

**Planning Committee:** 06 November 2019

**Item Number:** 5

**Application No:** [W 19 / 0423](#)

**Town/Parish Council:** Lapworth

**Case Officer:** Ragu Sittambalam

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**Registration Date:** 14/03/19

**Expiry Date:** 09/05/19

**Annexe at Yew Tree Cottage, Old Warwick Road, Lapworth, Solihull, B94  
6BA**

Erection of dwelling including demolition of existing barn. FOR Mr & Mrs Nelson  
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This application is being presented to Committee due to an objection from the Parish Council having been received.

**RECOMMENDATION**

That the planning application is GRANTED subject to conditions.

The recommendation is subject to resolution of outstanding matters relating to Ecology, an update will be provided to Members in advance of committee.

**DETAILS OF THE DEVELOPMENT**

The application seeks planning permission to;

- Demolish an existing barn and ancillary outbuildings
- Erect a one and a half storey dwelling of a gable form (l:7.56m x w:12.96m x h:3.21-5.47m eaves-ridge). The property would benefit from openings to all elevations with rendered exterior and tiled roof covering.
- The dwelling would be served off the existing access with an in-curtilage parking/turning area proposed.

The site is subject to the following environmental constraints;

- Within Green Belt

**THE SITE AND ITS LOCATION**

The application site lies to the north side of Old Warwick Road, outside the main built up area of Lapworth Village. The area proposed for development sits within the extended curtilage of Yew Tree Cottage, a character property set on a substantial plot. To the east of the property is a large outbuilding set toward the highway with a fence and hedgerow boundary treatment.

**PLANNING HISTORY**

**W/12/0731** - Conversion of existing outbuilding to triple garage unit with addition of pitched roof

**GRANTED** 21/08/12

**W/18/2116** - Application for a certificate of lawfulness for proposed conversion of existing barn to residential use  
**WITHDRAWN** 20/11/18

**W/18/2553** - Prior Notification Application for change of use from B8 (Storage/Distribution) to C3 (Dwelling)  
**GRANTED** 21/01/19

### **RELEVANT POLICIES**

- National Planning Policy Framework
- The Current Local Plan
- DS5 - Presumption in Favour of Sustainable Development (Warwick District Local Plan 2011-2029)
- DS18 - Green Belt (Warwick District Local Plan 2011-2029)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029)
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029)
- BE3 - Amenity (Warwick District Local Plan 2011-2029)
- TR1 - Access and Choice (Warwick District Local Plan - 2011-2029)
- TR3 - Parking (Warwick District Local Plan - 2011-2029)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029)
- Guidance Documents
- Residential Design Guide (Supplementary Planning Document- May 2018)
- Parking Standards (Supplementary Planning Document)

### **SUMMARY OF REPRESENTATIONS**

#### **Lapworth Parish Council (1st Consultation) - Objection**

The Parish Council objects on the basis there is no exceptional reason for a new property in the Green Belt.

#### **Lapworth Parish Council (2nd Consultation) - Objection**

Lapworth Parish Council maintains its original objection - no exceptional reason for new property in the Green Belt. However if one is permitted that there should be a covenant so that it remains part of this property and cannot be sold independently onto the market.

#### **Lapworth Parish Council (3rd Consultation) - Objection**

Re-Comment upon the revised plan 16th Sept 2019

The applicant appears to have started with an application for an annex extension utilising an existing barn, kennels, plus opening an old driveway onto the Old Warwick Road. This driveway they formally declared as a dangerous exit onto the Old Warwick Road. Consequently, they gained permission for a new drive plus gateway to exit onto Grove Lane. This new drive onto Grove Lane is now frequently used by Yew Tree Cottage.

It now appears there is a completely new plan to build a new detached house utilising the declared 'dangerous' drive. This proposed new build is not sited

upon the original barn footprint for which the 'annex' application was earlier submitted. In addition, they have marked the outline for a garden and car parking. All detached from their existing Yew Tree Cottage.

On the application as proposed 'this annex' would appear to be a plan for siting of a new detached house. This begs the question, why do they need an additional house?

Once a precedent is established other new homes may follow upon this green belt and surrounding areas.

### **WCC Highways - No Objection**

### **WCC Ecology - Additional Information Required**

The application site is adjacent to Ecosite and part potential Local Wildlife Site 'Ostrich Farm' and is located in an area of optimal habitats for foraging bats and there are numerous bat records in the surrounding area. As demolition of barns is proposed an initial bat survey and nesting bird survey (including a survey for barn owl) by a qualified ecologist is required prior to determination of the application.

### **Neighbour Consultation**

During the consultation period 2 objections were received over multiple consultations raising the following issues;

- Concerns over new dwelling in Green Belt
- Highway safety
- Conflicts with existing business in the area

Issues around the widening/formation of a new access were also raised however this does not form part of the application proposal. In addition, issues arising during construction were also raised but are not a material planning consideration.

### **ASSESSMENT**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF operates under a presumption in favour of sustainable development. It states that development proposals, which accord with the development plan, should be approved without delay. The adopted Development Plan where the site is located comprises of the Warwick District Local Plan (WDLP).

The main considerations in the assessment of this application are;

- Principle of Development
  - Sustainability
  - Green Belt
  - Fall-back Position
  - Summary
- Visual Impact

- Amenity
- Ecology
- Transport

## Principle of Development

### *Sustainability*

*The NPPF seeks to promote sustainable development with paragraph 8 providing the starting point against which the sustainability of a development proposal should be assessed. This identifies three dimensions to sustainable development - an economic element, a social element and an environmental element which are interdependent and need to be pursued in mutually supportive ways.*

*DS5 of the WDLP reflects the NPPF's presumption in favour of sustainable development.*

*H1 of the WDLP sets out where housing is permitted within the district, including within Limited Infill village boundaries such as Lapworth. The policy allows for exceptions within the open countryside subject to certain strict criteria.*

The site is located outside the village boundary of Lapworth and the proposals would not comply with any of the exceptions that allow for development outside the settlement boundary. Therefore the proposals conflict with Local Plan Policy H1. However, in this case there is a fall-back position that will be dealt with below.

### Green Belt

*DS18 of the WDLP sets out that the Council will apply national planning policy to proposals within the green belt.*

*Paragraph 145 regards the construction of new buildings as inappropriate in the Green Belt, with an exception under (g) being for limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. Furthermore, exception (d) allows for the replacement of existing buildings is remaining in the same use.*

The proposal would meet these exceptions because it would involve the demolition of an existing building considered previously developed land and its replacement with a building that is not materially larger. Therefore the proposals represent appropriate development within the Green Belt and comply with Green Belt policy.

### *Fallback Position*

Such matters have been established through case law to be a valid consideration in the determination of planning applications through *Mansell v Tonbridge And Malling Borough Council* [2017] EWCA Civ 1314 whereby it was established at the Court of Appeal that fall-back may be a material planning consideration for an alternative development scheme. This court case is similar to the current

proposals in that the fallback related to an approval under Part 3 of the GPDO for the conversion of a building to a dwelling.

In applying the case law to this application notwithstanding policy, the current building could be converted to a residential dwelling under the terms of the extant Prior Approval. The differences in this proposal is that the application would demolish the existing building and erect a new dwelling set further back from the road as opposed to conversion, with the footprint measuring the same but with a height increase to the ridge of 20cm.

### *Summary*

A new dwelling in this location would be contrary to Local Plan Policy H1. However, there is an established fall-back position to allow for the conversion of the existing building to a new dwelling under Part 3 of the GPDO. It is therefore considered on balance that the principle of development is acceptable. Given the nature of the fall-back position as an exception, it is considered prudent to remove permitted development rights.

### Visual Impact

*Section 12 of the National Planning Policy Framework (NPPF) places significant weight on ensuring good design which is a key aspect of sustainable development and should positively contribute towards making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving character, the quality of an area and the way it functions.*

*BE1 of the WDLP reinforces the importance of good design stipulated by the NPPF subject to detailed criteria to ensure that new development is permitted where it will positively contribute to the character and quality of its environment through good layout and design.*

The visual impact of the proposal is not considered to give rise to adverse impact being in a relatively enclosed area and of an appearance that would largely reflect that of the existing outbuilding. It is noted that the siting of the proposal would limit the prominence of the building. A condition to secure material samples has been added in the interests of visual amenity.

The visual impact is therefore considered acceptable in accordance with BE1 of the WDLP and the NPPF.

### Amenity

*Paragraph 127 of the NPPF states that planning decisions should in (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

*BE3 of the WDLP sets out that development will not be permitted that has an unacceptable adverse impact on the amenity of nearby uses and residents*

*and/or does not provide acceptable standards of amenity for future users and occupiers of the development*

The site is set within the extended curtilage of Yew Tree Cottage; it is considered that the changes to the siting of the building would not comparatively have a substantive change in terms of amenity impacts compared to if the outbuilding was simply converted.

The impact on amenity is considered acceptable in accordance with BE3 of the WDLP and the NPPF.

### Ecology

The application involves demolition of a barn to allow for the development which has been subject to consultation with the County Ecologist (CE). The application has been supplemented with a bat survey.

*Paragraph 170 of the NPPF sets out that planning decisions should contribute to and enhance the local environment by minimising impacts on and providing net gains for biodiversity.*

*NE3 of the WDLP states that development proposals will be expected to protect, enhance and/or restore habitat biodiversity and where this is not possible, mitigation or compensatory measures should be identified accordingly.*

The CE has set out that further information is required with the additional information under consideration. The recommendation as set out is on the basis that matters relating to ecology can be suitably resolved with recommended conditions imposed. Members will be updated on this matter at Planning Committee.

### Transport

Transport matters are considered in consultation with Warwickshire County Council's Highways Development Management team (HDM). There is no alteration to the access proposed with an in-curtilage parking provision of three spaces. Concerns raised during public consultation relating to this issue has been addressed in this section.

*Paragraph 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

*Policy TR1 of the Warwick District Local Plan requires all developments to provide safe, suitable and attractive access routes for all users that are not detrimental to highway safety.*

*Policy TR3 requires all development proposals to make adequate provision for parking for all users of a site in accordance with the relevant parking standards.*

*The Parking Standards SPD sets out the parking requirements for new developments within the District.*

With no objection raised by HDM and no alterations to the access point proposed, it is considered that the conversion to a dwelling would not adversely affect highway safety. The parking provision would comply with the Council's Parking Standards.

### **SUMMARY/CONCLUSION**

The main planning considerations in determining this application have been set out and considered above stating accordance with relevant Local Plan Policy. The application has also been considered against the relevant sections within the National Planning Policy Framework (NPPF) and there is not considered to be any conflict between the local policies and the NPPF on the matters of relevance in this case.

The application has addressed the main considerations and given the permitted fall-back position, provides a substantive basis to permit the development. The proposal is therefore supported subject to resolution of outstanding matters relating to ecology.

### **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);

A202 - Proposed New Dwelling

Including specification contained therein, submitted to the LPA on 16/09/19.

**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 The development hereby permitted shall not be occupied unless and until a scheme showing how a water efficiency standard of 110 litres per person per day based on an assumed occupancy rate of 2.4 people per household (or higher where appropriate) will be achieved has been submitted to and approved in writing by the Local Planning Authority. No dwelling/ unit shall be first occupied until the works within the approved scheme have been completed for that particular dwelling / unit in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **REASON:** To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policy FW3 of the Warwick District Local Plan 2011-2029

- 4 The development hereby permitted shall not be occupied unless and until the car parking and manoeuvring areas indicated on the approved drawings have been provided and thereafter those areas shall be kept marked out and available for such use at all times.

**REASON:** To ensure adequate off-street car parking and servicing facilities in the interests of highway safety in accordance with Policy TR3 of the Warwick District Local Plan 2011-2029.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no further development shall take place within the curtilage of any dwellinghouse hereby permitted. **REASON:** Since planning permission has been granted on the basis of the fallback position provided by Class P, Part 3 of the GPDO, for which permitted development rights are removed.

- 6 No development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

**REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029.

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