within the site for the parking and loading/unloading of vehicles in accordance with details to be approved in writing by the local planning authority.
- 13) The development hereby permitted shall be carried out in accordance with the following approved plans: L40602/L01B, L40602/01E, L40602/02D, L40602/03D, L40602/901, L40602/04B, L40602/05A, L40602/06, L40602/07, L40602/08, L40602/11, L40602/09F, L40602/10M and L40602/900A.

APPEARANCES

FOR THE APPELLANT:

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| Mr P J Frampton BSc (Hons) TP, MRICS, MRTPI | Planning Director Frampton Town Planning Ltd |
| Mr J McGarry B Arch (Hons) Dip Arch | Architect, Montpelier Estates |
| Mr J Horsman B Arch (Hons) Dip Arch | Architect, Montpelier Estates |
| Mr P Ludlow FRICS | Chairman, Arnott Developments Ltd |
| Mr W J Wareing Dip Est Man, FRICS | Managing Director Wareing and Company |
| Mr N Morgan MSc MIOA | Associate Director, Innovate Acoustics |
| Mr J A Halton BA (Hons) History, Harvard Business School | Managing Director, Berkley Care Management Group |

FOR THE LOCAL PLANNING AUTHORITY:

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| Mr D Edmonds BSc Hons, Dip TP, MRTPI | Senior Planning Officer, Warwick District Council |
| Mr P Lawson BSc (Hons) MSc MCIEH | Senior Environmental Health Officer, Warwick District Council |
| Mr P Leaver | Director, Jones Lang Lasalle |

INTERESTED PERSONS:

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| Mr T Willis | Strategic Commissioning (Care and Choice Accommodation) Programme Lead, Adult, Health & Community Services, Warwickshire County Council |
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DOCUMENTS

Submitted by the Council

- 1 LP Policy DP15 Accessibility and inclusion
- 2 Details of residential care home at Mayflower House, Plymouth
- 3 Bundle of documents relating to warehouse/distribution centres in region
- 4 Extract from Regional Spatial Strategy, Glossary of Terms
- 5 Conceptual Model – Industrial Noise
- 6 Emails from S Scaysbrook and M Sanghera
- 7 Suggested condition (agreed by both main parties)

Submitted by the appellant

- 8 Details of proposed care home's approach
- 9 Extract from Employment Land Review 2009, Future Direction of Employment Land
Growth
- 10 Extract from Regional Spatial Strategy, Policy PA5 Employment Land Provision
- 11 Extract from Annual Monitoring Report 2010
- 12 Extract from Employment Land Review Addendum, January 2011
- 13 Decision Notice W04/1851 Land at South West Warwick (Tournament Fields)
- 14 Letter from Dr Buckley, GP Partner, Trinity Road Surgery