

**Planning Committee:** 25 April 2016

**Item Number: 10**

**Application No:** [W 16 / 0217](#)

**Town/Parish Council:** Kenilworth

**Case Officer:** Jo Hogarth

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**Registration Date:** 02/02/16

**Expiry Date:** 29/03/16

**Land adjacent South View, Forrest Road, Kenilworth**

Erection of bungalow FOR Mr Brian Sullivan

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

**RECOMMENDATION**

Planning Committee are recommended to grant planning permission, subject to conditions.

**DETAILS OF THE DEVELOPMENT**

The proposal seeks permission to erect a detached dwelling within the north-east of the existing garden of South View.

The proposed dwelling will be a 2 bedroomed bungalow with access being created at the very north-eastern corner of the existing garden area onto Forrest Road with parking being provided on hardstanding. The dwelling itself will be an 'L' shaped building with a maximum frontage width to Forrest Road of 10.3 metres (including the external staircase) with an overall maximum depth of 8.5 metres. The bungalow will have a pitched roof with an eaves height at 2.3 metres and a ridge height of 4.6 metres.

The application is supported by a Design and Access Statement, Sustainable Buildings Statement, Planning Statement and Arboricultural Report.

**THE SITE AND ITS LOCATION**

The application site lies on the periphery of Kenilworth Conservation Area to the north of the Town Centre and overlooks Abbey Fields.

The elongated triangular shaped site forms the rear/ side garden of South View. The southern boundary is a high retaining wall fronting Borrowell Lane and there is an Ash Tree protected by a Tree Preservation Order in the garden adjacent to this retaining wall. The northern boundary fronts Forrest Road which is a classified road.

## **PLANNING HISTORY**

W/97/1510 - Erection of new bungalow and vehicular access - Refused, 14th January 1998. Appeal dismissed, 11th June 1998  
W/04/1064 - Erection of 2 bed bungalow - Refused, 22nd July 2004  
W/04/1999 - Erection of detached bungalow - Refused, 17th December 2004  
W/05/0277 - Erection of detached bungalow - Refused, 9th May 2005. Appeal dismissed 21st December 2005  
W/13/1671 - Garage and workshop - Refused 21st March 2014  
W/14/0513 - Erection of detached garage / workshop - Granted, 27th May 2014  
W/15/1020 - Erection of a detached bungalow - Refused 18th August 2015

The reason for the last refusal was:

*"Policies DP1 & DAP8 of the Warwick District Local Plan 1996-2011 state that development will only be permitted which positively contributes to the character and quality of the environment through good layout and design. Development is required to preserve or enhance the character and appearance of the Conservation area and respect its setting. Furthermore Policy DP2 states that development will not be permitted which does not provide acceptable standards of amenity for future users/occupiers of the development. Paragraph 53 of the NPPF 2012 states that LPA's should resist inappropriate development on garden land where this would cause harm to the local area.*

*The bosky nature of the existing site is a key feature of the site's character and that of the surrounding Conservation Area. The proposals to utilise the building as a separate residential dwelling would threaten the long term survival of the mature trees to the site including an Ash tree which is the subject of a Preservation Order to an unacceptable level. The trees are considered to positively contribute to the character of the surrounding conservation area and proposals which threaten their long term viability are considered to have a harmful negative impact on the Conservation area.*

*In addition, the cramped and contrived nature of the development as a separate residential dwelling would result in a layout that would provide poor outlook from main habitable windows to the detriment of amenities of future occupiers.*

*The development is thereby considered to be contrary to the aforementioned policies".*

## **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)
- DAP3 - Protecting Nature Conservation and Geology (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)
- DAP8 - Protection of Conservation Areas (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)
- NE2 - Protecting Designated Biodiversity and Geodiversity Assets (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)
- HE2 - Protection of Conservation Areas (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)

#### Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Vehicle Parking Standards (Supplementary Planning Document)
- Open Space (Supplementary Planning Document - June 2009)

### **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** Members continued to object to applications on this contrived development on a small, narrow and awkward plot close to the Abbey Fields. Members felt that it provides a limited amenity area and reduces amenity to neighbours.

**WCC Highways:** No objection, subject to a condition requiring the vegetation to be permanently cleared for the visibility splays.

**WCC Archaeology:** No objection.

**WCC Ecology:** Recommend notes on amphibians, birds, reptiles and bats.

**Tree Officer:** No objection. Considers the tree protection measures contained in the arboricultural report to be acceptable.

### **ASSESSMENT**

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

- Principle of development

- Siting/Design and impact on character and appearance of the Conservation Area
- Impact on neighbouring properties and whether the proposal would provide adequate living conditions for future occupiers of the proposed dwelling
- Access and parking
- Ecology
- Energy efficiency / CO<sup>2</sup> reduction
- Health and Wellbeing
- Other matters

### The Principle of the Development

Policy UAP1 of the Warwick District Local Plan 1996-2011 seeks to direct new housing developments to urban areas and states that development will be permitted on previously developed land and buildings within the confines of the urban area. In all other circumstances, residential development will not be permitted unless it is for affordable housing to meet local needs in accordance with the definition in Policy SC11.

The application site comprises part of the garden to South View, Forrest Road, which does not fall within the definition of previously developed land. Therefore the principle of the development would be contrary to Policy UAP1 of the Warwick District Local Plan 1996-2011.

However, it is noted that the National Planning Policy Framework (NPPF) states at para.49 that relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites against their housing requirement. As the Council cannot demonstrate a five year supply of housing, accordingly, only limited weight can be afforded to Policy UAP1, and in these circumstances paragraph 14 of the NPPF is engaged which states that where the development plan policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF.

Para.53 of the NPPF states that LPAs should resist inappropriate development on garden land where this would cause harm to the local area. In this case, however, the proposed development would front the highway, and the extent of built development proposed has already been considered appropriate in this location, albeit as a garage.

### Siting / Design and impact on Conservation Area

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty when exercising planning functions to pay special attention to the desirability of preserving or enhancing the character of a conservation area.

Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage assets, the harm should be weighed

against the public benefits of the proposal, including securing its optimum viable use.

Policy DP1 of the Warwick District Local Plan 1996-2011 states that development will only be permitted which positively contributes to the character and quality of its environment through good layout and design. Policy DAP8 seeks to preserve or enhance the special architectural and historic interest and appearance of Conservation Areas and states that development will be expected to respect the setting and important views both in and out of them.

The scale and layout of the development proposed has already been considered acceptable in the 2015 grant of planning permission for a garage and the proposed footprint of the new bungalow would be the same. The design is such that it will be set down within the contours of the sloping garden with a door opening nearest the main house and external stairs leading to the amenity area.

With regards to the previous reason for refusal in relation to trees on the site and the potential pressure for their removal due to the garden being potentially in shade, the agent has provided shading maps demonstrating the shaded areas within the garden at 6am, 12 noon and 6pm. After midday there is some shading but it is not considered to be so intrusive so as to materially reduce the enjoyment of the garden. Furthermore, the windows and outlook for the occupiers of the bungalow is over Abbey Fields to the front so the trees are unlikely to affect internal light levels.

It is considered that within the context of the character and visual appearance of the streetscene and wider Conservation Area in which the site is located that the design is acceptable and would not result in material harm and the character would be preserved.

#### Impact on neighbouring properties and whether the proposal would provide adequate living conditions for future occupiers of the proposed dwelling

Policy DP2 of the Local Plan requires development to retain a satisfactory relationship to adjacent residents and states that development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents and / or does not provide acceptable standards of amenity for future users/occupiers of the development.

The application building meets the minimum rear-side distance separation of 12m to South View in accordance with the Residential Design Guide SPG. There are no direct window-window relationships to the adjacent property and as the proposal is for a single storey building with windows only to the north and west elevations, the proposal will not result in material harm to the amenities of existing residents through loss of outlook or overlooking. The proposed dwelling will not create opportunities for overlooking. Any future proposals to convert the loft or insert windows within the roof slope can be restricted by a condition restricting permitted development rights. The level of external amenity space for both the proposed dwelling and that which will be retained by South View are considered adequate.

In terms of the amenities of the future occupiers of the proposed dwelling, the outlook from the bedroom and living room windows on the north elevation would be over Abbey Fields, across Forrest Road as the proposal does not include any boundary treatment to this frontage. This is considered to overcome one of the previous reasons for refusal. It is considered appropriate to impose a condition removing permitted development rights for the erection of a means of enclosure. Currently there are windows to the side elevation of South View which serve main habitable rooms and face directly onto the application site. Due to the change in ground level between the application site and South View there is the potential for overlooking and as such the applicants have shown that the first floor window in South View is to be permanently blocked off. Furthermore, it is proposed to erect a 2 metre high close boarded fence to separate the proposed dwelling and South View. This will reduce overlooking to an acceptable level. It is considered that a condition requiring these works to be implemented prior to the first occupation of the proposed dwelling would be necessary.

#### Access and Parking

There has been no objection raised by the Highway Authority, subject to a condition requiring the removal of the vegetation which is currently within the visibility splay. The proposal incorporates the provision of two off street parking spaces which accords with Policy DP8 and with the Council's adopted Vehicle Parking Standards SPD.

#### Ecology

It has been demonstrated through the provision of an Arboricultural report, which has been read and examined by an independent tree officer, that the proposed development can be physically built adjacent to the mature trees without detrimentally affecting their immediate viability. The tree officer raises no objection and concurs with the recommendations for tree protection which are outlined in the report.

With respect to the protection of species such as bats, reptiles, amphibians and great crested newts, it is considered appropriate to attach notes to the decision notice, drawing the attention to the applicant that care should be taken not to impact on these habitats, in accordance with the requirements set out in Policy DAP3 in the Local Plan and 1981 Wildlife and Countryside Act.

#### Energy efficiency / CO2 reduction

The scheme includes a report detailing how energy efficiencies are to be provided through renewable energy and fabric first improvements to the proposed dwelling and it has been demonstrated that these would meet the requirements contained in the Council's adopted Sustainable Buildings SPD and Policy DP13 in the Local Plan. It is considered that this can be secured by condition.

#### Health and wellbeing

It is considered that there are no significant impacts with regards to health and wellbeing.

## Other matters

No public open space is proposed as part of the application. It is therefore considered appropriate, in accordance with Policy SC13 and the associated Open Space SPD, to attach a condition to secure financial contributions towards the improvement and enhancement of public open space. This would equate to 2 x £628.00 = £1,256.00.

There is adequate space within the curtilage of the dwelling for the storage of bins and recycling boxes.

## **SUMMARY/CONCLUSION**

It is considered that this amended scheme addresses the reasons for refusal in the previous application in terms of outlook for future occupiers and amenities of occupiers of South View and the character and appearance of the area. The proposal is considered to be acceptable within the streetscene and wider Conservation Area such that the requirements of the Local Plan Policies listed are met.

## **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 number 4165/14 and specification contained therein and the recommendations contained in the arboricultural report, submitted on 2 February 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.
- 3 Unless the Local Planning Authority certifies that suitable alternative provision has been made for the provision or improvement of open space within the catchment area of the application site in accordance with Policy SC13 of the Warwick District Local Plan 1996-2011:
  - (i) no development shall commence unless or until a scheme for such provision or improvement (identifying the size/extent, location and specification of the space and works) has been submitted to and approved in writing by the Local Planning Authority; and
  - (ii) the dwellings hereby permitted shall not be occupied until the scheme so approved has been implemented.

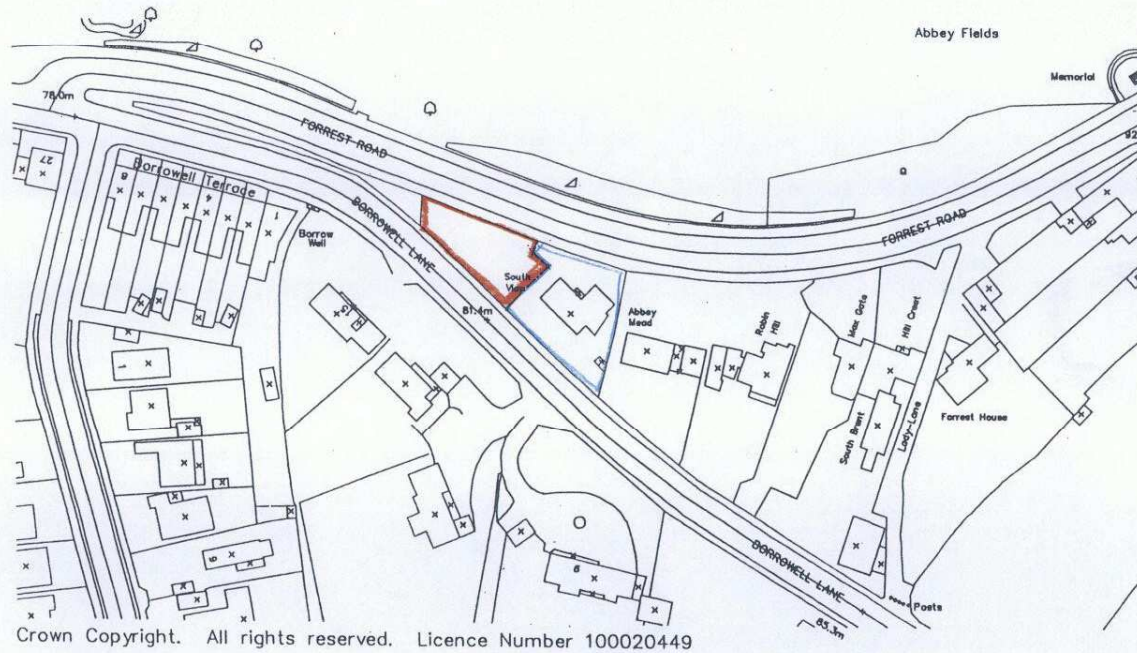
**REASON:** To ensure the necessary infrastructure and facilities are provided in accordance with Policy SC13 of the Warwick District Plan 1996 – 2011.

- 4 Samples of the external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON:** To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 and DAP8 of the Warwick District Local Plan 1996-2011
- 5 No development shall be carried out on the site which is the subject of this permission, until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 (including details of materials) have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON:** For the avoidance of doubt, and to ensure a high standard of design and appearance for this Listed Building, and to satisfy Policy DAP4 of the Warwick District Local Plan 1996-2011.
- 6 Prior to commencement of the development hereby approved, details of a porous surface treatment for the hardstanding shall be submitted to and approved in writing by the Local Planning Authority. The hardstanding 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
- 7 The development hereby permitted shall not commence on the site until a protective fence around the trees identified on the plan to be retained has been erected in accordance with the arboricultural report. Within the approved fenced area there shall be no scaffolding, no stockpiling of any materials or soil, no machinery or other equipment parked or operated, no traffic over the root system, no changes to the soil level, no site huts, no fires lit and no excavation of trenches for drains, service runs or for any other reason. **REASON:** To protect the trees on the site in accordance with Policies DP1 and DAP3 of the Warwick District Local Plan 1996 - 2011.
- 8 All window and door frames shall be constructed in timber and shall be painted and not stained. **REASON:** To ensure a high standard of design and appearance within the Conservation Area and to satisfy Policy DAP8 of the Warwick District Local Plan 1996-2011.
- 9 Prior to the first occupation of the dwelling hereby permitted, the first floor window in South View, as shown on drawing number 4165/14 shall be permanently closed off and retained as such at all times thereafter. **REASON:** To protect the amenity of the occupiers of the new dwelling, in accordance with Policy DP2 in the Warwick District Local Plan 1996-2011.



- 10 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 under Part 1, Class A, B, C or Part 2, Class A, Schedule 2 shall be carried out without the prior written approval of the local planning authority. **REASON:** That due to the restricted nature of the application site and its relationship with adjoining properties it is considered important to ensure that no additional development is carried out without the permission of the local planning authority in accordance with Policies DP1 & DP2 of the Warwick District Local Plan 1996-2011.
- 11 The development hereby permitted shall not be first occupied unless and until the renewable energy/fabric first 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. **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.
- 12 Prior to the first occupation of the dwelling hereby permitted, the parking area shown on drawing number 4165/14 shall be laid out and made available, kept clear from obstruction and retained as such at all times thereafter. **REASON:** To ensure that there is adequate off street parking availability, in accordance with Policy DP8 in the Warwick District Local Plan 1996-2011.
- 13 Prior to the first occupation of the dwelling hereby permitted, the vegetation to the west of the new access shall be permanently cleared and maintained as such at all times thereafter. **REASON:** In the interests of highway safety and to satisfy Policy DP6 in the Warwick District Local Plan 1996-2011.

SOUTH VIEW  
FORREST ROAD  
KENILWORTH



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4165

SITE LOCATION PLAN

1 : 1250

