

# Planning Committee

Minutes of the meeting held on Wednesday 4 May 2022 at the Town Hall, Royal Leamington Spa at 6.00pm.

**Present:** Councillor Boad (Chairman); Councillors Ashford, Davison, Dickson, Jacques, Leigh-Hunt, Margrave, Morris, Quinney and Tracey.

**Also Present:** Committee Services Officer – Sophie Vale; Legal Advisor – Ross Chambers; Business Manager – Development Management – Sandip Sahota; and Principal Planning Officer – Lucy Hammond.

## 187. **Apologies and Substitutes**

- (a) Apologies were received from Councillor Tangri.
- (b) Councillor Davison substituted for Councillor Kennedy, and Councillor Margrave substituted for the Whitnash Residents Association vacancy.

## 188. **Declarations of Interest**

There were no declarations of interest made.

## 189. **Site Visits**

To assist with decision making, Councillors Dickson and Jacques made independent visits to W/22/0140 – Warwick Castle, Castle Hill, Warwick.

## 190. **Minutes**

The minutes of the meetings held on 29 March 2022 and 30 March 2022 were taken as read and signed by the Chairman as a correct record.

## 191. **W/22/0140 – Warwick Castle, Castle Hill, Warwick**

The Committee considered an application from Merlin Attractions Operations Ltd for the erection of hotel at Stratford Road car park; extension to existing restaurant at Knight's Village and new decked areas; elevated walkway; landscaping works including at Leafields; outdoor play area and associated infrastructure works.

The application was presented to Committee because of the number of objections received.

The officer was of the opinion that the proposed development was acceptable in principle having regard to Policy CT6 and the Masterplan. In addition, the impacts on the relevant heritage assets, taking into account all the consultation responses with specific regard to the heritage and historic landscape matters as well as the amendments that were made in respect of tree planting and other landscaping matters, were considered to amount in a degree of harm considered to amount to 'less than substantial harm'. Accordingly, the public benefits arising from these proposals were considered and officers were satisfied that in this particular instance, a

## **PLANNING COMMITTEE MINUTES (Continued)**

sufficiently clear and convincing argument was demonstrated which outweighed the degree of harm identified.

Notwithstanding the above, any forthcoming permission would still be subject to a Unilateral Undertaking to secure the rescinding of lodges 09 and 12 which formed part of the earlier planning permission for Knights Village.

In considering the objection from the Gardens Trust, officers had regard to the fact that in their opinion Foxes Study should be afforded greater significance that it was given in the applicant's Heritage Statement. Notwithstanding this, Historic England and the Conservation Officer had not disagreed with the content and overall conclusions drawn from the applicant's supporting information in this particular regard. While the claim that the hotel would constitute further unwelcome expansion in this sensitive area of the historic landscape was not dissimilar, in principle, with the comments from Historic England about further erosion of the separation between the town and the designed landscape of the park, there was disagreement between the Gardens Trust who did not consider a sufficient justification and business case had been put forward, while it was the expert opinion of the Conservation Officer that sufficient justification had been demonstrated.

Overall, officers were satisfied that the principle of development was acceptable as set out above and the impacts on heritage assets was also considered acceptable in light of the examination of the public benefits which were considered to outweigh the harm identified. The proposals therefore accorded with Policies CT6 and HE1 of the Local Plan, and paragraphs 199, 200 and 202 of the NPPF.

In making this assessment, officers had regard to the weight that should be given to the desirability of preserving the special interest and setting of the heritage assets.

The following people addressed the Committee:

- Mr Mackay, Conservation Advisory Forum, objecting;
- Dr Hyland, objecting;
- Mr Blofeld, supporting.

An addendum circulated at the meeting advised of additional information received:

*"Drainage Strategy & Technical Note submitted by applicant leading to final response of 'No Objection' from Lead Local Flood Authority (LLFA)"*

The addendum also detailed additional third-party representations received:

- five objections raising the following concerns:
  - Parking.
  - Environmental impacts.
  - Noise in close proximity to residential properties.
  - Increased traffic.

## **PLANNING COMMITTEE MINUTES (Continued)**

- Proposals will result in unjustified harm to heritage assets.
- There is insufficient justification to outweigh the aforementioned level of harm.

Other non-material planning considerations raised.

- 1 support raising the following points:
  - Proposal would encourage more people to visit the town centre during an extended stay at the Castle.
  - Economic benefits for the town.

In response to questions from Members, the Principal Planning Officer stated that there were no plans within the application proposals to change the current site operating times and that it was expected that guests would be arriving within the existing hours. She also confirmed that the Highways Authority raised no concerns about operational hours.

Following on from this, she clarified condition 12 referred to a noise mitigation plan from Environmental Health, which set out a range of measures for how the building would be managed, including ensuring that there would be no additional disturbance to residents due to people entering or exiting the hotel. She assured Members that there was no opportunity for the hotel and restaurant to be hired out for big events (such as weddings). Regarding concerns about the noise from amenities lorries and vans, she informed Members about condition 20 which restricted the hours in which such amenities could take place. Access to car parks and Foxes Study would remain the same, with pedestrians being able to walk through at any time. The only difference would be the addition of the outdoor dining area, which Members were concerned would disturb local residents if large groups were outside during the evening. The addition of a condition imposing a curfew to the outdoor dining area was suggested, but the Legal Advisor stated that in the absence of objection from Environmental Health, there was no evidence to impose restrictions on the operating hours of access/egress to the hotel or on the outdoor dining area. It was suggested by the Principal Planning Officer that a note could be added to specify desired operating times instead.

Regarding the loss of 65 car parking spaces with the development of the hotel, the Principal Planning Officer reminded Members that this needed to be looked at "holistically", within the context of the parking provision across the wider castle grounds and in the overflow Leafields car park. On the basis that hotel guests would already be travelling by car to the site as a day trip there would be no materially greater demand on parking as a result of the hotel being built. Essentially, the use of the overflow car park would remain unchanged, only being used seasonally or in case of larger events.

In response to questions about EV charging points, the Principal Planning Officer clarified that there would be six EV charging points and that the applicants were proposing to install more EV infrastructure at a later date. Councillor Davison suggested that a note be added to encourage the applicant to include more EV charging points in support of sustainability.

## **PLANNING COMMITTEE MINUTES (Continued)**

The Principal Planning Officer summarised the public benefits of the proposed development; including the estimated annual spend of £1.6m in addition to the £1.1m value added, 132 new jobs created during the building, and the use of local suppliers. These cumulative benefits supported Warwick's recovery from the pandemic and the castle as a tourist attraction was a material consideration. However, she noted that as 'less than substantial harm' had been identified, public benefits did not need to be considered, although it was listed within the report.

In response to a question from Members, the Principal Planning Officer stated that the BREEAM pre-assessment report concluded that the predicted score would be 66% and the rating 'Very Good'. While this was seen as realistic and achievable, Members felt that a note should be added to encourage the applicant to strive for a higher rating- with a score of over 70% earning a rating of Excellent.

In respect to a question on the application regarding para 200 of the NPPF, regarding potential substantial harm and impact on a grade 1 heritage asset, in this case development should be considered to be wholly exceptional, the Principal Planning officer explained, there is harm to the setting, but it is deemed less than substantial. It is still given significant weight because of grading but taking view of Heritage England and the Council's Conservation Officer, officers were of the view that this harm is outweighed by the overall public benefit of the application.

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Davison and seconded by Councillor Tracey that the application should be granted subject to the conditions in the report and the notes regarding EV charging points, the outdoor dining area, operating hours and the BREEAM score.

The Committee therefore

**Resolved** that in respect of W/22/0140

- (1) it be **granted**, subject to
  - (a) the completion of a Unilateral Undertaking;
  - (b) the following conditions:

<b>No.</b>	<b>Condition</b>
(1)	the development hereby permitted shall begin no 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

## PLANNING COMMITTEE MINUTES (Continued)

<b>No.</b>	<b>Condition</b>
	approved drawings 1456_500; 1456_505; 1456_506; 1456_507; 1456_508; 1456_513; 1456_514; 1456_516; 1456_518; 1456_519; 1456_520; 1456_521; 1456_522; 1456_523; 1456_524; 1456_525; 1456_526; 1456_527 and 1456_540, and specification contained therein, submitted on 28 January 2022, approved drawings 353/25_1 Rev.A; 353/25_2 Rev.A; 353/25_3 Rev.A; 353/25_4 Rev.A and PE0268, and specification contained therein, submitted on 24 March 2022, and approved drawing 1456_536 Rev.A and specification contained therein, submitted on 7 April 2022.

**Reason:** For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029;

- (3) no works of demolition or construction shall be undertaken unless and until a construction management plan has been submitted to and approved in writing by the District Planning Authority. The construction management plan shall include details of any temporary measures required to manage traffic during construction, plans and details for the turning and unloading and loading of vehicles within the site during construction, dust suppression, noise and vibration, demolition or clearance works, details of wheel washing, site working hours and delivery times, restrictions on burning and details of all temporary contractors buildings, plant and storage of materials associated with the development process. All works of demolition or construction shall be carried out in strict accordance with the approved construction management plan.

**Reason:** In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1 and NE5 of the Warwick District Local Plan 2011-2029;

- (4) the development hereby permitted shall not be commenced unless and until a Design Stage Assessment by an accredited BREEAM assessor demonstrating how the development will be designed and constructed to achieve as a minimum BREEAM standard 'very good'

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>   |
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|            | <p>(or any future national equivalent) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details. A Completion Stage Assessment by an accredited BREEAM assessor demonstrating that the development achieves as a minimum BREEAM standard 'very good' (or any future national equivalent) shall be submitted to the Local Planning Authority within 3 months of first occupation.</p> <p><b>Reason:</b> To deliver reductions in carbon dioxide emissions, building running costs, energy consumption and water use in accordance with the provisions of Policy CC3 in the Warwick District Local Plan 2011-2029;</p>   |
| (5)        | <p>the development hereby permitted, including site clearance work, shall not commence until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. In discharging this condition, the LPA expect to see details concerning pre-commencement checks for protected species (<i>badger, bats, breeding birds, reptiles, otters</i>) and appropriate working practices and safeguards for wildlife that are to be employed whilst works are taking place on site. This should include measures for the protection and avoidance of harm to the Saltisford Brook and the bankside 5m buffer both during and after construction. The agreed Construction and Environmental Management Plan shall thereafter be implemented in full.</p> <p><b>Reason:</b> To ensure that protected species are not harmed by the development, in accordance with the National Planning Policy Framework (NPPF), ODPM Circular 06/2005 and Policies NE2 and NE3 of the Warwick District Local Plan 2011-2029;</p> |
| (6)        | <p>no development on each phase shall take place until:</p> <ul style="list-style-type: none"><li>a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in</li></ul>   |

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>  |
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|            | writing by the Local Planning Authority for that phase.   |
|            | b) the programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved WSI has been undertaken for that phase. A report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the planning authority.                               |
|            | c) an Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority for that phase. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation. |

The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition detailed in the Mitigation Strategy document, shall be undertaken in accordance with the approved Mitigation Strategy document.

**Reason:** In order to ensure any remains of archaeological importance, which help to increase our understanding of the Districts historical development are recorded, preserved and protected where applicable, before development commences in accordance with Policy HE4 of the Warwick District Local Plan 2011-2029;

- (7) no development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

**Reason:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>   |
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|            | amenities of the locality and to ensure an appropriate standard of design and appearance within the Conservation Area, in accordance with Policies BE1 and HE1 of the Warwick District Local Plan 2011-2029 respectively;  |
| (8)        | <p>no development shall be carried out above slab level unless and 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 Local Planning Authority. The development shall not be carried out otherwise than in strict accordance with such approved details.</p> <p><b>Reason:</b> To ensure an appropriate standard of design and appearance within the Conservation Area, within the setting of listed buildings and within this sensitive historic landscape, in accordance with Policy HE1 of the Warwick District Local Plan 2011-2029;</p>                                   |
| (9)        | <p>no development shall be carried out above slab level unless and until final details of the play equipment proposed within the play area have been submitted to and approved in writing by the Local Planning Authority. Details shall include final designs and elevational details of the play equipment to be installed, together with a specification of the proposed materials and finishes. The development shall thereafter be carried out in accordance with the approved details.</p> <p><b>Reason:</b> To ensure an appropriate standard of design and appearance within the Conservation Area, within the setting of listed buildings and within this sensitive historic landscape, in accordance with Policy HE1 of the Warwick District Local Plan 2011-2029;</p> |
| (10)       | <p>prior to the commencement of any soft landscaping shown on the approved plans of the development hereby permitted, a strategy for the planting of additional trees within the locations shown on plans 353/25-7 and 353/25-8 shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include details of position, species, size and arrangements for</p>  |



## PLANNING COMMITTEE MINUTES (Continued)

<b>No.</b>	<b>Condition</b>
	planting and demonstrate that there would be no detrimental impact on the approved LEMP or the BIA metric. Thereafter the development shall be carried out in accordance with the approved strategy within the first planting season following the approval of details.

**Reason:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029;

(11) no lighting or illumination of any part of any building or the site shall be installed or operated unless and until details of such measures (including details of all external light fittings and external light columns and hours of operation) have first been submitted to and approved in writing by the Local Planning Authority and such works, and use of that lighting and/or illumination, shall be carried out and operated only in full accordance with those approved details. In discharging this condition, the Local Planning Authority expects lighting to be restricted around the watercourse, tree canopies and no lighting around potential bat roosts; and to be kept to a minimum at night across the whole site in order to minimise impact on emerging and foraging bats. This should include low level lighting along the elevated walkway in keeping with the existing walkways in the Knight's Village. This could be achieved in the following ways:

- Narrow spectrum lighting should be used to avoid the blue-white wavelengths;
- Lighting should be directed away from vegetated areas;
- Lighting should be shielded to avoid spillage onto vegetated areas;
- The brightness of lights should be as low as legally possible;
- Lighting should be timed to provide some dark periods; and
- Connections to areas important for foraging should contain unlit stretches.

**Reason:** To ensure that any lighting is designed and operated so as not to detrimentally affect the amenities of the

## PLANNING COMMITTEE MINUTES (Continued)

**No.** occupiers of nearby properties and to ensure that protected species are not harmed as a result of any lighting installed, in accordance with Policies BE3 and NE2 respectively of the Warwick District Local Plan 2011-2029 as well as the NPPF and ODPM Circular 2005/06;

(12) prior to the first occupation of the development hereby permitted, a Noise Management Plan relating to the activities to be carried out pursuant to this planning permission shall be submitted to and approved in writing by the District Planning Authority. Once approved, the agreed Noise Management Plan shall be implemented and thereafter all activities taking place pursuant to this planning permission shall be carried out in accordance with its provisions.

**Reason:** To protect the amenities of occupants of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029;

(13) prior to the first occupation of the development hereby permitted, six 7kW (minimum) electric vehicle recharging points shall be installed. Once the electric vehicle recharging points have been installed, a technical data sheet for the electric vehicle recharging point infrastructure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the electric vehicle recharging points shall be retained in accordance with the approved details and shall not be removed or altered in any way (unless being upgraded).

**Reason:** To ensure mitigation against air quality impacts associated with the proposed development in accordance with Policy NE5 of the Warwick District Local Plan and the Air Quality and Planning Supplementary Planning Document;

(14) prior to the first occupation of the hotel hereby permitted, 15no. cycle parking spaces shall be provided in accordance with a detailed scheme which shall have first been submitted to and approved in writing by the Local Planning Authority. Thereafter those areas allocated for cycle parking shall be kept marked out and available for such use at all times.

## PLANNING COMMITTEE MINUTES (Continued)

No.	Condition
(15)	<p><b>Reason:</b> to ensure adequate cycle parking for the hotel in the interests of both highway safety and visual amenity in accordance with Policies BE1 and TR3 of the Warwick District Local Plan 2011-2029;</p> <p>prior to the commencement of the development hereby approved (including all preparatory work), the Keen Consultants Arboricultural Method Statement reference 1756-KC-XX-YTREE-MethodStatement-RevA dated January 2022 and their Tree Protection Plan reference 1756-KC-XX-YTREE-TPP01Rev B 5775/21-01 dated November 2021, together referred to as the scheme of protection, shall be adopted.</p> <p>The development shall thereafter be implemented in strict accordance with the approved scheme of protection, which shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed.</p> <p><b>Reason:</b> In order to protect and preserve existing trees within the site which are of amenity value in accordance with Policies BE1 and NE4 of the Warwick District Local Plan 2011-2029;</p>
(16)	<p>the development shall be carried out in accordance with the submitted flood risk assessment (ref 'FLOOD RISK ASSESSMENT, WARWICK CASTLE: HOTEL AND EXTENSION TO KNIGHT'S VILLAGE RESTAURANT' P21-576 Issue No 1 dated 14/01/2022) and the following mitigation measures it details:</p> <ul style="list-style-type: none"><li>• Finished floor levels shall be set no lower than 0.9m above the 1000-year event.</li><li>• All built development with the exception of the raised walkway shall be sited within flood zone 1.</li></ul> <p>These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.</p>

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>   |
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|            | <p><b>Reason:</b> To reduce the risk of flooding to the proposed development and future occupants in accordance with Policies FW1 and FW2 of the Warwick District Local Plan 2011-2029;</p>  |
| (17)       | <p>the development hereby permitted shall be carried out strictly in accordance with the detailed Landscape and Ecological Management Plan (PE0266/HS dated March 2022, Harris Lamb). The approved measures within the LEMP shall thereafter be implemented in full.</p> <p><b>Reason:</b> To ensure protection of species and no net loss in accordance with ODPM Circular 2005/06 and the NPPF.</p>  |
| (18)       | <p>any hard landscaping shown on the approved plans, including boundary treatment, paving and footpaths, shall be completed in all respects within the 6 months of the first use of the development hereby permitted. Any soft landscaping shown on the approved plans, including any tree(s) and shrub(s), shall be planted within the first planting season following that first use. Any tree(s) or shrub(s) removed, dying, or becoming in the opinion of the local planning authority seriously damaged, defective or diseased within five years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of the same size and species to those originally required to be planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 - Transplanting Root-balled Trees and BS4428 - Code of Practice for General Landscape Operations.</p> <p><b>Reason:</b> To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029;</p> |
| (19)       | <p>noise arising from any plant or equipment (measured as LAeq,5 minutes), when measured (or calculated to) one metre from the façade of any noise sensitive premises, shall not exceed the background noise level (measured as LA90,T). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone</p>  |

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>   |
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|            | (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc.) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level.  |
|            | <b>Reason:</b> To ensure that future occupants do not experience unacceptable levels of noise, in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029; and   |
| (20)       | no deliveries or waste collections likely to cause nuisance to nearby residents shall take place before 08:00 hours or after 19:00 hours on Monday to Friday or before 09:00 hours or after 18:00 hours on Saturdays. There shall be no deliveries or waste collections on Sundays or Bank Holidays.   |
|            | <b>Reason:</b> To protect the amenities of occupants of nearby properties in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029.  |
| (2)        | that subject to the wording being agreed in liaison with the Chairman, a note be added asking the applicant to consider: <ul style="list-style-type: none"><li>a) in order to minimise the disturbance to nearby residents it is expected that the Noise Management Plan submitted pursuant to condition 12 will include details of the hours of operation of the outdoor dining terrace and how any disturbance caused by access and egress to the hotel will be controlled;</li><li>b) increasing the number of EV charging points; and</li><li>c) striving, so far as possible, to achieve higher than 'Very Good' BREEAM rating.</li></ul> |

(The meeting adjourned at 7.48pm and reconvened at 8.00pm.)

### 192. **W/19/0531 – Milverton House, Court Street, Leamington Spa**

The Committee considered an outline application from Chalice Build Ltd for the erection of two blocks of residential accommodation of up to 90 bed spaces together with undercroft parking.

The application was presented to Committee due to a change in circumstances relating to the Section 106 agreement.

## **PLANNING COMMITTEE MINUTES (Continued)**

The site was allocated for residential development within the Warwick District Local Plan for up to 75 residential units. The scheme was considered to accord with the allocation.

The viability of the scheme had been independently assessed by a specialist consultant and the scheme had been considered to have a marginal excess of profit that could be provided for Section 106 Contributions. These contributions would be secured by a Section 106 Agreement.

Members were therefore requested to grant outline planning permission subject to the revised Section 106 contributions and conditions set out within the original report (copied below for information).

An addendum circulated prior to the meeting advised that the following conditions were requested by Members following the Committee Meeting on 14 July 2020:

### **"Building Use**

*The development hereby permitted shall be used solely for purposes falling within the C3 Use Class only and shall not be used at any time for purposes falling within the C4 Use Class (Small Houses in Multiple Occupation) or for use as Purpose Built Student Accommodation.*

**REASON:** *To manage the balance of sustainable communities in accordance with Policy SC0 of the Warwick District Local Plan 2011-2029."*

### **"Sustainability Statement**

*Notwithstanding details contained within the approved documents, prior to commencement of development, a Sustainability Statement including an energy hierarchy scheme for that phase and a programme of delivery of all proposed measures shall be submitted to and approved in writing by the Local Planning Authority. The document shall include.*

- a) How the development will reduce carbon emissions and utilise renewable energy;*
- b) Measures to reduce the need for energy through energy efficiency methods using layout, building orientation, construction techniques and materials and natural ventilation methods to mitigate against rising temperatures;*
- c) How proposals will de-carbonise major development;*
- d) Details of the building envelope (including U/R values and air tightness);*
- e) How the proposed materials respond in terms of embodied carbon;*
- f) Consideration of how the potential for energy from decentralised, low carbon and renewable energy sources, including community-led initiatives can be maximised;*
- g) How the development optimises the use of multi-functional green infrastructure (including water features, green roofs and planting) for urban cooling, local flood risk management and to provide access to outdoor space for shading*

## **PLANNING COMMITTEE MINUTES (Continued)**

*No dwelling/ building shall be first occupied until the works within the approved scheme have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturer's specifications.*

**REASON:** *To ensure the creation of well-designed and sustainable buildings and in accordance with Policies CC1 and CC3 of the Warwick District Local Plan (2011-2029) and National Design Guidance (2019)."*

### **"Building For Life Standards**

*No development above slab level shall commence until a Construction Statement demonstrating how the design of the buildings will achieve Building For Life Standards and how this standards will be implemented within the construction of the building.*

**REASON:** *To ensure the creation of well-designed and sustainable buildings and in accordance with Policies CC1 and CC3 of the Warwick District Local Plan (2011-2029) and National Design Guidance (2019)."*

In response to questions from Members, the Business Manager acknowledged that it was unfortunate that we would not be getting affordable housing, but as this application had been independently assessed there was no reasonable justification to go against this advice. In response to a follow-up question from the Chairman, the Business Manager stated that the developer needs to be viable, so if there were further issues, they could always come back to the Committee again.

To add further clarification, the Legal Advisor stated that when this application was submitted was irrelevant, as it had been assessed and we had been told what contribution the developer could viably make. The Chairman added to this, saying that the planning application had already been determined but that the formal documentation for the decision had not yet been sent out. This application was then followed up by the viability assessment, and the evaluation was considered to be a reasonable figure.

It was suggested by a Councillor that, as it had been 18 months since planning permission was granted, a satisfactory s106 agreement had not been reached within the four month time limit and no development had taken place, it was not unreasonable to "go back to the drawing board". However, the Chairman disputed this, stating that, based on past experience, this could give the developer grounds for appeal.

In response to a question from the Committee officers acknowledged that government guidance on viability assessments states that they should be submitted at the application stage as did the WDC Local Plan, however this was not a requirement.

In response to a question the Business Manager recognised the viability statement should have been available to Councillors and the public online and was not. However, the assessment had been subject to scrutiny by the Council's appointed independent expert. This work, over recent months, had identified additional funding as set out within the report.

## PLANNING COMMITTEE MINUTES (Continued)

Following consideration of the report, presentation, information contained in the addendum and the representations made at the meeting, it was proposed by Councillor Quinney and seconded by Councillor Davison that the matter be deferred for further consideration with the hope that adjustments to the s106 and affordable housing contributions would ensure a "more balanced" conclusion. However, the result was 5-5, meaning that the Chairman had the casting vote as per Council procedure.

The Chairman stated that he would go along with officer's recommendation for approval. It was then proposed by Councillor Morris and seconded by Councillor Tracey that the application should be granted.

The Committee therefore

**Resolved** that W/21/0763 be **granted** subject to

- a) a Section 106 Agreement to secure the revised financial contributions and obligations as set out in the report;
- b) should a satisfactory Section 106 Agreement not be completed within four months of this Committee resolution, authority be delegated to the Head of Development Services to refuse planning permission on the grounds that the proposal makes inadequate provision in respect of the issues subject of that agreement; and
- c) the following conditions:

- | <b>No.</b> | <b>Condition</b>  |
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| (1)        | details of the appearance and landscaping of the development (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out in strict accordance with these reserved matters as approved. |

**Reason:** To comply with Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010 (as amended);

- |     |   |
|-----|---|
| (2) | application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. |
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**Reason:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended);



## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
| (3)        | <p>the development to which this permission relates shall begin within three years of the date of this permission or within two years of the final approval of the reserved matters, whichever is the later.</p> <p><b>Reason:</b> To comply with Section 92 of the Town and Country Planning Act 1990 (as amended);</p>  |
| (4)        | <p>the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 17/53/05c, and specification contained therein, submitted on 17 June 2019.</p> <p><b>Reason:</b> For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029;</p>   |
| (5)        | <p>the reserved matters submission shall be submitted in accordance with the general parameters as set out on drawing numbers 17/53/07D, 17/53/08D, 17/53/09D, 17/53/11C, 17/53/12D, 17/53/14A and 17/53/15A submitted on 17 September 2019.</p> <p><b>Reason:</b> For the avoidance of doubt and to define the scale and form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029;</p>   |
| (6)        | <p>no works to commence on site, including site clearance, until a combined ecological and landscaping scheme has been submitted and agreed between the applicant and the Local Planning Authority (with advice from WCC Ecological Services). The scheme must include all aspects of landscaping including details of tree/shrub species planting. The agreed scheme to be fully implemented before/during development of the site as appropriate.</p> <p><b>Reason:</b> To protect and enhance the ecological quality of the site in line with UK and European Law, the National Planning Policy Framework and Policy NE2 of the Warwick District Local Plan 2011-2029;</p> |
| (7)        | <p>no development shall commence unless and until a detailed surface water drainage</p>   |

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
|            | <p>strategy has been submitted to and approved in writing by the Local Planning Authority. The details shall include:</p> <ul style="list-style-type: none"><li>• Provide hydraulic modelling calculations should confirm the proposed impermeable area used.</li><li>• Demonstrate how the proposed discharge rates identified in the calculations were calculated. A minimum of 50% betterment on the existing brownfield rate should be provided.</li><li>• If discharging to a drainage system maintained/operated by other authorities (Environment Agency, internal drainage board, highway authority, sewerage undertaker, or Canals and River Trust), evidence of consultation and the acceptability of any discharge to their system should be presented for consideration.</li><li>• Demonstrate the proposed allowance for exceedance flow and associated overland flow routing.</li></ul> |

Thereafter, the development shall be carried out in strict accordance with the approved details.

**Reason:** To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policies BE1 and FW2 of the Warwick District Local Plan 2011-2029;

- (8) the development hereby permitted shall not be commence unless and until details of sound proofing have been submitted to and approved in writing by the local planning authority and the development has been completed in full accordance with the approved details.

**Reason:** To ensure that future occupants do not experience unacceptable levels of noise, in accordance with Policy BE3 of the Warwick District Local Plan 2011-2029;

- (9) no development shall commence unless and until details of surface and foul water drainage works have been submitted to and approved in writing by the local planning authority. The development shall be carried

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
|            | out in strict accordance with the approved details.<br><br><b>Reason:</b> To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policies BE1 and FW2 of the Warwick District Local Plan 2011-2029;   |
| (10)       | the development hereby permitted (including any works of demolition) shall not commence unless and until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall provide for: the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate; wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; measures to control the emission of dust and dirt during construction; and a scheme for recycling / disposing of waste resulting from demolition and construction works. A model CMP can be found on the Council's website ( <a href="https://www.warwickdc.gov.uk/downloads/file/5811/construction_management_plan">https://www.warwickdc.gov.uk/downloads/file/5811/construction_management_plan</a> ) or by searching 'Construction Management Plan'. The development hereby permitted shall only proceed in strict accordance with the approved CMP.<br><br><b>Reason:</b> In the interests of highway safety and the amenities of the occupiers of nearby properties, the free flow of traffic and the visual amenities of the locality in accordance with Policies BE3, TR1 and NE5 of the Warwick District Local Plan 2011-2029; |
| (11)       | no phase of the development shall commence unless and until a Low Emission Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The Low Emission Strategy shall thereafter be implemented in strict accordance with the approved details.   |

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>   |
|------------|--|
|            | <p><b>Reason:</b> To ensure mitigation against air quality impacts associated with the proposed development, in accordance with Policies NE5 and TR1 of the Warwick District Local Plan 2011-2029 and the aims and objectives of national guidance within the NPPF 2019;</p>   |
| (12)       | <p>prior to the commencement of the development, full details of all permanent lighting on the site shall be submitted to and approved in writing by the Local Planning Authority. This should follow the Institute of Lighting Professionals' Guidance Note 01/20: Guidance notes for the reduction of obtrusive light. The lighting shall be installed according to an approved plan which will need to be submitted by the applicant. The lighting should be maintained in perpetuity. Such works, and use of that lighting and/or illumination, shall be carried out and operated only in strict accordance with those approved details.</p> <p><b>Reason:</b> To ensure that any lighting is designed so as not to detrimentally affect the amenities of the occupiers of nearby properties in accordance with Policies BE3 and NE5 of the Warwick District Local Plan 2011-2029;</p> |
| (13)       | <p>no development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.</p> <p><b>Reason:</b> To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029;</p>  |
| (14)       | <p>no development shall be carried out above slab level unless and until samples of the external facing materials to be used have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.</p>  |

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
|            | <p><b>Reason:</b> To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy BE1 of the Warwick District Local Plan 2011-2029;</p>   |
| (15)       | <p>no development other than site clearance and preparation works shall take place on any phase of the development until details of the finished floor levels of all buildings, together with details of existing and proposed site levels on that phase and the relationship with adjacent phases have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with these approved details or any subsequently approved amendments.</p> <p><b>Reason:</b> To ensure sufficient information is submitted to demonstrate a satisfactory relationship between the proposed development and adjacent land and buildings in the interests of amenity in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029;</p>   |
| (16)       | <p>notwithstanding details contained within the approved documents, prior to construction of each phase of residential development a scheme for that phase demonstrating how water efficiency measures have been incorporated into the development and shall demonstrate how, consideration has been given to the incorporation of grey water and rainwater recycling measures, shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved measures have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with the any relevant manufacturer's specifications.</p> <p><b>Reason:</b> To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policies FW3 and CC1 of the Warwick District Local Plan 2011-2029.</p> |
| (17)       | <p>any landscaping (other than the planting of trees and shrubs) including boundary</p>   |

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
|            | <p>treatment, paving and footpaths referred to in condition 1 shall be completed in all respects, within the first planting season following the first occupation of the development. Any tree(s) or shrub(s) removed, dying, or becoming in the opinion of the Local Planning Authority seriously damaged, defective or diseased within five years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of similar size and species to those originally required to be planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations.</p> <p><b>Reason:</b> To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies BE1, BE3 and NE4 of the Warwick District Local Plan 2011-2029; and</p> |
| (18)       | <p>notwithstanding details contained within the approved documents, prior to construction of each phase of residential development a scheme for that phase demonstrating how water efficiency measures have been incorporated into the development and shall demonstrate how, consideration has been given to the incorporation of grey water and rainwater recycling measures, shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved measures have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with the any relevant manufacturer's specifications.</p> <p><b>Reason:</b> To ensure the creation of well-designed and sustainable buildings and to satisfy the requirements of Policies FW3 and CC1 of the Warwick District Local Plan 2011-2029.</p>                                     |
| (19)       | <p>the development hereby permitted shall be used solely for purposes falling within the C3 Use Class only and shall not be used at any time for purposes falling within the C4 Use Class (Small Houses in Multiple Occupation)</p>   |

## PLANNING COMMITTEE MINUTES (Continued)

- | <b>No.</b> | <b>Condition</b>  |
|------------|---|
|            | or for use as Purpose Built Student Accommodation.  |
|            | <b>Reason:</b> To manage the balance of sustainable communities in accordance with Policy SC0 of the Warwick District Local Plan 2011-2029;   |
| (20)       | notwithstanding details contained within the approved documents, prior to commencement of development, a Sustainability Statement including an energy hierarchy scheme for that phase and a programme of delivery of all proposed measures shall be submitted to and approved in writing by the Local Planning Authority. The document shall include: <ul style="list-style-type: none"><li>a) How the development will reduce carbon emissions and utilise renewable energy;</li><li>b) Measures to reduce the need for energy through energy efficiency methods using layout, building orientation, construction techniques and materials and natural ventilation methods to mitigate against rising temperatures;</li><li>c) How proposals will de-carbonise major development;</li><li>d) Details of the building envelope (including U/R values and air tightness);</li><li>e) How the proposed materials respond in terms of embodied carbon;</li><li>f) Consideration of how the potential for energy from decentralised, low carbon and renewable energy sources, including community-led initiatives can be maximised;</li><li>g) How the development optimises the use of multi-functional green infrastructure (including water features, green roofs and planting) for urban cooling, local flood risk management and to provide access to outdoor space for shading.</li></ul> |

No dwelling/ building shall be first occupied until the works within the approved scheme have been completed in strict accordance with the approved details and thereafter the works shall be retained at all times and shall

## PLANNING COMMITTEE MINUTES (Continued)

<b>No.</b>	<b>Condition</b>
	be maintained strictly in accordance with manufacturer's specifications.
	<b>Reason:</b> To ensure the creation of well-designed and sustainable buildings and in accordance with Policies CC1 and CC3 of the Warwick District Local Plan (2011-2029) and National Design Guidance (2019); and
(21)	no development above slab level shall commence until a Construction Statement demonstrating how the design of the buildings will achieve Building For Life Standards and how this standards will be implemented within the construction of the building.
	<b>Reason:</b> To ensure the creation of well-designed and sustainable buildings and in accordance with Policies CC1 and CC3 of the Warwick District Local Plan (2011-2029) and National Design Guidance (2019).

### 193. **W/21/2282 – 28 Clemens Street, Royal Leamington Spa**

The Committee considered an application from Mr Mudan for the change of use from a printing shop (Use Class E) to a drinking establishment (Sui Generis).

The application was presented to Committee due to the number of support comments received and the application was recommended for refusal.

The officer was of the opinion that the application should be refused on the basis that it would conflict with Policy BE3 of the Local Plan.

An addendum circulated prior to the meeting advised that two further objections were received on the following grounds:

- The surrounding area was not undersupplied with drinking venues, the proposal would therefore not add variety to the town;
- support comments were received from addresses well beyond the District;
- the application was contrary to Policy TC3; and
- adverse impact on neighbour amenity.

Officers also corrected the statement that 11 letters of support were received and not 13 as indicated in the Committee Report.

Following consideration of the report, presentation, and the representations made at the meeting, it was proposed by Councillor Ashford and seconded by Councillor Quinney that the application be refused in line with officer recommendations.

The Committee therefore



## PLANNING COMMITTEE MINUTES (Continued)

**Resolved** that W/21/2282 be refused for the following reason:

- | <b>No.</b> | <b>Refusal Reasons</b>  |
|------------|---|
| (1)        | Warwick District Local Plan Policy BE3 requires all development to have an acceptable impact on the amenity of nearby users or residents. |

In the opinion of the Local Planning Authority, it is considered that the proposed change of use from a shop to a drinking establishment would result in material harm to the living conditions of neighbouring residents by reason of unacceptable levels of noise disturbance and anti-social behaviour. The applicant has been unable to suitably demonstrate how these adverse impacts could be effectively mitigated.

The proposal is thereby considered to be unneighbourly and contrary to the aforementioned policy.

(The meeting ended at 8.45pm)

CHAIRMAN  
19 July 2022