

**Planning Committee:** 09 December 2009

**Item Number:**

**Application No:** W 09 / 1188

**Registration Date:** 12/10/09

**Town/Parish Council:** Leamington Spa

**Expiry Date:** 07/12/09

**Case Officer:** Sandip Sahota

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**Land rear of 207 Rugby Road, Leamington Spa, CV32 6DY**

Outline application for erection of bungalow on land rear of no.207 Rugby Road with access onto Conway Road FOR Mr & Mrs Hyde & Medwell

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This application is being presented to Committee due to an objection from the Town Council having been received.

**SUMMARY OF REPRESENTATIONS**

**Royal Leamington Spa Town Council:** Raises objection on the following grounds - *"There is no sustainability proposal. However the Town Council will reconsider their objection should an appropriate sustainability proposal be put forward"*.

**WCC Ecology:** *"I would recommend that a note relating to nesting birds and bats, as protected species, is attached to any approval granted as there appear to be hedgerow/trees/shrubs within the site area, which may be impacted on by the proposed works and as we have 3 bat records in the surrounding area. If any mature trees with suitable roosting opportunities (e.g. cracks, fissures, rot-holes, loose or peeling bark and dense ivy cover) are to be impacted on, I recommend that these are assessed for bats by a suitably qualified ecologist prior to works commencing. Also, please note that we have a record of common toad in the surrounding area, and reptiles and amphibians may be using the existing garden area. I therefore recommend that a note relating to reptiles and amphibians, as protected species, is attached to any approval granted"*.

**CAAF:** Part II item - No comment.

**WCC Highways:** No objection, subject to the following condition:  
*"The development shall not be occupied until the access has been provided to the site of not less than 3.0 metres in width for a distance of 7.5 metres, as measured from the near edge of the public highway carriageway"*.

**RELEVANT POLICIES**

- Distance Separation (Supplementary Planning Guidance)
- Vehicle Parking Standards (Supplementary Planning Document)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)

- DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (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)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)

## **PLANNING HISTORY**

Planning permission (ref: W89/0042) for a bungalow to the rear of 205a Rugby Road was refused in 1989 on the grounds of an inadequate size and shape of plot and the loss of garaging for the existing residential unit. (It should be noted that the rear garden of 205a is significantly narrower than the rear garden of number 207.)

A further refusal for a similar proposal to the rear of 205 Rugby Road was dismissed by an Inspector at appeal on the grounds that the proposed bungalow would be out of character with other properties in the area and that a new dwelling would result in overshadowing and loss of sunlight to properties on Oswald Road which back onto the site.

Outline planning permission (ref: W91/1307) for 'Erection of a bungalow and garage fronting Conway Road' to the rear of 207 Rugby Road was granted by the Planning Committee in 1991. This permission lapsed but was renewed in 1995 (ref: W95/0710).

The plans submitted with the latter two applications indicated that a bungalow could be situated at the bottom of the garden of no. 207 and would leave approximately 26 metres between the rear of number 207 and the rear of the new property which itself would have a garden depth of 12 metres.

Outline planning permission (ref: W09/0623) for 'Erection of a bungalow with rooms in roofspace' was refused by Planning Committee in July 2009. It was clarified after the meeting that there was only one reason for the refusal that being the loss of privacy to neighbours arising from the incorporation of rooms in the roofspace. The application was subsequently withdrawn by the applicant before the decision was issued.

## **KEY ISSUES**

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

The application site forms part of the rear garden of 207 Rugby Road, fronting onto the north side of Conway Road. Two semi-mature trees are situated within the application site and are visible within the streetscene of Conway Road.

Conway Road is currently unadopted, unsurfaced and in a poor state of repair.

Conway Road is mixed in character with approximately one third of the frontage of the north side of the road remaining as part of the gardens of dwellings fronting onto Rugby Road, together with some outbuildings/ garages used in association with those dwellings. The second third of the frontage of the north side of the road is characterised by detached bungalows, and the final third is occupied by Westgrove Terrace which is designated as part of the Royal Leamington Spa Conservation Area. The south side of the road is less developed than the north side, with a pair of semi-detached bungalows situated opposite the application site and two detached bungalows to the rear of 54 Warwick Place. The remaining frontage onto the south side of Conway Road largely comprises the rear gardens of properties fronting Warwick New Road or Warwick Place. The south side of the Conway Road frontage extending from the rear of 54 Warwick Place to the end of the road is all situated within the Royal Leamington Spa Conservation Area.

Conway Road is only 3.6 metres wide for the first 30 metres from its junction with Oswald Road. However, the road then widens significantly for the remainder of the length of the road and is approximately 8.6 metres wide in front of the application site itself.

### **Details of the Development**

The proposal provides for an outline application for the erection of a detached bungalow with access onto Conway Road. Drawings have been submitted accompanying the application outlining the footprint and layout of the proposed bungalow. Such drawings, however, are submitted for illustrative purposes only. The indicative eaves and ridge heights provided are 3.5 metres and 6.5 metres respectively. The application has been made in outline with all matters reserved for future consideration.

### **Assessment**

The main considerations in the determination of this application are:

1. The principle of residential development.
2. Loss of trees.
3. The effect of the proposal on the character and appearance of the area and the setting of the Conservation Area.
4. The effect of the proposal on the living conditions of the occupiers of the neighbouring properties.
5. Renewable Energy
6. Parking & Highway Safety.

principle:

Policy UAP1 states that residential development will be permitted on previously developed land and buildings within the confines of the urban areas subject to other policies.

Outline planning permission for the erection of a dwelling on this site has been granted twice before. The principle of residential development on the site has, therefore, previously been accepted by the Council on two occasions, with the second renewed outline consent expiring in 2000, and it is therefore necessary to consider whether there have been any material change of circumstances to justify a different decision on this matter. In this regard, there are not considered to be any changes in site specific considerations or policies which would warrant a different decision being made now.

trees:

The proposed development would potentially result in the loss of two semi-mature trees which are visible from within Conway Road. However, the Council's Arboricultural Officer has informally advised that their amenity value is not sufficient to secure a Tree Preservation Order.

character and appearance/ setting of conservation area:

The size of the plot is similar in size to existing plots on Conway Road. I am therefore of the view that a modest sized bungalow generally compatible with existing dwellings fronting onto Conway Road could be accommodated on the site.

Given that there are already a number of existing bungalows fronting onto both sides of Conway Road, I am of the view that the erection of an additional bungalow on a similar sized plot would preserve the setting of the conservation area which includes the opposite side of Conway Road.

In principle therefore, I am of the opinion that a modestly sized bungalow in keeping with the existing character of the area could be adequately accommodated on the application site.

living conditions:

The Council's Distance Separation SPG requires a minimum distance separation of 22 metres between the existing dwellings on Rugby Road and the proposed development. The illustrative proposal indicates that a distance separation of approximately 26 metres could be achieved.

The site could provide for an attractive dwelling with an adequate sized garden, which exceeds the Council's distance separation standards between no. 207 and the new dwelling.

I am of the view that the proposed dwelling could be sited sufficiently distant from the two dwellings on Oswald Road and 205 and 209 Rugby Road to avoid any potential

overlooking or overshadowing. The reference to rooms in the roofspace made in the previous application has been omitted, thereby removing potential for overlooking at this level.

renewable energy:

I note the objection raised by the Town Council regarding the absence of a Sustainable Buildings Statement demonstrating how 10% of the predicted energy requirement of the proposed building will be provided on site through renewable energy. However, as the application is in outline only, it is considered appropriate for this requirement to be secured by condition and to be dealt with at the reserved matters stage.

parking & highway safety:

Whilst this application is in outline with all matters reserved for future consideration, I am of the view that the application site is capable of accommodating off street parking in accordance with the requirements of the Vehicle Parking Standards SPD.

The width of the majority of Conway Road is sufficiently adequate for the manoeuvring of vehicles, etc. Accordingly, I am of the opinion that a modest bungalow can adequately be located on this site without detriment to the safety of traffic on Conway Road.

Whilst the Highways Authority have raised no objection to the proposal, it is noted that an application for 4 dwellings at 38 Conway Road (with no Highways Authority objection) was refused by Planning Committee in November 2009 for three reasons including the following:-

*"Policy DP6 of the Warwick District Local Plan 1996-2011 states that development will only be permitted which provides safe, convenient and attractive access routes.*

*In the opinion of the District Planning Authority the poor and sub-standard condition of Conway Road, which is not maintainable at public expense, would not provide a safe and convenient access route for the future occupiers of the proposed dwellings. In addition, pedestrian access within the site to the dwellings themselves would not be safe or convenient since users would be required to gain access to the dwellings through a communal parking area for up to 9 vehicles (including the double garage for 32 Warwick New Road), where manoeuvring of vehicles would be taking place.*

*The proposal would therefore be contrary to the requirements of the aforementioned policy".*

In the present case, the application is for one property on a site where vehicular access to a single garage served from Conway Road currently exists.

**RECOMMENDATION**

GRANT, subject to the conditions listed below.

## **CONDITIONS**

- 1 This permission is granted under the provisions of Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995, on an outline application and the further approval of the District Planning Authority shall be required to the undermentioned matters hereby reserved before any development is commenced:-
  - (a) the layout, scale and appearance of the proposed bungalow,
  - (b) details of the access arrangements,
  - (c) details of landscaping.

**REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 as amended .
- 2 In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the District Planning Authority not later than the expiration of three years beginning with the date of this permission. **REASON:** To comply with Section 92 of the Town and Country Planning Act 1990.
- 3 The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved. **REASON :** To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 4 The development hereby permitted shall not be commenced unless and until a scheme showing how 10% of the predicted energy requirement of this development will be produced on site, or in the locality, from renewable energy resources, has been submitted to and approved in writing by the District Planning Authority. The development shall not be first occupied until all the works within this scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturers specifications. **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.
- 5 Details of the means of disposal of storm water and foul sewage from the development shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced and the development shall not be carried out other than in strict accordance with such approved details. **REASON :** To ensure satisfactory provision is made for the disposal of storm water and foul sewage and to satisfy Policy DP11 of the Warwick District Local Plan 1996-2011.
- 6 The off street car parking area to serve the development hereby permitted shall be constructed, surfaced, laid out and available for use prior to the first occupation of the development hereby permitted, in full accordance with the approved plan. **REASON:** To ensure that adequate parking facilities are

available, in accordance with the requirements of Policy DP8 and the Vehicle Parking Standards SPD of the Warwick District Local Plan 1996-2011.

- 7 Prior to commencement of the development hereby approved, details of a porous surface treatment for the drive or where a non-porous surface treatment is proposed, details of the provision to be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse, shall have been submitted to and approved by the District Planning Authority. The drive shall be constructed and surfaced, in full accordance with the approved details. **REASON:** To reduce surface water run-off and to ensure that the development does not increase the risk of flooding elsewhere, in accordance with Policy DP11 of the Warwick District Local Plan.
  
- 8 The vehicular access to the site shall not be less than 5 metres wide for a distance of 7.5 metres into the site, as measured from the near edge of the public highway carriageway. **REASON:** In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
  
- 9 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 development shall be carried out which comes within Parts 1 and 2 of Schedule 2 of this Order, without the prior permission of the District Planning Authority. **REASON:** This site is of a restricted size and configuration and is in close proximity to other dwellings. It is considered appropriate therefore to retain control over future development to ensure that the residential amenity of this locality is protected in accordance with the provisions of District-Wide Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

## **INFORMATIVES**

For the purposes of Article 22 of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003, the following reason(s) for the Council's decision are summarised below:

In the opinion of the District Planning Authority, the development respects surrounding buildings in terms of scale, height, form and massing and does not adversely affect the amenity of nearby residents. The proposal is therefore considered to comply with the policies listed.

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