PLANNING AND COMPULSORY PURCHASE ACT 2004

Appeal by A R Cartwright against the decision of Nuneaton and Bedworth Borough Council to refuse planning permission for Residential development of up to 105 dwellings (up to 26 to be affordable), new access arrangements from Tunnel Road, with public open space, landscaping and associated physical infrastructure (including demolition of 147 Tunnel Road and associated farm buildings) at Land to rear of 131-169 Tunnel Road, Galley Common, Nuneaton.
1.0 PERSONAL BACKGROUND

1.1 I am Andrew Collinson BA (Hons) BTP MRTPI. I hold a Degree in Town Planning and a postgraduate Diploma of Town Planning and I have been a Chartered Member of the Royal Town Planning Institute since November 2003. I also hold a Diploma in Leadership and Management from University of Stoke. I have 16 years Local Planning Authority experience in the field of development management and planning policy. I am currently employed as a Principal Planning Officer for Nuneaton & Bedworth Borough Council within a team responsible for dealing with planning applications in this part of the Borough.

1.2 I am authorised to make this statement on behalf of Nuneaton and Bedworth Borough Council ("the Authority"). I make this statement from my own knowledge and from sources which are named and in my expert opinion. I understand my duty to the Inspector and I have complied with that duty to help the Inspector on matters within my expertise. My evidence is accurate and complete as to relevant facts and represents my honest and objective opinion.

1.3 The substance of all material facts and instructions to me (whether written or oral) which are material to my opinions expressed in this statement or upon which those opinions are based are set out below.

1.4 As the Statement of Common Grounds confirms, three of the four objections have been withdrawn by the Council, namely flooding, highways and biodiversity. Where control or mitigation is needed in these areas, conditions will be agreed.

1.5 In this proof I shall address objection reason 1 relating to Historic Landscape Character, Warwickshire County Council museum and fields will also be giving evidence on this matter.
2.0 INTRODUCTION

2.1 This proof of evidence is in relation to the appeal against the refusal of outline planning permission for the use of land for residential development for up to 105 dwellings on land at the rear of Tunnel Road, Galley Common, Bedworth.

2.2 A full description of the site is given in the Statement of Common Ground. In summary the development is an outline application for residential development for up to 105 dwellings on a piece of land measuring approximately 4.3 hectares.

2.3 Site notices were displayed on the 17th July 2012 and a press notice published in the paper on the 17th July 2012. Copies of all relevant correspondence were submitted with the Appeal Questionnaire.

2.4 A copy of the location plan is at Appendix 1. The proposed illustrative masterplan is at Appendix 2. To put the site into a wider context, the Proposals Map of the Nuneaton and Bedworth Local is at Appendix 3.

3.0 THE DEVELOPMENT PLAN

3.1 The Development Plan is indicated in the Statement of Common Ground (SOCG) (section 2.1). The Local Plan was intended to cover the period 2001-2011 and was adopted in June 2006. The saving of specific elements of the Local Plan, pursuant to the relevant provisions of the Planning and Compensation Act 2004, was approved by the Secretary of State in 2008.
3.2 The Nuneaton & Bedworth Borough Local Plan 2006 policies applicable to this appeal are as follows:

- Env2 – Area of Restraint
- Env3 – Urban and Rural Countryside Policy
- R8 – Green Track
- H3 – Affordable housing
- H6 – Planning Obligations
- Env14 – Design, Materials & Supplementary Planning Guidance/Documents

3.3 In terms of the Emerging Nuneaton and Bedworth Borough Plan again as stated in the SOCG (para 2.3 and 2.4) the Preferred Option has been completed and the consultation on the document took place from the 5th July until the 30th August 2013 (Appendix 4). The pre-submission consultation is timetabled to take place in early 2014, with the examination in summer 2014 and the Borough Plan being adopted at the end of 2014/early 2015. The appeal site is not proposed to be allocated in the Preferred Option and is indicated as being outside of the settlement area.

4 LOCAL PLANNING AUTHORITIES CASE OBJECTION IMPACT ON HISTORIC LANDSCAPE

Policy Background

4.1 The appeal site is located outside the built up area of Galley Common, in an area which is allocated as an Area of Restraint (AoR) (policy Env2) in the adopted Nuneaton and Bedworth Local Plan. The overriding intention of AoR is to protect their inherently open character. The appeal proposal is located within the western allocation of the AoR.
4.2 Policies Env2 and Env3 (Appendix 5) of the Local Plan sets out a sequential approach to the release of land for residential development and seeks to direct new housing towards previously developed land in accessible locations, secondly, undeveloped land in the urban area, third the Countryside areas, fourth, the Area of Restraint and finally Green Belt. Given the appeal site is part of an AoR the key considerations of the application relates to impact on this area.

4.3 However, as the Borough does not have a 5 year supply of housing land as agreed in the SOCG (para 2.13), it is not considered that policies Env2, and Env3 are up-to-date in accordance with para 49 of the NPPF. They do however hold some material weight when considering the appeal and the background evidence for these policies can be used to provide background evidence to the historic landscape value of the area.

4.4 Therefore work undertaken to support the Local Plan on Landscape Character and to review the Areas of Restraint are relevant to this appeal. The Landscape Character assessments informed the assessment of the Area of Restraint policy and the most recent landscape character assessment is being used to inform future policy. To consider in more detail the impact of the appeal proposal on the Area of Restraint background evidence can be used from the following two reports:

**Landscape Character Assessment September 2004 Entec Study** (Appendix 6)

4.5 The character of such pieces of land designated as Env2 and Env3 have been assessed in the 2004 Landscape Character Assessment which was used in evidence in 2005 for the Local Plan Inquiry. It defined this appeal site and area around as an Ancient Arden (Table 3.3) and then described as 'Galley Enclosed Commons'. AoR Policy
Env2 of the Local Plan is concerned with protecting the open character and appearance of an area, taking account of possible cumulative effects.

4.6 One of the core planning principles of the National Planning Policy Framework (NPPF) is about taking account of the different roles and character areas, promoting the vitality of our main urban areas …recognising the intrinsic character and beauty of the countryside. The NPPF also expresses a preference to allocating land of lesser environmental value (para 110).

4.7 The study considered the appropriateness of the AoR approach and assessed specific locations. The location of the development proposal is identified as an area to be retained because the area:

- Along with adjoining land, provides an important role in helping to maintain a physical separation between Chapel End and Galley Common and between Galley Common and Ansley Village;
- Helps prevent the western expansion of Galley Common in a rural landscape with a strong character;
- Provides a positive contribution to the structure and character of this part of Nuneaton;
- Has defensible boundaries.

4.8 The reasons for the land’s retention as an AoR demonstrate that the potential impact of development on the landscape character in this location is greater than locations not retained as AoR. It is preferable that alternative locations are considered for development before an AoR. In addition, there is a need to consider whether or not the adverse impacts on the landscape character arising from the development are significantly and demonstrably outweighed by the benefits of the proposal.
4.9 Basically the landscape character and key characteristics is a small scale, densely settled landscape with a small, sub-regular field pattern, with a pastoral landscape, which likely emerged from a former area of common. It is generally an unwooded landscape with tree cover present within hedgerows, along streams and residential settlements.

4.10 The report states that the rural settlement is of key significance in defining this landscape and there is a sense of enclosure due to scattered hedgerow trees, tree lines along streams and groups of trees associated with existing residential development (para 4.2.6). Furthermore, the small-scale character of the landscape, defined by the sub-regular pattern of small fields, is a further key characteristic of the proposed development site.

**Landscape Character Assessment June 2011 TEP Study (Appendix 7)**

4.11 TEP’s Land Use Designation Study, Volume 1 (2011) has been prepared to inform the evolving policies in the Borough Plan. This study looks at landscape character and the landscape’s capacity to accommodate change. Land outside the urban area has been split into a number of parcels for the purposes of analysis.

4.12 The proposed development site at Tunnel Road falls within the ‘Galley Common Hills and Valleys’ Landscape Character Area. This is identified as a ‘sensitive landscape’ and contains important landscape features and buildings important to the setting of the settlement. The key indicators are:

- Strength of Landscape Character - Strong
- Landscape Condition – Moderate,
- Landscape Strategy – Conserve and Enhance.
- Landscape Capacity to Accommodate Development – Key characteristics that should be protected and where possible enhanced include:
• The undulating landform of low rounded hills
• Woodland on high ground
• Wooded streams
• Frequent hedgerow trees

4.13 It is also important to ensure that development does not become prominent within the landscape and where visible the development should appear as individual properties of small clusters along a village edge.

4.14 The study considers the Capacity and scope for development and mitigation in keeping with character - Built development tends to appear as clusters of properties on lower ground and individual properties or linear ribbon development on higher ground such as Ansley and Ansley Common. The positioning of properties just below the highest ground also helps to reduce the prominence of development.

4.15 It is commented that a change in this landscape which increased the prominence of built form would alter the strong transition from the urban to rural environment. Any new development would need to reflect the infrequent clusters of red brick farmhouse properties within the landscape and ensure it maintains a positive contribution to retaining distinction between settlements particularly Plough Hill and Galley Common. The presence of farmhouses and agricultural buildings and small-scale pasture on the edges of settlements should also be retained to sustain the impression of villages rather than a larger scale conurbation. It is also stated that it would be difficult to develop in this landscape and retain these characteristics.

4.16 In summary, the TEP study indicates that the area is considered to be a sensitive (my underlining) landscape. Any change in this landscape which increased the prominence of built form would alter the...
strong transition from the urban to rural environment. The land has a strong strength of character and a moderate landscape condition.

4.17 Similar to the Entec study, TEP state that the characteristics include the sense of enclosure, wooded streams, irregular field patterns and hedgerows, red brick farmhouses and agricultural buildings and small scale pasture on the edges of the settlement. It would be difficult to develop in this landscape and retain these characteristics.

**Historic Landscape**

4.18 Evidence in terms of the significance of the historic landscape will submitted by Warwickshire County Council – Museum and Fields. The conclusion of this evidence indicates that it is defined as being of medium significance due its character, position and size. It is considered that appeal site is defined as a non-designated heritage asset. The hedgerows which mark the boundaries are classed as 'important' under the 1997 Hedgerows Regulations. The appeal site also forms part of a wider area with a significant landscape historic character. The land seems to have formed part of the medieval open field system supported from evidence back to 1591. The importance of this heritage asset (and landscape type) has been amplified in recent decades by the removal of the hedgerow and other landscape features in the vicinity of the site.

4.19 The NPPF defines a heritage asset as including a building, monument, site, place or area of landscape identified as having a degree of significance meriting consideration in planning decisions and includes assets identified by the Local Planning Authority.

4.20 Under para 135 of the NPPF the significance should be taken into account when determining an application. This judgement should be a
balance having regard to scale of any harm or loss and the significance of the heritage asset. Heritage assets are an irreplaceable resource and they should be conserved in a manner appropriate to their significance.

4.21 New development should seek to complement, enhance and utilise where possible, the historic environment and must not have a significant impact on existing designated and non-designated heritage assets and their settings.

4.22 The Council consider that the application site acts as a valuable piece of countryside which provides an important transition feature within the built environment of this part of Galley Common. It acts as a significant gap between the existing residential areas, which aids in contributing to the quality of the local urban environment. The prominence of the site from public vantage points along the Rookery and the footpaths within and adjacent to the site further add to the important role the site plays in the character and appearance of the area. The area is very sensitive to change and although it is proposed that the hedge lines are retained where possible the delineation and management of these boundaries are likely to make the development more conspicuous. It is considered that the development would result in the removal of a large portion of this ancient countryside.

4.23 The proposed development will have at least a moderate negative impact upon the historic landscape character of the application site and the wider area (specifically in the area to the north and north-east). This adverse effect should be considered when weighing up the negative impacts of this scheme against any benefits.

4.24 Therefore the development will negatively impact upon a significant heritage asset that forms part of a highly coherent landscape that goes back to the medieval period. Fundamentally the proposed
development would undermine the areas inherited pattern of dispersed settlement contrary to Env2 and the NPPF.

Other material considerations:

Strategic Housing Land Availability Assessment (SHLAA) 2011 (Appendix 8)

4.25 Tunnel Road was assessed as part of the Strategic Housing Land Availability Assessment. Under the assessment the site was defined as NUN188 and was rejected for any future potential for the reasons that the site is located on the periphery of the town some distance away from the town centre and the main services. The site is an illogical extension into open countryside and an unsustainable location for future development.

Appeal decisions

4.26 An appeal decision in 2011 for caravan storage to the north of the appeal was dismissed reference APP/W3710/A/11/2158356 (Appendix 9) where it was considered that the proposal would be visible from the footpath, road, access and surrounding countryside, which would harm the rural and open character and appearance of the area. The extension to the storage area would have been adjacent to the current caravan storage area.

4.27 An appeal decision in 2012 relating to an enforcement notice was dismissed reference APP/R3705/C10/2133789 (Appendix 10) where it was considered para 65 that Ancient Arden is a valued landscape, described as “the only area of ancient countryside in Warwickshire”. The clutter of development breaches this guidance. The appeal site is equally defined as Ancient Arden (Table 3.3 Appendix 6)
Five Year Housing Supply (Appendix 11)

4.28 In accordance with paragraph 2.13 of the SOCG the Borough Council does not have a five year supply of the housing. The evidence in Appendix 11 provides the most up to date position in relation to the five year supply position. The five year land supply calculation is based on the emerging Borough Plan’s housing target of 7,900 dwellings. It is considered that a 5% buffer is applied. On the basis of the evidence, there is a 3.56 year land supply of housing in Nuneaton and Bedworth.

Conclusion

4.29 Under Section 38 (6) of the Planning and Compulsory Purchase Act 2004 application are to be determined in accordance with the Development Plan unless material considerations indicate otherwise. Policy Env2 and Env3 states that planning permission will not be granted where the character of the area will be harmed. In this instance it is considered that such open spaces, important gaps and features that contribute to the quality of the local environment would be lost and the proposal is considered to be contrary to this policy, however this must be balanced against the lack of 5 year housing supply.

4.30 Primarily the reason for refusal related to significant negative impact upon the historic landscape of the site and wider area. It is considered that the appeal site acts as a valuable piece of countryside providing an important feature within the built environment of this part of Galley Common. It acts as a significant gap between the existing residential areas, which aids in contributing to the quality of the local urban environment. The prominence of the site from public vantage points along The Rookery and the footpaths within and adjacent to the site further add to the important role the site plays in the character and appearance of the area.
4.31 There are genuine concerns that although the development is on the edge of Galley Common, the development will lead to complete loss of this important fringe area which provides a transition between urban and rural character. Whilst the indicative layout preserves the historic hedgerows which survive across the application site, the development as proposed will still have a significant impact upon the historic landscape character of this area. It will change from an area of grassland which forms part of a highly coherent landscape that has clear origins going back to at least the medieval period, to an area with an urban character. As detailed in Museum and Fields response given that this proposal will have a negative impact upon the historic landscape character of both the site and the wider area, it is not considered that the proposal is sustainable with regard to the historic environment. Weight should be given to the importance and potential loss of the historic landscape character of this area when weighing up the negative impacts of the schemes against any benefits (see paragraph 135 of the NPPF). The proposed development will have at least a moderate negative impact upon the historic landscape character of the application site.

4.32 Despite some visual improvements that would result from the landscaping proposals, and to some extent moderate the impact of the new buildings, the area is sensitive to change. It is considered that a residential development of up 105 dwellings will neither conserve or enhance the must inevitably have a detrimental effect on the landscape and environment.

4.33 This harm needs to be weighed against the public benefits of the proposal in accordance with para14 of the NPPF. There is evidence that there is scope to provide housing within the Borough that are in less sensitive locations. It is agreed that there is a clear and pressing need for more housing both in terms of the shortfall locally within Borough and nationally. However, the significance of the site and
impact is such that the proposed development would not be reasonably be considered to meet the wider public interest in terms of the NPPF.

5 LOCAL PLANNING AUTHORITIES CASE OBJECTION

HIGHWAY SAFETY

5.1 The Council considers the main concerns of the Council relate to the suitability of the access from the site onto Tunnel Road and the achievable visibility from the access.

5.2 Paragraph 32 of the National Planning Policy Framework states:-

“All developments that generate significant amounts of movement should be supported by a Transport Statement or Assessment. Plans and decisions (my underlining) should take account of whether-

(i) The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure

(ii) Safe and suitable access to the site can be achieved for all people

(iii) Improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development.

Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

5.3 The Council considers that improvements cannot be undertaken within the transport network that would limit the significant impacts of the development. They consider that the residual cumulative impacts of development are severe.
5.4 The site is located within the village of Galley Common which is situated between Chapel End to the northeast and Ansley to the southwest. The only direct access to the site is via an existing gates field access onto Tunnel Road to the west of the built up boundary of Galley Common, which is directly opposite the junction to a small industrial estate served from Haunchwood Park Drive.

5.5 Tunnel Road is a C Class (C12), 2 lane single carriageway road subject to a speed limit of 30mph through Galley Common. The speed limit changes on the western edge of the village to 50mph. There are footways either side of the carriageway with a wide area of verge which provides for a drainage channel on the south side of Tunnel Road.

5.6 There are no parking restrictions along Tunnel Road with on-street parking being common practise along the northern side of the carriageway. There have been 5 reported injury accidents along this section of Tunnel Road in the last 5 years.

5.7 The proposed access would be from Tunnel Road which is a busy arterial route to and from Galley Common. Access would be via a new access which would be restricted by parked cars in the area. It is contended that the access to the public highway will be very difficult due to the on-street parking problem in the area.

5.8 Traffic along this road is busy throughout the day. Buses, pedestrians and cyclists all use this route. Visibility up and down the road from this access is restricted which will lead to obstructions on the road while vehicles access or egress the site.

5.9 Whilst the alignment in both the horizontal and vertical plane on Tunnel Road enable the required visibility splays to be achieved from the proposed access, the existing on-street parking which occurs either side of the proposed point of access onto Tunnel Road does not allow
for this and creates a continuous obstruction. It is contended that any proposed mitigation will not be able to prevent any on-street parking.

5.10 The appeal site is situated in a semi-rural/urban, although built up either side of the proposed access, the building line is such that approach speed of vehicles are very high.

5.11 The on-street parking which occurs to the northern kerbline of Tunnel Road is associated with the existing residential properties which do not benefit from any off-street parking provision.

5.12 Visibility from the access could only be attained by the removal of the existing on-street parking along Tunnel Road for the extent of the visibility splay. However, this would require the implementation of a Traffic Regulation Order (TRO) and if this was unsuccessful following the outcome of a public consultation, then this would invalidate any planning consent granted with such a condition.

5.13 If parking areas are provided on the site, it is unlikely that these would be well used as they would likely be positioned in a relatively inaccessible, unsecure location, remote from end users properties. It is also contended that it would be difficult to manage the utilisation of these areas by existing residents. Car usage is likely to the relatively high as part of the development and therefore demand for any additional parking areas would also be high. Any proposed parking should therefore be in accessible positions close to each existing property.

5.14 It is therefore considered that on-street parking will still exist with the development which would lead to insufficient visibility to the detriment of highway safety.

6 DECLARATION
6.1 I believe that the facts which I have stated in this report are true and that the opinions I have expressed are correct.

6.2 I confirm that my report contains all facts which I regard as being relevant to the opinion which I have expressed and that I have drawn the Inspector’s attention to any matter which would affect the validity of that opinion.

6.3 I confirm that my duty to the Inspector as an expert witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.

6.4 I confirm that I am not instructed under any conditional fee arrangement.

6.5 I confirm that I have no conflicts of interest of any kind other than those disclosed in my report.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true and that the opinions expressed are correct.
Appendices

Appendix 1 Location Plan
Appendix 2 Illustrative Masterplan submitted during application process
Appendix 3 Adopted Borough Plan – Proposals Map
Appendix 4 Borough Plan (Preferred Options) Summer 2013
Appendix 5 Env2, Env3 of the Nuneaton and Bedworth Borough Plan June 2006
Appendix 6 Landscape Character Assessment – Entec September 2004
Appendix 7 Landscape Character Assessment – TEP June 2011
Appendix 8 Strategic Housing Land Availability site reference NUN188
Appendix 9 Appeal Barn Wood Farm APP/W3710/A/11/2158356
Appendix 10 Appeal Heart Park APP/R3705/C.10/2133789
Appendix 11 Five year supply October 2012
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