

# Planning Committee

Minutes of the meeting held on Tuesday 3 March 2020 in the Town Hall, Royal Leamington Spa at 6.00 pm.

**Present:** Councillor Boad (Chairman); Councillors Ashford, R. Dickson, Falp, Grey, Jacques, Kennedy, Leigh-Hunt, Murphy, Tangri and Weber

**Also Present:** Civic and Committee Services Manager – Mrs Tuckwell; Committee Services Officer – Mr Edwards; Legal Advisor – Mr Howarth; Head of Development Services – Mr Barber; Business Manager-Development Management– Mr Sahota; Warwickshire County Council Highways Officer - Mr Pilcher; and Senior Environmental Health Officer - Mr Shirley

## 137. **Apologies and Substitutes**

- (a) There were no apologies made; and
- (b) Councillor Falp substituted for Councillor Heath, Councillor Grey substituted for Councillor Morris and Councillor Tangri substituted for Councillor Roberts.

## 138. **Declarations of Interest**

There were no declarations of interest.

## 139. **Site Visits**

To assist with decision making, Councillors Ashford, Boad, Dickson, Falp, Grey, Jacques, Kennedy, Leigh-Hunt and Tangri had visited the following application sites on Saturday 29 February 2020:

W/19/0860 – 6 Phillippes Road, Woodloes Park; and  
W/19/1858 – Former Tamlea Building, Nelson Lane, Warwick.

## 140. **Minutes**

The minutes of the meeting held on 4 February 2020 were taken as read and signed by the Chairman as a correct record.

## 141. **W/19/1858 – Former Tamlea Building, Nelson Lane, Warwick**

The Committee considered an application from Orbit Group Limited for the redevelopment of the former Tamlea Building for residential purposes, including the demolition of all existing buildings and creation of associated access, parking, landscaping and associated infrastructure.

The application was presented to Committee because five letters of support had been received and it was recommended for refusal.

The officer was of the opinion that material planning benefits could be identified as a result of the proposed development, including the provision of 29 affordable housing units and provision of economic benefits, such as employment opportunities and increased spending from future residents

## PLANNING COMMITTEE MINUTES (Continued)

within the District. Members of the public considered that the site had been vacant and out of use for a few years, leading to deterioration and degradation of the area and impacting local residents, as it created an unappealing and neglected feel to the area. They considered that the plans would create much-needed regeneration and investment and would improve the look of the whole road. Supporters also stated that the development matched the desire for the areas around the canals to be improved through regeneration and investment. The scheme was of a sensible size, would fit in well and would enhance the surrounding area.

Conversely, officers identified that the level of amenity for the future occupiers of parts of the development was poor and could be adequately mitigated if the number of units was reduced. The proposed garden sizes alone were sufficiently substandard, which would warrant reason for refusal. However, this combined with the fact that some of the occupiers would then be subject unacceptable noise disruption, further emphasised the harm caused. This could also preclude a lawful business from operating through noise complaints to the Council. Officers considered that the delivery of affordable housing should not be at the cost of acceptable living conditions. Officers also had concerns that approving such substandard living conditions could set a harmful precedent for future housing development more widely.

Therefore, on balance, it was not considered that the provision of 29 affordable housing units outweighed the substandard living conditions provided by the proposed development. It was recommended that planning permission should be refused on this basis.

An addendum circulated at the meeting advised that the agent had requested the following information to be presented to Councillors:

*"Proposed Living Conditions for the Future Occupiers*

*With reference to Kates Boats, Members have been advised in the report that the Canal and River Trust own the land on which Kates Boats operates. That is incorrect. The freehold of the buildings, car park and the 'boat building' are owned by Mr & Mrs Howes of Kates Boats, and they or their representative intend to speak at the Committee to address this matter next week.*

*Furthermore, as advised by the Environmental Health Officer at our meeting last year, the owners of Kates Boats intend to cease operations in Warwick with all activities moving to their Stockton Marina. The Applicant has therefore been in discussions with the owners, and now have an agreement with the owners to purchase the Kates Boats land and property.*

*This has a number of benefits for the proposed development (as well as surrounding residential properties). The removal of the 'boat building' and the source of the noise concerns raised by Environmental Health. Further, the ability to open up more of the view of the canal for some of the proposed properties through negating the need for the proposed brick wall to the rear of the 'boat building'.*

*This change in circumstances removes the main strand of the first reason for refusal in the recommendation, and the second reason for refusal*

## **PLANNING COMMITTEE MINUTES (Continued)**

*entirely. If it were to grant permission, the Applicant acknowledges the Council will wish to control the noise environment within the proposed development, and is therefore willing to accept a condition that requires the removal of the 'boat building' prior to occupation of the proposed dwellings. We would be happy to discuss the wording of any condition with you. Such condition would meet the relevant tests as there are now reasonable prospects of the action in question (removal of the 'boat building') being performed within the time-limit imposed by the permission.*

*In relation to garden sizes, the report refers to garden sizes of plots 2, 3, 4 and 16 being between 33.3 and 38.6 sq.m. That is incorrect, as plot 16 has a garden size of 43.4 sq.m. This garden is therefore only 6.6 sq.m (2m by 3.3m) below the Council's guidance.*

*The suggestion is made within the report that garden sizes could be increased by removing dwellings. As explained in previous meetings, to comply with the Council's guidance would require the removal of dwellings facing onto the canal to the detriment of the character and appearance of the Canalside Conservation Area. In any event, in the context of the Applicant owning the Kates Boats land, there is potential to increase garden sizes for plots 2, 3, 4, 16, 18 and 19 subject to a subsequent planning application.*

### *Conclusion*

*Finally, reference is made in the Conclusion to this proposed development setting a harmful precedent for future housing development more widely in relation to garden sizes. As the Council will be aware, each application is considered on its own merits. Indeed, the Council's Guidance itself recognises that garden sizes below the standards can be acceptable in certain cases. No precedent will be set from granting permission in this case."*

In response to these comments, officers clarified in the addendum that advice was given from the Council's Legal Services department, that the removal of the boat building and cessation of use of this part of the Kate's Boats site would need to be secured through a legal agreement, which had not been provided, and could not be secured by condition. Furthermore, officers were advised that it would be unreasonable to grant permission on the basis of a suitable legal agreement coming forward, as officers had no guarantee that the owners of Kate's Boats would agree to the demolition of the boat building.

Importantly, the addendum also advised that the removal of the boat building would not address the other reasons for the refusal of the application identified in the report.

The following people addressed the Committee:

- Mrs Howes, supporting;
- Mrs Rai, supporting; and
- Mr Stephens, supporting.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was

## PLANNING COMMITTEE MINUTES (Continued)

proposed by Councillor Murphy and seconded by Councillor Falp that the application should be refused.

The Committee therefore

**Resolved** that W/19/1858 be **refused** for the following reasons:

- (1) Policy BE3 of the Warwick District Local Plan 2011-2029 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development.

It is likely that an existing neighbouring industrial use would cause undue adverse noise disturbance for the future occupiers of four of the proposed properties. Furthermore, this is exacerbated by substandard garden sizes provided for six of the dwellings. Plot 16 is most severely affected by the substandard conditions provided, as they are likely to be impacted by noise disturbance from the boat yard and have a substandard sized private amenity area. It should also be noted that the gardens serving plots 1 - 4 and 18 - 20 would not be completely "private" as required by the Residential Design Guide as they benefit from railings along the rear boundary which allows views in from passers-by along the canal.

It is not considered that the adverse noise impacts have been reduced to a minimum as required by paragraph 180 of the NPPF.

The proposal is thereby considered to be contrary to the aforementioned policies and guidance;

- (2) Paragraph 182 of the NPPF states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

## **PLANNING COMMITTEE MINUTES (Continued)**

It has not been demonstrated that the proposal would not lead to unreasonable restrictions being placed on an existing business adjacent to the application site as a result of legitimate noise complaints which would likely be generated by the future occupiers of the development owing to the proximity of the proposed dwellings to an industrial activity.

The proposal is therefore considered to be contrary to the aforementioned policy; and

- (3) the application proposes the erection of a significant number of new dwellings and this would place significant pressure on local services. A development of this size would require significant additional capacity in terms of highways improvements, need for sustainable travel packs and road safety initiatives, education facilities, open space and indoor and outdoor sports facilities. No Unilateral Undertaking or Section 106 agreement has been submitted to secure contributions towards these facilities. Therefore, in the opinion of the Local Planning Authority, the application makes insufficient provision for the increased capacity in local services that will be required to serve the proposed development.

The proposal is therefore considered to be contrary to the Policies HS4 and DM1 of the Warwick District Local Plan 2011 - 2029.

### **142. W/19/0827 – Homebase Ltd, 46-48 Emscote Road, Warwick**

The Committee considered an application from Lidl Great Britain Ltd for the demolition of the existing building and erection of a Class A1 retail food-store with associated car parking, access, landscaping, substation and engineering works.

The application was presented to Committee because more than five letters of support had been received and it was recommended for refusal.

The officer was of the opinion that the proposed development was likely to result in the generation of significant traffic movements, which would lead to significant delays and further congestion along a route which already experienced a high level of congestion. Inadequate measures were proposed which did not mitigate the adverse impacts of such additional traffic generation and congestion. Furthermore, it was considered that the parking provision was inadequate in order to serve the development, which could lead to increased demands on nearby residents parking, leading to parking stress and a detrimental impact on neighbouring amenity. The

## **PLANNING COMMITTEE MINUTES (Continued)**

proposal was therefore considered to be contrary to Local Plan policies TR2, TR3, and BE3.

An addendum circulated prior to the meeting advised of an objection to do with congestion on Emscote Road and the size of the site being inappropriate having been received. A comment of support had also been received. The addendum advised that, in error, the following five paragraphs were missing from the Committee Report, in the section headed "Highway Safety and Traffic Generation":

*"WCC Highways have reservations about adopting the standard trip rates for discount stores available in the TRICS database. WCC Highways decided to develop a database of trip generation information to inform the assessment proposals of certain development types in Warwickshire. This decision was based on the lack of suitably representative and up to date site information being available on the TRICS database. The trip generation linked to certain types of development site has changed significantly in recent years as a result of changes in shopping behaviour and choice of travel modes. This approach has been adopted by other councils on the Midlands Service Improvement Group. Concerns over the apparent increase in footfall and trip generation linked to discount food stores, ensuring sites are geographically representative, a number of recent applications for increased parking provision in the County and known issues with access to discount supermarket sites highlighted this type of development as needing an increased level of scrutiny in the calculation of trip generation.*

*The applicant suggests that the proposed development should be assessed using the existing trip rates of one other discount store which was surveyed by WCC Highways, as this would be the most representative for the proposed development. However, the data collected by the Highways Authority across 9 sites surveyed shows that trip generation differences between days of the week and geographical location does not present a consistent picture across all datasets. When selecting sites in the TRICS database, the user must select a reasonable range of sites in terms of site size, to be both representative and not overly restrictive, in order to present a reasonable array of sites. Therefore, WCC Highways consider that the range of site sizes surveyed in Warwickshire is considered reasonable for this application, rather than just using one existing site as proposed by the applicant.*

*The applicant has provided further information using existing TRICS data in order to try and demonstrate that the development would not generate a significant increase in trip rates to the site, however, WCC Highways state that the TRICS data is not as accurate as the information they have collected, as the TRICS data is now three years old, not geographically representative, and has not used a range of discounter stores, using only data from Lidl stores. As the development would be for a discount retailer, rather than a personal permission for a Lidl store, using a broader range of information, to also include Aldi stores for example, would provide a more robust dataset which would be representative of the proposed use. Notably, WCC Highways inform that Lidl traditionally has fewer trip rates, therefore, it is important to consider the trip rates of competitors.*

## PLANNING COMMITTEE MINUTES (Continued)

*In terms of determining the severity of the impact on congestion, the WCC Model Use Protocol – Model Analysis and Reporting note highlights the following highway impact thresholds:*

*An impact on the network would be categorised as severe if it exceeds the following thresholds:*

*Queuing Criteria: An increase over 10 vehicles*

*Journey Time Criteria: An increase over 10%.*

*The analysis of the "with development" scenario using the WCC trip rates presented "severe increases" of journey times at the approach to Pickard Street junction, with additional delays between 10% and 13% compared to 2024 Reference Case scenario. Whilst the developer offers MOVA (Microprocessor Optimised Vehicle Actuation) as a potential mitigation strategy for this single junction (without sufficient supporting evidence), it is not clear how the knock-on impact of releasing this traffic could be mitigated on the further sections of the corridor which are already on MOVA and options for further mitigation are highly constrained by the built-up environment. Additionally, during the PM post-peak (18:00 – 19:00) the wider network presented "very severe increase" of delays when comparing the "with development" scenario with the Reference Case (+25%) and with the Local Plan scenarios (+30%)."*

The following people addressed the Committee:

- Mr Budd, supporting; and
- Mr Hardy, supporting.

The Head of Development Services clarified that it was up to Members to decide whether the data cited by the applicant, which was national data, was more relevant, or whether the data used by officers in the report and provided by Warwickshire County Council, which was local data and taken from 2019, was more likely to be accurate. It was clarified that the officers' recommendation was based on the Warwickshire County Council data, which they felt gave a better representation.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Falp and seconded by Councillor Kennedy that the application should be refused.

The Committee therefore

**Resolved** that W/19/0827 be **refused** for the following reasons:

- (1) Local Plan policy TR2 states that all large-scale developments that result in the generation of significant traffic movements should be supported by a Transport Assessment, and where necessary a Travel Plan, to demonstrate the practical and effective measures to be taken to avoid the adverse impacts of traffic.

The information submitted indicates that there would be severe levels of delay resulting from

## **PLANNING COMMITTEE MINUTES (Continued)**

additional trips to the site, significantly increasing journey times and adding to existing highway congestion. There is a lack of capacity for the existing highway network to cope with the additional trip generation. The measures proposed are considered to be inadequate and would not mitigate the adverse impacts of additional traffic generated as a result of the proposed development.

The proposal is therefore considered to be contrary to the aforementioned policy; and

- (2) Policy TR3 states that development will only be permitted which makes provision for parking. Policy BE3 states that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents.

The development has an under-provision of car parking by 65 spaces in accordance with the recommendations of the Vehicle Parking Standards. It is considered that it has not been adequately demonstrated that a departure from the standards would not lead to additional vehicles parking within the limits of the public highway. This is likely to cause harm to highway safety and inconvenience to road users.

The development is therefore considered to be contrary to the aforementioned policies.

(The meeting was adjourned for five minutes at 7:23pm for a comfort break.)

### **143. W/19/0860 – 6 Phillippes Road, Woodloes Park, Warwick**

The Committee considered a retrospective application from Mr Lakhbir Singh for the erection of 1.95m high fence and change of use of land from open space to garden land.

The application was presented to Committee because more than five letters of support had been received and the application was recommended for refusal.

The officer was of the opinion that the proposed re-siting of the fence was harmful to the character and appearance of the area. The development was also considered to be harmful to the amenity of 29 Brese Avenue, due to a significant breach of the 45-degree line from a ground floor window fitted within the principle elevation of the property, which served a habitable room. The development therefore conflicted with Local Plan Policies BE1 and BE3 of the Local Plan, the Residential Design Guide SPD and the NPPF.

An addendum circulated at the meeting advised that there had been a further objection received, stating that the site did not experience incidents



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of anti-social behaviour, dog fouling and littering any more regularly than anywhere else. It stated that the trees on the property were an eyesore but were planted by the previous owner of the property, and once removed, would make the area feel more open and safer. The tall fence made the footpath feel less safe. The objection explained that the Council contractors regularly cut the grass on the site and stated that the proposed fence would be out of character with the area and the Woodloes Park open landscape.

Following consideration of the report, presentation and the information contained in the addendum, it was proposed by Councillor Ashford and seconded by Councillor Weber that the application should be refused.

The Committee therefore

**Resolved** that W/19/0860 be **refused** for the following reasons:

- (1) Policy BE1 of the Warwick District Local Plan 2011-2029 states that development will only be permitted which positively contributes to the character and quality of the environment through good layout and design.

The Woodloes Estate is characterised by open plan frontages and green landscaping which gives the estate a pleasant, spacious and open character. In contrast, the re-sited fence results in the enclosure of green landscaping and results in a 1.95m high boundary treatment located adjacent to the public highway. This is not characteristic of this area and results in unacceptable harm to the character and appearance of the area.

The granting of planning permission for this fence would set an undesirable precedent which would make it increasingly difficult for the Council to resist similar future proposals relating to other residential properties in this development which cumulatively would result in serious harm to the open character of the estate.

The development is thereby considered to be contrary to the aforementioned policies; and

- (2) Policy BE3 of the Warwick District Local Plan 2011-2029 states that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents. The Local Planning Authority (LPA) has also adopted the 45 Degree Guideline as part of its Residential Design Guide SPD which

## PLANNING COMMITTEE MINUTES (Continued)

aims to prevent any unreasonable effect on the neighbouring property by reason of loss of daylight or sunlight and by creating an unneighbourly and overbearing effect.

In the opinion of the LPA, the development has an adverse impact on the living conditions of the occupiers of 29 Brese Avenue. The fence breaches the 45-degree line when taken from the mid-point of a window which serves a habitable room fitted within the front elevation of the single storey front extension. The development is therefore considered to have an unacceptable impact on the amenity of this neighbour by reason of loss of light and outlook.

The proposal is thereby considered to be unneighbourly and contrary to the aforementioned policy.

### 144. **W/19/1985 – 44-46 Queen Street, Cublington**

The Committee considered an application from Mr Khera for the erection of one front and one rear dormer windows and installation of a second floor side facing window to facilitate a loft conversion.

The application was presented to Committee because an objection had been received from Cublington Parish Council.

The officer was of the opinion that the proposed dormers were of an acceptable design in the context of the street scene and did not present an unacceptable level of amenity to the neighbouring properties in terms of light, outlook and privacy. Furthermore, the proposal provided sufficient parking to the rear of the building in accordance with the adopted standards.

Following consideration of the report, presentation and the information contained in the addendum, it was proposed by Councillor Weber and seconded by Councillor Jacques that the application should be granted.

The Committee therefore

**Resolved** that W/19/1985 be **granted** subject to the following conditions:

- (1) the development hereby permitted shall begin no later than three years from the date of this permission. **Reason:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended);
- (2) the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and

## **PLANNING COMMITTEE MINUTES (Continued)**

approved drawing(s) 1434-0500-01, and specification contained therein, submitted on 22nd November 2019, except as required by condition 4 below. **Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029;

- (3) all external facing materials for the development hereby permitted shall be of the same type, texture and colour as those of the existing building. **Reason:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy BE1 of the Warwick District Local Plan 2011-2029; and
- (4) notwithstanding the details shown on the approved drawings, the second floor side facing window hereby permitted shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view and shall be non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The obscured glazed window(s) shall be retained and maintained in that condition at all times. **Reason:** To protect the privacy of users and occupiers of nearby properties and to satisfy the requirements of Policy BE3 of the Warwick District Local Plan 2011-2029.

### **145. W/19/1987 – The Pheantry, Grovehurst Park, Stoneleigh**

The Committee considered an application from Mrs Besson for the erection of a single storey courtyard extension to kitchen & enlarged dormer to bedroom.

The application was presented to Committee because Stoneleigh Parish Council supported the application and it was recommended for refusal.

The officer was of the opinion that the proposed development, by virtue of its scale, massing and design, would result in less than substantial harm to the character and architectural significance of the Grade II Listed Pheantry and there were no public benefits identified that outweighed the harm.

Following consideration of the report and presentation, it was proposed by Councillor Falp and seconded by Councillor Ashford that the application should be refused.

The Committee therefore

## PLANNING COMMITTEE MINUTES (Continued)

**Resolved** that W/19/1987 be **refused** because Policy HE1 of the Warwick District Local Plan 2011-2029 states that consent will not be granted to alter or extend a listed building where those works will adversely affect its special character or historic interest, integrity or setting.

In the opinion of the Local Planning Authority, it is viewed that the proposed extensions and alterations to the Pheantry would result in material harm to the setting and form of the heritage asset, failing to preserve its historic integrity and character. This is a result of the proposed works compromising the existing courtyard space of the site that contributes to the setting and significance of the building. It is also considered an inappropriate design and facing materials have been proposed.

The proposal is thereby considered to be contrary to the aforementioned policy.

### 146. **W/19/1988/LB – The Pheantry, Grovehurst Park, Stoneleigh**

The Committee considered an application from Mrs Besson for the erection of a single storey courtyard extension to kitchen & enlarged dormer to a bedroom.

The application was presented to Committee because Stoneleigh Parish Council supported the application and it was recommended for refusal.

The officer was of the opinion that the proposed development, by virtue of its scale, massing and design, would result in less than substantial harm to the character and architectural significance of the Grade II Listed Pheantry and there were no public benefits identified that outweighed the harm.

Following consideration of the report and presentation, it was proposed by Councillor Falp and seconded by Councillor Leigh-Hunt that the application should be refused.

The Committee therefore

**Resolved** that W/19/1987/LB be **refused** because Policy HE1 of the Warwick District Local Plan 2011-2029 states that consent will not be granted to alter or extend a listed building where those works will adversely affect its special character or historic interest, integrity or setting.

In the opinion of the Local Planning Authority, it is viewed that the proposed extensions and alterations to the Pheantry would result in material harm to the setting and form of the heritage asset, failing to preserve its historic integrity and character. This is a result of the proposed works compromising the

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existing courtyard space of the site that contributes to the setting and significance of the building. It is also considered an inappropriate design and facing materials have been proposed.

The proposal is thereby considered to be contrary to the aforementioned policy.

### **147. W/19/2128 – Intwood, Leamington Road, Bubbenhall**

The Chairman informed Members that this item had been withdrawn by officers following publication of the agenda.

An addendum circulated prior to the meeting advised that this item had been withdrawn from the agenda because the objection raised by Cubbington Parish Council was not made on material planning grounds. The objection related to the loss of trees that were not protected, had been removed and the Local Planning Authority had no powers to require replacement trees in these circumstances. The removal of the trees whilst the application was being determined was not in breach of planning control and was not a material planning consideration in the assessment of the application for a replacement dwelling.

The application would therefore be determined under delegated powers.

### **148. Planning Appeals Report**

Members received a report from officers outlining the existing enforcement matters and appeals currently taking place.

**Resolved** that the report be noted.

(The meeting ended at 7.51pm)

CHAIRMAN  
26 May 2020