

**Application No:** W 10 / 1237

**Town/Parish Council:** Warwick

**Registration Date:** 17/09/10

**Case Officer:**

David Edmonds

**Expiry Date:** 12/11/10

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**51 Hill Street, Warwick, CV34 5NX**

Application to extend the time limit on p.p W05/1210 for the erection of two storey block of six apartments FOR Mr J Jackson

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This application was originally presented to Committee due to the number of objections received and the need for a legal agreement.

This application was considered by Planning Committee on 8th December 2010. Planning Committee resolved to grant planning permission, subject to the completion of a Section 106 agreement to secure a contribution towards off site open space provision. The Section 106 agreement has not been completed by the applicant, within a reasonable time scale, despite your officers frequently progress chasing. Therefore this application is being reported back to Committee to recommend refusal.

The report below is based on that which was originally presented to the Planning Committee.

**SUMMARY OF REPRESENTATIONS**

**Warwick Town Council:** has no objection.

**Public Response:** 5 letters of objection have been received from residents in Packwood Mews including their residents association objecting to the proposal on the grounds of over development, access traffic/parking problems and concerns over loss of hedge and trees on boundary as this acts as a visual screen.

A letter of support has also been received from a neighbour on Hill Street to the extension of the time limit.

**WCC Highways:** has no objection.

Further representation since Planning Committee of 8th December 2010

**Greenspace Development Manager, Neighbourhood Services**

The additional 9 residents (6 x 1.5 persons) would put additional pressure on existing open space in the locality of the development and therefore a contribution is required in order to mitigate the impact of this additional use.

The obligations are directly related to the development as they have been calculated on the basis of the proposed housing mix and expected additional residents and will be used to enhance open space within 500 metres of the development site. The obligations are reasonably related in scale and kind as

they are a proportional contribution to the overall cost of enhancing local open space in order to accommodate additional use by new residents.

Therefore the open space contribution is therefore necessary to ensure that the proposal is acceptable in planning terms as set out in WDLP SC13 Open Space and Recreation Improvements. Also the contribution meets the test set out in the CIL regulations and Circular 05/05 '

A contribution rate of £916 per 1.5 persons is set out in 'Open Space Supplementary Planning Document' and its associated guidance 'Developer Contributions for commuted payments for new provision/enhancement of open space'. Six flats equates to £916 x 6 = £5,496. This contribution figure reflects the enhancement costs of open space as set out in the guidance.

It is intended to use the monies for potential future enhancements to the River Avon open spaces to the rear of Tesco's and Grange Close both of which are within 500 metres of the site and only scored 'average' in the most recent quality audit. However there are currently no specific schemes planned.

### **Further representations of neighbours and local member.**

Concerns had been expressed about tree felling and shrub clearance in advance of the development with particular concern about a large tree on the northern boundary of the site within the grounds of Packwood Mews. It was considered that this would have been in breach of conditions of the planning permission if the decision notice had been issued. There are also concerns about the affect of the construction of the drive and car park close to the trunk of the tree. Concern is also expressed about the uncertainty over the future of the site.

### **RELEVANT POLICIES**

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)
- Open Space (Supplementary Planning Document - June 2009)

### **PLANNING HISTORY**

Planning permission was granted in 1960 for the erection of the bungalow on the site and in 1994 (W931413) for the erection of the two adjacent dwellings.(No's 51a & 51b). Permission was granted for the erection of a 2 storey block of 4 flats on the 18th February 2003 W030053. W051210 which is the subject of this renewal application gave permission for the erection of a two storey block of six apartments.

### **KEY ISSUES**

The key and only issues to be considered in an application such as this are whether there has been any change in policy or any significant physical change on or near the site.

### **The Site and its Location**

The application site is occupied by a large flat roof bungalow which is set back behind a front drive area. It has a large rear garden and is adjoined by residential properties to either side, with a car park to Humphries Street to the rear. The site is situated on a turn in Hill Street, adjacent to a turning area and a footpath which runs through to Beauchamp Road.

There are two semi-detached dwellings (51a and 51b) situated to the north of the property, sharing the egress to the application site from Hill Street, with a detached property (No 49), to the south which is situated at the end of a row of terraced properties. The car park and terrace of 5, two and three storey properties in Packwood Mews, to the west and north respectively, are set at a substantially higher level than those in Hill Street.

### **Details of the Development**

This application only deals with an extension of time for implementation of the extant planning permission W/05/1210.

The scheme provides for a two storey block of six, one bedroom apartments. The bulk and scale of the proposed building is very similar to that previously permitted in 2003. There would be a communal entrance and staircase. The majority of the windows would face east and west towards the rear parking area and Hill Street. It is proposed to have small windows at ground floor and roof lights at first floor to the kitchen areas and bathrooms on the side elevations.

There would be a rear parking court for 7 vehicles and a communal bin store, with a small amenity garden to the rear of 49 Hill Street. Access to the parking area would be via a drive down the side of the property.

### **Assessment**

This application only deals with an extension of time for implementation of the extant planning permission W/05/1210. In these particular cases only changes in policy or physical circumstances during the intervening time can be considered or be used to refuse such an application. The issues raised by neighbours in Packwood Mews were dealt with in consideration of the original planning application and it also appears from the plans of their development that the laurel hedge mentioned may well be on land that they own and have control over.

Policies regarding renewable energy, open space and adopted parking standards have been introduced since 2005. In my opinion, however, the site has not changed significantly since consent was originally given nearly 5 years ago and, as the proposal is still in accordance with all current policies, subject to an additional condition covering the submission of a scheme to provide 10% of the energy used by the development from renewable sources and a Section 106 agreement which would cover a contribution towards open space, I see no reason why this application should not be granted again.

### Further assessment since Planning Committee of 8th December 2010

The Planning Committee's resolution to grant subject to securing open space provision was based on the guidance with the Open Space SPD. Since then we have had adverse comments on the justification for open space contributions from the Inspector in the recent appeal decision relating to the construction of one dwelling in the grounds of The Wantage (Ref. W/11/0424). Whilst the main

issue in this appeal was the affect on the listed building and conservation area, the issue of open space contributions was also raised. The Inspector found, on the limited evidence submitted, in that case, that the contribution was not adequately justified in the context of the advice in Circular 05/2005 and the statutory tests in the Community Infrastructure Levy (CIL) Regulations. In this context it was considered necessary to consult, formally, the Green Space Development Manager, advising that it is necessary to provide more detailed reasoning in consultation responses to address these learning points from the Inspectorate. His consultation responses is added to the representations section.

The implementation of the development without securing these contributions, which have now been fully reasoned and justified, would conflict with WDLP PolicySC 13 'Open space' which accords with the sustainable development principles of the National Planning Policy Framework. It is considered that the circumstances of this case, which includes the distance away from the site the off site provision is likely to be implemented and the lack of any details of specific projects on which monies can be spent ,precludes the prospect of attempting to secure this provision by means of a valid planning condition. Therefore in the absence of the securing these contributions by a planning obligation there is no alternative but to recommend, now, that planning permission be refused.

Regarding the further representations of neighbours, it was established by officers that since none of the trees were the subject of a Tree Preservation Order (TPO) and the site is not in a conservation area, then the trees are not protected. Also, investigations found that clearance had not affected the trees to be retained which included the large tree on this boundary. This tree is a large conifer, which specialist advice suggests, does not merit the making of a TPO.

### **RECOMMENDATION**

REFUSE, for the reasons listed below.

### **REFUSAL REASONS**

- 1 Policy SC 13 of the Warwick District Local Plan, relating to open space and recreational improvements requires that appropriated and commensurate contributions from residential and commercial developments be sought to provide, improve and maintain open space, sport or recreational facilities to meet local needs. Where developments cannot be expected to provide a proportion of the site as recreational facilities the policy requires the provision, improvement or enhancement of recreational facilities off site but within the catchment area of the site. The precise level and form of such contributions are set out within the Council's Open Space Supplementary Planning Document formally adopted, after public consultation, on 6th February 2009.

The off site open space contributions required for the proposed development has been calculated to be £5496 based on a contribution rate of £916 per 1.5 persons. The additional 9 residents (6x1.5 persons) will put additional pressure on existing open space which require enhancements in the locality of the development requiring a contribution to mitigate the impact of this additional use. In the opinion of the District Planning Authority, in the absence of a Section 106 Agreement to secure this contribution, the proposals are therefore considered to be contrary to the aforementioned policies and guidance.