

Stephen Barker <sebarker@peterloo-uk.com>

15/1/2023 12:02

RE: Antrobus Community Right to Build Order

To Catherine MORGETROYD <catherine.morgetroyd@cheshirewestandchester.gov.uk> •
Antrobus Parish <antrobuspc@yahoo.co.uk>

Dear Catherine

Thank you for your email. If I may, I have numbered your questions;

1. Environmental Impact Assessment Screening : Assuming you are working to the EIA Regulations 2017, last update 13th May 2020, which you would have referred to before issuing the Neighbourhood Area Order (16th December 2020) I have relied on that Order and the statutory consultee's responses set out in the published Order. Nothing material has changed in the Area in the intervening period between then and now. I presume you are preparing a statement under Regulation 32.

The area of urban development is less than 1 (one) hectare and is not a dwelling house. The dimensions of the development are shown on the plan drawing (1009- 202) and measures 0.014 hectares. The land area of the Neighbourhood Area 1 under the Order is less than 5 acres (12.355acres). I think these are the two key considerations under Description of Development and applicable thresholds and criteria for the purposes of Definition of Development Schedule 2. (SI 2017 No571) section 10 Infrastructure projects sub section (b).

2. Site ownership : I am advised by the Parish Council the designated Neighbourhood Area remains in the ownership of the Antrobus Village Hall.

3. Location of the proposed shop and tea room : Your question has several parts to it -

(i) Location of the new building : the temporary shop/tearoom was located so as not to interfere with the variety of uses of the village hall and to keep the open frontage to the car park on that side of the village hall as it is. This is very helpful to annual events such as the village fete. It was also felt it was less visually intrusive to the open aspect of the land around the village hall. It was felt the location would draw those parking cars closer to that end of the car park as a passive control of parking. These are subjective and practical considerations.

(ii) Openness of the countryside: At the time of locating the temporary shop and tea room CW&C was minded to grant planning consent for 15 houses on the opposite side of Knutsford Road (Manley Farm) outside the Local Service Centre boundary on agricultural land in open countryside designated as green belt. When that development goes ahead it brings the urban area of the village closer to the location of the temporary and proposed shop and tea room which preserves the open aspect across the village hall land when viewed from Knutsford Road towards the play area. We disagree that placing the temporary shop closer to the existing village hall building would have resulted in less impact on the openness of the greenbelt. The CRtBO is about the scale of the proposal, relative to the viewing opportunities in a given location, which is how the impact should be considered. Given the context is Neighbourhood Planning this subjective assessment of openness is for the community to make.

(iii) The openness of the greenbelt : I would have to refer you to CW&C's own planning decision to allow urban development in the greenbelt on the opposite side of the road to the village hall land. CW&C did not consider the scale of that development had any impact or if it did have an impact it was not material to granting planning consent. The Communities position (assuming it supports the CRtBO proposal after consultation) is validated by the the Courts interpretation of the Neighbourhood Planning legislation in *Turner v Secretary of State for Communities and Local Government and East Dorset Council* [2016]EWCA Civ 466 at Par 90. Lord Sales giving judgement stated "Certain other forms of developments 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." There are 5 cited including " development brought forward under a Community Right to build Order." Lord Sales at par 89 sets out other exceptions to new buildings in the green belt.

(iv) The Antrobus Local Service Centre boundary : Although that boundary is in the adopted Local Plan it is based on a criteria of what qualifies as a Local Service Centre. If those services do not exist then the boundary is not real because it does not do what it is supposed to do as the very services the community is trying to continue no longer exist. To stop the community providing those services defeats the purpose and policies of the Adopted Local plan with regard to Local Service Centres.

4. Land use : The land under the proposed new building is currently grassed. It is not used for grazing or organised games and forms part of the amenity value of the land as a whole that is attached to the village hall. When the new building is occupied the temporary shop and tea room will be removed and the 'recovered land' grassed. The net loss is less than the land covered by the new building.

5. Drainage : noted .

6. Parking : For clarity on car parking the two attached drawings Site Plan 1009 -101A and Block Plan 1009-201A identify car parking areas in the Neighbourhood Area 1. I have considered the non statutory SPD on Parking Standards E(a)(b) / F2(a) for new development and change of use. For the new Shop and separately measured the Tea Room, they do not individually meet the thresholds of public floor area to require car parking be provided. The Shop and Tea room will have the use of the existing car park so no vehicles need park on the public highway. Access to buildings in this area of Antrobus is relatively easy as it is level with gradual gradients to cater for changes in finished floor levels relative to outside levels. We have had no complaints/adverse comments about access or location of the current shop and tea room.

7. Design and Access Statements : Thank you for the two links to other parts of the country than Cheshire. Those CRtBO proposals are, by comparison with Antrobus, substantial in scale and impact on individual locations. They are professionally prepared mentioning the grant aid given to them to pay for those submissions. Perhaps you can tell me what grant aid is available through Cheshire West & Chester for CRtBO. When I came to see you with a colleague, Gillian Bane, you said there was grant aid for making Neighbourhood plans, but not for Neighbourhood Area Orders or CRtBOs. The situation may have changed or it is at the discretion of the Local planning Authority?

8. Listed buildings : Please clarify the 'locally listed buildings' you are referring to?

9. Archaeology features : We rely on the response from the Cheshire West and Chester Council Archeology Planning Advisory Service who confirmed "that no features of historic interest are apparent within the boundary of the (Neighbourhood Area) site and no archaeology mitigation is advised". [Ref Statutory consultees response to the Neighbourhood Area Order published in the Order dated 16th December 2020. It's response would be our statement.

10. Trees / hedgerows : No

11. Sustainable construction : Yes

12. Planning Application verses Neighbourhood planning process : As we have explained previously we have considered both and in theory the decision is with the neighbourhood community whereas a planning application is with the local planning authority (LPA). The balance should tip in favour of the Neighbourhood Community that any decision is theirs and not imposed by the LPA. If the community feel the proposal is unacceptable they are directly at liberty to prevent it whatever the impact may be on the local services available in Antrobus. This was the whole thrust of the Neighbourhood planning legislation. Experience after 11 years may be different as measured by the number of CRtBO issued and / or Neighbourhood Area Orders

issued.

13. In your penultimate paragraph you make a couple of comments on Green belt which I have addressed in 3(iii) above. What you say about openness and the Greenbelt is your opinion. Would you advise the LPA differently if it was a planning application? Why would Elected Members proceed to approve a planning application as a special exception contrary to your advice? If they do follow your advice and refuse the planning application we are faced with appealing the Council's decision. We would not have the purpose of Neighbourhood planning to support us or the decision of the Appeal Court as to how to interpret the legislation on Neighbourhood Planning. At every step of the way we would be faced with the expense of fees for an application, consultant fees for the application, legal fees for an appeal, time delay and no access to grants from the LPA, but which could be available from the LPA for Neighbourhood Planning as I ask you in 7 above.

We have put the display stand up in the Village Hall with some material samples. We will hold that consultation whilst working through other matters feeding in relevant material as it becomes available.

If you need anything further please let me know.

Kind regards

Stephen Barker

On 13/01/2023 07:51 GMT MORGETROYD, Catherine

<catherine.morgetroyd@cheshirewestandchester.gov.uk[mailto:catherine.morgetroyd@cheshirewestandchester.gov.uk]> wrote:

Stephen and Simon

Thanks for the revised drawings.

I have prepared most of the EIA screening report and I have started the SEA, HRA and Marine Plan screening report. We already have a set procedure for screening neighbourhood plans, but this will need to be amended slightly so that it can be used for CRtBOs and as such, it will take me a while to finalise these reports. I will also need some additional information, as set out in the questions below. This will help me to identify any proposed impacts on the environment and potential sustainability issues.

The EIA screening takes account of the size of the site. Please can you confirm that size of the site within the red line boundary in hectares and the size of the footprint of the building in square metres.

When the assessment of the neighbourhood area for the CRtBO was made, it was identified that the site is all within the ownership of the village hall. Who owns this land? Is it the Parish Council or a separate group / person?

Why has the location at the end of the site furthest from the main part of the village been chosen for the building? The 'Pole Lane Ends' section of the site is within the Antrobus Local Service Centre boundary (whereas the current site isn't) and by moving the building closer to other existing buildings it would reduce the impact on the openness of the Green Belt. Would it be possible to move the building to the 'Pole Lane Ends' part of the site? If not, what is the reason for this? Have any alternative locations within the site been considered?

What is the part of the site on which the building is proposed currently used for? Is it used for any sport or recreation or for grazing?

I have had a quick look at the flood risk maps and while the site isn't at risk of river flooding, there is a risk of surface water flooding in Antrobus and covering part of the site. At later stages I will contact colleagues in the flood risk team for further information and a detailed assessment, but please be aware that you may need to provide further information on surface water flooding and methods of reducing potential flooding (such as Sustainable Drainage Systems) and permeable hard landscaping.

In one of my previous emails I suggested that the drawings indicate the extent of the parking area and the number of proposed parking spaces. It should also identify whether any parking spaces will be provided specifically for disabled people. The proposed parking should comply with the requirements in the Parking Standards SPD, which is available at: Cheshire West and Chester Council - Revised Parking Standards SPD - Updated February 2022<https://consult.cheshirewestandchester.gov.uk/portal/cwc_idf/spd/parking_standards_spd_2021update[https://consult.cheshirewestandchester.gov.uk/portal/cwc_idf/spd/parking_standards_spd_2021update]> As I mentioned before, a design and access statement would be helpful to explain how the proposed development is suitable for the site and to demonstrate that it can be adequately assessed by all prospective users. This could also address how the nearby locally listed buildings have been taken into account in the design of the proposed building.

Has any investigation been undertaken to assess whether there are any important archaeological features on the site? The CRtBO regulations require that an archaeology statement is submitted if required.

Will any trees or hedgerows be removed or impacted in any way by the proposed development? If so, an arboricultural survey should be provided to identify the trees to be removed and any proposed trees to be planted.

Has consideration been given to sustainable construction techniques or features – for example energy efficiency, water efficiency or renewable energy provision? These features may reduce future running costs as well as having positive effects on the environmental impact of the building.

I have found a couple of examples of CRtBO's from other areas, which indicate the sort of background information which was prepared and submitted: Congresbury new village hall/community centre Community Right to Build Order - North Somerset Council Consultations (inconsult.uk)<," target="_blank" rel="noopener">[https://www.wiltshire.gov.uk/media/540/Cherhill-New-Village-Hall-Community-Right-to-Build-Order/pdf/sppnp-cherhill-made-crtbo.pdf?m=637102841622670000](https://n-somerset-pp.inconsult.uk/consult.ti/Congresburyvillagehall/consultationHome#:~:text=They%20were%20been%20prepared%20by%20the%20Congresbury%20Village,application%2C%20they%20are%20scrutinised%20by%20an%20independent%20examiner.>[https://n-somerset-pp.inconsult.uk/consult.ti/Congresburyvillagehall/consultationHome#:~:text=They%20were%20been%20prepared%20by%20the%20Congresbury%20Village,application%2C%20they%20are%20scrutinised%20by%20an%20independent%20examiner.] sppnp-cherhill-made-crtbo.pdf (wiltshire.gov.uk)<<a href=)[<https://www.wiltshire.gov.uk/media/540/Cherhill-New-Village-Hall-Community-Right-to-Build-Order/pdf/sppnp-cherhill-made-crtbo.pdf?m=637102841622670000>]>

There is a large amount of information required to be submitted as part of a CRtBO and it will take some time to go through the process of consultation, submission and publicity, examination and referendum. I know I've raised this before – but are you sure a CRtBO is the best approach? A planning application may be a quicker and easier route. Either approach is difficult as the site is in the Green Belt, but you may be able to argue very special circumstances through a planning application. With the CRtBO the NPPF identifies that development brought forward under a CRtBO is not inappropriate in the Green Belt, provided it preserves its openness and does not conflict with the purposes of including land within it. I think it will be very difficult to show that the proposed community shop and café building preserves the openness of the Green Belt and do not conflict

with the purposes of including land within it.

If you would like to discuss this further, please let me know.

Kind regards

Catherine

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Consultation Portal: <http://consult.cheshirewestandchester.gov.uk/portal>
[\[http://consult.cheshirewestandchester.gov.uk/portal\]](http://consult.cheshirewestandchester.gov.uk/portal)

(working days Wednesday – Friday)

From: Stephen Barker <sebarker@peterloo-uk.com
<[\[mailto:sebarker@peterloo-uk.com\]](mailto:sebarker@peterloo-uk.com)>

Sent: 05 January 2023 10:06

To: MORGETROYD, Catherine

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Subject: Antrobus Community Right to Build Order

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Dear Catherine

I hope you have had a good Christmas break.

Please find attached a revised set of drawings including an image of the public display of the proposals to be located in the Antrobus Village Hall as part of the public consultation process.

Please let me have your comments when convenient.

Kind regards

Stephen Barker

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- Part_1.2.html (23 KB)
 - 1009 - 101A Ex Block Plan.pdf (744 KB)
 - 1009 - 201A Pr Block Plan.pdf (780 KB)