

# PLANNING COMMITTEE

Minutes of the meeting held on Tuesday 19 March 2013 in the Town Hall, Royal Leamington Spa at 6.00 pm.

**PRESENT:** Councillor Illingworth (Chairman); Councillors Mrs Blacklock, Mrs Bromley, Brookes, Cross, Ms De-Lara-Bond, MacKay, Weed, Wilkinson and Williams.

Councillor Cross substituted for Councillor Rhead.

## 196. **DECLARATIONS OF INTEREST**

Minute Number 202 – W12/1517 – The Lodge, Oakley Woods Crematorium, Newbold Road, Bishops Tachbrook

In response to a query, the Council's solicitor advised the Committee that it was up to Councillor Cross, as a member of the Executive, to decide what level of interest he had in the item and whether or not he should participate.

Each member of the Committee declared an interest because the applicant was Warwick District Council.

Minute Number 203 – W13/0023 – 41 Clinton Lane, Kenilworth

Councillor Mrs Blacklock declared that she was a Ward Councillor for the site in question.

Minute Number 204 – W13/0073 – 6 Purton Mews, Sydenham, Royal Leamington Spa

Councillor Weed declared that she was a Ward Councillor for the site in question.

Minute Number 205 – W13/0075 LB – 12 Russell Terrace, Royal Leamington Spa

Councillor Wilkinson declared that he was the applicant and that he would withdraw from the meeting for the duration of the item.

All other members of the Committee declared that the applicant was known to them.

## 197. **SITE VISITS**

No site visits had taken place in relation to this meeting.

## 198. **MINUTES**

Minutes of previous meetings were not presented for consideration.

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

### **199. W13/0154 – 6 HASELEY CLOSE, LEAMINGTON SPA**

The Committee considered an application from Mrs Naylor-Smith for change of use from dwelling house (Use Class C3) to a House in Multiple Occupation (HMO) (Use Class C4) to accommodate up to four people sharing.

This application was presented to the Committee because a number of objections had been received.

The officer considered the following policies to be relevant:

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)  
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)  
DP6 - Access (Warwick District Local Plan 1996 - 2011)  
DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)  
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)  
DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)  
SC1 - Securing a Greater Choice of Housing (Warwick District Local Plan 1996 - 2011)  
SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)  
Open Space (Supplementary Planning Document - June 2009)  
Vehicle Parking Standards (Supplementary Planning Document)  
Sustainable Buildings (Supplementary Planning Document - December 2008)  
National Planning Policy Framework

It was the officer's opinion that the development would be of an appropriate scale and did not adversely impact upon the character of the area or the amenities of the occupiers of surrounding properties. The proposal was therefore considered to comply with the policies listed.

Mr Brown addressed the Committee, stating that he had lived in the area for 30 years, it was predominantly a family area and that considerable problems had been caused by a single person who had moved into the area in the past. Fear of crime was a significant concern for local people who were worried that a House in Multiple Occupancy would have a detrimental effect. Parking was a significant problem, there had been issues with people parking on pavements and blocking in neighbours, and considerable levels of noise from the current occupant of the property. Mr Brown believed that a House in Multiple Occupancy would compound parking problems. Neighbours were concerned about the amount of rubbish left in front of the house, that there should be adequate waste disposal and that occupants should take pride in where they lived.

Following consideration of the report and presentation, along with the representation made at the meeting, the Committee was of the opinion that the application should be granted in accordance with the recommendations in the report.

**RESOLVED** that W13/0154 be GRANTED subject to the following conditions:

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

- (1) the development hereby permitted shall begin not 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); and
- (2) the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) Ground floor plan and first floor plan dated February 2013, and specification contained therein, submitted on 11th February 2013. **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.

(Councillor Brookes joined the meeting during the course of this item but took no part in its resolution)

### **200. ENF 067/10 – LAND AT THE STABLES, THE CUMSEY, PINLEY GREEN**

The Committee considered a report in respect of unauthorised use of an outbuilding for separate domestic residential purposes.

The report was presented to the Committee in order to request that enforcement action be authorised.

The officer considered the following policies to be relevant:

DP1 - Layout and Design

RAP1 - Directing New Housing

RAP4 - Providing Rural Affordable Housing

RAP5 - Housing for Rural Workers

National Planning Policy Framework: paragraphs 17, 49, 51, 55 and 87

The outbuilding was currently in use for separate domestic residential purposes. Whilst there was evidence that it had been in similar use for many years, to date insufficient evidence had been provided to demonstrate, on the balance of probabilities, that such use had taken place over an unbroken period of four years. In that respect, two applications seeking a Certificate of Lawful Development for such use had been refused.

Over the period January 2008 to July 2009, whilst parts of the building were occupied, evidence submitted to date was that such occupation was in exchange for services provided to the occupants of the adjacent property. In that respect the legal advice provided to officers was that this may indicate that the property was being used as accommodation ancillary to the main dwelling, rather than as a separate dwelling house. That being the case, in the circumstances where evidence was produced to demonstrate an unbroken separate domestic use since July 2009, such use

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

would not become lawful and therefore immune from enforcement action until July 2013.

It was the officer's opinion that the permanent establishment of a new residential use in this location would comprise unsustainable sporadic residential development in the open countryside to which there was an objection in principle.

Such development, by definition, would not enhance the vitality of existing settlements and would inevitably lead to the increased urbanisation of this part of the open countryside to the detriment of its character and visual amenities. Were it to become lawful, the development would also accrue permitted development rights enabling the undertaking of further built development without the need for planning permission, inevitably impacting upon the openness of the Green Belt to the extent that it could comprise inappropriate development.

Notwithstanding the extent of previous use of the premises for domestic residential purposes and the owner's provision of a Counsel's opinion that residential use had become lawful, it was considered that there was evidence as a matter of fact that such use had not yet become lawful.

In view of the extent and nature of the existing and potential planning harm arising from the residential use, in the absence of the voluntary resolution of this matter, it was considered appropriate and proportionate to seek to resolve the matter by means of the service of an Enforcement Notice.

The Committee noted further information submitted by the owner of the site prior to the meeting which comprised an aerial photograph of the site, a timeline of occupation and other details for consideration. The information provided referenced an informal view given by one officer which the officer presenting the report stated that he did not agree with. The presenting officer added that he had taken legal advice prior to making the recommendation before the Committee.

Following consideration of the report and presentation, the Committee was of the opinion that enforcement action should be authorised in accordance with the recommendation in the report.

**RESOLVED** that ENF067/10 be AUTHORISED, directed at the permanent cessation of the use of the outbuilding for separate domestic residential purposes with a compliance period of six months.

### 201. **W12/1218 – EVERSLEIGH NURSING HOME, 2-4 CLARENDON PLACE, ROYAL LEAMINGTON SPA**

The Committee considered an application from Mrs Kandola for the construction of a new access lift from the front entrance, a rear glazed link and a replacement workshop in the rear of the garden, with the removal of an existing brick outbuilding shed and two small trees.

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

This application was presented to the Committee because a number of objections had been received.

The officer considered the following policies to be relevant:

Residential Design Guide (Supplementary Planning Guidance - April 2008)  
TCP10 - Protecting the Residential Role of Town Centres (Warwick District Local Plan 1996 - 2011)

DAP6 - Upper Floors within Listed Buildings and Conservation Areas (Warwick District Local Plan 1996 - 2011)

DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)

It was the officer's opinion that the proposal represented good design and would not cause unacceptable harm to the architectural and historic character of the Conservation Area within which the site was located.

Furthermore, the proposal would not cause unacceptable harm to the living conditions of the occupants of nearby residential properties. The proposal was therefore considered to comply with the policies listed.

Following consideration of the report and presentation, the Committee was of the opinion that the application should be granted in accordance with the recommendations in the report, subject to an additional condition requiring the instatement of a tree to the rear of the property in lieu of the one to be removed, and a note to the applicant requesting that disturbance be kept to a minimum for neighbours during the exam period.

**RESOLVED** that W12/1218 be GRANTED subject to the following conditions:

- (1) the development hereby permitted shall begin not 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 approved drawing(s) 09;04:13, 09:04:12, 09:04:08, 09:04;10 and specification contained therein dated 28th September 2012, except where modified by the following conditions. **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) no development shall be carried out on the site which is the subject of this permission, until large scale details of doors, windows and roof

## PLANNING COMMITTEE MINUTES (Continued)

of the lift shaft (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON:** To ensure an appropriate standard of design and appearance within the Conservation Area;

- (4) notwithstanding the details of the approved plans modified plans shall be submitted of the rear glazed link to show the pitched roof of the stairwell sloping away from the buildings rather than into the lightwell and its relationship with existing first floor bedroom windows  
**REASON:** In the interests of visual amenity and the living conditions of occupants; and
- (5) within six months of the implementation of the works hereby approved the planting of a replacement tree (to replace the Alder shown to be removed) shall be undertaken and shall be maintained in strict accordance with a schedule of maintenance for the tree until successfully established in accordance with details to be submitted and approved in writing by the Local Planning Authority. Such details shall also include details of the species and siting of the proposed tree. The tree shall be planted in accordance with British Standard BS4043  
– Transplanting Root-balled Trees and BS4428  
– Code of Practice for General Landscape Operations (excluding hard surfaces). If within a period of five years from the date of planting the tree (or any other tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree(s), or in accordance with any variation for which the local planning authority give their written consent. **REASON:** In the interests of the visual amenities and natural environment of the locality in accordance with Policies DP3 of the Warwick District Local Plan 1996-2011.

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

### **202. W12/1517 – THE LODGE, OAKLEY WOODS CREMATORIUM, NEWBOLD ROAD, BISHOPS TACHBROOK, LEAMINGTON SPA**

The Committee considered an application from Warwick District Council for change of use from residential property to office and display area in connection with the operational use of the Crematorium.

This application was presented to the Committee because the applicant was Warwick District Council and the scheme could not therefore be considered under delegated powers.

The officer considered the following policies to be relevant:

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)  
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)  
DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)  
RAP6 - Directing New Employment (Warwick District Local Plan 1996 - 2011)  
RAP7 - Converting Rural Buildings (Warwick District Local Plan 1996 - 2011)  
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)  
DP8 - Parking (Warwick District Local Plan 1996 - 2011)  
Vehicle Parking Standards (Supplementary Planning Document)  
Sustainable Buildings (Supplementary Planning Document - December 2008)  
National Planning Policy Framework

It was the officer's opinion that the proposed office use was acceptable in principle and that associated alterations would respect the scale, design and character of the original building without harming the general openness or rural character of the countryside/ancient woodland within which the building was situated. The proposal was therefore considered to comply with the policies listed.

Following consideration of the report and presentation, the Committee was of the opinion that the application should be granted in accordance with the recommendations in the report.

**RESOLVED** that W12/1517 be GRANTED subject to the following conditions:

- (1) the development hereby permitted shall begin not 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 approved drawing(s) HPS/CL/03 and HPS/CL/04, and specification contained

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

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) no roofing materials shall be used on the canopy extension hereby permitted other than materials similar in appearance to those used in the construction of the exterior of the roof of existing building. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the amenities of the locality in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011; and
- (4) the office use hereby permitted shall be restricted to that ancillary to the use of the Crematorium. **REASON:** An open office use in this isolated location would not be in accordance with the sustainability objectives of the National Planning Policy Framework 2012.

### **203. W13/0023 – 41 CLINTON LANE, KENILWORTH**

The Committee considered an application from Mr and Mrs King for the erection of a rear conservatory.

This application was presented to the Committee because an objection had been received from Kenilworth Town Council.

The officer considered the following policies to be relevant:

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)  
Sustainable Buildings (Supplementary Planning Document - December 2008)  
Residential Design Guide (Supplementary Planning Guidance - April 2008)  
DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)  
DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)

It was the officer's opinion that the proposed single storey rear conservatory was acceptable in terms of its character and appearance within the street scene and did not significantly impact on the amenities of surrounding neighbours or the Conservation Area such as would support a reason for refusal in accordance with Warwick District Council Local Plan

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

Policies DP1, DP2, DP3, DP12, DP13, DAP8 and DAP9. It was therefore considered to comply with the policies listed.

Following consideration of the report and presentation, the Committee was of the opinion that the application should be granted in accordance with the recommendations in the report.

**RESOLVED** that W13/0023 be GRANTED subject to the following conditions:

- (1) the development hereby permitted shall begin not 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 approved drawing 2012.046 1A, and specification contained therein, submitted on 9th January, 2013. **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) no development shall be carried out on the site which is the subject of this permission, until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON:** To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy DAP8 of the Warwick District Local Plan 1996-2011; and
- (4) prior to the occupation of the development hereby permitted, the conservatory windows in the South elevation 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 windows shall be retained and maintained in that condition at all times. **REASON:** To

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

protect the privacy of users and occupiers of nearby properties and or the privacy of future users and occupiers of the development hereby permitted and to satisfy the requirements of Policy DP2 of the Warwick District Local Plan 1996-2011.

### **204. W13/0073 – 6 PURTON MEWS, SYDENHAM, LEAMINGTON SPA**

The Committee considered an application from Mrs Branscombe for a change of use from Use Class C3 (dwelling houses) to Use Class C4 (Houses in Multiple Occupation (HMO)).

This application was presented to the Committee because an objection had been received from Royal Leamington Spa Town Council.

The officer considered the following policies to be relevant:

National Planning Policy Framework

DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)

DP8 - Parking (Warwick District Local Plan 1996 - 2011)

It was the officer's opinion that due to the small amount of existing HMOs within the area, the proposed change of use would not lead to an over concentration of HMOs within the area and therefore would not have an adverse impact on the amenity of nearby uses in accordance with Policy DP2. Also, due to the existing on-road parking provision, it was felt there was sufficient capacity for the site not to provide off-road parking provision and that the proposal was therefore consistent with Policy DP8 of the Warwick District Local Plan 1996-2011.

Following consideration of the report and presentation, the Committee was of the opinion that the application should be granted in accordance with the recommendations in the report.

**RESOLVED** that W13/0073 be GRANTED subject to the following condition:

- (1) the development hereby permitted shall begin not 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); and
- (2) the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan submitted on 22nd January 2013. **REASON:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick

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

District Local Plan 1996-2011.

### 205. **W13/0075 LB – 12 RUSSELL TERRACE, LEAMINGTON SPA**

The Committee considered an application from Mr Wilkinson for the removal of a window to the rear wall of a utility room, enlargement of the opening and installation of purpose-made French doors.

This application was presented to the Committee because the applicant was an elected Warwick District councillor.

The officer considered the following policies to be relevant:

DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)

DAP7 - Restoration of Listed Buildings (Warwick District Local Plan 1996 - 2011)

DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

It was the officer's opinion that the proposed doors would be an appropriate alteration to a listed building and complied with the relevant policies. The materials and design were acceptable. As such, the application should be recommended for approval.

Following consideration of the report and presentation, the Committee was of the opinion that the application should be granted in accordance with the recommendations in the report.

**RESOLVED** that W13/0075 LB be GRANTED subject to the following conditions:

- (1) the works hereby permitted shall begin not later than three years from the date of this consent. **REASON:** To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) 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 approved drawing(s) 17:14 3-01-13, and specification contained therein, submitted on 24/01/2013. **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; and

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

- (3) all window and door frames shall be constructed in timber and shall be painted and not stained. **REASON:** To ensure a high standard of design and appearance for this Listed Building, and to satisfy Policy DAP4 of the Warwick District Local Plan 1996-2011.

(Councillor Wilkinson left the meeting for the duration of this item)

206. **ENF 498/48/12 – SHANY’S SPICE, 30 REGENT STREET, LEAMINGTON SPA**

The Committee considered a report in respect of unauthorised alterations to a Grade II Listed Building.

The report was presented to the Committee in order to request that enforcement action be authorised.

The case officer considered the following policies to be relevant:

DP1: Layout and Design

DAP4: Protection of Listed Buildings

DAP8: Protection of Conservation Areas

National Planning Policy Framework: paragraphs 131 and 133

Unauthorised alterations to this Grade II Listed Building within the Leamington Spa Conservation Area had been identified as comprising the installation of illuminated and non-illuminated advertisements at ground and first floor levels.

Investigation commenced in November 2011. During contact with the proprietor, officers had advised that consent would be unlikely to be granted for the signage and sought the voluntary resolution of the above matters. To date, three unauthorised advertisements had been voluntarily removed, but a number of others still remained.

The building was prominently located in the Conservation Area within a terrace of similarly protected buildings. It was considered that the remaining unauthorised signage, by reason of its design, materials, positioning and illumination (in part), detracted from the classical simplicity of the building and the setting of its neighbours to the detriment of their historic character and appearance. It was also considered that the unauthorised signage did not preserve or enhance the character and appearance of the Leamington Spa Conservation Area.

In the absence of any public benefits sufficient to outweigh the harm identified above, the unauthorised signage was considered to be contrary to the National Planning Policy Framework and the above listed policies.

In view of the absence of the voluntary resolution of this matter and the extent of on-going resultant planning harm, it was considered that the service of a Listed Building Enforcement Notice was required in order to remedy this situation.

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

Following consideration of the report and presentation, the Committee was of the opinion that enforcement action should be authorised, with a compliance period of two months, in accordance with the recommendations in the report.

**RESOLVED** that ENF498/48/12 be AUTHORISED, directed at the removal of the unauthorised signage and all means of illumination with a compliance period of two months.

(The meeting ended at 7.40 pm)