

PLANNING COMMITTEE

Minutes of the meeting held on Tuesday 8 November 2011 in the Town Hall, Royal Leamington Spa at 6.00pm.

PRESENT: Councillor Illingworth (Chairman); Councillors Barrott, Mrs Blacklock, Brookes, Copping, Mrs Higgins, Kinson, MacKay, Rhead and Weed.

(Councillor Barrott substituted for Councillor Ms Dean.)

108. **DECLARATIONS OF INTEREST**

Minute Numbers 110, 111 & 112 – W10/0340, W10/0341 LB & W10/0342 CA – Clarendon Arcade, Parade, Royal Leamington Spa

Councillor Mrs Blacklock declared a personal interest because she was a regular customer of one of the businesses that would be displaced if the application were to be approved.

Minute Number 113 – W11/1109 – Fernhill Farm, Rouncil Lane, Kenilworth

Councillors Barrott, Mrs Blacklock, Copping, Mrs Higgins, Kinson, MacKay and Rhead declared personal interests because the applicant was known to them as former a District Councillor.

Councillor Illingworth declared a prejudicial interest because both he and the applicant were officers of the Kenilworth Conservative branch. He left the room while this item was discussed and Councillor MacKay took the chair in his absence.

109. **MINUTES**

The minutes of the meeting held on 18 October 2011 had not been attached to the agenda and so this item was deferred until the next meeting.

110. **W10/0340 – CLARENDON ARCADE, PARADE, ROYAL LEAMINGTON SPA**

The Committee considered an application from Wilson Bowden Developments for the erection of a mixed use scheme (A1/A2/A3/A4/A5 uses) together with 9 town houses; service access at basement level with two levels of car parking above the retail on second floor and third floor and a plant deck above; new entrance portico on Parade and extension and conversion of 17 Parade for retail / bar use with offices above; new vehicular accesses and other highway alterations; and single and two storey side and rear extensions.

The application was presented to the Committee because a number of objections had been received, including one from Royal Leamington Spa Town Council.

PLANNING COMMITTEE MINUTES (Continued)

The Committee had visited the site on Saturday 5 November 2011 because the Chairman had felt it would be beneficial to the Committee when determining the application.

The case officer considered the following policies to be relevant:

Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement 3: Housing
Planning Policy Statement 4: Planning for Sustainable Economic Growth
Planning Policy Statement 5: Planning for the Historic Environment
Planning Policy Statement 9: Biodiversity and Geological Conservation
Planning Policy Guidance 13: Transport
Planning Policy Statement 22: Renewable Energy
Planning Policy Statement 23: Planning and Pollution Control
Planning Policy Statement 25: Development and Flood Risk
Ministerial Statement of 23 March 2011 on "Planning for Growth"
Draft National Planning Policy Framework (July 2011)
UR3 - Enhancing the Role of City, Town and District Centres (West Midlands Regional Spatial Strategy 2008)
PA11 - The Network of Town and City Centres (West Midlands Regional Spatial Strategy 2008)
UR3 - Enhancing the Role of City Town and District Centres (West Midlands Regional Spatial Strategy Phase Two Revision - Draft December 2007)
PA11 - The Network of Town and City Centres (West Midlands Regional Spatial Strategy Phase Two Revision - Draft December 2007)
PA12A - Comparison Retail Floorspace Requirements 2006-2026 (West Midlands Regional Spatial Strategy Phase Two Revision - Draft December 2007)
TC2 - Hierarchy of Town Centres (Warwickshire Structure Plan 1996-2011).
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)
DP4 - Archaeology (Warwick District Local Plan 1996 - 2011)
DP5 - Density (Warwick District Local Plan 1996 - 2011)
DP6 - Access (Warwick District Local Plan 1996 - 2011)
DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
DP8 - Parking (Warwick District Local Plan 1996 - 2011)
DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
DP11 - Drainage (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)
DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)
DP15 - Accessibility and Inclusion (Warwick District Local Plan 1996 - 2011)
SC4 - Supporting Cycle and Pedestrian Facilities (Warwick District Local Plan 1996 - 2011)
SC12 - Sustainable Transport Improvements (Warwick District Local Plan 1996 - 2011)
SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)
SC15 - Public Art (Warwick District Local Plan 1996 - 2011)
UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
UAP2 - Directing New Employment Development (Warwick District Local Plan 1996 - 2011)

PLANNING COMMITTEE MINUTES (Continued)

UAP3 - Directing New Retail Development (Warwick District Local Plan 1996 - 2011)
TCP1 - Protecting and Enhancing the Town Centres (Warwick District Local Plan 1996 - 2011)
TCP2 - Directing Retail Development (Warwick District Local Plan 1996 - 2011)
TCP3 - Providing for Shopping Growth in Leamington Town Centre (Warwick District Local Plan 1996 - 2011)
DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
DAP7 - Restoration of Listed Buildings (Warwick District Local Plan 1996 - 2011)
DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)
Vehicle Parking Standards (Supplementary Planning Document)
Sustainable Buildings (Supplementary Planning Document - December 2008)
Residential Design Guide (Supplementary Planning Guidance - April 2008)
Distance Separation (Supplementary Planning Guidance)
The 45 Degree Guideline (Supplementary Planning Guidance)
Open Space (Supplementary Planning Document - June 2009)
Leamington Spa Conservation Area Statement (2007)

An addendum circulated at the meeting informed the Committee of additional objections received since publication of the report and agenda, including officers comments, responses to queries raised by members of the Planning Committee during their site visit, conditions which had been amended following the submission of revised proposals and revised reasons for granting the application.

Policies required large scale retail development to be located within town centres and, in the case of Warwick District, within Leamington town centre. It was the case officer's opinion that a need had been demonstrated for the scale of retail development that had been proposed. The development was considered to preserve the character and appearance of the various Listed Buildings that would be affected and the design of the proposed new building would preserve the character and appearance of the Conservation Area. Any harm to the Conservation Area arising from the loss of certain traditional buildings and the loss of part of the historic street pattern would be outweighed by the wider public benefits of the proposals in accordance with PPS5. The proposals would not cause unacceptable harm to the living conditions of nearby dwellings or other nearby uses and would not give rise to unacceptable air, noise, light or other pollution. Furthermore, the development would provide acceptable standards of amenity for future occupiers of the proposed town houses. The development would not harm protected species or result in the loss of important natural features, and adequate mitigation for any loss of biodiversity had been incorporated into the proposals.

The case officer's opinion was that sustainability principles had been respected and a carbon reduction strategy had been put forward which met

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the objectives of relevant policies. The proposals would not be detrimental to highway safety and, in view of the overall parking provision across town centre car parks, the level of parking provision was considered to be consistent with policy objectives. The imposition of a condition to require an agreed programme of archaeological investigation and recording to be carried out was considered sufficient to meet the requirements of PPS5 and Local Plan Policy DP4. The site of the proposed town houses comprised previously developed land within the urban area and therefore the residential element of the proposals would be in accordance with policy, as was the office element of the proposals, due to the site being situated in the town centre. The proposal made efficient use of the town centre site in accordance with the requirements of policy, whilst respecting the constraints that had been identified. The proposed installation of two attenuation tanks to achieve a 20% reduction in surface water discharge from the site would meet the objectives of Policy DP11.

In the opinion of the case officer, the development had been designed to adequately minimise the potential for crime and anti-social behaviour, and there was satisfactory provision for access by all potential users, including disabled users. Proposed cycle parking facilities would not result in harm that would outweigh the benefits in terms of encouraging cycling and therefore would be in accordance with policy. Bearing in mind the sustainable location of the site, proposals for an improved pedestrian crossing facility on Warwick Street, along with the provision of cycle parking around the development and the installation of CCTV cameras to provide an improved method of managing the highway network at key junctions, would satisfy the objectives of Local Plan Policy SC12. Proposals included public realm enhancements within, and adjacent to, the application site and the developer had agreed to secure works of enhancement to nearby public open space. The development made suitable provision for surface water drainage.

The developer had also agreed to install public art in accordance with Policy SC15. A 23 March 2011 Ministerial Statement on "Planning for Growth" stated that the Government's clear expectation was that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy. In the opinion of the District Planning Authority, the proposals would bring significant economic benefits and, in accordance with the Ministerial Statement, this weighed in favour of granting planning permission. The case officer concluded that the proposals would be in accordance with the Development Plan and that there were no other material considerations to indicate that planning permission should be refused. This decision had taken into account the Environmental Statement, the further information submitted, representations made by bodies required by the EIA regulations to be invited to make representations, and all representations made by any other person about the environmental effects of the development.

The Committee noted that, if the application was granted, it would have to be referred to the Secretary of State because part of the proposed redevelopment fell outside of the designated town centre area.

Royal Leamington Spa Town Councillor Lytton addressed the Committee, expressing the Town Council's objections over the bulk of the development,

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its detrimental visual impact on properties in the conservation area and wider effect on surrounding properties, concerns regarding the effect on traffic, the importance of preserving the town's unique identity, a significant level of public opposition and the lack of provision made for businesses which would be displaced.

Dr Hodgetts expressed the concerns of the Warwick District Town's Conservation Area Advisory Forum (CAAF), that this was not the proposal that Leamington deserved. It potentially moved the centre of gravity further up Parade, having a detrimental impact on the rest of the town. Other concerns included the impact on existing buildings and views, large expanses of red brickwork at a high visual level being inappropriate, an extremely dominant appearance over Clarendon Avenue, the impact on light to properties to the south and loss of character through the removal of important buildings from the conservation area. It was also unclear whether a through route would exist outside of the anchor store's opening hours.

Mr Davison objected to the application, suggesting that the proposal underestimated the impact of the loss of shops and overestimated how customers could be drawn in from outside the district. He talked about negligible growth since 2003, projections for shop closures by 2020 and objections to the proposals made by the Royal Priors shopping centre. He had seen no evidence that the proposals would work, suggested that they needed to be evidence based and that there were at least three alternative sites within the town centre which could be considered for development in the long term.

Mr Thomas presented objections on behalf of the owners of 11-15 Parade, who felt that a revised scheme was required to meet their concerns, which included loss of private car parking, key areas of property being demolished and having a significant impact on retail units, the impact on the amenity of occupiers, outlet for future occupiers being dramatically changed, the impact on listed buildings and the proposal being too large, with inadequate servicing arrangements.

Mrs Murray-Bates represented the views of residents of 16-28 Clarendon Avenue, who objected to the size of the current proposal, arguing that it did not meet the requirements of the local plan and was too large. She put forward the concerns of Chandos Court residents with regard to loss of amenity, sun and daylight, and massive visual intrusion and noise. Appropriate levels of amenity needed to be maintained, not least for elderly residents and children.

Mr Taylor stated that almost all of the people he had spoken to opposed the development and did not believe it would be beneficial. He talked about the Royal Priors shopping centre being similar in size to the proposal, but differing in terms of retail space by 50%. He was concerned about the negative effects of drawing shoppers to the north of the town and the number of shops which were already vacant.

Mr Pitts represented the views of the Leamington Society, who believed that the retail case for the development was out of date, with the retail scene in deterioration and its main growth area being online. He suggested that Leamington was renowned for its independent shops and should play

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to its strengths by encouraging them. He pointed out that the proposal involved the demolition of 9000 square metres in order to build a 7500 square metre anchor store, and suggested that there was very little support for the scheme.

Mr Herzberg, the architect who had designed the scheme, spoke about his previous experience including awards he had won for schemes in Canterbury, Exeter, Cambridge & Bath. He talked about his efforts to sensitively design the scheme in cooperation with the District Council and other groups, how it was supported by English Heritage and how it would improve several areas which were currently unsightly. Mr Herzberg mentioned that he had worked on the Royal Priors scheme in 1980 and pointed out that while similar concerns had been expressed about that scheme at the time, it now sat comfortably within Leamington town centre.

Mr Ward spoke in support of the application, which he had worked on in partnership with Warwick District Council since 2007. The scheme had been endorsed by the local plan, the Environment Agency, environmental health and the business community, including the Chamber of Trade. He believed that this was the right site for the development, cited the Javelin report which stated that the town needed to invest in space, talked about what he considered to be the benefits of the scheme and responded to some of the concerns already voiced at the meeting.

Ward Councillor Weber addressed the Committee, touching on points from his written submission and also speaking on behalf of a number of residents who objected to the application. In principle, he supported the development, but had significant misgivings about the scale and design of the current proposal, and the effect of that on the conservation area, car parking, residents and Leamington's retail environment. He felt that the design of the Arcade should be special, but was not convinced that the current design would improve or enhance the town, and felt that the Warwick Street entrance was not in keeping with the entrance to the Royal Priors centre opposite.

Following consideration of the report, presentation and addendum, along with the representations made at the meeting, members discussed the proposal before them and asked a number of questions, which officers responded to. A motion was put to the Committee and duly seconded that the proposal be refused contrary to the officer's recommendation. A second motion was made and duly seconded that a decision on the application be deferred to allow for more consultation because the proposal did not wholly conform with the local plan, part of it was outside of the area of search, bringing with that related issues, and to allow for a detailed infrastructure plan to be drawn up to reduce dependency on car. This motion was defeated by five votes to three. The proposal to refuse became the substantive motion and this was won by six votes to four.

RESOLVED that W10/0340 be REFUSED contrary to the officer's recommendation for the following reasons:

- (1) the proposal is contrary to local plan policy DP1 (layout and design) due to bulk and mass, and would not represent an appropriate layout and

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design that harmonises with the surrounding buildings;

- (2) the proposal is contrary to local plan DP2 (amenity) due to unacceptable impact on the living conditions of existing residents of the surrounding properties and the future residents of the town houses by reason of overbearing visual impact, loss of light, noise and fumes;
- (3) the proposal is contrary to local plan policy DAP8 and DAP9 and PPS5 policies HE8 and HE9 due to bulk and mass and loss of traditional buildings and street pattern being detrimental to the character and appearance of the conservation area;
- (4) the proposal is contrary to local plan policy DP8 (parking) by reason of excessive car parking; and
- (5) the proposal is contrary to local plan policy TCP3 by reason of inadequate measures to promote public transport.

111. W10/0341 LB – CLARENDON ARCADE, PARADE, ROYAL LEAMINGTON SPA

The Committee considered an application from Wilson Bowden Developments for: 9 Parade - Partial demolition of single storey later addition and extension to number 9 Parade; Walton House, Rear of 11-13 Parade - Demolition of two storey rear modern extension to Walton House, currently used as auction showrooms and offices/stores, currently occupied by Locke & England; 13-15 Parade - Demolition of modern two storey rear extension to number 13-15 Parade, currently used as an extension to the Coventry Building Society, together with first floor storage and support accommodation for the ground floor shops. Demolition of four storey modern escape stair to rear of 13 Parade. 15 Parade - Addition of new portico and associated alteration works to existing shop as detailed on drawings and described in the historic environment report; 17 Parade - Internal alterations and conversion of existing building to retail use in basement and ground floor with office/support space on the upper floors. All as detailed in drawings and described in the historic environment report; and 20-22 Guy Street - Demolition of modern two storey building currently known as Argos which formed the rear extension to 19-21 Parade (formerly Sainsburys).

The application was presented to the Committee because a number of objections had been received, including one from Royal Leamington Spa Town Council.

The case officer considered the following policies to be relevant:

Planning Policy Statement 5 : Planning for the Historic Environment

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DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)

DAP7 - Restoration of Listed Buildings (Warwick District Local Plan 1996 - 2011)

DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

Ministerial Statement of 23 March 2011 on "Planning for Growth"

Draft National Planning Policy Framework (July 2011)

Leamington Spa Conservation Area Statement (2007)

It was the case officer's opinion that the proposed alterations would preserve the character and appearance of the various Listed Buildings concerned and the Conservation Area as a whole. The proposal was therefore considered to comply with the policies listed.

Following consideration of the report and presentation, along with the addendum and the representations made at the meeting under the previous related item, the Committee were of the opinion that the application should be refused contrary to the officer's recommendation.

RESOLVED that W10/0341 LB be REFUSED because the proposal was contrary to local plan policy DAP4 by reason of the absence of a suitable replacement scheme for the demolished buildings.

112. W11/0342 CA – CLARENDON ARCADE, PARADE, LEAMINGTON SPA

The Committee considered an application from Wilson Bowden Developments for 69-71 Warwick Street - Complete demolition of the retail units formerly known as Priceless Shoes and Cargo Home Shop at ground floor and associated offices on 1st and 2nd floor levels; 73 Warwick Street - Complete demolition of the retail unit and associated offices, currently known as QS Store, which extends across lower ground, ground, first and second floors; 1 Guy Street & 1a Guy Place West - Complete demolition of the two storey Veterinary Surgery, including rear extensions and the first floor flat; 6 Guy Street - Complete demolition of the existing restaurant known as Chicos, including first floor residential element and associated rear extensions; 18 Guy Street - Complete demolition of the two storey mews building with rear modern two storey extension, formerly occupied by Locke and England as a showroom with associated storage and offices; 1 Guy Place West - Complete demolition of two storey residential property; 3 Guy Place West - Complete demolition of two storey residential property; 2 & 4 Chandos Street - Complete demolition of two semi-detached houses; 81 Warwick Street - Demolition of the rear single storey modern or later unlisted addition to 81 Warwick Street, currently known as Andrew Murray Hairdressers accessed from Oxford Row; 83 Warwick Street - Demolition of the rear two storey later unlisted addition to 83 Warwick Street, currently occupied by Parkes Hireware also accessed from Oxford Row; 7 Parade - Demolition of single storey modern unlisted out-buildings within the curtilage of number 7 Parade, used as storage space; and 23-31 Parade - Demolition of modern unlisted electrical sub-station within the curtilage and to the rear of numbers 23-31 Parade.

PLANNING COMMITTEE MINUTES (Continued)

The application was presented to the Committee because a number of objections had been received, including one from Royal Leamington Spa Town Council.

The case officer considered the following policies to be relevant:

DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)

Planning Policy Statement 5 : Planning for the Historic Environment

DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

Ministerial Statement of 23 March 2011 on "Planning for Growth"

Draft National Planning Policy Framework (July 2011)

Leamington Spa Conservation Area Statement (2007)

It was the case officer's opinion that, whilst the majority of the unlisted buildings shown as being demolished made a negative or neutral contribution to the character of the Conservation Area, three significant buildings would be lost, those being the pair of Victorian houses on Chandos Street and 6 Guy Street. However, any harm to the Conservation Area arising from the loss of these traditional buildings would be outweighed by the wider public benefits of the proposals, in accordance with PPS5. The proposals were therefore considered to comply with the policies listed.

Following consideration of the report and presentation, along with the addendum and the representations made at the meeting under the previous two related items, the Committee were of the opinion that the application should be refused contrary to the officer's recommendation.

RESOLVED that W10/0342 CA be REFUSED because the proposal was contrary to local plan policy DAP8 and DAP9 and PPS5 policies HE8 and HE9 due to the loss of traditional buildings being detrimental to the character and appearance of the conservation area.

113. W11/1109 – FERNHILL FARM, ROUNCIL LANE, KENILWORTH

The Committee considered an application from Mr & Mrs Cockburn for caravan storage in the remaining section of a paddock, this being a change of use.

The application was presented to the Committee because the applicant was a former District Councillor, a number of letters of support had been received and the recommendation was to refuse.

The case officer considered the following policies to be relevant:

Planning Policy Guidance 2 : Green Belts

RAP9 - Farm Diversification (Warwick District Local Plan 1996 - 2011)

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)

DP6 - Access (Warwick District Local Plan 1996 - 2011)

PLANNING COMMITTEE MINUTES (Continued)

DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
RAP6 - Directing New Employment (Warwick District Local Plan 1996 - 2011)
DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)
Ministerial Statement of 23rd March 2011- Planning for Growth

It was the case officer's opinion that no very special circumstances or justification existed to show that the need outweighed the harm for this inappropriate use within the Green Belt. There was a general presumption against inappropriate development, policy 'PPG 2: Green Belts' stating that a material change of use of land was inappropriate unless it maintained the openness of the Green Belt. By its nature, the extensive external storage did not maintain the openness of the Green Belt and represented a significant visual intrusion, which was inappropriate development and, by definition, harmful. Whilst there was clearly demand for a secure site for caravan storage, there was no evidence of an increased demand that the existing facilities could not provide or that could not be provided elsewhere on land outside of the Green Belt. Whilst the proposal would contribute towards sustaining the vitality of the existing farm buildings, the scale and nature could not be satisfactory integrated into the landscape without being detrimental to its character and thereby contrary to Policy RAP9 of the Local Plan.

The applicant, Mr Cockburn, addressed the Committee, talking about how the site had been used to store caravans for many years, providing a facility which benefited the local community, and how the paddock had been split into three parts due to the need for better long term security. He talked about the site's viability, its location, how it was not overlooked and evidence of strong public support from local residents.

Following consideration of the report and presentation, along with the representation made by the applicant, a motion was made and duly seconded that the application be approved because it caused limited harm to the greenbelt and landscape in line with local plan policy RAP9, there were no objections, caravans were already onsite and it provided a facility that benefitted the local community by removing caravans from properties where they would be an eyesore. This vote was lost with four votes in favour, four votes against and the Chairman exercised his casting vote in favour of the officer's recommendation, which was to refuse the application.

RESOLVED that W11/1109 be REFUSED for the following reasons:

- (1) the site is situated within the Green Belt and Planning Policy Guidance Note 2 states that, within the Green Belt, the openness of the area will be protected. It also contains a general presumption against "inappropriate" development in Green Belt areas and lists specific forms of development which can be permitted in appropriate circumstances. The proposed development does not fall within any of

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the categories listed in the Policy and, in the Planning Authority's view, very special circumstances sufficient to justify departing from this Guidance have not been demonstrated; and

- (2) RAP9 of the Warwick District Local Plan 1996-2011 states that developments for farm diversification should be of a scale and nature appropriate to the rural location and that they should be satisfactorily integrated into the landscape without being detrimental to its character.

The proposal cannot be satisfactorily integrated into the landscape and is considered to be detrimental to its character and is contrary to policy RAP9.

(Councillor MacKay took the chair for this item, in the absence of Councillor Illingworth who, having declared a prejudicial interest, had left the room for the duration of the item)

114. ADJOURNMENT OF MEETING

The Chairman adjourned the meeting of Tuesday 8 November 2011 to Wednesday 9 November 2011 at 6.00pm.

(The meeting adjourned at 10.35 pm)

RESUMPTION OF THE ADJOURNED PLANNING COMMITTEE MEETING

Minutes of the adjourned Planning Committee meeting held on Wednesday 9 November 2010 the Town Hall, Royal Leamington Spa at 6.00 pm.

PRESENT: Councillor Illingworth (Chairman); Councillors Barrott, Mrs Blacklock, Brookes, Copping, Mrs Higgins, Kinson, MacKay, Rhead and Weed.

(Councillor Barrott substituted for Councillor Ms Dean.)

115. W09/1258 – LAND ADJOINING SANDS FARM, OLD WARWICK ROAD, LAPWORTH, SOLIHULL

The Committee considered an application from Sands Farm (Hockley Heath) Ltd for a proposed inland waterways marina including a marina facilities building and boat workshop, new road access, associated foot paths, landscaping and car parking.

The application had been included on the agenda for the 24 May 2011 Planning Committee with a recommendation to grant, but was withdrawn following an appeal decision for a marina in a green belt location within Solihull Borough (Grove Farm), received in the previous week, where the inspector had dismissed the appeal since she concluded the harm to the green belt was not outweighed by very special circumstances. A further appeal decision for a second marina in the green belt within Solihull Borough was subsequently dismissed for similar reasons. The applicant for

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this application had submitted further evidence on need and further representations had been received opposing the development. The report had been updated to reflect these and to correct some earlier omissions.

The implications of the Grove Farm and Stripes Hill Farm appeal decisions for the assessment of the application at Sands Farm were set out in this report. The revised assessment concluded that these decisions were a significant material consideration which had led to a changed recommendation, which was now one of refusal.

The case officer considered the following policies to be relevant:

DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
DP13 - Renewable Energy Developments (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)
DP4 - Archaeology (Warwick District Local Plan 1996 - 2011)
DP6 - Access (Warwick District Local Plan 1996 - 2011)
DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
RAP13 - Directing New Outdoor Leisure and Recreation Development (Warwick District Local Plan 1996 - 2011)
Planning Policy Guidance 2 : Green Belts
Planning Policy Statement 7 : Sustainable Development in Rural Areas
Planning Policy Statement 25 : Development and Flood Risk
Planning Policy Guidance 13: Transport
Planning Policy Statement 4 : Planning for Sustainable Economic Growth
Warwickshire Landscape Guidelines SPG
DP8 - Parking (Warwick District Local Plan 1996 - 2011)
Ministerial Statement of 23 March 2011 on "Planning for Growth"
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011)

An addendum circulated at the meeting advised the Committee of further submissions received in respect of the application.

It was the case officer's opinion that, in site specific terms, the proposal was not considered to give rise to harm to ecological interests or to unacceptably harm the amenity of local residents in relation to noise, disturbance or visual intrusion. The highway implications of the proposals were also considered to be acceptable and there were no grounds to refuse permission based on drainage and flooding considerations, given the responses of the relevant agencies. However, in light of recent appeal decisions and the inspectors' conclusions on the evidence of need for moorings, it was felt that the applicant had not demonstrated very special circumstances that outweighed the harm caused by this inappropriate development in the green belt. The recommendation was therefore to refuse this application.

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Parish Councillor Ms Vernon addressed the Committee, expressing Hockley Heath Parish Council's objections regarding the size of the proposal and the impact of that noise and traffic would have on the community. Lapworth Parish Councillor Mrs Toogoods detailed the objection from the Parish Council explaining that they had concerns about the size of the development in the rural area, the increase in large vehicles to the site and the lack of evidence of need for such a site. Mr Pledger spoke against the application on the grounds of the public response to the application including the demonstration of demand for the site and the feasibility in the location.

Mr Mason spoke in support of the application explaining that there was no similar site to the proposal within reasonable cruising distance and there was continued increase in the number of boat licences issued in the area. He also responded to some of the concerns regarding the potential for flooding and details of access to the site.

Ward Councillor Caborn objected to the application explaining that in the two years since the initiation of the application he had had nobody approach in favour of the proposal. The development would have a significant impact on the Arden landscape and Green Belt which this Council had sought to protect; there would also be significant impact from increased traffic and there had been no demonstration of need for the site.

Following consideration of the report and presentation, along with the representations made at the meeting, the Committee were of the opinion that the application should be refused in accordance with the officer's recommendation subject to an additional reason regarding the size of the development not being appropriate for the rural setting.

RESOLVED that W09/1258 be REFUSED for the following reasons:

- (1) the site is situated within the Green Belt and Planning Policy Guidance Note 2 states that, within the Green Belt, the openness of the area will be protected. It also contains a general presumption against "inappropriate" development in Green Belt areas and lists specific forms of development which can be permitted in appropriate circumstances. The proposed development does not fall within any of the categories listed in the Guidance and, in the Planning Authority's view, very special circumstances sufficient to justify departing from this policy have not been demonstrated.

The District Planning Authority has taken into account the Environmental Statement, the further information submitted, representations made by bodies required by the EIA regulations to be invited to make representations, and all representations made by any other person about the environmental effects of the development ;
and

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- (2) the proposal is contrary to RAP13 due to its scale and massing within the rural area and is considered a large scale marina and, as set out at para 8.82, is more appropriate to the urban area rather than the rural setting of this application.

116. **W11/0887 – 6 KELVIN ROAD, LILLINGTON, ROYAL LEAMINGTON SPA**

The Committee considered an application from Mr & Mrs Glassborow for the erection of a two storey side and rear extension and single storey rear extension to enlarge the existing kitchen and provide a utility room and further bedroom.

The application was presented to the Committee because an objection had been received from Royal Leamington Spa Town Council.

The case officer considered the following policies to be relevant:

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
Residential Design Guide (Supplementary Planning Guidance - April 2008)
Sustainable Buildings (Supplementary Planning Document - December 2008)
Vehicle Parking Standards (Supplementary Planning Document)
The 45 Degree Guideline (Supplementary Planning Guidance)

It was the case officer's opinion that the development respected surrounding buildings in terms of scale, height, form and massing and did not adversely affect the amenity of nearby residents. The proposal was therefore considered to comply with the policies listed.

Following consideration of the report and presentation, the Committee were of the opinion that the application should be granted in accordance with the officer's recommendation.

RESOLVED that W11/0887 be GRANTED subject to the following conditions:

- (1) the development hereby permitted must be begun not later than the expiration of three years from the date of this permission.
REASON: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004;
- (2) the development hereby permitted shall be carried out strictly in accordance with the details shown on the application form and approved drawing(s) 11/40-02, and 11/40-03 specification

PLANNING COMMITTEE MINUTES (Continued)

contained therein, submitted on 19th July 2011 unless first agreed otherwise in writing by the District Planning Authority. **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) prior to the occupation of the development hereby permitted, the two windows in the southeast elevation on the first floor shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view and shall be non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The obscured glazed windows shall be retained and maintained in that condition at all times. **REASON:** To protect the privacy of users and occupiers of nearby properties and or the privacy of future users and occupiers of the development hereby permitted and to satisfy the requirements of Policy DP2 of the Warwick District Local Plan 1996-2011; and
- (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.

117. ENF 064/10/11 – CAFFE NERO, PARADE, ROYAL LEAMINGTON SPA

The Committee considered an application requesting that enforcement action be authorised in respect of unauthorised use of property and removal of unauthorised window graphics.

Whilst permissions had been approved for the installation of external signing, awning and internal refurbishment of the property following its occupation by Caffe Nero, no permission had been sought for the change of use from Use Class A1 (retail) and internal vinyl window graphics had been installed which were materially different to what had been approved.

PLANNING COMMITTEE MINUTES (Continued)

Contact was subsequently made with Caffè Nero and an application for a change of use to Use Class A1/A3 coffee shop had been received in April 2011. However, the application as submitted was invalid and despite contact with the agents for the company, remained so until 25 August when, in accordance with usual practice, it was deemed withdrawn.

The case officer considered the following policies to be relevant:

- 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)
- DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP5 - Changes of Use of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- TCP2 - Directing Retail Development (Warwick District Local Plan 1996 - 2011)
- TCP4 - Primary Retail Frontages (Warwick District Local Plan 1996 - 2011)

An addendum circulated at the meeting advised the Committee that there was a factual error in the Committee Report: the description of unauthorised development stated that the new use was a mixed A1/A3 use. This was incorrect; the unauthorised use of the premises was a coffee shop which fell squarely within Use Class A3 Restaurants & Cafes.

The case officer was of the opinion that policy TCP4, which restricted changes to non-A1 retail frontage exceeding 25%, had been breached on both Parade and Warwick Street. Unauthorised window graphics installed on the Warwick Street frontage covered the whole of one large window from ground level to ceiling height and created an impression of a solid wall, impacting on the general appearance of the Listed Building and creating an adverse impact on the Conservation Area.

Extensive contact has been made with the agent for the occupiers of the site and despite the situation being fully explained, the matter had not been resolved. The service of Enforcement Notices was now considered to be the only option available to rectify this breach.

Following consideration of the officers report and presentation it was proposed, duly seconded that no Enforcement Action be taken with regard to the change of use or signage, which was put to two separate votes both of which were lost. It was proposed, duly seconded that the recommendation of the report be agreed and on being put to the vote;

RESOLVED that officers be authorised to take appropriate enforcement action directed at the cessation of unauthorised use of the property and the removal of unauthorised vinyl window graphics, with compliance periods of 6 months for the former and 1 month for the latter.

PLANNING COMMITTEE MINUTES (Continued)

118. ENF 112/15/11 – 144 PARADE, ROYAL LEAMINGTON SPA

The Committee considered an application requesting that enforcement action be authorised in respect of unauthorised change of use of a Grade II Listed Building from Use Class A1 (retail) to Use Class A2 (financial and professional services).

Contact had been made with the leaseholder Mr King who was advised that if the property was utilised for pawnbroking, cheque cashing, money lending and jewellery purchase operations, planning permission would be required for a change to Use Class A2. Despite this advice and extensive correspondence and meetings, the business was opened. Mr King had stated that he would not apply for any change, as he maintained that the operation fell within the definition of Use Class A1 (retail sales of goods) and therefore did not require planning permission.

The case officer considered the following policies to be relevant:

- 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)
- DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP5 - Changes of Use of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- TCP2 - Directing Retail Development (Warwick District Local Plan 1996 - 2011)
- TCP4 - Primary Retail Frontages (Warwick District Local Plan 1996 - 2011)

The case officer's opinion was that, given the range of different financial services which were on offer, the very limited display of goods within the unit and the way in which the unit was viewed by passers-by (the name and accompanying marketing laid emphasis on the non-sales elements of the business), it was considered that the use did not fall within Use Class A1 but rather within Use Class A2. It therefore also comprised a breach of planning control.

The unit occupied a plot with frontage on Parade between Dormer Place and Regent Street, designated as Primary Retail Frontage. As such the change of use of the property would be assessed according to policy TCP4. This policy restricted changes to non A1 uses where the proposal would create a total non A1 frontage exceeding 25% or contribute to a non-A1 frontage of more than 16 metres. In combination with adjacent premises, a continuous non A1 frontage of over 16 metres would exist, exceeding the threshold set out in TCP4. As the property was a Grade II Listed Building, the most appropriate method of securing upkeep was by full occupation at the appropriate use class for the area. Any changes to that use class could involve internal alterations which might not be appropriate in the historic context of the building, hence the non-determination at present of the latest application for such changes by the current occupier.

Extensive contact had been made with the leaseholder and the company. The situation had been fully explained but the matter had not been

PLANNING COMMITTEE MINUTES (Continued)

resolved. Whilst vacancy rates of properties within this Primary Retail Frontage remained of concern, it was considered that the addition of a further A2 use in close proximity to that at 136 Parade, contrary to the requirements of Policy TCP4, would unacceptably impact upon the character, vitality and viability of the area of retail frontage in question.

The service of an Enforcement Notice was now considered to be the only appropriate option available to rectify this breach.

Following consideration of the report and presentation the recommendation in the report was proposed, duly seconded and it was

RESOLVED that Officers be authorised to take appropriate enforcement action directed at the cessation of unauthorised use of the premises with a period of compliance of 6 months.

(The meeting ended at 8.39 pm)