

Planning Committee: 08 December 2010

Item Number: 6

Application No: W 10 / 0160

Registration Date: 15/02/10

Town/Parish Council: Warwick

Expiry Date: 12/04/10

Case Officer: Debbie Prince

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Cape Road, Lower Cape, Warwick

Proposed mixed use development for 16 residential properties and 6 employment type units with associated access and parking. FOR Mayfair Properties Midlands Ltd

This application is being presented to Committee as it is a major application and would be the subject of a Section 106 Agreement.

SUMMARY OF REPRESENTATIONS

Warwick Town Council: has no objection

Public response: One letter of objection has been received from a neighbouring company MPS on the grounds that the amended proposed development, incorporating the route of the cycleway joining the development on to Lock Lane will cause an unnecessary danger area at the point where pedestrians and cyclists exit the new developments onto Lock Lane. However, they feel that this can be remedied if the cycleway route is amended slightly.

British Waterways - has no objection

Warwickshire Police - has no objection

Inland Waterways - Comment the soft landscaping provided along the boundary of the canal should be designed to enhance the amenity value of this recreational route. The employment buildings provided should be of a scale so that their mass and height does not overpower the recreational route.

WCC Ecology - Have no objection subject to conditions to protect trees and notes regarding the protection of trees, birds, hedgehogs and watercourses.

WCC Highways - Comment that the cycleway route and the potential users of the cycleway are protected.

WCC Countryside Recreation - General observation - The area immediately adjacent to lock lane should be clear of any obstructions which would reduce visibility northwards to cyclists joining Lock Lane, which is also used by cars and commercial vehicles.

The Warwick Society - welcome the provision of open space adjacent to the canal and are keen to ensure that the cycleway and footpath is completed.

Community Protection Engineering Services - has no objection subject to conditions.

Environment Agency- has no objection subject to conditions.

Housing Strategy - has no objection subject to a Section 106 Agreement regarding affordable housing.

Environmental Health Officer -The general proposals for remediation are accepted subject to conditions.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- UAP2 - Directing New Employment Development (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- SC2 - Protecting Employment Land and Buildings (Warwick District Local Plan 1996 - 2011)
- Planning Policy Statement 25 : Development and Flood Risk
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)

PLANNING HISTORY

A small part of the site including the line of the new cyclepath and footpath was given consent by APP/T3725/A/05/1182389 and outline permission W/02/1691 for mixed use including B1 and B2 Use. W/07/1894 employment development class B1 and B2 pursuant to condition 1 of planning permission W/02/1691 was refused as although an area for flood mitigation measures was proposed a comprehensive flood risk assessment and mitigation scheme was not submitted.

KEY ISSUES

This is an outline application to establish the principle that this area of land, which was previously identified for employment only, can be used for a mix of residential and employment development, due to the economically onerous flood mitigation measures that are necessary before the site can be developed.

The Site and its Location

The application site which was cleared a number of years ago, lies to the rear and between the original terraced houses on Lower Cape and the existing industrial development on Lock Lane and to the south east of the canal.

Details of the Development

This is an outline application for a mixed use development of 16 residential properties and 6 employment type units with associated access and parking.

Assessment

This site was identified for employment use and this application is for outline permission for mixed residential and employment use. Hydraulic modelling has been carried out on the neighbouring watercourse which has shown that a large

part of the site could be at risk of flooding during a major flood event. Therefore before any development at this site can be commenced, flood mitigation works need to be carried out. The applicant states that the scale of these works are economically onerous and that the site cannot be successfully developed for employment purposes only.

Policy SC2 seeks to protect existing and committed employment land and buildings. The criteria whereby permission could potentially be granted for the loss of employment land relate to circumstances where:

- the site is not economically viable for an employment use; or
- the site is unsuitable for employment due to adverse impacts on adjoining residential areas; or
- the proposal is for affordable housing; or
- the proposal is for a non-housing use and would not impact upon the level or quality of the employment land supply.

In this particular case, only the first criterion could be applied to the proposal because the site forms part of a relatively recent permission where it was considered to be suitable for employment use.

The applicant has submitted independent financial information to demonstrate that the development of the site for employment use would not be viable but that the scheme could be made to work with a large proportion of the site in a residential use. The figures presented below do not include the land purchase price. The values have been checked by the Council's Estates Manager.

Summary of Financial Viability

	Approved Scheme: Employment	Proposed Scheme: Housing & Employment
Build Costs	£755,000	£1,717,000
Flood Mitigation Works	£563,000	£563,000
Total Costs	£1,318,000	£2,280,000
Sales Value	£498,064	£2,776,892

The financial information shows that, even without the cost of the mitigation works, the employment development option would not be viable at today's values. The appraisers have indicated that, if the purchase price of the land is added to the costs of the mixed use option, even that would only be marginally viable.

Under these circumstances and in the absence of any objections to the principle of this mixed use development it is my opinion that this outline proposal should be approved with all detailed matters reserved and subject to conditions and a Section 106 Agreement covering affordable housing, a contribution towards open space provision and a requirement that the employment development is carried out at the same time as the housing development.

RECOMMENDATION

GRANT, subject to the conditions listed below following the completion of a Section 106 Agreement covering affordable housing, a contribution towards open space provision, and a requirement that the employment development is carried out at the same time as the housing development.

CONDITIONS

- 1 This permission is granted under the provisions of Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995 as amended, on an outline application and the further approval of the District Planning Authority shall be required to the undermentioned matters hereby reserved before any development is commenced:-
 - (a) access (including internal roads, cycleway and footpaths)
 - (b) design
 - (c) landscaping
 - (d) layout

REASON : To comply with Section 92 of the Town and Country Planning Act 1990 as amended.
- 2 In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the District Planning Authority not later than the expiration of three years beginning with the date of this permission. **REASON**: To comply with Section 92 of the Town and Country Planning Act 1990.
- 3 The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved. **REASON** : To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 4 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) 010,011,D106 Rev P2, Figure 2 Constraints and specification contained therein, submitted on 12th February 2010 unless first agreed otherwise in writing by the District Planning Authority. **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.
- 5 The permission hereby granted is for a mixed development of housing, employment and as such the mix of uses shall be in broad compliance with the layout as detailed on Drawing Figure 2 Constraints. **REASON** : For the avoidance of doubt and to ensure compliance with the terms of the application.
- 6 The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants,

necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the District Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the District Planning Authority.

REASON : In the interests of fire safety.

- 7 Before any part of the development hereby permitted is commenced, an off-site surface water sewer shall be constructed in accordance with design details to be submitted to and approved in writing by the District Planning Authority. The details shall be in accordance with the Water Authorities Association current publication of 'Sewers for Adoption' and shall provide for a separate surface water connection to the nearby culverted watercourse.

REASON : To ensure satisfactory provision is made for the disposal of surface water and foul sewage and to satisfy Policies DP9 and DP11 of the Warwick District Local Plan 1996-2011.

- 8 No part of the development hereby permitted shall be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The submission shall include details of how the scheme shall be maintained and managed after completion. **REASON** : To ensure satisfactory provision is made for the disposal of surface water and foul sewage and to satisfy Policies DP9 and DP11 of the Warwick District Local Plan 1996-2011.

- 9 Before any part of the development is commenced the surface water storage area should be constructed in accordance with design details to be submitted and approved by the District planning Authority. The details shall provide for the surface water to be attenuated by storage, to balance discharge flows, ensuring that the flow leaving the site does not exceed 24 litres/second at the peak flow generated by rainfall from a 1 in 100 year storm plus 30% climate change.

REASON : To ensure satisfactory provision is made for the disposal of surface water and foul sewage and to satisfy Policies DP9 and DP11 of the Warwick District Local Plan 1996-2011.

- 10 Before any part of the development hereby permitted is commenced, details showing the existing and proposed finished levels of the site development shall be submitted to and approved by the District Planning Authority. The details shall safeguard against the flooding of properties and the finished floor levels shall be set 600mm above maximum flood level of 57.70mm for a 1 in 100 year storm plus 30% climate change. **REASON** : To ensure satisfactory protection is made for the properties against flooding in accordance with PPS25.

- 11 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 site, or in the locality, 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.

- 12 Prior to commencement of development, a report demonstrating that all long- term site remediation criteria have been met and a summary verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report should relate to the new proposed use of the land. **REASON** : To ensure the protection of controlled waters by verifying that all necessary remediation works have been carried out.
- 13 No development approved by this permission shall be commenced until:
(a) A site investigation has been designed using information obtained from the desk top study and any diagrammatical representations (Conceptual Model), and has been submitted and approved in writing by the District Planning Authority;
(b) The site investigation has been undertaken in accordance with details approved and a risk assessment has been produced;
(c) A method statement detailing the remediation requirements using the information obtained from the site investigation has been approved in writing by the District Planning Authority.
REASON : To ensure that the development complies with the approved details in the interests of protection of controlled waters and policy DP2 of the Warwick District Local Plan.
- 14 After the development hereby permitted has been developed, details showing "as built" plans of the surface water drainage system and associated attenuation scheme plans, sections and external levels shall be submitted to and approved to the satisfaction of the District Planning Authority. **REASON** : To ensure satisfactory protection is made for the properties against flooding in accordance with PPS25.
- 15 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Lower Cape, Warwick Final Report dated February 2010 and the following mitigation measures detailed within the FRA:
1. Limiting the surface water run-off to no greater than 24 litres per second during the 100 year 360 min storm and no more than 130 litres per second during the 100 year 30 min storm.

2. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.
3. Confirmation of the opening up of any culverts across the site.
4. Finished floor levels are set no lower than 58.3 m above Ordnance Datum (AOD).
5. No development within 4m of the edge of the culvert
6. Car parking be of permeable design in order to allow some infiltration and to aid water quality.

REASON : To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided. To ensure safe access and egress from and to the site. To reduce the risk of flooding from blockages to the existing culvert (s). To reduce the risk of flooding to the proposed development and future occupants. To allow for future maintenance of the culvert and allow some infiltration and aid water quality.

- 16 If during development, contamination not previously identified is found to be present at the site, no further development (unless otherwise agreed in writing with the District Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the District Planning Authority for an addendum to the method statement detailing how this unsuspected contamination shall be dealt with. **REASON** : To ensure that the development complies with the approved details in the interests of protection of controlled waters and policy DP2 of the Warwick District Local Plan.
- 17 The level of noise from the fixed plant and 'breakout' from the employment uses hereby permitted measured one metre from nearest noise sensitive properties shall not increase the background level. **REASON** : To protect the amenities of surrounding properties, in accordance with Policy DP2 of the Warwick District Local Plan.
- 18 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details. **REASON** : To ensure the protection of controlled waters by preventing the creation of preferential pathways for surface water and mobilising contamination.
- 19 Outdoor working associated with the employment uses hereby permitted (including loading/unloading) shall be restricted to between the hours of 07:00 and 19:00 Monday to Friday, 07:00 to 13:00 Saturday and not at any time on Sundays or Bank Holidays. **REASON** : To protect the amenities of surrounding properties, in accordance with Policy DP2 of the Warwick District Local Plan.

INFORMATIVES

For the purposes of Article 22 of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the applicants have successfully demonstrated that, even without the cost of the necessary flood mitigation works, the employment development option would not be viable at today's values. Furthermore, the proposed mixed use is acceptable and would not give rise to any harmful effects in terms of amenity of surrounding occupiers which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.
