
Report of the Chief Planning Officer

CITY PLANS PANEL

Date: 20th November 2014

Subject: Application 14/00190/FU: Layout a new access road from Cookridge Drive, Land Off Cookridge Drive, Cookridge

APPLICANT

Taylor Wimpey UK Ltd

DATE VALID

17.01.2014

TARGET DATE

14.03.2014

Electoral Wards Affected:

Adel & Wharfedale

☐ Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION: Refuse Planning Permission for the following reasons:

1) The proposed access road would constitute inappropriate development within the Green Belt. The proposed access road would not preserve the openness of the Green Belt. The evidence submitted to demonstrate a requirement for local transport infrastructure in the Green Belt was not considered to represent very special circumstances to justify this inappropriate development. The access road was therefore contrary to the policy N33 of the adopted Leeds UDP and guidance contained at paragraphs 87, 88 and 90 of the National Planning Policy Framework.

2) The proposed access road by virtue of its scale and urbanising impact combined with its loss of protected and important trees would be significantly detrimental to the visual amenity and character of this Green Belt location. As such the proposal was contrary to Policy GP5 and N33 of the adopted Leeds UDP and the guidance contained at paragraph 90 of the NPPF.

3) The proposed access road will result in the permanent loss of an area of woodland which is a locally valuable nature conservation resource and UK Biodiversity Action Plan Priority Habitat and (without any agreed compensatory habitat creation) is contrary to saved UDP Policy N49, N51, emerging Core Strategy Policy G8 and NPPF para. 109 and 118.

1.0 INTRODUCTION

- 1.1 Members will recall this application was brought to Panel in April 2014 as part of a Position Statement report that included a report relating to Outline application 13/04148/OT for 200 dwellings on land to rear of Moseley Wood Gardens designated in the UDP as Protected Area of Search (PAS). The land is also part of a Biodiversity Priority Habit (lowland mixed deciduous woodland). This application is presented to City Plans Panel for determination with a recommendation to refuse the application to create a new vehicular access through land allocated as Green Belt and resulting in the removal of trees protected by a Tree Preservation Order.
- 1.2 Members will recall they visited the site in April 2014 and also discussed the proposals for the creation of a vehicular access from Cookridge Drive, through woodland allocated as Green Belt in order to provide a second access into the proposed housing development for 200 dwellings. Members will recall that at the April City Plans Panel meeting they were not prepared to accept a new road being created through this location and considered that the applicant should find an alternative location for a second access into the site, outside of the Green Belt. Members were of the opinion that the proposed road would constitute inappropriate development that would harm the open character of the Green Belt.

2.0 PROPOSAL:

- 2.1 The proposals involve creation of a new road, footpaths and cycle route to adoptable standards. In order to create the new road a total of 27 trees may be required to be removed either through direct or indirect harms. 17 of those trees as rated a category B and the remainder are category C. The new road would also result in the loss of woodland that is included within the Biodiversity Priority Habit (lowland mixed deciduous woodland).
- 2.2 The incursion into the Green Belt is between 60 and 70m in length, the total distance along the centreline of the road from the back edge of the existing footway is approximately 75m.
- 2.3 The retaining wall is approximately 50m in length and requires a 5m easement behind it. No trees or planting will be permitted within the 5m easement.
- 2.4 The plans show the retaining wall to be at a height of between 2.18m and 1.4m.
- 2.5 Footways are 2m wide and the carriageway is 5.5m wide, therefore a maximum highway width of 9.5m plus the retaining wall are proposed.
- 2.6 The maximum width of the new access road including the 5m easement and embankments is indicated at 20m.
- 2.7 The road would be lit by standard street lamps.

3.0 SITE AND SURROUNDINGS:

- 3.1 The site relates to a woodland area adjoining Cookridge Drive and the fields behind properties on Moseley Wood Rise and Cookridge Drive identified in the adopted UDP as PAS land. The initial 10 metres of woodland from the back of the highway of Cookridge Drive is outside of the Green Belt but thereafter the remaining wood land is

within the Green Belt. All the trees within the site are covered by an Area based Tree Preservation Order.

- 3.2 The site is characterised as mature woodland and open countryside, bound by inter war and post war housing.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 13/04148/OT- Outline application for residential development of 200 dwellings and means of access from Moseley wood Rise. Pending determination.
- 4.2 14/04270/OT- Outline application for residential development for circa 135 dwellings, including means of vehicular access from Moseley Wood Rise and pedestrian/emergency link from Cookridge Drive. Pending determination.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 This application has been submitted in connection with the Outline planning application 13/04148/OT for residential development of the PAS site. The developer was requested by Officers to provide a second access into the site, this was thought to involve the demolition of one or two dwellings, possibly on Cookridge Drive but the developer elected to place the access through the woodland allocated as Green Belt instead adjacent to Cookridge Drive. The developer undertook community consultation prior to submitting this application on the 5th December 2013. 2,500 leaflets were hand delivered before the event. Approximately 150 people attended. The applicants report into the event notes the general mood of the attendees was to object to the proposal for the development of the site or the creation of any points of access into the fields.

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application was advertised as a departure that does not accord with the provisions of the UDPR.
- 6.2 As a result of the consultation process, 71 letters of objection have been received. 153 representations had been received to planning application 14/04270/OT by 10.10.14 and representations continue to arrive, with all objecting to the proposals. There have also been 474 circular letters of objections sent through. There has also been 58 comment forms objecting to the application. It is important to note that there have been 258 representations received to application 13/04148/OT of which 254 are objections there have also been 224 circular letters of objection received. As the issues raised in all these representations relate to the same site and the proposals for residential development of the site Members should have regard to the totality of the representations when determining all 3 planning applications.

The letters of objection to application 14/00190/FU note the following issues:

- Impact highway safety
- Loss of trees and habitats
- Harm to the green belt
- Contrary to planning policy
- Harm to the living conditions on neighbouring residents
- Change to the local character

- Unnecessary development
- Impact on existing on street parking
- Unsuitable road for additional traffic

7.0 CONSULTATIONS RESPONSES:

7.1 Statutory:

7.2 Highways: - No objection on balance subject to appropriate conditions

7.3 Non-statutory:

7.4 Mains Drainage: No objection subject to conditions

8.0 PLANNING POLICIES:

Development Plan

8.1 The development plan consists of the adopted Leeds Unitary Development Plan (Review 2006) (UDP) and the adopted Natural Resources and Waste DPD (2013). The Local Development Framework will eventually replace the UDP and this draft Core Strategy has had some weight in decision taking since it was published in 2012 but it is now considered to have significant weight for the following reasons

The NPPF states that decision-takers may give weight to policies in emerging plans according to:

i) The stage of preparation

- On 12th June 2014 the Council received the last set of Main Modifications from the Core Strategy Inspector, which he considers are necessary to make the Core Strategy sound. These have been published for a six week consultation between the 16th June and 25th July 2014. The Inspector has indicated that following this he will publish his Report in August (received 5th September 2014). The Plan is therefore at the most advanced stage it can be prior to the receipt of the Inspectors Report and subsequent adoption by the Council.

-There is a distinction in the weight to be given to those policies that are still subject to consultation and those that are not –i.e. those policies that are unmodified should be given even greater weight.

ii) The extent to which there are unresolved objections

- No further modifications are proposed and the Plan can only be changed now exceptionally because it is sound as modified and there is no requirement for the plan to be made 'sounder'

iii) The degree of consistency with the NPPF

- In preparing his main modifications the Inspector has brought the Plan in line with the NPPF where he considers that this is necessary. The Plan as modified is therefore fully consistent with the NPPF.

8.2 The site is allocated within the UDP as a Green Belt. Other policies which are relevant are as follows:

SG2: To maintain and enhance the character of Leeds

SP3: New development will be concentrated largely within or adjoining main urban areas and settlements on sites well served by public transport
 SA1: Secure the highest possible quality of environment.
 GP5 all relevant planning considerations
 GP11 sustainability
 GP12 sustainability
 H4: Residential development.
 N12: Relates to urban design and layout.
 N23: Relates to incidental open space around new developments.
 N24: Seeks the provision of landscape schemes where proposed development abuts the Green Belt or other open land.
 N25: Seeks to ensure boundary treatment around sites is designed in a positive manner.
 N26: Relates to landscaping around new development.
 N50: Seeks to protect, amongst other assets, Leeds Nature Areas.
 N51: New development should wherever possible enhance existing wildlife habitats.
 T2: Development should be served by adequate access and public transport / accessibility
 T5: Relates to pedestrian and cycle provision.
 LD1: Relates to detailed guidance on landscape schemes.

8.4 Relevant Supplementary Planning Guidance includes:

Supplementary Planning Document: Street Design Guide.
 Supplementary Planning Document: Public Transport Improvements and Developer Contributions.
 Supplementary Planning Document: Travel Plans.
 Supplementary Planning Document: Designing for Community Safety: A Residential Guide.
 Supplementary Planning Guidance: Neighbourhoods for Living.
 Supplementary Planning Guidance: Affordable Housing (Target of 15% affordable housing requirement).
 Supplementary Planning Document: Sustainable Design and Construction "Building for Tomorrow, Today."
 Supplementary Planning Guidance 4: Greenspace Relating to New Housing Development.
 Supplementary Planning Guidance 11: Section 106 Contributions for School Provision.
 Supplementary Planning Guidance 25: Greening the Built Edge.

Local Development Framework

- 8.5 The draft Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. The Submission Draft Core Strategy was examined by an Inspector in October 2013 and May 2014. The Inspector has approved two sets of Main Modifications to the Core Strategy. Following the recent receipt of the Inspectors report the Core Strategy is considered sound with agreed modifications and the Strategy is expected to be adopted by Executive Board on 12th November 2014. The Plan is therefore at a very advanced stage and significant weight can be attached to its policies.
- 8.6 The supporting text to Policy N34 of the Unitary Development Plan expects the suitability of the protected sites for development to be comprehensively reviewed

through the Local Development Framework (para 5.4.9). The Site Allocations Plan is the means by which the Council will review and propose for allocation sites which are consistent with the wider spatial approach of the Core Strategy and are supported by a comparative sustainability appraisal. It will also phase their release with a focus on: sites in regeneration areas, with best public transport accessibility, the best accessibility to local services and with least negative impact on green infrastructure. In this instance, it is considered that there are material considerations which justify the potential release of this site at the current time.

- 8.7 The NPPF states in paragraph 47 that local authorities should boost significantly the supply of housing. It sets out mechanisms for achieving this, including:
- use an evidence base to ensure that the Local Plan meets the full objectively assessed needs for market and affordable housing;
 - identify and update annually a supply of specific deliverable sites sufficient to provide for five years' worth of supply;
 - identify a supply of specific deliverable sites or broad locations for growth for years 6 to 10 and years 11 to 15,
- 8.8 The Core Strategy housing requirement has been devised on the basis of meeting its full objectively assessed housing needs. These are set out in the Strategic Housing Market Assessment (SHMA), which is an independent and up to date evidence base, as required by paragraph 159 of the NPPF and reflects the latest household and population projections as well as levels of future and unmet need for affordable housing.
- 8.9 **Relevant policies within the Core Strategy include:**
- Spatial policy 1 – Location of development
 - Spatial policy 6 – Housing requirement and allocation of housing land
 - Spatial policy 10 – Green Belt
 - Policy H1 – Managed release of sites
 - Policy P12 – Landscape
 - Policy T1 – Transport Management
 - Policy T2 – Accessibility requirements and new development
 - Policy G7 – Protection of important species and habitats
 - Policy G8 – Biodiversity enhancements

National Guidance - National Planning Policy Framework

- 8.10 The National Planning Policy Framework (NPPF) came into force on 27th March 2012. The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.11 Paragraph 49 requires that housing applications be considered in the context of the presumption in favour of sustainable development. Whether the development is sustainable needs to be considered against the core principles of the NPPF. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
- 8.12 NPPF Paragraph 79 states “The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by

keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.

- 8.13 NPPF Paragraph 80 states: “Green Belt serves five purposes:
- to check the unrestricted sprawl of large built-up areas;
 - to prevent neighbouring towns merging into one another;
 - to assist in safeguarding the countryside from encroachment;
 - to preserve the setting and special character of historic towns; and
 - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land”.
- 8.14 NPPF Paragraph 88 states “When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ (VSC) will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.
- 8.15 Paragraph 90 of the NPPF states “certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These are:
- mineral extraction;
 - engineering operations;
 - local transport infrastructure which can demonstrate a requirement for a Green Belt location.
 - the re-use of buildings provided that the buildings are of permanent and substantial construction; and
 - development brought forward under a Community Right to Build Order”

9.0 MAIN ISSUES

- **Compliance with the Development Plan**
- **Impact on the Green Belt including Openness**
- **Very Special Circumstances**
- **Highway considerations.**
- **Impact on trees and ecology.**
- **Other issues**

10.0 APPRAISAL

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise. Other material considerations include the National Planning Policy Framework, the emerging Core Strategy, the requirement for a five year supply of housing and matters relating to sustainability, highways, layout/design/landscaping, residential amenity, flood risk and Section 106 matters.

Compliance with the Development Plan

- 10.2 The applicant has stated that they consider the proposal under the Town and Country Planning Act 1990 (c8) Part XV: Miscellaneous and General Provisions S.336 ‘Engineering Operations’ “includes the formation or laying out of means of access to highways” and therefore the proposals do fall under the classification of paragraph 90 of the NPPF.

- 10.3 As there are no residential units being created in land designated as Green Belt, Officers would agree that the creation of an adoptable access road over this stretch of Green Belt would fall within the definition of an Engineering Operation and therefore are a form of development which is not considered inappropriate in the Green Belt, provided (as set out in paragraph 90) that such works 'preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.' If the paragraph 90 test is satisfied Very Special Circumstances are not required. The impact on the Openness of the Green Belt as a result of the construction of a new road must be tested as identified in paragraph 79 of the NPPF. The potential effect of development on trees whether statutorily protected or not is a material consideration that is taken into account in dealing with planning applications. The woodland areas affected by the proposed access road are identified as UK BAP Priority Habitat (Lowland Mixed Deciduous Woodland) and therefore the LPA has a biodiversity duty to consider the conservation of this resource.
- 10.4 The creation of the access road from Cookridge Drive should not conflict with the purposes of including land within the Green Belt otherwise it could fail the assessment of paragraph 90 of the NPPF and therefore would become a form of inappropriate development. The most applicable criteria of paragraph 80 (5 purposes of including land within the Green Belt) has been identified by Officers as being "to assist in safeguarding the countryside from encroachment". In assessing the impact Officers have looked at the character of land in relation to its existing setting - is it urban fringe or is it part of the wider open countryside; the degree of openness or containment provided by the relationship with the built up area and the presence of strong physical boundaries separating open countryside from the built up area. The site is characterised by a woodland, located on a sloping site and bound by the side and rear boundaries of properties on Cookridge Drive. A small part of the site would adjoin the field designated as PAS land and the subject of the Outline application. Significant tree planting is proposed as part of the landscape strategy of the wider site to mitigate the harm arising from the loss of TPO trees. However, this planting would take time to establish. The impact on the openness of the Green Belt therefore from the removal of the mature trees is likely to be pronounced, particularly when considering the effect street lighting of an adopted road may in this location. This impact results in the proposal not being assimilated easily into the landscape.
- 10.6 The creation of this second point of access would bring the northern area of proposed housing on the site within the accessibility criteria stipulated in the Council's emerging Core Strategy and adopted Supplementary Planning Document Street Design Guide. Although Officers note that the walk times to high frequency bus stops would take 8 minute which exceeds the 5minutes stated in the accessibility criteria. The second access therefore allows for the efficient use of land to take place by utilising the entire site for housing. Nick Boles in his ministerial statement of the 6th March 2014 launching the new streamlined national planning policy guidance (NPPG) has stated that 'we are ... re-affirming green Belt protection, noting that unmet housing need is unlikely to outweigh harm to the green Belt and other harm to constitute very special circumstances justifying inappropriate development'.(NPPG Methodology – Stage 5: Final evidence base). A recent statement by Eric Pickles in October 2014 has also sought to further re-affirm the Government's commitment to protecting the Green Belt, although no policy changes were proposed in this Ministerial Statement.
- 10.7 The applicant has requested this application be considered on its merits and the applicant considers that the application 13/04148/OT to develop the entire PAS site does not generate a requirement for a second vehicular access however, at Officers

request that a second access is required the current application was submitted. Officers had requested the second access came through existing development, probably through the demolition of one or two properties on Cookridge Drive or Moseley Wood Gardens, to facilitate the access. The applicant submitted legal information showing restrictive covenants to try to justify why they could not reasonably achieve this preferred access option. Officers have appraised this information and taken legal advice. At this stage Officers do not consider the applicant has demonstrated that the access road cannot come through existing development outside of the Green Belt location they have selected.. In light of this the applicant's justification for only being able to provide a second access through Green Belt land is not endorsed and very special circumstances are not considered to exist to outweigh the harm to the Green Belt. Members will recall discussing this matter at the April City Plans Panel.

- 10.8 The creation of the access road would result in the removal of 12 Category B trees and 6 category C trees. A further 6 Category B trees and 4 category C trees may also be required to be removed once the detailed construction and highway requirements are clarified. The location of the access road would be constrained from wider views beyond Cookridge Drive by the topography of the land, the location of the existing houses on Cookridge Drive and by the remainder of the majority of the woodland. This wider constraint would not prevent the impact of the road having a significant effect upon the openness of the Green Belt in this location.
- 10.9 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC) requires all public bodies to have regard to biodiversity conservation when carrying out their functions and this is referred to as the "Biodiversity duty". Section 41 of the NERC Act requires the Secretary of State to publish a list of Habitats and Species which are of Principal Importance for the conservation of biodiversity in England. See Appendix 1 (below) for the relevant wording from the NERC Act and the List of the 56 Habitats of Principal Importance (which correspond to the UK BAP Priority Habitats).
- 10.10 The woodland areas on-site accord with UK BAP Priority Habitat (Lowland Mixed Deciduous Woodland) and therefore the LPA has a biodiversity duty to consider the conservation of this resource. In this instance it is possible that the direct removal of parts of this woodland UK BAP Priority Habitat would be unacceptable in light of the LPA's biodiversity duty. The removal of an area of UK BAP Priority Habitat is also contrary to the new Core Strategy Policy G8 which specifically refers to UK BAP Priority Habitats
- 10.11 The creation of road would result in the loss of this area of UK BAP Priority Habitat (lowland mixed deciduous woodland) and this would need to be compensated for by new woodland creation on land immediately adjacent to this woodland. This is within the gift of the applicant as they own the adjoining fields and woodland. As this planning application is being recommended for refusal the applicant is unable to provide a scheme for the compensatory loss of biodiversity habitat at the time of determination. During the discussions on the current planning application and discussions around the PAS Outline applications, broad agreement was reached with Officers that a suitable ecological mitigation management plan to compensatory for the loss of biodiversity within this site and the wider PAS site was achievable. This was being drawn up and it was envisaged it would be secured through a Section 106 obligation that would link this access road application to one of the PAS Outline applications should they achieve planning permission. The scheme would have shown the area (at least double the area to be lost in order to off-set the loss of quality as well as quantity), location, planting specifications, timing of planting, and details on long-term management. It may be possible for the applicants to overcome suggested

reason for refusal 3 if they continue with this ecological mitigation plan and secure it by way of Legal Agreement.

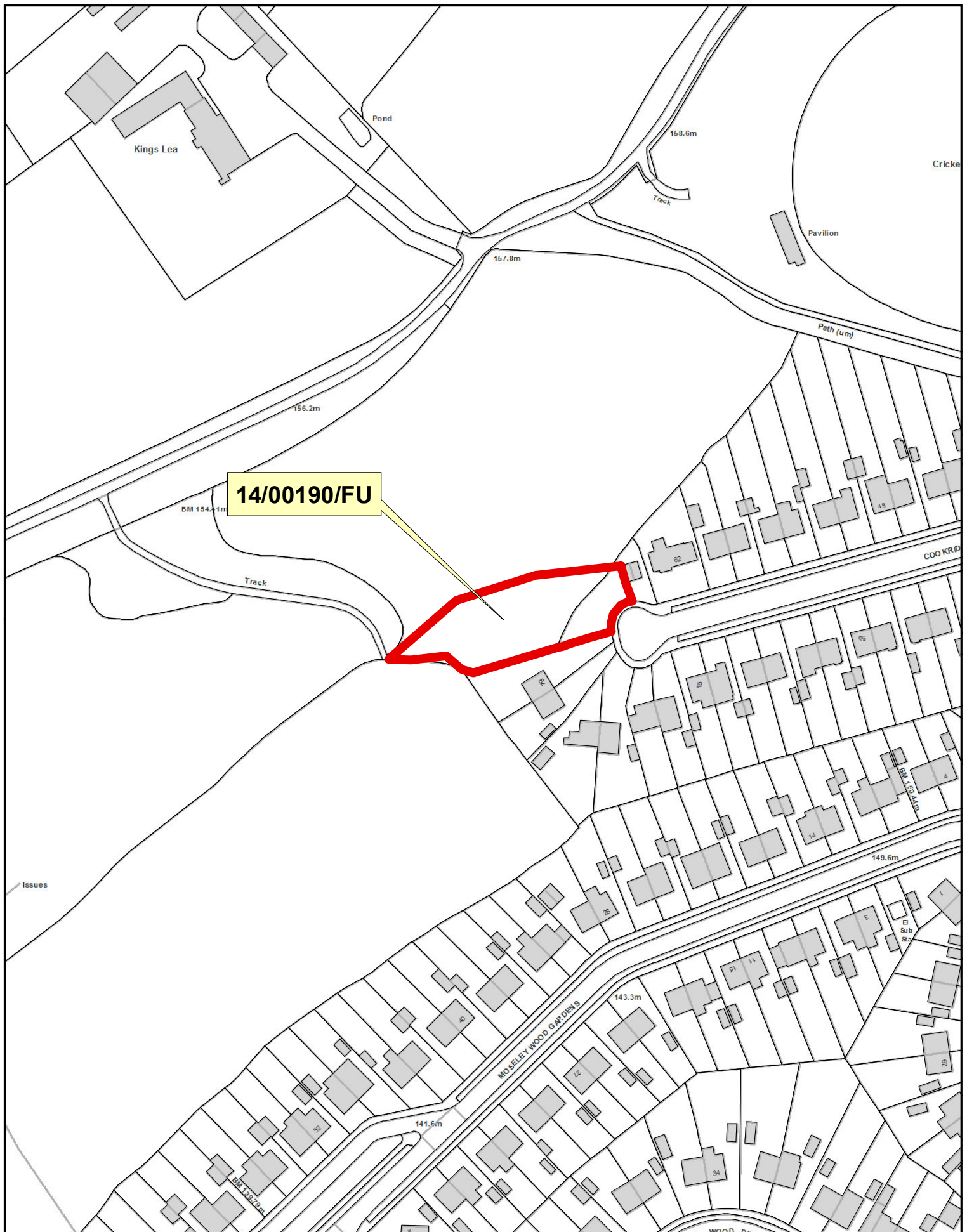
- 10.12 The proposal is not envisaged to have a significant impact on the living conditions of the neighbouring residents by reason of increased noise and disturbance or the comings and goings of pedestrians or motorists. It would be possible to install appropriate boundary treatment to screen the access road from the adjoining neighbouring properties to prevent any serious loss of amenity. Although there would be an increase in activity in this location, given the site would have 2 vehicular accesses if this one were acceptable it not envisaged the increases would be sufficient to warrant refusal on the grounds of loss of residential amenity.

11.0 CONCLUSION

- 11.1 The proposal has been carefully assessed. The benefits of the development are providing a second means of access into the site, ameliorating the concerns about having this site served from only one point of access and improving the living conditions of neighbouring residents on Moseley Wood Rise. A second access in this location would also improve the accessibility of the site when compared against the Draft Core Strategy.
- 11.2 The loss of a significant number of mature trees and a designated biodiversity habitat would not be outweighed by the benefits identified above. The urbanization of this part of the Green Belt, although contained from wider ranging views would still seriously impact on the openness of the Green Belt. The applicant has not demonstrated Very Special Circumstances to outweigh the harm caused by inappropriate development. Accordingly the application is recommended for refusal.

12.0 BACKGROUND PAPERS

- 12.1 Application file



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