

Application No: W 11 / 1171

Town/Parish Council: Rowington
Case Officer: Penny Butler

Registration Date: 09/11/11
Expiry Date: 04/01/12

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**Woodcote, Lapworth Street, Bushwood, Lowsonford, Henley-in-Arden,
B95 5HF**

Erection of a replacement dwelling FOR Mr A Mackintosh

This application is being presented to Committee due to an objection from Lapworth Parish Council having been received.

SUMMARY OF REPRESENTATIONS

Rowington Parish Council : No objection

Lapworth Parish Council : Overdevelopment and inappropriate development in such a rural position.

Public response: One objection received from Finwood View. The building is too large and not in keeping with the village properties. There is a long history of planning applications being refused on site.

One supporting comment received from Oak Tree Wharf. The approved scheme was not in keeping with the site or rural area. The proposal is more suitable and in harmony with the site and location.

Inland Waterways: No objection as the proposal does not appear detrimental to the vista from the Stratford canal.

British Waterways: No comment.

WCC Right of Way Team: No objection as the public footpath running along the track abutting the northern site boundary does not appear to be directly affected by the proposal. A note is recommended for the footpath to remain open at all times.

Severn Trent Water: No objection subject to note advising of need to obtain a building over agreement.

WCC Ecology: Recommend conditions requiring a copy of the Natural England bat licence to be submitted, supervision of destructive works by a reptile worker, protection of trees/hedges, and nesting bird and badger notes.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- DP15 - Accessibility and Inclusion (Warwick District Local Plan 1996 - 2011)
- RAP3 - Replacement Dwellings (Warwick District Local Plan 1996 - 2011)
- DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
- National Planning Policy Framework
- Sustainable Buildings (Supplementary Planning Document - December 2008)

PLANNING HISTORY

Permission was granted in 2007 for a replacement dwelling (W07/1460) and a material start has been made on this permission since part of the existing bungalow has been demolished, substantial excavation has been undertaken for the basement and the foundations have been partially completed. Permitted development rights for extensions were not removed at this time.

KEY ISSUES

The Site and its Location

The application site adjoins the northern edge of Lowsonford village, a small settlement in the Green Belt, and lies outside the Conservation Area. The old railway line forms the southern boundary of the site with the neighbour at Finwood View, and the public footpath following the line of Potato Lane runs along the northern side of the site. The existing dwelling is set well back from the road in an elevated position, behind a landscaped front garden that rises in level gradually from the road by about 6.5m. The site frontage with Lapworth Street is some 18m. The boundaries of the land under the applicants control are clearly defined by good tree lines to the north and west, so there are no open views of the site from surrounding land aside from slightly further up Lapworth Street which is higher.

Details of the Development

A replacement dwelling is proposed on three levels with a linear built form extending across the narrowest part of the site. The siting would be 6m further back from Lapworth Street than the existing dwelling, and 12m further back than the approved dwelling. The proposed dwelling is also moved 9m further away from the southern boundary than the existing dwelling, which is similar to the proximity of the approved dwelling. The building would have two ridge lines running the length of the building with a central valley, two gable ends to each side elevation and shallow projecting gables to ridge height on the front and rear. The building is of semi-traditional design with large chimneys at each end, brick headers to windows and overhanging eaves. Five en suite bedrooms would be provided on the first floor, living accommodation on the ground floor, and an extensive leisure, utility and garage area in the basement. The dwelling will be constructed on the existing site level which has already been excavated for construction of the basement of the approved replacement dwelling. The proposed ground level of the house would therefore be below the natural ground level of the site, with the proposed basement level below this. At the front of the house the existing levels would be retained to provide a large sunken area,

whilst at the rear further excavation is proposed to approximately double the existing sunken area. A small amount of the bank would be built up on the northern side of the house, above the proposed basement level garage which will be reached via a new driveway cutting with banked sides leading off the existing drive.

A driveway was originally proposed within a cutting leading from the front of the site to the sunken area at the front of the house, but this has been removed following negotiation, as have tall chimneys from each end of the house.

Assessment

Since a major part of the existing dwelling has been demolished, and there is no permission to replace the parts already demolished, there is only an extant permission for the construction of the replacement dwelling approved in 2007. The fall back position for development on the site is therefore the 2007 consent, against which any subsequent application must be judged although the partly demolished bungalow that exists on site is a material consideration to the case.

Impact on Green Belt and rural area

Since the dwelling is within the Green Belt, the NPPF and Local Plan Policy RAP3 apply. Replacement buildings are not inappropriate development within the Green Belt under the NPPF (paragraph 89), providing the new buildings are not materially larger than the one being replaced. In addition Local Plan Policy RAP3 requires that any replacement dwelling must have no greater impact on the character and openness of the rural area and must not be more dominant than the existing dwelling within the landscape.

The 2007 permission minimised visual intrusion into the landscape by virtue of its low profile design, compact form and horizontal visual emphasis. The architectural style of the dwelling, loosely based on the work of Frank Lloyd Wright, was not of a traditional rural character but the design respected the requirement for development to be as unobtrusive as possible within this undulating landscape. The design of the current proposal is still reminiscent of Arts and Crafts architecture with its steeply pitched overhanging roof, projecting gables and low profile design, but more traditional in form and character than the previous proposal. The design and character of the dwelling is considered acceptable in this rural context. The elevated site of the proposed dwelling increases the visual impact of any replacement dwelling upon openness and character since it appears more prominent in the landscape. The key views of the site are from Lapworth Street at the front of the site, and from the public footpath known as Potato Lane running alongside the site from front to rear.

The proposed dwelling is single storey in appearance when viewed from the lower level of Lapworth Street because only the first floor part of the house will be visible above the existing land levels. The approved dwelling incorporated a two storey 'tower' feature above part of the ground floor which had a marginally higher ridge line than the current proposal, but also meant that the bulk of the building was reduced when viewed from this direction. The main front elevation of the house now proposed is 5m wider and there is more roof slope presented to the road, but the dwelling appears single storey from this key perspective. The upper part of the ground floor level will be visible from the rear, so the dwelling will appear two storey from this perspective, however, the approved dwelling appeared three storey from these directions since the basement level

was served by high level windows. From the public footpath at the side the dwelling will appear two storeys with a basement garage below, whilst the approved dwelling was three storeys. An important consideration is the increased set back of the dwelling from the road of 12m which impacts on the height of development visible from Lapworth Street since this is at a lower level. The perspective view from the road shows that the approved dwelling would have appeared taller than the current proposal since it was nearer. The proposed dwelling is the same width as the approval when viewed from the footpath at the side.

The applicant has drawn attention to the extensions that could be added to the approved dwelling under permitted development rights, which if implemented would result in a front elevation nearly 4m wider than the current proposal. Since the approved dwelling has not been built or used as a dwelling the permitted development rights cannot be implemented, therefore this is not considered to be a realistic fall back position. For this to be considered as a realistic fall back position, recent case law suggests that there must be a clear intention to implement the rights, which must be demonstrated by the commissioning of architectural plans, the submission of a certificate of proposed lawful development and a building regulations application.

Taking these considerations into account, it is considered that there is some trade off between the scale, bulk and impression of the proposed and the approved dwelling in relation to the character and openness of the area. The approved scheme is dimensionally smaller than the proposed in bulk and appears of a more low lying unobtrusive design, whereas the proposed scheme is of a more traditional character with more visible roof slope, that is mainly single storey in appearance, and due to its further set back into the site will appear lower than the approved scheme. On balance each scheme is considered to have its own individual merits, and the impact on character and openness of the area is comparable. It is not considered that the proposed dwelling would appear more dominant in the landscape than the approved dwelling, and that it would not appear materially larger, therefore the proposal is considered to comply with the NPPF and Local Plan Policy RAP3.

Impact on neighbouring amenity

There is one adjoining residential neighbour on the southern side of the site who has raised objection. There is a substantial distance (some 45m) between the proposed replacement dwelling and this neighbour's dwelling, since this is located much closer to Lapworth Street. The proposed replacement dwelling is to be positioned further back into the site which will increase this distance, and it is considered that the proposed replacement dwelling would have less impact on the amenity of this property than either the existing dwelling or the approved replacement dwelling. The proposal is therefore considered to comply with Policy DP2.

Impact on ecology

A bat survey has been carried out to the satisfaction of the County Ecology service. Subject to their recommended conditions to protect bats, reptiles and vegetation, the impact on protected species and ecology can be satisfactorily mitigated. Several young trees would be removed as part of the scheme but these would not lead to an objectionable loss of biodiversity or amenity given their size and location, and areas for new tree planting are proposed. A condition requiring a landscaping scheme is considered reasonable to mitigate for the loss of biodiversity, in accordance with Policies DP3 and DAP3.

Sustainability

A Sustainable Buildings Statement has been submitted which sets out the efficiency measures that will be incorporated into the building, and includes the proposal to install a biomass boiler to provide the heating and hot water system, providing well in excess of the required 10% energy saving. A condition is imposed requiring the submission of further details in order to ensure that the appropriate model is chosen. Siting will be within the basement garage. It has been confirmed that proposed external surfaces will be porous and surface water will be discharged of using the existing soakaway as the proposal is a similar size to the existing dwelling. This approach would comply with Policies DP12, DP13, and DP11, and the Sustainable Buildings SPD.

CONCLUSION/SUMMARY OF DECISION

For the purposes of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, the proposed replacement dwelling is not materially larger than the approved dwelling and does not result in a greater impact on the character and openness of the rural area. The proposal is therefore considered to comply with the policies listed.

RECOMMENDATION

GRANT, subject to the conditions listed below.

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the application form, site location plan and approved drawing(s) (1102_101A & 1102_106A submitted on 17 May 2012. 1102_02B, 1102_04A & 1102_107C submitted on 28 May 2012), and specification contained therein. **REASON** : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 3 The development hereby permitted shall not be commenced unless and until a scheme showing how 10% of the predicted energy requirement of this development will be produced on or near to the site, from renewable energy resources, has been submitted to and approved in writing by the District Planning Authority. The development shall not be first occupied until all the works within this scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturers specifications. **REASON** : To ensure that adequate provision is made for the generation of energy from renewable energy resources in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.

- 4 A landscaping scheme, incorporating existing trees and shrubs to be retained and new tree and shrub planting for the whole of those parts of the site not to be covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted. Existing trees which are shown as being retained shall be dealt with in accordance with BS 5837:2005. In particular, before any materials are brought on the site or any demolition or development commenced, stout protective fencing should be erected to enclose the perimeter of the branch spread of each tree or shrub to be retained, together with the branch spread of any tree growing on adjoining land which overhangs the site. Such fencing shall be satisfactorily maintained until all development has been completed. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011.
- 5 The development hereby permitted shall not commence until a copy of the Natural England licence application that details the schedule of bat mitigation measures (to include timing of works, replacement roost details, monitoring and further survey if deemed necessary) has been submitted to and approved in writing by the District Planning Authority. Such approved mitigation measures shall thereafter be implemented in full. **REASON**: To ensure the protection of bats and compliance with Policy DP3 of the Warwick District Local Plan 1996-2011.
- 6 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any construction works are commenced. Development shall be carried out in accordance with the approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.
- 7 The development hereby permitted shall be undertaken in the presence of a qualified reptile worker, appointed by the applicant, to supervise all destructive works until the reptile worker is satisfied that the remaining works are unlikely to impact upon reptiles. Should any reptiles be found during this operation, then work must cease immediately whilst WCC Ecological Services are consulted for further advice. **REASON**: To ensure the protection of reptiles and compliance with Policy DP3 of the Warwick District Local Plan 1996-2011.
- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out which comes within Parts 1 and 2 of Schedule 2 of this Order. **REASON** : This site is within the Green Belt where the exercise of permitted development rights could result in a

dwelling substantially larger than that approved, which would be contrary to guidance within the National Planning Policy Framework and Local Plan Policy RAP3. It is considered appropriate therefore to retain control over future development to ensure that the openness and rural amenity of this locality is protected in accordance with the provisions of the NPPF and District Wide Policy RAP3 of the Warwick District Local Plan 1996-2011.
