

**Planning Committee:** 19 July 2016

**Item Number: 10**

**Application No:** [W 16 / 0775](#)

**Town/Parish Council:** Kenilworth  
**Case Officer:** Helena Obremski  
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**Registration Date:** 29/04/16  
**Expiry Date:** 24/06/16

**5 Inchbrook Road, Kenilworth, CV8 2EW**

Outline Planning Permission for the demolition of number 5 Inchbrook Road and the construction of 3 new dwellings, with access, all other matters reserved. FOR  
Mr Nielson

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This application is being presented to Committee due to an objection from the Town Council and over 5 public objections having been received.

**RECOMMENDATION**

Planning Committee are recommended to grant planning permission.

**DETAILS OF THE DEVELOPMENT**

Outline planning permission is sought for the erection of three detached dwellings (following the demolition of one dwelling) with proposed access, and all other matters reserved.

The scheme has been amended slightly to overcome issues in relation to the width of the access for the proposed dwellings and parking provision.

The development would provide three dwellings which attempt to reflect the density, space between and space around the buildings within Inchbrook Road, providing front and rear amenity space for each dwelling. The proposal would also contribute towards the supply of housing within the district.

**THE SITE AND ITS LOCATION**

The application site is located to the north east of Inchbrook Road which is positioned at the end of a small cul-de-sac. The northern limit of the application site lies within Flood Zones 2 and 3, however, no development is proposed within this area. There is an existing two storey detached dwelling on the site which would be demolished as part of the proposal.

**PLANNING HISTORY**

W/05/1172 - application allowed at appeal for the erection of four detached dwellings, following demolition of No. 7 Inchbrook Road.

W/09/1299 - application approved for the erection of a replacement garage for no.7 in alternative position, and addition of a two storey rear extension to no.7. Creation of new access road and erection of two detached dwellings and two double garages with living accommodation over to rear of 5 and 7 Inchbrook Road.

Only one of these dwellings has been built to the rear of 7 Inchbrook Road. Personal circumstances have been presented for the reason that the second dwelling has not been constructed to the rear of 5 Inchbrook Road, however, these cannot be taken into consideration for justification of the proposal which will be dealt with on its own merits.

W/15/1008 - application approved for Certificate of Lawfulness for the proposed demolition of attached garage, provision of a hard surface, and erection of a detached outbuilding.

W/16/0696 - application refused for the creation of hard standing to rear of number 5 to enable access to extant building plot to the rear.

## **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)
- DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)

### The Emerging Local Plan

- 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)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR4 - Parking (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- TR1 - Access and Choice (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- FW1 - Development in Areas at Risk of Flooding (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- FW2 - Sustainable Urban Drainage (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- H1 - Directing New Housing (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

- HS4 - Improvements to Open Space, Sport and Recreation Facilities (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

#### Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Open Space (Supplementary Planning Document - June 2009)
- Vehicle Parking Standards (Supplementary Planning Document)
- The 45 Degree Guideline (Supplementary Planning Guidance)
- Distance Separation (Supplementary Planning Guidance)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)

### **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** Objection, the proposal is considered to represent inappropriate development, which does not respect the surrounding properties or enhance the surrounding area. The dwellings are shoe-horned into an effective terrace which do not respect the existing style and are not in keeping with the street scene. Constitutes development on garden land which in no way reinforces or harmonises with the established character of the street or locality, and respects surrounding buildings in terms of scale, height, form and massing, which is contrary to emerging Local Plan policy H1(2).

Members noted that the proposal lies within flood zones 2 and 3 which would require a full flood risk assessment, taking into account changes happening in Canley Brook, climate change, proposed development at Westwood Heath contained within the emerging Local Plan and changes to the Brook due to HS2.

Members had concerns regarding vehicle manoeuvring and accessibility.

**WCC Highway:** Following submission of amended plans, verbal confirmation has been received that their original objection has been withdrawn in relation to access width and vehicles turning within the site.

**WCC Ecology:** No objection, requests for preliminary ecological appraisal and Biodiversity Impact Assessment have been accommodated by the applicant and Ecology request the following conditions be applied to any approval granted: pre-commencement condition to require provision of a combined ecological and landscaping scheme has been submitted; pre-commencement condition to require provision of a tree protection plan; condition requiring development to take place out of the nesting bird season or the development is to be supervised by a qualified ecologist to check the site for the occupation of nesting birds. WCC Ecology also request the provision of the following notes: bat protection, restriction of lighting to protect bats, reptile protection, amphibian protection, hedgehog protection, watercourse pollution prevention and Rhododendron planting note.

**Community Protection:** No objection, subject to the following conditions: provision of plans showing the proposed drainage systems for the site; undertaking of percolation tests for the site to show infiltration of water /

soakaways and the use of drainage systems to ensure the volume of water generated from impermeable areas does not increase flooding.

**Green Space:** No objection, subject to condition requiring contribution for open space which would be a total of £3,140.

**WCC Landscape Team:** Objection, there are a number of trees / hedges on site or adjacent to the site and a full vegetation survey is required.

**25 Public Objections:** Concern focuses on impact which proposed development would have on the increase of flooding event, the flood line on the block plan provided are incorrect, and flood assessment is required; that the development is out of character within the street scene and wider area, creating development which would be cramped and harmful to the street scene; the development would set a dangerous precedent for similar development; the development represents back-land development; the proposal represents overdevelopment of the site; the development would have a detrimental impact on vehicle and pedestrian safety; concern regarding width of the proposed access, adequate parking provision and increased traffic generation; the removal of trees would increase the noise disturbance from HS2; detrimental impact on the character of the rural area; the development will have an adverse effect on neighbouring residential amenity in terms of overlooking, privacy and would be oppressive; noise and disturbance caused to neighbouring residential amenity during the proposed works and after the works have finished; adverse effect on the local wildlife and trees; will reduce the value of neighbouring properties; no site notice was issued for the development

## **ASSESSMENT**

The main issues relevant to the consideration of this application are as follows:

- Principle of the Development/5 Year Housing Land Supply
- The impact on the Character and Appearance of the Area
- The impact on the living condition of nearby dwellings
- Car parking and Highway Safety
- Drainage and Flood Risk
- Open Space
- Sustainability
- Ecological/Tree Impacts
- Other matters

### **Principle of the Development/5 Year Housing Land Supply**

Adopted Local Plan policy UAP1 for the direction of new housing states that residential development will only be permitted on previously developed land and that buildings should be within the confines of the urban areas. Although the site is located within the confines of the urban area, two of the three the proposed dwellings will be constructed on garden land which the National Planning Policy Framework (NPPF) defines does not constitute previously developed land.

However, as the Council does not have a current 5 year housing land supply, policy UAP1 is considered to be out of date. Furthermore, paragraph 53 of the NPPF states that *inappropriate* development of residential gardens should be resisted, indicating that appropriate development should be supported.

A scheme for four dwellings, positioned to the rear of 5 and 7 Inchbrook Road was previously allowed at appeal (but not implemented) and subsequently two dwellings were also approved to the rear of 5 and 7 Inchbrook Road, and one dwelling has been constructed. As the principle for the construction of a dwelling(s) to the rear of 5 Inchbrook Road has been previously established, it is not considered that the development would be inappropriate and detrimental to the local area.

For the above reasons, the principle of the development is considered to be acceptable in principle.

#### The impact on the Character and Appearance of the Area

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. Furthermore, Warwick District Council's Local Plan 1996 - 2011 policy DP1 reinforces the importance of good design stipulated by the NPPF as it requires all development to respect surrounding buildings in terms of scale, height, form and massing. The Local Plan seeks to ensure that the appearance of the development and its relationship with the surrounding built and natural environment does not detrimentally impact the character of the local area.

There have been several objections to the application from members of the public and the Town Council showing concern that the development is out of character within the street scene and wider area, creating development which would be cramped and harmful to the street scene. They also have concerns that the development would set a precedent for similar development which represents back-land development, and the proposal represents overdevelopment of the site. The Town Council consider that the dwellings are shoe-horned into an effective terrace, which do not respect the existing style and are not in keeping with the street scene, constituting development on garden land that does not harmonise with the established character of the street.

The existing street scene is characterised by a range of style of detached dwellings. The applications which were previously approved (W/05/1172 and W/09/1299) and the subsequent erection of the dwelling to the rear of Number 7 Inchbrook Road has set a precedent for development of this nature within this specific context. The properties will nearly fill the width of their plots, however, this is the case for many of the properties within the wider street scene and a common feature of established residential areas. Therefore, the proposed dwellings are not considered to be cramped.

As this is an application for three dwellings, with all matters reserved apart from the access, only limited comment can be made on the design. However, owing to the variety of styles of property within Inchbrook and Highland Road, it is considered that these dwellings would not have a significant detrimental impact on the street scene if restricted to two storey, which can be secured by condition.

The plans indicate that the dwellings will be reasonably large detached properties, which is not uncommon within the wider context of this residential area. The properties will be tucked away at the end of a cul-de-sac and will not dominate or overly affect the street scene. The development would have some impact on the surrounding landscape in terms of the scale of the properties, however there is an opportunity to secure a good landscaping mitigation scheme so that the visual harm is not significant which would be controlled at reserved matters stage.

The proposed development is considered to conform with the NPPF and adopted Local Plan policy DAP1.

#### The impact on the living condition of nearby dwellings

Warwick District Local Plan policy DP2 requires all development to have an acceptable impact on the amenity of nearby users or residents and to provide acceptable standards of amenity for future users or occupiers of the development. There is a responsibility for development not to cause undue disturbance or intrusion for nearby users in the form of loss of privacy, loss of daylight, or create visual intrusion. The Residential Design Guide provides a framework for policy DP2, which stipulates the minimum requirements for distance separation between properties and that extensions should not breach a 45 degree line taken from a window of nearest front or rear facing habitable room of a neighbouring property.

There have been several objections from members of the public in reference to the development having an adverse effect on neighbouring residential amenity in terms of overlooking, privacy and would be oppressive. They also show concern regarding the potential noise and disturbance caused to neighbouring residential amenity during the proposed works, and after the works have finished.

In order to ensure that neighbouring residential amenity will be protected, the 45 degree guideline was assessed and the agent has provided an amended drawing to show that no conflict will be achieved between the neighbouring properties and the proposed dwellings, and also between each of the proposed dwellings to ensure a high standard of design. The proposal also meets the Council's minimum distance separation requirements.

Number 69 Highland Road is positioned to the west of the site and benefits from a large plot. There would be no conflict with the Council's adopted 45 degree guidance and the property will still enjoy a large amenity space which would not experience a significant loss of light or privacy. The proposed development is therefore not considered to be so oppressive which would warrant reason for refusal. A condition could be imposed to restrict the first floor side facing windows to be permanently obscure glazed and non-opening unless above 1.7 metres in height from the floor level to protect the privacy of the neighbouring properties at the reserved matters stage. Furthermore, permitted development rights for Class A development will be removed to ensure that development is controlled and neighbouring residential amenity is protected.

The additional vehicular traffic which will be generated as a result of the proposed dwellings will access the properties from a driveway which will be positioned on the other side of the application site to both adjoining neighbours, lessening any impact. It is not considered that there would be any significant

noise disturbance created by the net addition of two dwellings which would warrant a reason for refusal. Noise disturbance during the construction works is not a material planning consideration.

The proposed development is not considered to cause harm to the residential amenity of any of the occupiers of the neighbouring properties and accords with adopted Local Plan policy DP2 and the Residential Design Guide.

#### Car parking and Highway Safety

The Town Council and members of the general public have shown concern regarding vehicle manoeuvring and accessibility. Members of the public consider that the development would have a detrimental impact on vehicle and pedestrian safety. It is also queried whether there is adequate parking provision and what the impact of increased traffic generation will have.

WCC Highways originally objected to the proposed development as the proposed access would have been insufficient in width to allow two vehicles to pass one another in the highway, resulting in vehicles reversing within the highway, causing detriment to highway safety. It was also unclear whether cars accessing each of the plots could easily turn within the site in a forward gear.

However, officers have received verbal confirmation that the amended plans are acceptable and provide an suitable access for the proposed dwellings. An update will be provided on the late items list for Planning Committee. Each dwelling has two parking spaces which accords with the Council's adopted Vehicle Parking Standards.

The proposed development is therefore considered to comply with adopted Local Plan policies DP6, DP8 and the Council's adopted Vehicle Parking Standards.

#### Drainage and Flood Risk

Members of the public and the Town Council have objected to the proposed development due to concern regarding the potential for increased flood risk as a result of the proposed development. A full flood risk assessment is requested and members of the public have queried whether the flood line indicated on the plan is correct.

The proposed development will not be constructed within the limits of flood zones 2 or 3 and the case officer has confirmed with both Community Protection and the EA flood maps that the flood zone marked on the block plan is correct.

Community Protection note that there will be an impact from the proposed development on the nearby watercourse, but have no objection to the application subject to a condition requiring the use of suitable Sustainable Urban Drainage System (SUDS). They do not consider that a full flood risk assessment is necessary on this occasion. The provision of a SUDS will ensure that suitable drainage can be provided in order to ensure that there would be no unacceptable harm caused to the neighbouring properties or other properties further along the water course as a result of the proposed dwellings.

The proposed development is therefore considered to be acceptable and to comply with the NPPF and adopted Local Plan policy DP11.

## Open Space

Open Space have requested a total contribution of £3,140 towards local services when offset against the existing dwelling in accordance with adopted Local Plan policy SC13 and adopted Open Space guidance. However, paragraph 31 of the NPPF provides that contributions should not be sought from developments of 10-units or less which is a material consideration and carries significant weight. Departure from the NPPF should only be considered if exceptional circumstances are present and it is considered that the current circumstances would not represent justification to depart from policy contained within the NPPF. It would therefore not be reasonable to impose a condition for the requirement of open space contributions in accordance with the NPPF.

## Sustainability

Due to the scale of the proposed development it is considered that a requirement to provide 10% of the predicted energy requirement of the development through renewables or a 10% reduction in CO<sup>2</sup> production through a fabric first approach is appropriate. No information has been provided in reference to sustainability measures which is required at the outline stage. However, this information can be secured by condition.

The proposal is considered to comply with the NPPF, adopted Local Plan policy DP12 and policy DP13.

## Ecological/Tree Impacts

Various public objections have been received in reference to the removal of trees which would increase the noise disturbance from the proposed HS2 and the adverse effect on local wildlife and trees which the proposed development would have.

The WCC Landscape Team have objected to the proposed development and request that a full vegetation survey is provided due to the number of trees and hedges which will be removed as a result of the proposed development.

There are a number of trees within the site boundaries, however, none of these benefit from a Tree Protection Order or have amenity value within the street scene. Although the agent has clarified in writing that none of the existing trees will be removed as a result of the proposed development, the owner of the site could at any time remove the existing trees or hedges without need for permission from the Council. Therefore it would not be reasonable to restrict the removal of this vegetation or require a vegetation survey to assess the impact. WCC Ecology have requested that a condition should be imposed to require a Tree Protection Plan, however for the above reasons, it is not considered reasonable to apply such a condition.

WCC Ecology requested a Preliminary Ecological Appraisal and Biodiversity Impact Assessment, which have been provided by the agent. As a result of the surveys, they have requested pre-commencement conditions and notes be imposed to any approval.

These conditions will ensure that no harm is caused to protected species and are considered to be acceptable, so will be imposed. The proposal is therefore considered to comply with the NPPF and Local Plan policy DP3.

### Other matters

Various public objections have been received in relation to the proposed development devaluing neighbouring properties. This is not a material planning consideration and cannot be assessed as part of the application.

Public concern has also been raised that a site notice was not issued for the development. National guidance states that for development of this nature, that either a site notice should be issued, or all adjoining neighbouring properties to the site should be notified. All neighbouring properties were notified of the proposed development by letter which was sent on 12th May 2016.

### **CONCLUSION**

In the opinion of the Local Planning Authority, the proposed development would not result in adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF, or cause unacceptable harm to access or local ecology. The proposal is therefore considered to comply with the policies listed.

### **CONDITIONS**

- 1 Details of the appearance of the building(s), landscaping of the site, layout of the site and its relationship with adjoining development, and the scale of building(s) (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out in full accordance with these reserved matters as approved.  
**REASON:** To comply with Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995 (as amended).
- 2 Application for approval of the reserved matters shall be made to the local planning authority not later than three years of the date of this permission. **REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).
- 3 The development to which this permission relates shall begin within three years of the date of permission or within two years of the final approval of the reserved matters, whichever is the later. **REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended).
- 4 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan Neilson/3dwellings/BlockPlan/DC, and specification contained therein, submitted on 16th June 2016. **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.

- 5 The development hereby permitted shall not be commenced unless and until a scheme showing how either a). at least 10% of the predicted energy requirement of the development will be produced on or near to the site from renewable energy resources, or b). a scheme showing how at least 10% of the energy demand of the development and its CO<sup>2</sup> emissions would be reduced through the initial construction methods and materials has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until all the works within the approved scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications. **REASON:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.
- 6 No works shall commence on site, including site clearance, until a combined ecological and landscaping scheme has been submitted and agreed between the applicant and the local planning authority (with advice from WCC Ecological Services). The scheme must include all aspects of landscaping including details of native tree planting, wild flower meadow creation, bird and bat boxes installation. The agreed scheme shall be fully implemented prior to first occupation. **REASON:** To ensure protection of protected species in accordance with NPPF, ODPM Circular 2005/06.
- 7 The development hereby permitted shall not commence until drainage details, incorporating a Sustainable Drainage System (SUDS) and responding to the hydrological conditions (soil permeability, watercourses etc) within the application site, including a long term management and maintenance plan, have been submitted to and approved in writing by the local planning authority. The approved systems shall be implemented prior to first occupation and shall thereafter be retained and managed and maintained in strict accordance with the approved details unless alternative drainage methods have been approved in writing by the local planning authority. **REASON:** To ensure that a satisfactory means of drainage is provided such as to minimise flooding and which Promotes and maintains the good stewardship of the natural and built environment in accordance with Policies DP11 & DP3 of the Warwick District Local Plan 1996-2011.
- 8 The development hereby permitted shall either:  
a.) Be timetabled and carried out to avoid the bird breeding season (March to September inclusive) to prevent possible disturbance to nesting birds.  
b.) Not commence until a qualified ecologist has been appointed by the applicant to inspect the building/vegetation to be cleared on site for evidence of nesting birds immediately prior to works. If evidence of nesting birds is found works may not proceed in that area until outside

of the nesting bird season (March to September inclusive) or until after the young have fledged, as advised by ecologist. Birds can nest in many places including buildings, trees, shrubs, dense ivy, and bramble/rose scrub. Nesting birds are protected under the 1981 Wildlife and Countryside Act.

**REASON:** To ensure that protected species are not harmed by the development.

- 9 If an air source heat pump is chosen as the method to comply with the requirement for renewable energy, noise arising from the air source heat pump(s) permitted, when measured one metre from the facade of any noise sensitive premises, shall not exceed the background noise level by more than 3dB (A) measured as LAeq (5 minutes). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone ( whine, screech, hiss, hum etc.) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.
  
  - 10 The buildings shall not exceed two-storey in height. **REASON:** To secure a satisfactory form of development that respects this edge of village site within open countryside in accordance with Policies DP1 of the Warwick District Local Plan 1996-2011 and paragraph 58 of the NPPF 2012.
  
  - 11 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 development shall be carried out which comes within Classes A or E of Part 1 of Schedule 2 of this Order. **REASON:** To retain control over future development in the interests of protecting neighbouring residential amenity and restricting development within the flood zone in accordance with Policies DAP2 and DP11 of the Warwick District Local Plan 1996-2011.
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