

PRINCIPAL ITEM NO. 7

TOWN: WHITNASH

APPLICATION NO. W20031330

DATE OF RECEIPT: 20.8.2003

CASE OFFICER: MR A. COLEMAN

**LAND OFF MONTGOMERY ROAD, WHITNASH**

Outline Planning Application for Residential Development for Milcel Limited.

**THE SITE AND ITS SURROUNDINGS**

The site is owned by the District Council and comprises allotment land that occupies an area of approximately 1 ha. The site is situated to the north of existing dwellings in Dobson Lane and Allibone Close where it adjoins the western boundary of Whitnash Primary School and the southern boundary of the Royal Leamington Spa cemetery. The rear gardens of recently constructed dwellings at 2-16 Cobham Green / 71-85 Montgomery Road adjoin the site to the west.

The site slopes gently from east to west and contains a number of mature trees and shrubs. A public footpath (Henry's Way) adjoins the southern boundary of the site between Montgomery Road to the west and the Whitnash Community Centre to the east. There is a footpath link with Dobson Lane from where vehicular access is also gained. The allotments are currently unused and are overgrown.

**DETAILS OF THE DEVELOPMENT**

Outline Planning Permission is sought for residential development of the site. All matters apart from means of access are reserved for future consideration. Primary access to the site is proposed from Montgomery Drive via an existing spur between Plots 79 and 81. Secondary access would be retained from Dobson Lane.

Alternative provision for 1 ha. of allotment land to replace the site is proposed to be made on land fronting Harbury Lane that was granted planning permission for use as Public Open Space on (WDC Ref: W). Pedestrian access to this site will be available from Ridesnell Grove with vehicular access and car parking via Harbury Lane.

**PLANNING HISTORY**

Planning permission for the use of the site as an extension to the Cemetery was granted on 8 December 1976 under application W761040 as part of a larger site of approximately 4.8 ha. The major balance of this site extended southwards and was included within a larger site of 9.6 ha. that incorporated a larger area of allotments to the west. Outline planning permission for residential development of this site was granted in 1990 under application W900332 and was allocated for residential development in the Local Plan as an Urban Housing Allocation. Detailed planning permission was granted on 21 March 1997, subject to a Section 106 Agreement, under application W960999. This permission has been implemented and is largely complete.

Under the terms of planning permission W760332 the site was to be retained in allotment use until required for cemetery purposes. An area of approximately 0.7 ha. was converted for such purposes under the terms of this permission.

In 1986 planning permission was granted for the change of use of the remaining 2 ha. of the site from cemetery extension land to allotments under application W86/740. This remains the authorised planning use of the site. The current application relates to the re-development of half of this allotment land for housing. As a consequence, the remaining 1 ha. of land to the north of

the application site would therefore remain with extant planning permission for allotment use.

## **RELEVANT POLICIES**

The Development Plan includes the Warwickshire Structure Plan of 2001 and the Warwick District Local Plan 1995. Policy ER.7 of the Structure Plan states that informal recreational facilities should be protected for their recreational value in Local Plans. Policy (DW) RL6 of the Local Plan states that:

*“Proposals which involve the development of allotments will not be permitted unless:-*

- They involve sites which are specifically allocated for housing development in this Local Plan;*
- Alternative provision is made in the locality.”*

Policy (DW) ENV3 requires all development proposals, *inter alia*, to harmonise with their surroundings in terms of design and land use.

More recent planning guidance regarding the re-development of allotment sites is given in Planning Policy Guidance Note 17: *Planning for Open Space, Sport and Recreation* (2002). In essence, this requires the applicant to demonstrate that new land will substitute for the loss of open space:

*“The new land and facility should be at least as accessible to current and potential new users, and at least equivalent in terms of size, usefulness, attractiveness and quality. Wherever possible, the aim should be to achieve qualitative improvements to open spaces, sports and recreational facilities.”* (Para. 13)

With regard to developments within open spaces Local Planning Authorities are also encouraged to ensure that all proposed development takes account of, and is sensitive to, the local context i.e. avoid any erosion of recreational function and maintain and enhance the character of open spaces; ensure that open spaces do not suffer from increased overlooking, traffic flows or other encroachment; protect and enhance those parts of the rights of way network that might benefit from open space, and; consider the impact of any development on biodiversity and nature conservation (para. 16 & 17).

Advice on the criteria to use in the assessment of appropriate locations for new areas of open space, sports and recreational facilities is also given in paragraph 20.

## **CONSULTATIONS**

Whitnash Town Council: No objection but comments that:-

- “a) Steps should be taken to prevent a rat run through the development*
- b) The land in question has a covenant, which should be reviewed*
- c) Planning gain from the development needs to be a condition for community services in Whitnash”*

Highway Authority: No objection, subject to the secondary access from Dobson Lane being linked to the primary access from Montgomery Road by way of an emergency access and conditions regarding minimum carriageway width and visibility splays.

Action 21: *“In summary Action 21 is concerned that the development of Dobson Lane allotments for housing without full and thorough consultation and promotion is contrary to National Planning Policy Guidance, the Warwick District Local Plan, the Warwick District Community Plan and the new Corporate Strategy. Further it contradicts specific past resolutions of Warwick District Council. We are also concerned that it will further reduce future quality of opportunities for local people in Whitnash. Finally it contradicts the Agenda 21 ethos of finding local solutions to global problems.”* (A full copy of this letter has also been circulated to members of the Planning Committee.)

Neighbours: Letters of objection have been received from residents of 14 Kennan Avenue and 14a Kenilworth Road, Leamington Spa on similar grounds to those summarised above.

One letter also received from a Radford Semele resident requesting toilet provision on any new replacement allotments. It is also noted that the new local plan will contain a stronger presumption against building on an open space and the Committee are urged to consider this application very carefully.

## **COMMENTS**

In my opinion the main issue raised by the application relates to the principle of development.

PPG3: *Housing* supports the use of previously-developed land for housing in preference to Greenfield sites. The definition of previously-developed land is given in Annex C. However, allotments are excluded from the definition. As such, I consider the proposals should therefore be assessed against the provisions of Local Plan Policy (DW) RL6 and the relevant advice contained in PPG17.

In support of the proposals the following statement has been submitted by the Head of Leisure and Amenities:-

*“Warwick District Council is the landowner of this site, and on this occasion, wishes to assist in the process of determining the application. Warwick District Council has owned the site since it came into its possession in 1974, and it has been held primarily as a potential extension to the adjacent Leamington Cemetery (also operated and maintained by Warwick District Council). It was put into allotment use whilst the land was not needed for the aforementioned purpose, and actually managed by Whitnash Town Council. However, Whitnash Town Council gave us notice to terminate the lease, as a result of there being insufficient demand for this particular site (only 4 allotment gardens were being tended), at a time when there were sufficient spaces to accommodate these at the Golf Lane allotment site.*

*It should be noted that it was always the intention of Leisure and Amenities to remove the allotment site when the land was needed for the burial ground extension, and indeed this is likely to be the case within the next 2 or 3 years. However, Leisure and Amenities has reviewed its expected requirement for the land, which is approximately 5 acres, and have decided that it is unlikely to need more than half of this (approximately 2½ acres), due to slowing down in the number of burials being carried out as a percentage to cremations, and the likelihood of changes to the legislation in the near future which will allow burial sites to be re-used after 50 years has passed.*

*Under these circumstances, it is not now felt necessary to retain all of this site, and we would consequently support disposal of about half of the site for development purposes. In tandem to this, Warwick District Council also supports the requirements of the Government under PPG17 to make alternative open space provision where a facility is lost. Leisure and Amenities would therefore propose to use part of the Harbury Lane site, which is currently being developed for sports facilities, to provide an area where allotments could be laid out to meet any demand to replace those that would be lost as a result of the cemetery extension and possible development of the remaining area. It is proposed that the same area will be made available at Harbury Lane, between the sports pitches and the area to be developed as woodland (under a Woodland Grant scheme), and these would be of a permanent nature (as opposed to the temporary nature of the previous ones) at an enhanced level of provision. This approach will ensure that allotment provision can be maintained and indeed enhanced if required. It is understood that the development of the allotments at Harbury Lane would not require planning permission.*

*Leisure and Amenities acknowledges the need to demonstrate commitment to alternative provision as a prerequisite for the granting of planning permission for the loss of the current application site. It also recognises that ordinarily, such an improvement is entered into under an agreement under Section 106 of the Planning Act 1990, but because the Council owns this site, a legal agreement with itself is not appropriate in this instance. As such, an alternative means of demonstrating commitment must be sought, and consequently the following statement sets out the commitment to securing allotments at Harbury Lane, and a process for securing their provision.*

## COMMITMENT STATEMENT

*The Leisure and Amenities Unit of Warwick District Council will set aside the area of land at Harbury Lane identified on the attached plan for allotment use. Within a period of 6 months from the grant of any planning permission for redevelopment of Montgomery Road, Whitnash, Leisure and Amenities will complete a survey of potential allotment use within the Whitnash/South Leamington/Heathcote area. This survey will be undertaken in a manner to be agreed with the Planning Business Unit and Action 21 in advance and to promote the use of the alternative site at Harbury Lane.*

*The results of the survey will be reported to the Executive within 6 months of it being carried out, together with a scheme for the management of the allotments of this site (although it is not envisaged that the Unit will manage the site directly, in line with its policy for allotment sites throughout the District Council). The site will be prepared and laid out for allotment use, at least in part to meet the identified need and made available for use within a period of 6 months from the Executive's decision. Should the whole of the area not be developed to meet only the need identified at that time, a further survey/promotional exercise will be carried out within a period of 12 months from the report to the Executive and the result of that survey reported and responded on in the same manner. The survey/promotion will continue to be undertaken at periods deemed acceptable in conjunction with officers of the Planning Unit until such time as the whole of the site allocated for allotment use has been prepared and laid out. Notwithstanding the results of the surveys, the land allocated for allotment use on the attached land will be retained for that use and its potential for allotment usage will be guaranteed, with no conflicting alternative usage taking place on or immediately adjacent to it.*

*The cost of surveys and the layout of the allotments is likely to be in the region of £10,000 and I understand that the applicants, A.C. Lloyd, are prepared to enter a legal agreement under S.106 of the Planning Act to make such sum available to the Council to ensure implementation. I understand that A.C. Lloyd will be writing separately on this matter."*

The applicants' commitment to provide alternative provision in the locality is clearly in accordance with Policy RL6. However, it is appropriate to further test the site against the criteria within PPG17 (accessibility, size, usefulness, attractiveness and quality). In terms of accessibility, the alternative site is clearly not as central to the South Leamington/Whitnash area as the existing site and cannot be described as more accessible in that sense. However, I consider the relocation of allotments to the southern edge of the urban area would result in a better distribution of allotment provision within the urban area that would improve accessibility levels more generally. In terms of size, the area to be provided is broadly compatible with the existing site.

In relation to usefulness and quality soil sample surveys have been submitted and I am satisfied that the proposed site would be suitable for its intended purpose. In terms of attractiveness, I do not consider there are any obvious reasons why the site would be unattractive given the nature of adjoining uses and the surrounding development.

The other arguments put forward on behalf of the applicant in relation to temporary use of the land as allotments and the ability of the landowner to use the land as cemetery extension are noted. However, as noted above I am of the opinion that the authorised planning use of this site is allotment land. Thus, I consider a planning application for the change of use of land from allotments to burial ground would be required.

For these reasons I consider the proposals would meet the requirements of Policy RL6 and would broadly satisfy the criteria within PPG17.

The applicants have also confirmed in writing that they would be prepared to enter into a Section 106 Agreement for a commuted sum to meet the costs of the necessary surveys and the layout of the replacement allotments.

Action 21 have also now submitted the following amended comments in support of the proposals:-

*“PPG17 states a specific circumstance under which allotments can be developed, which is when equivalent alternative provision is made. We have now had the opportunity to discuss the matter of alternative provision at the site on Harbury Lane with the Leisure and Amenities Business Unit and we now have a better understanding of the proposal.*

*We believe that the site at Harbury Lane represents at least equivalent provision to that at Montgomery Road/Dobson Lane in terms of size, access and location and quality. In order for the site to reach its full potential for the local community it will need to be actively promoted. We have been reassured by Leisure and Amenities that this will be addressed and that the new site will be prepared adequately complete with running water and secure natural boundaries.*

*We are encouraged by the willingness of Leisure Services to work with Action 21 in carrying out this promotional work and developing an Allotments Policy to cover the district as a whole.*

*We note the commitment of Leisure and Amenities to utilise funding from the developer for allotment development and promotion.*

*This is in line with the Community Plan aim to provide and promote allotments.*

*One of the key responsibilities of Action 21 is to act as a critical friend to the District Council on sustainable issues. We recognise that the council on this occasion has been responsive to our concerns and we regard this as a step forward.*

*As a result of this Action 21 would support the proposal.”*

The area of the site also ‘triggers’ the need for a Section 106 to secure provision of 30% affordable housing on the site. On this basis I therefore recommend the application to Members for approval.

## **RECOMMENDATION**

GRANT, subject to a Section 106 Agreement to secure the provision of a commuted sum of £10,000 to meet the cost of allotment survey, preparation and promotional works and 30% affordable housing, standard outline planning conditions, and conditions restricting the use of the access from Dobson Lane as an emergency access only, minimum carriageway widths and visibility splays, and condition requiring a contamination survey..

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