

Planning Committee: 27 May 2015

Item Number: 15

Application No: [W 15 / 0528](#)

Town/Parish Council: Leamington Spa

Case Officer:

Anne Denby

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Registration Date: 10/04/15

Expiry Date: 05/06/15

36 Berenska Drive, Leamington Spa, CV32 5WB

Erection of two-storey dwelling to side of existing property FOR Mr Smoult

This application is being presented to Committee following a request by Councillor Goode and due to the number of objections having been received.

RECOMMENDATION

Planning Committee are recommended to GRANT planning permission subject to the conditions listed.

DETAILS OF THE DEVELOPMENT

Erection of a new dwelling.

The new dwelling is to be attached to the south of the existing dwelling at No.36 Berenska Drive. It will be 5.32m in width and 9.3m in depth. The eaves will be at height of 4.6m, the same as the existing dwelling with the ridge height set slightly lower than the existing at 7.5m.

The dwelling will be set back partially at ground floor and 1 metre at first floor. The dwelling will be 2.7m from the southern boundary with properties on Wathen Road. The existing detached garage at the site will be demolished and 3 parking spaces provided to the front of the proposed dwelling. An additional parking space is proposed to the front of the existing dwelling.

The applicant has submitted a Planning Statement, Tree Survey and Energy Statement in support of their application. The Planning Statement sets out details of the existing site, proposed development and planning history. It states that the proposals respect the character of the surrounding area by being of similar design and incorporating a set-back, providing sufficient parking and retaining planting to the boundary and it therefore does not adversely impact on the conservation area. The report concludes that the proposals are considered appropriate for the site and responds well to the surrounding buildings and therefore complies with all the policies in the local plan, SPG and the NPPF.

The Tree Survey identifies existing trees at the site and their root protection areas. The report is from a previous scheme for a detached dwelling at the site

and does not refer to the development proposed as part of this current application. It can therefore only be referred to for survey purposes.

The Energy Statement identifies that the most suitable low carbon or renewable technology systems are photovoltaics and air source heat pump. These have been indicated on the submitted plans.

THE SITE AND ITS LOCATION

The application relates to a semi-detached property situated at the head of the cul-de-sac. The site forms part of a development built in the 1980's of largely semi-detached properties set in a staggered layout on the west side of Berenska Drive. From the adopted turning head the site is accessed via a private drive which also serves adjacent dwellings. Off street parking together with a detached double garage are situated to front of the property.

Properties on Wathen Road back onto the southern boundary of the application site, which also forms the boundary of the Royal Leamington Spa Conservation Area (the application site is outside the Conservation Area). There are existing trees situated along or adjacent to this boundary which screen the application site from the properties on Wathen Road. The site backs onto Oak Tree House on Lillington Road.

PLANNING HISTORY

W/86/910 - Erection of 54 dwellings - Granted, 5th November 1986.

W/88/1269 - Erection of a detached double garage – Granted, 18th October 1988

W/06/0458 - Erection of a two storey side and front extension - Granted, 22nd June 2006.

W/09/0689 - Erection of detached dwelling - Withdrawn, 6th November 2007

W/09/1528 - Erection of detached dwelling - Refused, 27th April 2010 and subsequently dismissed at appeal on 15th October 2010 (appeal ref: APP/T3725/A/10/2131403/WF)

The details of the Inspectors report and reasons for dismissing the appeal can be summarised as follows:

- The estate is laid out in a pleasing rhythm of mainly semi-detached houses and the street scene has an open character.
- The space between the new house and the host property would be very narrow giving a cramped appearance and proposed parking would give a congested appearance contrary to the relaxed layout of houses and parking in the area.
- Proposed rear garden would have a very irregular shape and although not viewed from the surrounding area with the concerns above would be inappropriate in its context and would fail to improve the character and quality of the area.

- Gardens provide a pleasant and mainly undeveloped buffer between the modern estate and the traditional development on Wathen Road. The proposed dwelling would infringe on this area and adversely affect the setting of the Conservation area.
- The proposed design of the dwelling in particular a large box dormer to the rear would be out of keeping with the character of the surrounding area.
- Effect of losing a tree to the boundary would not have a significant impact on the character and appearance of the area.
- The proposals would not accord with the layout and design aims of Policy DP1 and the aim of Policy DAP8.
- The proposals would not result in harm to living conditions of existing or future occupants or highway safety

W/14/1715 - Erection of two-storey dormer bungalow - Refused, 9th February 2015

W/15/0570 - Erection of dormer bungalow - Pending, recommended for refusal - also to be considered at Planning Committee on 27 May 2015

RELEVANT POLICIES

- National Planning Policy Framework
- The Current Local Plan
 - 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)
 - DP6 - Access (Warwick District Local Plan 1996 - 2011)
 - DP8 - Parking (Warwick District Local Plan 1996 - 2011)
 - DP11 - Drainage (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)
 - UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
 - DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- The Emerging Local Plan
 - H1 - Directing New Housing (Warwick District Local Plan 2011-2029 Publication Draft April 2014)
 - BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
 - BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
 - TR1 - Access and Choice (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
 - TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
 - CC3 - Buildings Standards Requirements (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
 - HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

- NE4 - Landscape (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- Guidance Documents
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- Vehicle Parking Standards (Supplementary Planning Document)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Distance Separation (Supplementary Planning Guidance)
- Sustainable Buildings (Supplementary Planning Document - December 2008)

SUMMARY OF REPRESENTATIONS

Leamington Town Council: Comments awaited - to be reported in update report.

WCC Highways: No objection

WCC Ecology: "I have read the arboricultural report submitted with the application and I note two trees are proposed to be removed. I recommend a note relating to bats is attached to any approval granted. I would also recommend that the trees, along with any shrubs that may be impacted on, are inspected for nesting birds immediately prior to removal should works be carried out between March – September, the nesting bird season. There will be a biodiversity loss on site due to the works, I recommend new planting is proposed on site to mitigate for this. Indigenous tree and shrub species should be used, preferably of local provenance as such plants have a far higher value for local wildlife than cultivated, non-native plants".

Cllr Goode: Commented on the application and stated that many of the Inspector's comments on the previous refusal for the site still apply and requested that the application be presented to Planning Committee.

Public Response:

9 objections have been received. The details of these objections can be summarised as follows:

- The proposals are out of character with the surrounding area. Creates an end-terrace and large area of parking to frontage.
- The proposal is a contrived infill and results in cramped, over-development.
- The set back is not sufficient to continue the rhythm of development within the existing streetscene.
- Adversely impacts on the adjacent Conservation Area.
- Loss of trees.
- Impact to properties on Wathen Road from visual intrusion, adverse impact on outlook and overlooking.
- Wathen Road is at a lower ground level and therefore the impact is exacerbated.
- Will result in overlooking to 31 Berenska Drive.
- Parking and access. The site is at the end of a cul-de-sac and vehicles are unable to turn and there is limited parking.
- Increased flood risk.

- The proposals are the same as previously refused twice before with only small changes. Previous reasons for refusal still stand.
- Impact of construction noise / traffic on adjacent properties.

Following the receipt of amended plan 1 further objection has been received stating that original objections to the proposals still stand.

In response to the objection received the applicant has made comments in support of his application. The comments can be summarised as follows:

- Any trees that are removed would be replaced with native trees and bushes to create a natural screen to Wathen Road.
- The existing trees are not native and shouldn't have been allowed to grow so vigorously. They allow nothing to grow underneath them.
- Adjacent residents in Wathen Road could plant trees in their gardens if they have concerns with privacy issues and bird life, etc.
- The existing garage is of sectional concrete construction and so would be easily dismantled prior to start on site and removed with minimal dust, noise and disruption and this would provide for parking of workmen's vehicles and storage of materials.
- Materials will need to be delivered to the site on large vehicles although there is a turning circle just down the cul-de-sac which is regularly used by larger vehicles, such as refuse collections.
- Will try and ensure minimum disruption to adjacent residents and liaise with them about preferred delivery times.
- Proposals accord with Council guidelines, provide parking and will not result in significant overlooking.
- Noise and disturbance during construction will be kept to a minimum and work hours set out by the Council adhered to.
- Layout and design contribute positively to the cul-de-sac. Materials will match the existing building, and proposals reinforce existing stagger and are subservient to the existing building.

Assessment

The main considerations in the determination of this application are:

- Principle of development
- The impact on the character and appearance of the area.
- The impact on adjacent properties
- Access and parking.
- Energy Efficiencies / CO2 reduction.
- Trees/ Ecology
- Health and wellbeing

Principle of development

Policy UAP1 of the adopted Local Plan directs new dwellings to previously developed sites in the urban areas. Although garden land is not previously developed land, the NPPF encourages LPA's to create policies which allow development on garden land provided it does not harm the character and

appearance of the area. As such, the proposal is considered acceptable in principle, subject to compliance with the other relevant policies in the Local Plan.

The impact on the character and appearance of the area

This 1980's residential development is predominantly characterised by similarly designed pairs of two-storey semi-detached properties laid out in a staggered arrangement set behind gardens and driveways with off street parking to the front and gardens to the rear. This gives the street scene a degree of uniformity.

The existing dwelling has a larger garden than the adjacent houses which adds to the spatial quality of the area and the streetscene has an open character. The proposed dwelling would reduce the existing openness of the plot and would affect the character of the plot. The proposals are for an extension to the existing property to create a single dwelling which would be of similar design and proportions both in footprint and elevation are similar to the existing development on Berenska Drive.

The proposed dwelling is set back of 0.45m from the existing dwelling and 2.7m metres away from the southern boundary (reducing to 2.4m at the rear) reflecting the existing staggered arrangement. The proposed dwelling incorporates a set-back and lower ridge line than the existing dwelling. This reduces the overall prominence of the new dwelling when viewed within the streetscene and the separation distance retained to the southern boundary aids in retaining the open character of the plot.

The design of the proposed dwelling is in keeping with the established character of the area and reflects the design of an extension previously approved at the application site. The dwelling incorporates roof pitch and form in keeping with existing adjacent properties and replicates the same porch and window size/design as on the existing dwelling at the application site and other dwellings in the vicinity.

The site does adjoin the boundary of the Conservation Area and whilst not within the Conservation Area it would have an impact on its setting. The existing garden area to the adjacent properties on Wathen Road and that at the application site do provide a buffer between the built development. The proposed dwelling would reduce this buffer, however, the erection of a new dwelling as an extension rather than a separate dwelling as previously proposed, does ensure that adequate separation to the southern boundary remains. The existing trees and planting to the southern boundary are proposed for retention and the Conservation Officer has not raised any concerns with the current submission.

The current proposals are considered to differ from the previously refused schemes for a detached dwelling and overcome the Inspector's concerns and reasons for dismissing the appeal. In his report the Inspector concluded that he found no harm with regard to the issues of living conditions or highway safety, however, he found harm to the character and appearance of the area including the setting of the Royal Leamington Spa Conservation Area.

The proposed design is considered to sit more comfortably with the existing properties and the street as a whole. In addition, the proposals retain a separation to the site boundary and existing planting ensuring the overall open and bosky character of the plot is retained. The proposal is therefore considered to comply with Policy DP1 of the Local Plan.

The impact on adjacent properties

The proposed dwelling would not breach the 45 degree line when measured from the existing property. Whilst the rear garden of the existing dwelling would be reduced in size to accommodate the additional dwelling and the garden which would be retained by no. 36 would be of a more unconventional configuration, I am of the view that it would provide an adequate external amenity space to satisfy the requirements of this size of dwelling. In the absence of specific standards relating to amenity space, I feel it would be difficult to sustain a refusal of planning permission on grounds of an inadequate provision of external amenity space in this case. In the case of the proposed dwelling, the rear garden would be larger than other properties in the area, and it would be large enough to serve the requirements of future occupiers. Overall, I am therefore of the view that the proposal would not result in material harm to the living conditions of the occupiers of that property or to the existing property.

The side (south) elevation of the proposed dwelling would be set approximately 17.5 metres from the rear elevation of 13 and 14 Wathen Road. This is in excess of the minimum distance separation standard of 12 metres as set out in the Council's Distance Separation SPG. There is a level change with the properties in Wathen Road being at a ground level approximately 1.5m lower than the application site. The separation distance, however, does exceed the minimum requirement and is sufficient to mitigate against any increased impact the change in level creates. I am therefore of the view that the proposal would not cause material harm to the living conditions of the occupiers of these properties.

The proposed dwelling will be set approximately 9.5 metres from the boundary with No. 31 Berenska Drive. Whilst there may be increased opportunity for overlooking as there is 1 window to the front at first floor level for a bedroom window it is not considered that this would be to the detriment of residential amenity. The ground floor windows proposed will not result in significant increased levels of overlooking due to the boundary treatment in place to No.31 Berenska Drive. Therefore, overall the proposals are not considered to result in material loss of privacy such as to justify a refusal of planning permission in this case and the proposal is considered to comply with Policy DP2 of the Local Plan.

Access and Parking

The existing double garage is to be demolished as part of the proposed development which will enable 3 surface parking spaces to be accommodated off street. A further parking space will be provided directly in front of the existing dwelling. A total of 4 parking spaces will therefore be provided which would satisfy the requirements set out in the Council's Vehicle Parking Standards SPD.

Concerns have been raised with regards to the use of these spaces and the need for vehicles to reverse out onto Berenska Drive. The parking arrangement as

shown is similar to that considered under previous applications for detached dwellings at the site. In assessing the appeal against an earlier refusal the Inspector considered that the arrangement would be tight if all four spaces were occupied. However, he stated that Berenska Drive is a cul-de-sac where vehicular movements are limited and traffic moves slowly. The Inspector considered that even if all of the cars left the site by reversing out into the road this would be unlikely to present a material hazard to highway safety. Furthermore, he considered that this arrangement would not be unusual as parking arrangements for most of the houses in the road probably involves cars reversing out on to the highway and therefore the proposals accorded with local policy.

A tracking drawing has been requested to demonstrate that cars can enter and leave in a forward gear. However, taking into consideration the Inspector's comments, I do not consider it would be essential to demonstrate that every space can be accessed in this manner. The Highways Authority have raised no objections on highway safety grounds and therefore the proposals are considered to be acceptable.

Energy Efficiencies / CO2 reduction

The Sustainable Buildings Statement submitted with this application indicates that 3 photovoltaic panels fixed to the southern side elevation and an air source heat pump, also to the southern elevation could provide for a minimum of 10% of the predicted energy requirement of the proposed dwelling. An appropriately worded condition could be imposed on any approval to ensure these measures are delivered.

Trees/ Ecology

The existing garden enjoys a mature landscape with a variety of trees, shrubs and hard landscape features. The most significant tree (T7) is a semi-mature Cedar Tree which will be retained and has been provided with sufficient room to develop to a mature size. In addition a Western Red Cedar (T6) and 2no. Birch trees (T1 & 2) will also be retained.

The existing Eleagnus which is actually located in the garden of an adjacent property in Wathen Road will not be required to be cut back, as per previous schemes, and the other trees (T4 & T5) will also be retained though the closest Fir Tree (T4) may need to be cut back to facilitate the new dwelling.

Whilst these trees provide a pleasant screen at the rear of some of the properties on Wathen Road, they are not widely visible from public vantage points and are therefore not considered to make such a valuable contribution to the amenity of the area such as to justify a Tree Preservation Order or indeed to refuse planning permission for the proposed development.

Conditions requiring details of a landscaping scheme and tree protection measures to be submitted and approved by the Local Planning Authority prior to commencement can be added to any approval granted as per the County Ecologist's recommendation.

Health and Wellbeing

There are no health and wellbeing issues raised by this scheme.

Summary / Conclusion

The proposal would retain the open character of the existing plot and the size and design of the proposed dwelling is in keeping with that of the existing dwelling and the site and overall character of the surrounding area and provides an acceptable level of amenity for existing and future occupants and therefore complies with the Policies listed and the NPPF.

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 ref:1068-0200, and specification contained therein, submitted on 8th April 2015 and approved drawing ref:1068-0505-A, and specification contained therein, submitted on 6th May 2015.
REASON: For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 3 The development hereby permitted shall only be undertaken in strict accordance with details of both hard and soft landscaping works which have been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing, which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of similar size and species, unless the local planning authority gives written consent to any variation. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies DP1, DP2 and DP3 of the Warwick District Local

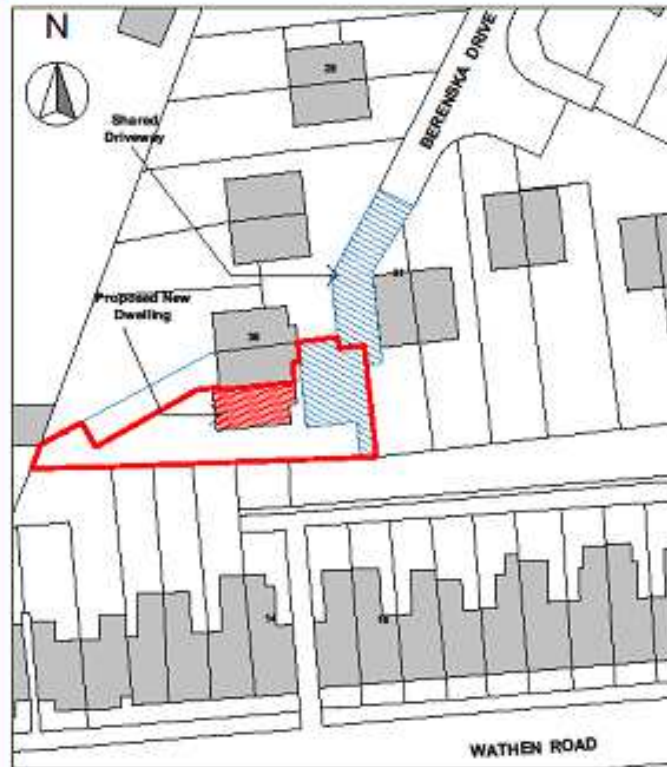
Plan 1996-2011.

- 4 No development or other operations (including demolition, site clearance or other preparatory works) shall be commenced until adequate steps, which shall have been previously approved in writing by the local planning authority, have been taken to safeguard against damage or injury during construction works (in accordance with Clause 7 of British Standard BS5837- 2012 Trees in Relation to Design, Demolition & Construction) to all tree(s) on the site, or those tree(s) whose root structure may extend within the site and which are within the Conservation Area. In particular no excavations, site works, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the canopy of any protected tree(s); no equipment, machinery or structure shall be attached to or supported by a protected tree(s); no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area, or any other works be carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and that no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s). **REASON:** To protect those trees which are of significant amenity value to the area and which would provide an enhanced standard of appearance to the development in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011.
- 5 The development hereby permitted shall not be first occupied unless and until the renewable energy scheme submitted as part of the application has been wholly implemented in strict accordance with the approved details. The works within this scheme shall be retained at all times thereafter and shall be maintained strictly in accordance with manufacturer's specifications. Microgeneration equipment no longer needed for microgeneration shall be removed as soon as reasonably practicable. **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.
- 6 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 DP1 of the Warwick District Local Plan 1996-2011.
- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no windows or openings (apart from any shown on the approved drawings) shall be formed at first floor level in the southern facing elevation of the dwelling hereby approved without the written approval of the local

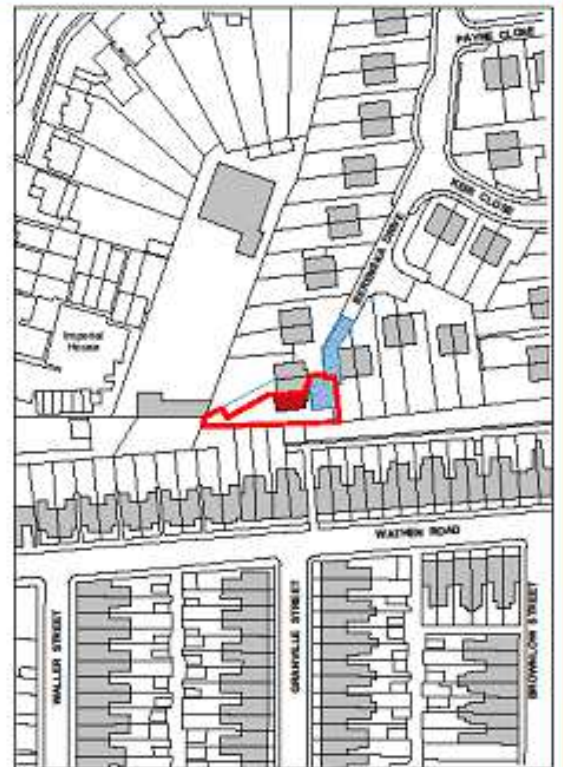
planning authority and if any additional windows are subsequently approved they shall only be glazed or re-glazed in accordance with such approved details and any opening part of any window shall be at least 1.7m above the floor of any room in which the window is installed.

REASON: To ensure the amenities of adjoining properties are not detrimentally affected through overlooking or loss of privacy in accordance with Policy DP2 of the Warwick District Local Plan 1996-2011.

- 8 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 that a satisfactory provision of off-street car parking and turning facilities are maintained at all times in the interests of the free flow of traffic and highway safety in accordance with Policies DP6 & DP8 of the Warwick District Local Plan 1996-2011.



Block Plan
1:500



Site Location Plan
1:1250

