

PLANNING COMMITTEE: 22nd January 2019
DEPARTMENT: Planning Service
HEAD OF PLANNING: Peter Baguley

APPLICATION REF: N/2018/0690

LOCATION: Former Emmanuel Church Middle School site, Birds Hill Walk

DESCRIPTION: Variation of Conditions 2 and 3 of Planning Permission N/2017/1097 (Erection of 81no dwellings including new vehicular access from Billing Brook Road) to relocate flats within the site, reconfigure parking layout and associated repositioning of plots 068-075

WARD: Brookside Ward

APPLICANT: Westleigh Partnerships Ltd
AGENT: rg+p Ltd

REFERRED BY: Head of Planning
REASON: Major application requiring S106 agreement

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1 RECOMMENDATION

1.1 APPROVAL IN PRINCIPLE subject to a Section 106 Legal Agreement to secure:

- 1.1.1 i) 35% on-site affordable housing;
- ii) Primary School Education payment;
- iii) A scheme for the provision of construction worker training opportunities and a payment towards the operation of this programme
- iv) A payment towards highway improvements
- v) A payment towards the enhancement and/or maintenance of off-site open space
- vi) That the on-site Public Open Space is maintained and made available for public access in perpetuity; and
- vii) The Council's monitoring fee, subject to the Head of Planning being satisfied the monitoring fee is necessary and of an appropriate scale.

1.1.2 The conditions set out below and for the following reason:

The proposed development, subject to conditions, represents an acceptable land use which would contribute towards the Council's five year housing supply and would have a neutral impact upon the character and appearance of the surrounding area, visual and neighbour amenity and the highway system. The development is therefore in conformity with the requirements of the National

Planning Policy Framework, Policies S1, S3, S10, C2, H1, H2, BN2, BN3, BN7, INF1 and INF2 of the West Northamptonshire Joint Core Strategy and Policy E20 of the Northampton Local Plan.

- 1.2 It is also recommended that in the event of the Section 106 Agreement not being completed within three calendar months of this Committee meeting, in addition to being able to grant planning permission as recommended above, the Head of Planning be given delegated authority to either refuse or finally dispose of the application (at his discretion) on account that the necessary mitigation measures have not been secured in order to make the proposal acceptable in line with the requirements of Policies INF1 and INF2 of the West Northamptonshire Joint Core Strategy and the National Planning Policy Framework.

2 THE PROPOSAL

- 2.1 Planning permission for 81 dwellings and an area of public open space was granted in March 2018 (N/2017/1097). The application was CIL liable and subject to a S106 Agreement (affordable housing, primary education, open space and construction worker training).
- 2.2 The current application seeks to vary Condition 2 (approved drawings) of the planning permission N/2017/1097 to allow for the repositioning of two of the three flatted blocks to the north east of the site and consequential changes to the parking layout. The central block of flats is to be moved about 2.5m further east, and the southernmost block about 5m further into the site. A number of other minor detailed changes have also been incorporated, these are detailed below:

Plots 36-37 side window added.
Plots 38-41 step in block removed.
Plots 52-53 gable brick detailing omitted.
Plots 46-48 block handed.
Plots 29-31 handed.
Plots 6-8- No change.

- 2.3 The application also seeks to vary Condition 3 (materials) but only insofar as reflecting the changes in the layout, the materials remain as previously detailed.

3 SITE DESCRIPTION

- 3.1 The site is that of the former Emmanuel Middle School which is located on the east side of Billing Brook Road and to the north of Birds Hill Walk. It is situated within a mixed environment of commercial and residential buildings. The site is 2.15 hectares in area with the school buildings on the site demolished several years ago. The development work has commenced following grant of planning permission (N/2017/1097).
- 3.2 The site is a sloping site falling from south to north and from west to east. To the north east is an area of open space and a pond beyond which is residential housing. To the west of the site, beyond Billing Brook Road is a church, police station and office units. To the south is the former Lings Upper School site, with a terrace of 4 dwellings facing onto Birds Hill Walk. To the south east is the Northampton Academy, and to the south west is Weston Favell Centre with commercial and leisure facilities and public transport links.

4 PLANNING HISTORY

- 4.1 The site was the subject of outline planning permission for residential development (up to 109 dwellings). This was approved by West Northamptonshire Development Corporation in 2008 and was more recently approved by Northampton Borough Council in 2014 (N/2011/1263).
- 4.2 It should also be noted that outline planning permission was recently granted for up to 60 dwellings on the nearby former Lings Upper School site (N/2015/0019).

- 4.3 Planning permission for 81 dwellings was granted on 29 March 2018, following the finalisation of a S106 agreement (N/2017/1097).

5 PLANNING POLICY

5.1 Statutory Duty

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014), Northampton Local Plan (1997) saved policies, Northampton Central Area Action Plan (2013), and emerging Neighbourhood Development Plans where relevant.

5.2 National Policies

The National Planning Policy Framework (NPPF) sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document. However, the following sections are of particular relevance to this application:

Paragraphs 2 & 47 - Applications to be determined in accordance with the development plan.
Paragraphs 8, 10, 11 & 38 - Achieve and approve applications for sustainable development.
Paragraph 59 - To support the Government's aim of significantly boosting the supply of homes.
Paragraph 91 - Promoting health and safe communities.
Paragraph 103 - Manage growth to achieve sustainable transport.
Paragraph 117 - Promoting an effective use of land in meeting the need for homes and other uses whilst safeguarding and improving the environment and ensuring safe and healthy living conditions.
Paragraph 123 - Making optimal use of land by achieving appropriate densities.
Paragraph 124 - Creation of high quality buildings and places, good design being integral to achieving a sustainable development.
Paragraph 212 - The Framework is a material consideration which should be taken into account in dealing with applications.

5.3 West Northamptonshire Joint Core Strategy (2014)

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

Policy SA - Presumption in Favour of Sustainable Development
Policy S1 - Distribution of development
Policy S3 - Scale and Distribution of Housing Development
Policy S10 - Sustainable Development Principles
Policy C2 - New Developments
Policy H1 - Housing Density and Mix and Type of Dwellings
Policy H2 - Affordable Housing
Policy BN2 - Biodiversity
Policy BN3 - Woodland Enhancement and Creation
Policy BN7 - Flood Risk
Policy BN9 - Planning for Pollution Control
Policy INF1 - Approach to infrastructure delivery
Policy INF2 - Contributions to infrastructure requirements

5.4 Northampton Local Plan 1997 (Saved Policies)

Due to the age of the plan, the amount of weight that can be attributed to the aims and objectives of this document are diminished, however, the following policies are material to this application:

Policy E20 - New development
Policy L2 - Community Use of existing schools and colleges
Policy T12 - Development Requiring Servicing
Policy H17 - Housing for People with Disabilities

5.5 **Supplementary Planning Documents**

Northamptonshire Parking Standards (September 2016)
Planning out Crime in Northamptonshire SPG 2004
Planning Obligations SPD (2013)

5.6 **Other Material Considerations**

Growing Together Neighbourhood Plan

The Growing Together Neighbourhood Plan (Covering Blackthorn, Goldings, Lings and Lumbertubs) was made in April 2017, and now forms part of the development plan for Northampton.

The following policies are relevant to the determination of this proposal:

DES1 – High quality design
H1 – Housing mix
CO2 – Loss of community facilities
OS2 – Outdoor Amenity Space

6 **CONSULTATIONS/ REPRESENTATIONS**

Comments received are summarised as follows:

- 6.1 **Public Protection (NBC)** – No objections.
- 6.2 **Environment Agency** – No comments.
- 6.3 **Highways England** – No comments to make.
- 6.4 **Highway Authority (NCC)** – No comments to make.
- 6.5 **Northamptonshire Police Crime Prevention Design Advisor** – No objections.
- 6.6 **NCC Lead Local Flood Authority** – No comments to make.
- 6.7, **Residents** – One letter of support has been received.

7 **APPRAISAL**

Principle of the development

- 7.1 Following the grant of planning permission in March 2018, the developer has commenced development on site. However, during the course of construction, underground springs were found in part of the site. As a result, the current application has been submitted to slightly re-positioning two of the previously approved block of flats to the north east of the site to take into account of the springs.
- 7.2 In granting the previous permission N/2017/1097, the principle of development of this site for residential purposes has been accepted. As the effect of granting a S73 application is the issue of

a new planning permission which sits alongside the original permission, it is necessary to repeat the relevant conditions from the original planning permission, unless they have already been discharged. The application will be CIL liable and subject to a S106 Agreement to secure the same planning obligations as previously requested under the previous planning permission (heads of terms including affordable housing, primary education, open space and construction worker training).

Design and layout

- 7.3 Apart from the minor changes involving the slight re-positional of the flats as stated in paragraphs 2.2 and 2.3 above, the design and layout of the development remains as previously approved. The total number of dwellings would remain as 81 units, comprising 24 one bedroom flats, 37 two bedroom houses and 20 three bedroom houses.
- 7.4 The existing trees are proposed to be retained and the proposed area of public open space which will include an area of Sustainable Urban Drainage (SUDS) are not affected by the changes.
- 7.5 The housing mix, design and materials remain as approved.
- 7.6 The car parking has had to be adjusted to allow for the repositioning of the blocks of flats, with some spaces now resited closer to the building. The location of the parking spaces are considered to be acceptable, and would offer a secure form of development.

Impact on neighbours

- 7.7 The proposed changes will have no impact on the occupiers of neighbouring buildings through overlooking and loss of privacy.

Highways

- 7.8 The previous S106 requires a contribution towards highway improvements to mitigate the proposal on the southern approach to the junction with Billing Brook Road. The access, layout and parking provision remains as substantially approved. Highways England and the Highway Authority have no further comments to make.

Travel Plan

- 7.9 As the development is located within a short distance from local shops, schools, amenities and public transport, the site is in a highly sustainable location. A Travel Plan was submitted with the previous application. However, further information was requested by the Highway Authority and a condition to that effect is again recommended.

Drainage

- 7.10 A flood risk assessment has been submitted with the application together with further information requested by the Lead Local Flood Authority. The Environment Agency and the Lead Local Flood Authority have raised no objections, and the submission element of previous conditions have been discharged.

Trees and Ecology

- 7.11 There are a number of trees on the site, with the majority around the periphery of the site. The majority of trees on the west boundary are to be retained, maintaining an established buffer to the site and to Billing Brook Road. Several trees within the site and on the eastern and southern boundaries will have to be removed to accommodate the development, with the exception of the south-east corner and north-east boundary. These have previously been agreed by the Aboricultural Officer and a condition to protect the retained trees during development will need to be re-imposed

- 7.12 An Ecology and Phase 1 Habitat Survey had been submitted with the previous application. The Ecology Officer was satisfied that the potential impacts of the development have been satisfactorily addressed. The site was not considered to be of significance for most species but that mitigation measures for birds and bats would be appropriate. Conditions relating to site clearance and mitigation will need to be re-imposed.

Air Quality

- 7.13 An Air Quality Assessment was submitted following comments received from Public Protection Officers. To comply with the requirements of the Council's Low Emission Strategy it is recommended that electrical vehicle charging points should be provided as mitigation for the impacts of the development. A condition is recommended to secure an appropriate scheme.

Section 106 and Community Infrastructure Levy (CIL)

- 7.14 The development of the site would be CIL liable and subject to the requirements of Northampton Borough Council's CIL Regulation 123 List which includes the following:

- Northampton Growth Management Strategy
- Northampton North West Bypass Phase 2
- Indoor sports facilities
- Education (excluding primary schools)

- 7.15 By reason of the scale and type of the development, developer contributions are required to mitigate the relevant impacts, to be secured by way of a Section 106 Legal agreement. The Community Infrastructure Levy Regulations 2010 specify three key legal tests in ascertaining whether a particular obligation can be requested. These specify that obligations should be:

- i) Necessary to make the development acceptable in planning terms;
- ii) Directly related to the development; and
- iii) Fairly and reasonably related in scale and kind to the development.

- 7.16 In line with policy requirements, 35% of the development would be provided as affordable housing and secured as part of the S106 Legal agreement. The tenure and mix are to be agreed to ensure that an appropriate mix is achieved that addresses the needs of a wider number of people. Furthermore, the legal agreement would ensure that the affordable housing is representative of the overall composition of the development.

- 7.17 In addition to the highway works, the Legal agreement would secure financial contributions for the provision of primary education (secondary education being covered by CIL).

- 7.18 Whilst an area of open space is provided on site, this is not sufficient to comply with the requirements of the Council's Supplementary Planning Document on Developer Contributions. As such it is recommended that a financial contribution is secured to facilitate enhancements to off-site areas of open space within the vicinity of the site.

- 7.19 The development will also make a payment and provide opportunities for the provision construction worker training, which would be secured by the legal agreement in accordance with adopted policy.

8 CONCLUSION

- 8.1 The principle of residential development has been established by the previous outline permission on the site. The detailed design and layout of the current proposal is considered to be acceptable and would make a positive contribution towards the Council's 5-year housing supply. The development would also be of an acceptable design and, subject to conditions would not adversely impact on highway conditions, drainage, ecology or trees, and would have a neutral impact upon

the occupiers of neighbouring properties. Suitable mitigation would also be secured through the recommended conditions and the legal agreement.

9 CONDITIONS

1. The development hereby permitted shall be begun before 29th March 2021.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the above schedule of approved plans.

Reason: For the avoidance of doubt and to accord with the terms of the planning application.

3. The development hereby permitted shall be carried out in accordance with the materials detailed on drawings no. 40947 032G dated 21/07/17.

Reason: In the interests of visual amenity and to ensure that the development will harmonise with its surroundings in accordance with Policy E20 of the Northampton Local Plan.

4. The ground levels and finished floor levels of the development shall be implemented in accordance with details included in approved drawing nos. FW137.001C and FW1371.002C dated January 2018.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy E20 of the Northampton Local Plan.

5. The boundary treatment of the SUDS site within the area of public open space shall be implemented prior to the first occupation of the buildings hereby permitted and retained thereafter in accordance with details included in approved drawing nos. 40947-201J dated 14/12/17 and FW 1371 017 C1 dated June 2018.

Reason: To ensure that the boundaries of the site are properly treated so as to secure a satisfactory standard of development in accordance with Policy E20 of the Northampton Local Plan.

6. The facilities for the secure and covered parking of bicycles to serve the flats hereby permitted shall be provided prior to the first occupation of the flats hereby permitted and thereafter retained in accordance with the approved details (drawing no. 40947 104 dated 25/06/18).

Reason: To ensure the provision of adequate facilities in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy.

7. Other than works relating to the construction of the access and site clearance, development shall not commence on site until confirmation of the full implementation of the approved remediation scheme has been confirmed by means of a validation report that will be submitted to and approved by the Local Planning Authority.

Reason: To ensure the effective investigation and remediation of contaminated land sites and in the interests of health and safety and the quality of the environment in accordance with Policy BN9 of the West Northamptonshire Joint Core Strategy. This condition is required in order to agree such details in a timely manner.

8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to

the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure the effective investigation and remediation of contaminated land sites and in the interests of health and safety and the quality of the environment in accordance with Policy BN9 of the West Northamptonshire Joint Core Strategy.

9. The landscaping scheme shall be implemented in accordance with details included in approved drawing nos. 1804-PL02(C), 1804-PL1-03(C), 1804-PL1-04(C) and 1804-PL1-05 dated March 2018.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy E20 of the Northampton Local Plan.

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and which shall be maintained for a period of five years; such maintenance to include the replacement in the current or nearest planting season whichever is the sooner or shrubs that may die are removed or become seriously damaged or diseased with others of similar size and species.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy.

11. The protective measures for retained trees shall be implemented in accordance with the details included in the Arboricultural Impact Assessment and further details submitted on 15th August 2018 throughout the course of construction period.

Reason: In order to ensure adequate protection of existing trees on the site in the interests of achieving a satisfactory standard of development and maintaining the amenity of the locality in accordance with Policy BN3 of the West Northamptonshire Joint Core Strategy.

12. The Construction Management Plan shall be implemented in accordance with the approved details dated June 2018 throughout the course of construction period.

Reason: In the interests of securing a satisfactory impact upon the highways system and neighbour amenity in accordance with the requirements of the National Planning Policy Framework and Policy BN9 of the West Northamptonshire Joint Core Strategy.

13. The proposed storage of refuse and materials for recycling to serve the flats and apartments shall be implemented in accordance with the approved details (drawing no. 40947 104 dated 25/06/18) prior to the occupation or bringing into use of the buildings and thereafter retained.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policies H1 and S10 of the West Northamptonshire Joint Core Strategy.

14. The development hereby permitted shall be carried out in accordance with the boundary plan detailed on drawing no. 40947 028F dated 21/07/2017 and retained thereafter.

Reason: In the interests of securing a satisfactory form of development in accordance with the requirements of the National Planning Policy Framework.

15. The security measures to be incorporated into the development shall be implemented in accordance with the details approved on drawings nos. 40947/200M and 40947/201M

dated 14/12/17 and shall be in place before the occupation of the residential accommodation hereby approved and retained thereafter.

Reason: To ensure a satisfactory standard of accommodation is provided in the interests of the amenity of occupants in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy.

16. No dwellings shall be occupied until the works detailed in the approved foul water strategy (drawings nos. FW 1371 003A, 004A, 005A, 007B, 008B, 009B, 010B, 011B & 012B dated January 2018) have been implemented.

Reason: To prevent environmental and amenity problems arising from flooding in accordance with the requirements of the National Planning Policy Framework. This condition is required in order to agree such details in a timely manner.

17. No dwellings shall be occupied until the works detailed in the approved surface water drainage scheme (as listed in the response from Northamptonshire County Council Lead Local Flood Authority dated 24 the August 2018) have been implemented.

Reason: To prevent the increased risk of flooding, both on and off site in accordance with the requirements of the National Planning Policy Framework and Policy BN7 of the West Northamptonshire Joint Core Strategy. This condition is required in order to ensure the agreement of such details in a timely manner.

18. The ownership and maintenance of the surface water drainage system shall be implemented in accordance with the approved details (as listed in the response from Northamptonshire County Council Lead Local Flood Authority dated 24th August 2018).

Reason: To ensure the future maintenance of drainage systems associated with the development in accordance with the requirements of the National Planning Policy Framework. This condition is required in order to ensure the agreement of such details in a timely manner.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or other form of enlargement to the residential development hereby permitted, nor erection of porches, outbuildings, hardstandings, storage tanks, gates, fences, walls or other means of enclosure shall take place without the prior written consent of the Local Planning Authority.

Reason: In the interests of maintaining a satisfactory standard of development and in the interests of residential amenity in accordance with Policies H1 and S10 of the West Northamptonshire Joint Core Strategy.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no gates, fences, walls or any means of enclosure or similar structures other than approved under this consent shall be erected or constructed in front of the main wall of any dwelling or of any other principal building of the estate nor in front of the line of any flank wall of any dwelling where the flank boundary of the curtilage abuts a highway.

Reason: To ensure that the open character of this residential development is maintained in the interests of visual amenity in accordance with Policy H1 of the West Northamptonshire Joint Core Strategy.

21. Prior to the first occupation of any unit of the proposed development, the applicant shall provide a Travel Plan for written agreement by the Local Planning Authority. The measures

identified shall thereafter be carried out in accordance with a timetable to be included in the full Travel Plan.

Reason: In the interests of promoting more sustainable means of travel in accordance with the National Planning Policy Framework.

22. Site clearance should only be undertaken in accordance with the Site Preparation Mitigation Statement prepared by Urban Wildlife Ltd. (Mit1/WP/BB/NN3) dated 16 November 2017.

Reason: In the interests of wildlife and nature conservation and promote biodiversity in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy

23. The ecological mitigation measures shall be implemented in accordance with the approved details drawing no. MitF/WP/BB/NN3 dated 19 February 2018 throughout the course of construction period,

Reason: In the interests of wildlife and nature conservation and promote biodiversity in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy.

24. Before the occupation of any dwellings, the pedestrian and vehicular visibility splays into and out of the development shall be provided and retained in accordance with drawing no. FW1371-H-201 Rev C2 Dated November 2017.

Reason: In the interests of securing a satisfactory standard of development in in terms of highway safety, in accordance with the requirements of the National Planning Policy Framework. This condition is required in order to agree such details in a timely manner

25. All vehicle parking spaces, access roads, circulation space and footways shall be fully implemented prior to the first occupation of the residential development hereby permitted and retained for their designated use thereafter.

Reason: In the interests of securing a satisfactory standard of development in terms of highway safety, in accordance with the requirements of the National Planning Policy Framework.

26. The scheme for electric vehicle charging points shall be implemented in accordance with the approved details in accordance with drawings no. 40947/200M & 40947/201M dated 14/12/17.

Reason: In the interest of reducing carbon emissions and securing a sustainable development in accordance with Policy S11 of the West Northamptonshire Joint Core Strategy.

10 BACKGROUND PAPERS

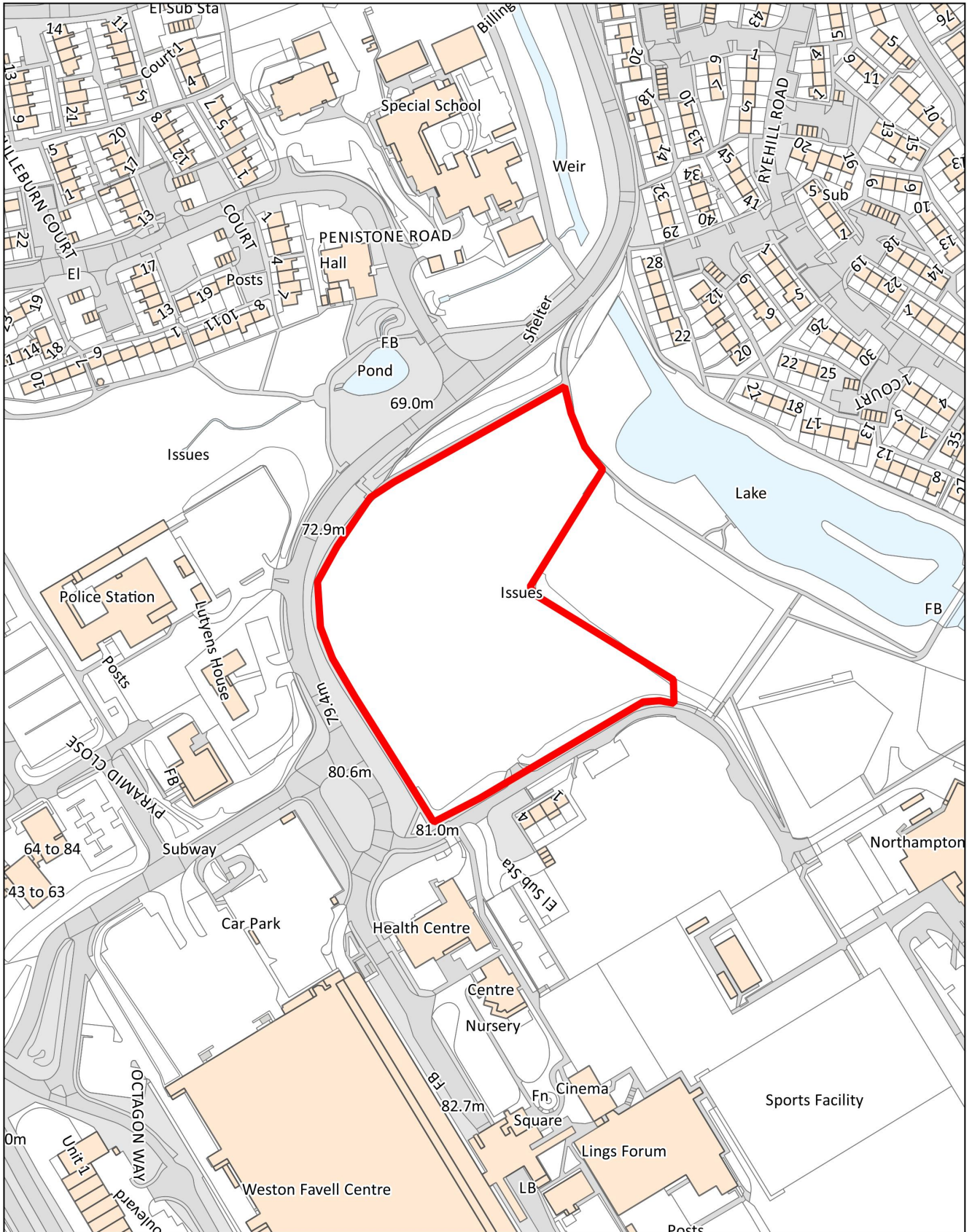
- 10.1 N/2017/1097 and N/2018/0690.

11 LEGAL IMPLICATIONS

- 11.1 The development is CIL liable.

12 SUMMARY AND LINKS TO CORPORATE PLAN

- 12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



NORTHAMPTON
BOROUGH COUNCIL

Title: **Birds Hill Walk. Former Middle School**

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