



LOCAL ACCESS FORUM

Case Officer – Mr. D Charles
Development Management
Warwick District Council
Town Hall, The Parade
Royal Lemington Spa CV32 4AT

02 October 2025

Dear Mr. Charles

Ref: W/25/1214 (W/20/0617)

Variation of Conditions 30 and 31 Land South of Chesterton Gardens
Conditions Attached to Appeal Approval.

This letter constitutes formal advice from the Warwickshire Solihull and Coventry Local Access Forum (WSC LAF). Warwick District Council is required, in accordance with section 94(5) of the Countryside and Rights of Way Act 2000, to have regard to relevant advice from this forum in carrying out its functions.

Issues surrounding ACCESS have been fundamental throughout the long-running planning due process on land south of Chesterton Gardens. Complications and confusion arising from conflicting decision-making continues.

The paraphrased paragraph below taken from the Defra Guidance to Local Access Forums explains how associated complications also become important considerations within the LAFs remit. The role, duty and function of LAFs is to ensure any final decision is accurately and properly informed to help the decision-maker address any adverse consequences arising from a decision.

'Forums often advise on matters where public access is just one of a number of considerations and perhaps not the most important consideration. The LAF role, duty and function is to ensure the final decision is properly informed and can help the decision-maker to address any adverse consequences arising from the decision'.

The Warwickshire Solihull and Coventry Local Access Forum advise **REFUSAL** of application W/25/1214 for all of the reasons as stated above and below.

In identifying issues which continue to have the potential to cumulatively and negatively impact the safety and wellbeing of existing and future residents of Chesterton Gardens and the wider local communities the WSC Forum draws your attention to historic reports submitted in evidence as supporting documents, at the 2021 Appeal 3270663 – (W/20/0617) on behalf of Warwickshire County Council, RSC Road Safety Consulting Ltd dated 05/03/2021 and a Road Safety Audit Response Report from David Tucker Associates also on behalf of Warwickshire County Council, dated 05/03/2021. Supporting Core Documents (CD 22/75/76/77/80).

The Upheld Appeal Decision dated 12/08/21 is now relied on by Warwick District Council for continuing planning due process.

Both the RSC Road Safety Audit (Proposed Bridleway Crossing) and the Tucker Associates Road Safety Audit Response Report, both prepared and submitted on behalf of WCC, provides confirmation of safety issues and proposed mitigation requirements and includes Design Drawings for the Bridleway Crossing and a Design for Traffic Calming within the Chesterton Gardens Estate.

Appeal Decision Notice (3270663 – W/20/0617)) Dated 12/08/2021 Upheld on the basis of attached Conditions and the 106 Agreement of £645,000 for a Traffic Management Scheme to implement Infrastructure Delivery and Traffic Calming (53 page 13).

Other relevant paragraphs include:

- 8 (page2) Construction Traffic Management Plan (Core Document (CD) 80)
- 23(page 5/6) No Objections Subject to Conditions and 106 obligations
Independent Road Safety Audits in respect of Access Arrangements (CD76)
and Traffic Calming (CD75 and CD77)
- 47 (page 12) Traffic Calming
- 70 (page 18) Conditions 30 and 31Necessary in the interests of highway safety.

Only the most basic traffic calming measures and construction traffic management plan was offered, at the Appeal, in mitigation of the major safety issues caused by a single construction development access route through the local roads, communities and existing Chesterton Gardens Estate to finally access the proposed development down a cul-de-sac and across an active Public Right of Way, Footpath and Bridleway.

The lack of basic knowledge and common sense shown, during the many decision-making processes, to the dangers posed approving a multi vehicular access as safe and acceptable which crosses an active bridleway and public footpath has been disturbing. The only thing predictable about children, dogs and especially horses, is their unpredictability.

The unpredictable behaviour and 'fight and flight' responses by equines when startled visually or by unexpected noise can and is responsible for catastrophic accidents. Horses only see from the front and are startled by unexpected movements from the side. The British Horse Society publishes details of horrendous fatal and life changing accidents involving horses and riders versus motor vehicles every year.

Without the construction of the 'safe site access and traffic management scheme the details of which were published in the Decision Notice for Appeal 3270663 (W/20/0617) and in the attached Conditions 30 and 31 page 25 of the Appeal Decision Notice published on 12 August 2021 which clearly states 'necessary in the interests of highway, the Planning Inspectors Decision is rendered **unsound**.

Attempts to gain provision of the most basic mitigation against the dangers described above were hard fought by hundreds of objectors during the many decision-making processes.

If the proposed variation of Conditions 30 and 31 is approved it will remove the vital approved mitigation gained, through Conditions 30 &31, to protect the health, safety and wellbeing of ALL users of the dangerous active Bridleway/Footpath Crossing and of residents living on the construction haul route access route through the Chesterton Gardens Estate, *until and when **the last** dwelling is occupied*. If the Local Planning Authority recommends approval and that recommendation result in approval of the application the decision-makers will be responsible for another travesty of planning due process.

Without the agreed mitigation measures including the **Single width vehicle pinch-point crossing with Bridleway Priority Give-Way for ALL users, Appropriate Signage, Effective Inter-Visibility, Equine and Pedestrian, Disabled and Cyclist appropriate surfaces, Bollards to prevent inappropriate directional access, no tripping kerbs and implementation of 20mph speed limits and, importantly, Education of all workers and construction traffic drivers**, the aforementioned possible catastrophe involving horses, riders and ALL users including children, the disabled and those with reduced mobility, pedestrians, cyclists and/or dogs, and construction traffic and other vehicles is almost inevitable.

Ignorance of the above health and safety issues does not exonerate decision-makers from their position of trust, duty of care and responsibility, during the decision-making processes. In this case, one preventable accident, causing personal injury, a fatality or life changing injuries could be argued, in law, as nonfeasance.

The Council's failure to defend the planning committee's original refusal decision for application W/20/0617 in 2020/21 during the Appeal Inquiry and the resulting outcome, the conditions of which have become vital in determining application W/25/0214. At the time the failure to defend the decision of their own planning committee was unsound and left the affected residents of Chesterton Gardens without Council representation. In upholding the appeal, the Planning Inspector recognised Warwick District Council's failure to defend the appeal awarding full costs against Warwick District Council for 'unreasonable behaviour'. The continuing failure 'to own' the unwelcome outcome has recently reemerged with an officer erroneously distancing the Council from the decision in an email, dated 25 July 2025, to the Chair of the Planning Committee and other councillors in an attempt to justify the decision which cost Warwick District Council, and the public purse, circa 100K in costs.

The 4 years+ following the upheld appeal decision a dishonest amalgamation of unwelcome delays, resubmissions, withdrawals resulted in manipulation of planning due process. An impression of intent to develop the land south of Chesterton Gardens was maintained throughout the intervening years by the Council, its officers and the developer. The eye watering cost to the public purse has increased exponentially and continues to date adversely impacting the increasing depletion of vital council funds.

The second and now sidelined upheld 2024/25 appeal on the grounds of non-determination by WDC and the eventual sale of 'development approval' to a third-party developer in 2025 has culminated in attempts to downgrade the vitally important safety measures, traffic calming and traffic management mitigation in Conditions 30 and 31 for purely financial reasons and developer convenience. Variation of Conditions 30 & 31 will be at the direct expense of the safety and well-being of ALL users of the Multi-User bridleway and public footpath and the existing residents of Chesterton Gardens, living alongside a construction haul route that uses the narrow existing estate roads and congested local highways to access the site via a dangerous crossing of an active bridleway and multi-user footpath; an application to vary Conditions 30 and 31, given the situation, is both dangerous and unethical.

All of the above is vital evidence in the determination of application W/25/0214. Submission of the application is historically linked to the failure of WDC to defend the refusal decision for application W/20/0617, five years ago. On revisiting the Committee Decision Notice dated 12 February 2021 reproduced below, the WSC LAF and any other reasonable person would find it difficult or impossible to find the Decision anything else but REASONABLE and would probably think it did not go far enough in recognising the Council's responsibility and duty of care for their affected residents.

We remind the Council of the reasons for refusal:

Outline Planning Permission : REFUSED

Application Reference: W/20/0617

dan.charles@warwickdc.gov.uk

Notice is hereby given that Outline Planning Permission is REFUSED for:

Outline planning application for a residential development of up to 200 dwellings with associated access, landscaping and public open space. (all matters reserved apart from access) at Land South of Chesterton Gardens, Leamington Spa for AC Lloyd (Homes) Ltd. in accordance with the application submitted on 24/04/20.

The reason(s) for the Council's decision for refusal is/are:

1 Policy TR1 of the Warwick District Local Plan 2011-2029 states that development will only be permitted that provides safe, suitable and attractive access routes for pedestrians, cyclists, public transport users, emergency vehicles, delivery vehicles, refuse vehicles and other users of motor vehicles.

In the opinion of the Local Planning Authority, the provision of a single vehicular access to the site via an existing residential area would result in a substandard form of development that would not provide an attractive or safe route for vehicles into the site or within that wider area due to the circuitous nature of the access through an existing residential cul-de-sac and the resulting traffic volumes. The provision of an additional 200 dwellings off a singular point of access to this development is therefore considered to be detrimental to highway safety.

The proposal is therefore considered contrary to the aforementioned policy.

2 Policy BE3 of the Warwick District Local Plan 2011-2029 states that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents and /or does not provide acceptable standards of amenity for future users and occupiers of the development.

In the opinion of the Local Planning Authority, the provision of a single vehicular access to the new development from an existing substantial cul-de-sac would direct significant traffic movements onto the existing development access which would lead to an unacceptable impact on the amenity of local residents through increased noise and disturbance.

The proposal is therefore considered contrary to the aforementioned policy

Due to the above, the Warwickshire Solihull and Coventry Local Access Forum have no option but to quote from the Appeal Costs Decision dated 12 August 2021 which details and confirms 'unreasonable behaviour' which sealed the award of, circa 100K, recovery of FULL costs against WDC. The huge costs of continuing planning due process running through 2020/21 and throughout 2022/23 and 24 culminating in a second upheld appeal hearing in November 2024, brought against WDC on the grounds of non-determination, which WDC then inexplicably sidelined together with the attached conditions in favour of reverting to the 12/08/2021 upheld appeal to which Conditions 30 and 31 form an integral part in the Planning Inspectors decision-making process.

The proposed mitigation, Conditions 30 & 31 were presented in evidence at the July 2021 Appeal Inquiry in the form of the RSC Bridleway Crossing Road Safety Audit and Tucker Associates Response Report both presented on behalf of Warwickshire County Council and referred to above. We are led to believe that David Neale Associate of David Tucker Associates, who gave evidence at the appeal decision, is an ex-employee of WCC.

In addition, you will see Warwick District Council shamelessly attempted, without success, to place responsibility for the full appeal costs onto CPRE Warwickshire, the Countryside Charity, who appeared as Rule 6 giving evidence on behalf of the charity and the affected residents of Chesterton Gardens who were left without representation.

Cost Decision: we quote from the Planning Inspector's explanation of his decision:

1. The application for a full award of costs is allowed in the terms set out below.

17. Despite that, on 25 May 2021, between the date of the Committee and the Decision Notice, the Council wrote to the Inspectorate explaining that:

"Following a review of the case, the Council has taken the decision not to object to the appeal and will not be presenting any evidence against the proposal. ..."

Nothing at all had changed between the Committee's determination and the Council's withdrawal from the appeal. It is difficult to comprehend how a "review" so soon after the Committee's decision, and with no new or additional information to consider could have led to a different decision if the Council's refusal had been reasonable in the first place.

19. Furthermore, the Leader of the Council confirmed in his statement that the appeal would not be resisted because the Council accepted the advice that "the Planning Committee's decision to refuse this application was not supported by sound technical or planning reasons, is contrary to the expert evidence considered at the meeting and therefore may be irrational or unlawful."

The Council cannot argue on the one hand that the Members were acting reasonably and then accept that it cannot rationally defend the appeal on the other.

20. Moreover, if it was reasonable for Members to reject the proposals on the basis of noise impacts in February 2021, it would still be reasonable now. The impacts have not changed, and nor fundamentally has the mitigation that is offered. Officers were of the view that a traffic calming scheme, and measures for the occupiers of Brimstone End would be appropriate mitigation. The principle of the mitigation was established at that time and has not changed.

The proposed mitigation was before the Council at the time the appeal proposal was considered. The difference is that there is simply more detail provided now. The Council could have negotiated with the Appellant on traffic calming measures and noise mitigation and the detail could have been secured by condition and/or s106 Agreement which would have followed the grant of planning permission. The Council chose not to do so.

21. Although the Council claims a prompt review of the case was made, the review did not come soon enough. It was only made after the second application failed, which in itself is a surprising turn of events. In any event, and notwithstanding the Council's "review" of its case (prompt or otherwise), the Appellant had exhausted its free go, and was left without a permission. It had no choice but to continue with the appeal in order to try and secure a consent.

*22. In the alternative submission, **the Council** highlights the guidance contained within the PPG that a costs award will only be made for unreasonable behaviour that has directly caused another party to incur unnecessary or wasted expense and **essentially lays the blame at the door of CPRE for the costs of the Inquiry itself**. The Council relies on the costs decision in Land North of Viaduct, Adjacent to Orchard Business Park, Ledbury to support its case.*

*23. However, I note that the Council refused two applications in respect of the appeal site. Had it permitted either one of them, which it now accepts it should, then the Inquiry could have been avoided. **The Council's conduct has indisputably led to the need for the Inquiry; it is the single causative factor**. In leaving the Appellant with no choice but to pursue an appeal **the Council is plainly** responsible for all that follows. CPRE did not cause the Inquiry, but they are entitled to participate in it as they have done, as are members of the public who wish to make representations.*

Application W/25/1214 (W/20/0617) Upheld Appeal 3270663 to which Conditions 30 and 31 are attached formed an integral part and are of indisputable importance in the Inspectors Decision Making Process - page 18 paragraph 70 - Conditions 30/31 – Traffic Management Scheme and Traffic Calming – 'necessary in the interests of highway safety'.

The Warwickshire Solihull and Coventry Local Access Forum find it vitally important to bring to the attention and remind all those who will play a part in determining application W/25/1214, for the variation of Conditions 30 and 31 of W/20/0617, the historic and deeply concerning issues surrounding the long-running, complicated and still ongoing due planning processes involved. They are as important today as they were back in 2020 when application W/20/9617 was submitted. The single access route to the development site through the existing narrow and congested estate roads and those of the wider local area ending up by driving down an existing cul-de-sac to the single access and egress route for all construction traffic and other vehicles, a crossing over an active multi-user bridleway and multi-user public footpath, the dangers of which remains the fundamental issue to all that has gone before.

The appeal decision and expressly Conditions 30 & 31, now relied on by Warwick District Council, make it clear, as does the RSC Road Safety Audit for the Bridleway Crossing and the Road Safety Audit Response by David Tucker Associates, both submitted on behalf of Warwickshire County Council, that provision of a safe bridleway/footpath crossing mitigation measures, traffic calming and a traffic management plan is a mandatory requirement by the time the first dwelling is occupied NOT when the last dwelling is occupied.

We welcome the proposal to implement 20mph speed limits on the existing Chesterton Gardens estate roads from St. Fremund Way but ask for reassurance that this proposal is not

an attempt to devolve responsibility away from providing the additional traffic calming and other mitigation measures as required by the Planning Inspector in the upheld appeal decision and conditions attached to application W/20/0617 also proposed in the RSC Road Safety Bridleway Audit and David Tucker Road Safety Audit Response Report prepared on behalf of Warwickshire County Council.

The Warwickshire Solihull and Coventry Local Access Forum exercise their statutory advisory role, duty and function to advise and recommend Warwick District Council and its Planning Committee **REFUSE** application W/25/1214 – W/20/0617, to vary Conditions 30 and 31 attached to Appeal Decision Notice (3270663 – W/20/0617)) Dated 12/08/2021).

Provision of Safe Bridleway Access Arrangements including Traffic Calming and Traffic Management and a Construction Traffic Management in mitigation provided by Conditions 30 and 31 and others, agreed from evidence presented in the RSC Road Safety Audit - Proposed Bridleway Crossing, undertaken on behalf of Warwickshire County Council and the David Tucker Road Safety Audit Response Report also undertaken on behalf of Warwickshire County Council, were presented in evidence at the Upheld Appeal Inquiry Decision dated 12 August 2021. Conditions 30 and 31 provide the only safety mitigation and traffic calming without which access into the development site crossing an active bridleway and public footpath is undeniably dangerous and breaches the Conditions on which the Appeal Inspector reached his Decision. Without provision of these Condition backed mitigation measures we believe the Planning Inspectors upheld appeal decision, 12 August 2021, is unsound.

The Warwickshire Solihull and Coventry Local Access Forum request an acknowledgement of receipt of this **OBJECTION** and **RECOMMENDATION** to the Council and the WDC Planning Committee to REFUSE application W/25/1214, for all of the weighty reasons listed above.

We also recommend and advise that open and transparent determination should take place on the public platform of a Planning Committee meeting. We advise of our intent to apply to appear and speak and ask to be advised of the date, in advance, of the Planning Committee meeting.

Yours sincerely

A handwritten signature in black ink, reading 'Sheila Cooper'. The signature is written in a cursive style with a large, looping initial 'S' and a horizontal flourish at the end.

Sheila Cooper

Acting Chair of the Warwickshire Solihull and Coventry Local Access Forum

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Copy to Acting LAF Secretary: charlesbarlow@warwickshire.gov.uk

