

Planning Committee: 24 January 2005
Application No: W 04 / 2212

Principal Item Number: 1

Town/Parish Council: Kenilworth
Case Officer: Steven Wallsgrove
01926 456527 planning_west@warwickdc.gov.uk

Registration Date: 16/12/2004
Expiry Date: 10/02/2005

66-70 Leamington Road, Kenilworth, CV8 2AA

Erection of six dwelling and associated works (including demolition of no. 66). FOR Cala Homes Midlands Limited

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council

"Whilst noting the further changes from the earlier applications, Members MOST STRONGLY RECOMMEND REFUSAL on the grounds that:-

1. Although the applicant's state that they have adjusted the visibility splays to meet the 120 metres requirement they question whether this is true in practice.
2. They note with grave concern that, given the 40 mph speed limit, the splay visibility is based upon a 2.0 metre line rather than 2.4 metre line. This area has established trees, including conifers and mature hedgerow which will seriously impede visibility. Consequently it is considered that, given the nature of the road and traffic flows, the full 2.4 line is absolutely essential in safety terms.
3. The road is becoming ever busier (a private survey found between 1400 and 1600 vehicles per hour), often with directional peaks concomitant with the rush hour periods and with vehicles appearing to exceed the speed limit. Developments already approved by the District will certainly exacerbate the situation on this narrow and congested roadway, where turning in either direction is already dangerous.
4. The road has witnessed many accidents, including a fatal, and is considered to be an accident black spot. Accordingly, if the District is minded to approve the application, it is most strongly recommended that County Highways should be requested to undertake a full on-site visibility splay review to ensure that both notional and requisite visibility levels are achieved, comprehensive traffic flow assessments made in both directions and a review of the speed limit undertaken. Restrictions on both turning into and out of the proposed development should also be considered to reduce the hazards associated with the S bend structure of the road.
5. The revised design does nothing to assuage Members earlier and most earnest concerns that the scheme:-
 - (a) Constitutes a disastrous intrusion into the semi rural street scene of this most important entrance into the Town.
 - (b) Starts to destroy the character of this important entrance of the Town.
 - (c) Would set a precedent for a development, which is out of character with the adjoining properties and could well lead to similar development along Leamington Road.

A separate communication will also be dispatched to County Highways to further reinforce the concerns already expressed by this Council."

WCC (Ecology) - Have no objection subject to a protected species survey and an arboricultural survey being carried out.

Environmental Health - Have no comments.

Environment Agency - Have no objections.

WCC (Highways) - Have no objection subject to conditions but draw attention to a modification that will be needed.

Kenilworth Society

"This latest application appears to amount to no more than a minor adjustment of W04/0295. We therefore wish to reiterate the objections set out in our letter dated 22nd April 2004."

The attempt to improve the visual splays is unsatisfactory. It relies on the edges on either side of the entrance being cut back and maintained at a much reduced height. We do not see how proper on-going maintenance can be guaranteed in future, especially as part of the land appears to be a communal area; i.e. it will not belong to any of the new or existing houses. The visibility would be improved if the hedges and other forms of fencing were removed altogether, but this solution to the problem would result in an unacceptable alteration to the street scene.

We hope that the Planning Committee will refuse this application. However, if Councillors are minded to grant it, we request that they impose a condition that there should be no right turn from the Leamington Road into the new development. This would reduce the likelihood of queues and "shunt" accidents at peak traffic times."

Neighbours - Letters of objection have been received from/on behalf of 12 residents on grounds of insufficient parking, increased traffic, inaccuracy of the Ordnance Survey map, access concerns, frequent accidents, privacy, does not enhance the street scene, impact on sunlight and daylight, noise and disturbance from traffic.

RELEVANT POLICIES

(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)

(DW) H5 - Infilling within the Towns (Warwick District Local Plan 1995)

(DW) ENV3A - Sustainable Development and Energy Conservation (Warwick District Local Plan 1995)

UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011 First Deposit Version)

PLANNING HISTORY

There have only been two, relevant, applications on this site. These were for the erection of 6 dwellings and the second one was dismissed on appeal, although the Inspector only refused it on not meeting highway visibility standards. All other aspects were considered acceptable by the Inspector. A copy of the appeal decision is attached as an appendix.

KEY ISSUES

The Site and its Location

The site consists of No. 66 and the back garden of No. 70 Leamington Road, the gardens of both properties being large and including a number of ornamental trees and conifers. Each property has its own access, with No. 66 have both 'in' and 'out' accesses.

Details of the Development

The proposal is almost identical to the previous schemes and involves the demolition of No. 66 with the revised access being moved to the north end of the site. This access would serve the proposed 6 detached houses, with No. 70 retaining its existing access, and would consist of a 5m wide shared drive.

The existing boundary screen planting would be retained, as with the previous applications.

The applicants have engaged specialist surveyors who have designed the access following site surveys.

Assessment

Since the layout has not been altered from that considered by the Appeal Inspector, except for the access, the only issue which can be considered is the access. The appeal decision is attached in full to this report and now constitutes a material consideration of significant weight in the consideration of the present application. Indeed D.O.E. Circular 8/93 (Award of Costs incurred in planning and other proceedings) advises:-

'A planning authority are likely to be regarded as having acted unreasonably, in the event of a successful appeal against their refusal of planning permission, if it is clear from a relevant earlier appeal decision that the Secretary of State or a Planning Inspector would have no objection to a revised application in the form which was ultimately allowed, and circumstances have not changed materially meantime.'

Given that the inspector raised no objection to the proposals on amenity grounds, the issue to be resolved is one of access and the requisite visibility. The revised access has been specifically designed to meet the objection of the Inspector, namely it provides for a 2.0 metres 'x' distance and 120metre 'y' distance for the visibility splays. These measurements can be met within the highway boundary and only requires the pruning of overhanging vegetation. Although there are concerns about future maintenance of the visibility splays, the highway authority has powers to require cutting back of overhanging vegetation in order to ensure highway safety.

The repositioning of the access point has implications for turning into, and out of, the site since it is now not a straight roadway. This was the point made by the Highway Authority. This has been checked and an amended plan received which clarifies this aspect.

It is considered, therefore, in the light of the appeal decision, that this proposal is acceptable and satisfies the relevant, listed, policies since the issues raised by the County Ecology service were the subject of surveys at the time of the appeal.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

GRANT subject to the following conditions :

- 1 The development hereby permitted must be begun not later than the expiration of five years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) B3262/14D, /16B, /17, /18A, /19A, /20B, /22, /24A, /30, /40, /41, /42, /43 and CBBAFT/002, and specification contained therein, submitted on 14th December 2004 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 Local Plan Policy ENV3.
- 3 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 4 A landscaping scheme, incorporating existing trees and shrubs to be retained and new tree and shrub planting for the whole of those parts of the site not to be covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted. Existing trees which are shown as being retained shall be dealt with in accordance with BS 5837:1991. In particular, before any materials are brought on the site or any demolition or development commenced, stout protective fencing should be erected to enclose the perimeter of the branch spread of each tree or shrub to be retained, together with the branch spread of any tree growing on adjoining land which overhangs the site. Such fencing shall be satisfactorily maintained until all development has been completed. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 5 With regard to the dwellings on plots 2-7 and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out which comes within Part 1 (Class A, B, E, G) of this Order where the development would front the private driveway, without the prior permission of the District Planning Authority. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 6 The vehicular access to the site shall not be used until visibility splays have been provided to the public highway carriageway with an 'x' distance of 2.0m metres and 'y' distances of 120 metres. No structure, erection, trees or shrubs exceeding 0.6 metres in height above the adjoining highway carriageway shall be placed, allowed to grow or be maintained within the visibility splays so defined. **REASON** : In the

interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.

Planning Committee: 24 January 2005
Application No: W 04 / 1949

Principal Item Number: 2

Town/Parish Council: Leamington Spa
Case Officer: John Beaumont
01926 456533 planning_east@warwickdc.gov.uk

Registration Date: 04/11/2004

Expiry Date: 30/12/2004

Including Jandene at rear, 44-46 Lillington Road, Leamington Spa, CV32 5YZ
Erection of 13 dwellings and 1 apartment (over garages) with associated works after
demolition of 3 dwellings. FOR Cala Homes Midlands Limited

SUMMARY OF REPRESENTATIONS

Town Council

Objection is raised for the following reasons:-

- (i) The intensity of use will generate considerable vehicular movement in close proximity to a busy junction, to the detriment of highway safety.
- (ii) The proposed density of the development will compromise the residential character of the area and standards of residential amenity.
- (iii) The proposed dwellings will not address the shortfall in social housing within the District. The nature of the dwellings proposed will not assist in addressing this issue.
- (iv) It is considered that the application will do little to contribute to the amenity of the area and the loss of much of the open space associated with the existing dwellings on Lillington Road will be generally detrimental to the character of this residential area.

Neighbours

1 neighbour has written to raise no objection; the proposal is considered to be a well designed scheme. 2 neighbours have raised objection on grounds of loss of daylight/sunlight, loss of privacy; loss of existing dwellings; undesirable precedent; addition to traffic congestion on local road network. (N.B. There was a previous identical application submitted for this development on this site in April 2004. At that time 17 neighbours wrote to object to the application on grounds of unsustainable and unacceptable loss of good quality houses, loss of daylight and sunlight, noise/pollution, traffic congestion/danger (access close to a roundabout creating danger to pedestrians/school children), overdevelopment, loss of privacy, loss of "green" site, poor quality of design which does not reflect the character or style of the area and hence fails to harmonise with its surroundings or reinforce local architecture/distinctiveness, harm to setting of Conservation Area, unacceptable precedent for the similar schemes in North Leamington, insufficient on-site car parking, fails to provide affordable housing, loss of sense of openness to streetscene).

W.C.C. (Highways)

No objection subject to access conditions.

W.C.C. (Planning)

No objections on planning grounds. The County Council has requested a contribution of £10,000 for a bus stop and associated infrastructure and £1,432 for library facilities; a reasoned justification had not been received at the time of agenda preparation.

W.C.C. (Ecology)

No objection subject to a bat survey being undertaken. Also protection of trees/hedgerows during construction and bat/bird notes. (N.B. The applicant has undertaken a bat survey and W.C.C. (Ecology) stated now no further comment to make).

Head of Amenities

The comments I made on application W04/0790 apply equally to this layout. The oak within the site (T1 on the Marishall Thompson survey) has been provided with a moderate area of soft surface around it, with a radius of around 7 m. It is worth pointing out that the current draft BS 5837 would expect protection to a radius nearer 13 m around a tree of this stature however.

I have concerns that highways requirements may threaten the future of the lime, T27, in the pavement to the front of the site.

If this scheme goes ahead there is a need for very thorough protection of T1. Conditions should require submission of detailed proposals for tree protection and stipulate that no development, demolition or ground works begin until the approved protection is in place and has been agreed to be adequate by the LPA.

Head of Housing

"As you know, this application was previously recommended to the Planning Committee for approval, subject to provision of a commuted sum in lieu of affordable housing, but was refused on other grounds. We have no objection to the scheme provided that satisfactory arrangements can be agreed for the delivery of affordable housing.

The re-submitted application makes no reference to this, presumably due to the recent appeal decision in respect of an alternative scheme (W20031607). Therefore, unless and until a decision is made to waive the affordable housing requirements under Policy SC9, Housing Strategy must oppose the scheme.

The applicant previously offered a commuted sum of £329,000 which equates to the subsidy required for 6 units for shared ownership sale, discounted at 25% of their market value. I referred this offer to the Finance Director for approval on 11th August 2004; it was considered acceptable due to the economic case submitted by the applicant.

Any proposal involving a reduction in the amount of the commuted sum would also require the Finance Director's approval."

RELEVANT POLICIES

(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)

(DW) ENV6 - Protection and Enhancement of Conservation Areas (Warwick District Local Plan 1995)

(DW) ENV8 - New Development within Conservation Areas (Warwick District Local Plan 1995)

(DW) H5 - Infilling within the Towns (Warwick District Local Plan 1995)

DP6 - Access (Warwick District Local Plan 1996 - 2011 First Deposit Version)

DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011 First Deposit Version)
 DP8 - Parking (Warwick District Local Plan 1996 - 2011 First Deposit Version)
 SC9 - Affordable Housing (Warwick District Local Plan 1996 - 2011 First Deposit Version)
 DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)
 DP3 - Natural Environment (Warwick District Local Plan 1996 - 2011 First Deposit Version)
 DP5 - Density (Warwick District Local Plan 1996 - 2011 First Deposit Version)
 DP2 - Amenity (Warwick District Local Plan 1996 - 2011 First Deposit Version)
 UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011 First Deposit Version)
 DAP10 - Protection of Conservation Areas (Warwick District 1996 - 2011 First Deposit Version)
 PPG13 - Transport (Government guidance)
 PPG15 - Planning and the Historic Environment (Government guidance)
 GD1 - Overriding purpose (Warwickshire Structure Plan 1996-2011)
 GD3 - Overall development strategy (Warwickshire Structure Plan 1996-2011)
 H2 - Affordable housing (Warwickshire Structure Plan 1996-2011)
 T1, T4, T5 - Traffic (Warwickshire Structure Plan 1996-2011)
 T10 - Developer contributions (Warwickshire Structure Plan 1996-2011)
 ER1 - Natural and cultural environmental assets (Warwickshire Structure Plan 1996-2011)
 N.B. Planning Committee on 28th January 2002 resolved that policies H22 (on housing density) and T7 (car parking) in the Warwick District Local Plan 1995 were not in conformity with the Warwickshire Structure Plan.
 PPG3 - Housing (Government guidance)
 PPG1 - General principles (Government guidance)

PLANNING HISTORY

Planning permission, W031607, for the demolition of 3 dwellings and the erection of 8 dwellings and 16 apartments on the site of 42-46 Lillington Road, Leamington Spa was refused by the Planning Committee (following a site visit) at the meeting on 17th February 2004 for the following reasons:-

1. The application site occupies an important position on a main approach to the Leamington Conservation Area and is currently occupied by 3 detached houses set in mature, landscaped gardens. In the opinion of the District Planning Authority, the proposed use of the site for an intensive development of 24 dwellings of the scale, height, mass, layout and design proposed would constitute an overdevelopment of the site, resulting in an excessive density of development which is disproportionate to its surroundings, visually detrimental to the street scene and out of character with the locality. The proposals would thereby be contrary to policies H5 and ENV3 of the Warwick District Local Plan 1995-2001 and to policies DP1 and DP5 of the emerging Warwick District Local Plan 1996-2011.

2. The application contains no provision for affordable housing in accordance with the requirements of the emerging Warwick District Local Plan 1996-2011 and to permit the development would, therefore, be contrary to the provisions of policy SC9 of the plan.

An appeal against this refusal was allowed on 2nd November 2004 and a copy of that decision is attached as an Appendix to this report.

Prior to the determination of the above appeal, an identical application, W04/0790, to that the subject of the present application was refused planning permission by the Planning Committee, against Officer advice, for the following reasons:-

1. The application site occupies an important position on a main approach to the Leamington Spa Conservation Area, recently extended such that its boundary abuts the site frontage. In the opinion of the District Planning Authority, the proposed development would fail to positively contribute to the character and quality of its environment and would adversely affect the established character and appearance of the streetscene and the setting of the adjoining Conservation Area by reason of its inadequate design quality.

The proposals would thereby be contrary to Policies DW (ENV3), DW (ENV6) and DW (H5) of the Warwick District Local Plan 1995 and to Policies DP1, DP5 and DAP10 of the Warwick District Local Plan 1996-2011, first deposit version.

2. In the opinion of the District Planning Authority, the proposed residential redevelopment of this site would introduce substantial two storey development into an area of existing development characterised by properties sitting in substantial landscaped gardens. It would thereby be unneighbourly, being significantly detrimental to the amenity presently enjoyed by the occupants of dwellings having an outlook over this site by reason of the resulting loss of openness, the scale and bulk of the proposed development and its proximity to site boundaries and the potential for increased overlooking.

The proposals would therefore be contrary to Policies DW (ENV3) and DW (H5) of the Warwick District Local Plan 1995 and Policies DP1, DP2 and DP5 of the Warwick District Local Plan 1996-2011, first deposit version.

KEY ISSUES

The Site and its Location

The site is not within a Conservation Area albeit the boundary of the Conservation Area for Leamington Spa (as extended following the report presented to Executive in March 2004) lies along the site frontage to Lillington Road to the west of the site and to the south of Oak Tree Court to the south of the application site. No building on the site or within its immediate vicinity is 'listed' as being of special architectural or historic interest. It is understood that the 3, detached, two storey houses presently on the site were erected in the late 1950's/early 1960's, with the exception of 'Jandene' which dates from the 1990's. The site has an area of some 0.54 hectares. The existing properties are set within landscaped gardens containing a number of existing trees; an oak tree on the frontage of No. 46 Lillington Road is the subject of a Tree Preservation Order. To the north and south of the site are similar detached dwellings fronting Lillington Road and Oak Tree Close, whilst to the east are semi-detached dwellings fronting Berenska Drive whilst further south are older properties fronting Wathen Road. To the west of Lillington Road, immediately opposite the site are older villa style properties with other dwellings nearby being of a variety of ages and styles with a more modern development of two storey properties with accommodation in a mansard roof being located at the junction of Lillington Road and Lillington Avenue.

Details of the Development

The submitted scheme contains the following elements:-

- The demolition of the existing 3 detached houses.
- The felling of a number of trees within the site. An existing leylandii hedge on the eastern boundary of the site is shown to be retained, (albeit at a reduced height of 5

m) as is the TPO oak on the site frontage. It is not proposed to fell any roadside trees within the highway verge.

- The erection of 13 houses with one flat above a block of 4 garages; 8 of the houses would have accommodation within their roofspace lit by a dormer window. These would be served off a new access 5 m wide off the Lillington Road; this access would be in a similar position to an existing access serving No. 46 Lillington Road and 3 other existing accesses serving Nos. 44 and 46 Lillington Road would be closed and reinstated.
- Fronting Lillington Road would be 4 dwellings comprising 2 detached houses linked by a single garage and a pair of semi-detached houses designed to have the appearance of a larger dwelling with an attached annex; a street elevation illustrating the design of the frontage dwellings will be available at the Planning Committee meeting.
- The access road, which is proposed to be a private drive, would run between the 4 frontage dwellings to serve the balance of the development which would be erected on the site of Jandene and the gardens of that property and Nos. 44 and 46 Lillington Road. The scheme has incorporated a 6 m radius turning head to enable service vehicles to turn within the site so that they can enter and leave the public highway in a forward direction.
- The scheme includes a minimum of a garage and a car parking space for each dwelling.

The applicant has submitted a design statement and planning statement in support of the application. This confirms that the proposed density of the scheme is 26 dwellings per hectare.

Assessment

Clearly I am conscious of the planning history of this site and in particular the refusal by the Planning Committee of a previous identical planning application for its residential redevelopment, reference W040790. That decision, however, was taken before the decision of the Planning Inspectorate to grant planning permission on appeal for the redevelopment of Nos. 42, 44 and 46 Lillington Road by the erection of 8 dwellings and 16 apartments, reference W031607. That appeal decision is attached in full to this report and now constitutes a material consideration of significant weight in the consideration of the present application. Indeed D.O.E. Circular 8/93 (Award of Costs incurred in planning and other proceedings) advises:-

'A planning authority are likely to be regarded as having acted unreasonably, in the event of a successful appeal against their refusal of planning permission, if it is clear from a relevant earlier appeal decision that the Secretary of State or a Planning Inspector would have no objection to a revised application in the form which was ultimately allowed, and circumstances have not changed materially meantime.'

In reporting to the Planning Committee on planning application W040790 for an identical development to that now proposed, I identified a number of key issues and commented on them as follows:-

"Demolition of existing houses and the residential redevelopment of the site

The demolition of the existing houses is not subject to planning control and it does not require planning permission. The buildings are not of 'listable' status and the recent

extension to the Conservation Area did not include these properties. PPG3, Housing states Government is committed to promoting more sustainable patterns of development by concentrating new housing development within urban areas making more efficient use of land by maximising the reuse of previously developed land; the definition of previously developed land includes land which is, or was, occupied by permanent buildings and their curtilages.

I am conscious of the resolution of Council in May concerning PPG3 (Housing) and the issue of redevelopment and the responses from the Office of the Deputy Prime Minister and the Local Government Association, the previous refusal by the Planning Committee for a scheme for the redevelopment of this site (W031607), the extension of the Conservation Area boundary along Lillington Road and the comments made in the Council's 'appeal statement' in respect of application W031607. I do not consider, however, that these factors would justify raising objection 'in principle' to the demolition of the existing dwellings or their replacement at a higher density.

The density of the proposed development and its design

The site has an area of some 0.54 hectares so the existing 3 dwellings represent a density of 5.5 dwellings per hectare whilst the proposed density is 26 dwellings per hectare. PPG3 (Housing) advises, however, that land is a finite resource and urban land can often be underused; it advises in paragraph 58 that local authorities should, therefore, encourage housing development that makes more efficient use of land, between 30 and 50 dwellings per hectare whilst avoiding development below 30 dwellings per hectare; no upper limit is placed on an acceptable level of density. The question of appropriate site density, however, has to take account of the aims of good design and layout and the advice in PPG3 is that new housing development should not be viewed in isolation but must be informed by the wider context, having regard not just to say any immediate neighbouring buildings but the townscape and landscape of the wider locality.

In this instance, I am mindful that the character of the wider locality around the site is mixed with low density modern housing on and immediately adjoining the application site, older housing to a higher density on Wathen Road, substantial older villas to the west of Lillington Road with more recent developments nearby, including two storey terraced units with accommodation in a mansard roof to the south of the junction with Lillington Avenue and three storey housing to the north of the junction.

I consider that the layout now proposed would be to an acceptable level of density which would not cause unacceptable harm either to the setting of the adjoining Conservation Area or the established character and appearance of this locality. Clearly the proposal will change the existing appearance of the site, but I consider the architectural style and layout of housing now proposed would be acceptable subject to the imposition of appropriate planning conditions to secure the detailing of the design and would be consistent with the objectives of the Local Plan policies set out earlier in this report, in particular those of Policy DP1 in the Warwick District Local Plan (1996-2011), first deposit version. Whilst the proposed density is less than the 30-50 dwellings per hectare range sought by Government, in the context of character of this particular locality, I consider the proposed density of 26 dwellings per hectare would be acceptable. I am aware of objections raised to the loss of existing landscaped gardens and open views across the site but I note that no objection is raised by the Head of Amenities and I consider that subject to appropriate landscaping and boundary treatment conditions, this development would not unduly affect the amenity of this locality. The Head of Amenities has confirmed that the TPO oak tree on the site frontage could be retained and WCC (Highways) has not required the felling of the lime tree referred to by the Head of Amenities in the highway verge; I note a new boundary wall is

proposed under the canopy of the TPO oak which may adversely affect its roots but I consider an alternative boundary treatment in this position could be required by a planning condition.

Impact on the amenity of neighbours

Clearly a number of neighbours have objected to this proposal and are apprehensive about the changes which would result from this development. However, given that the proposed new dwellings on the Lillington Road frontage are sited approximately on the footprint of the existing dwelling to be demolished and that the new dwellings to the rear have been sited and designed to take account of their relationship to the neighbouring dwellings. I consider that the layout and designs (as now amended) whilst visible from existing housing would not cause an unacceptable loss of amenity, including issues such as overshadowing, dominance or loss of privacy such as would justify refusal.

Highway matters/car parking

With regard to highway issues, I note the Highway Authority has not raised objection. The applicants propose that the access would remain private and hence has not been designed to adoptable standards. I note that the scheme includes provision for at least one garage and car parking space per dwelling which whilst above the average of 1.5 spaces per dwelling advised by PPG3, Housing, would be acceptable on this site. The proposal will also result in the closure of 3 existing drives on the Lillington Road frontage. Whilst noting the objections raised to this proposal on grounds of highway safety and congestion, I do not consider objection on these grounds would be sustained."

I am of the opinion that whilst recognising that the current proposal is for a different form of development to that the subject of planning application W031607, on (in parts) a different site, nevertheless the Inspectors decision in allowing that appeal support my comments as set out above; hence I remain of the view that the form and layout of the present application is acceptable.

The remaining issue to be considered is that of planning obligations on which the Inspector in granting the appeal in respect of application W031607 made a number of comments (see paragraphs 14-19 of the Inspectors decision letter attached to the report). As Members are aware, advice was sought from Counsel as to whether there was a reasonable prospect of challenging the Inspectors decision on the appeal; he concluded that there was not. In looking at the issue of 'affordable housing', Counsel commented as follows:-

"3. Policy SC9 [of the Warwick District Local Plan 1996-2011, first deposit version, which relates to affordable housing] is contained in the First Deposit of the emerging District Local Plan. It has attracted considerable objection. In these circumstances, particularly as its requirements depart from and are more onerous than those in Circular 6/98, it was almost inevitable that the Inspector concluded he could attach little weight to it. The difficulty for the Council at present is that Circular 6/98 states emphatically that proposals to adopt a lower threshold than those contained in the Circular must be demonstrated and justified through the local plan process. However, as the emerging Plan gets farther down the course towards adoption as the Development Plan, greater weight maybe attached to its provisions particularly, if as expected, Government guidance on thresholds is changed in the eagerly awaited PPS3 with the effect that SC9 falls in line with national policy. Policy CF5 in the RSS which would have formed part of the Development Plan at the time of the Inspector's decision (although not referred to by either party or the Inspector) is helpful in recognising that thresholds below those set out in national guidance may be appropriate, but it too requires those thresholds to be brought forward through the development plan process. In the future, therefore, with

PPS3 (it is to be expected) lowering thresholds, with the emerging Local Plan being more advanced than now and with the strategic background of RSS Policy CF5 I am hopeful that Inspectors would be prepared to attach more weight to policy SC9. Of course, once the new Plan is adopted, full weight will have to be accorded to its terms."

The applicant in respect of the present application has commented:-

"I can confirm that, given the comments of the Inspector into the 24 unit scheme, we are not prepared to pay the previously agreed commuted sum for £329,000 for the affordable housing. In our view the Inspector's letter is unambiguous - SC9 can only be given little weight and to require the provision of affordable housing is clearly contrary to planning policy. We note that the LPA has decided not to challenge the Inspector's decision - we assume therefore that your QC's advice was that the Inspector's view were lawful."

The present application is for 14 dwellings (i.e. below both the Council's previously applied number threshold of 15 as set out in the first deposit draft of the 'emerging' Warwick District Local Plan 1996-2011 and that of 25 as set out in the DOE Circular 6/98 (Affordable Housing), albeit as it has a site area of 0.54 hectares it is above the site size threshold as set out in the aforementioned plan but below that of 1 hectare as set out in Circular 5/98). In these circumstances, having regard to the Inspectors comments in the appeal decision on W031607 (which relates, in part, to the same site) and Counsels opinion, then although recognising the views of the Head of Housing set out in the representations section above. I reluctantly conclude that in the context of the present policy framework it would not be possible to sustain a reason for refusal based on the applicants decision not to now agree to make an affordable housing contribution on this particular site for this particular proposal.

With regard to the County Council's request for a contribution towards library facilities and a bus shelter (set out in the representations section above) the applicant has indicated that if the County Council can set out a proper justification for this planning obligation, they would agree to pay these monies; the County Council has stated such a justification can and will be provided.

In conclusion, therefore, in the context of the Planning Inspectors comments in the recent appeal decision allowing application W031607 and Counsels comments on that decision, my recommendation is that notwithstanding the Planning Committees decision to refuse an identical application, W040790, the present application be granted subject to a Section 106 Agreement to secure a financial contribution as requested by W.C.C.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

That subject to the satisfactory conclusion of a Section 106 Agreement to secure the financial contributions requested by Warwickshire County Council (set out in the representations section above), planning permission be GRANTED, subject to the following conditions :

- 1 The development hereby permitted must be begun not later than the expiration of five years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990.

- 2 The details hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing numbers 2045/01A, 02A, 03A, 04A, 05A, 06A, 07, 08A, 09, 10A, 11 and 12A deposited with the District Planning Authority on 4th November 2004 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 Local Plan Policy ENV3.
- 3 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 4 No development shall be carried out on the site which is the subject of this permission, until details of provision for storage of refuse have been submitted to and approved by the District Planning Authority and details. **REASON** : To protect the amenities of occupiers of the site and the character and appearance of the locality, in accordance with Policy ENV3 of the Warwick District Local Plan.
- 5 Notwithstanding the details contained in the submitted application, a landscaping scheme, incorporating existing trees and shrubs to be retained and new tree and shrub planting for the whole of those parts of the site not to be covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased with five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted. Existing trees which are shown as being retained shall be dealt with in accordance with BS 5837:1991. In particular, before any materials are brought on the site or any demolition or development commenced, stout protective fencing should be erected to enclose the perimeter of the branch spread of each tree or shrub to be retained, together with the branch spread of any tree growing on adjoining land which overhangs the site. Such fencing shall be satisfactorily maintained until all development has been completed. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 6 Notwithstanding the details contained in the submitted application, no development shall be carried out on the site which is the subject of this permission, until satisfactory details of boundary treatment have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 7 The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the District Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the District Planning Authority. **REASON** : In the interests of fire safety.

- 8 No development shall be carried out on the site which is the subject of this permission, until large scale details of dormer windows, chimneys, rooflights, porch canopies, bay window parapets, doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To ensure a high standard of design and appearance for this site which adjoins a Conservation Area and to satisfy Policy ENV6 of the Warwick District Local Plan 1995.
- 9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out which comes within Part 1 of Schedule 2 of this Order, without the prior permission of the District Planning Authority. **REASON** : The site is of a restricted size and configuration and is in close proximity to other dwellings and their gardens. It is considered appropriate, therefore, to retain control over future development to ensure that the residential amenity of this locality is protected in accordance with the provisions of District-Wide Policy ENV3 of the Warwick District Local Plan.
- 10 The vehicular access to the site from Lillington Road shall not be used until it has been provided with 7.5 m kerbed radius turnouts on each side. **REASON**: In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 11 The vehicular access to the site shall not be less than 5 metres wide for a distance of 10 metres into the site, as measured from the near edge of the public highway carriageway. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 12 The dwellings hereby permitted shall not be occupied until the proposed means of access has been constructed in strict compliance with details approved in writing by the District Planning Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 13 The development hereby permitted shall not be brought into use until all parts of existing accesses to Lillington Road, not included in the proposed means of access, have been permanently closed and reinstated in accordance with details approved in writing by the District Planning Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
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Planning Committee: 24 January 2005
Application No: W 04 / 1787

Principal Item Number: 3

Town/Parish Council: Kenilworth
Case Officer: Will Charlton
01926 456528 planning_west@warwickdc.gov.uk

Registration Date: 12/10/2004
Expiry Date: 07/12/2004

Land at, Fairway Rise, r/o 15 Knowle Hill, Kenilworth, CV8 2XN
Erection of 2 no. detached dwellings. FOR J Brooks

SUMMARY OF REPRESENTATIONS

Town Council: No objection.

Highways (WCC): No objection to a further 2 units accessed by way of Fairview Rise.

Neighbours: One letter of concern has been received, while six neighbours have objected to the scheme. It is considered that the scheme represents excessive backland development and would be overdominant with the properties downhill being overlooked by several windows and balconies thereby affecting privacy, while the dwellings and gardens of The Cottage and Dunelm would also suffer from loss of light. Concern is expressed over the height and size of the dwellings, with the scheme being inappropriate for surrounding properties.

There would be a loss of mature and attractive trees to boundary for access to the proposed houses, which would involve the removal of five mature oak trees. A Tree Preservation Order is requested to protect the tree belt between the site and Fairway Rise. The access to the site, via Fairway Rise, is via a private road and the scheme would intensify traffic, creating more wear and damage on the road which is not suitable for a large amount of traffic. The increased traffic and noise would also cause a nuisance and would use a dangerous access point onto Knowle Hill.

Objection has been raised regarding the potential for increased flooding of properties downhill (Dunelm and The Cottage) during heavy rainstorms since the building of Fairway Rise. It is requested that a restriction be placed to reduce disruption during construction of the properties, including contractor parking and vehicle / street cleanliness.

Amended Scheme (Dunelm and The Cottage re-consulted) :

The objections remain the same as the original scheme, with no attempt having been made to reduce the scale of the dwellings which are considered to be inappropriate and intrusive. It is recognised that the scheme includes a new storm water drain but professional advice is required before comments can be made on this element. The trees shown on plans are considered to be misleading and give the impression that they are higher than the dwellings proposed, thereby masking them from the north.

Members are requested to visit the site and to view the application site from neighbouring properties and in particular the garden of Dunelm.

RELEVANT POLICIES

(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
Distance Separation (Supplementary Planning Guidance)
DP6 - Access (Warwick District Local Plan 1996 - 2011 First Deposit Version)

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP5 - Density (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011 First Deposit Version)
UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011 First Deposit Version)
PPG1 – General Principles (Government Guidance)
PPG3 – Housing (Government Guidance)
GD3 – Overall Development Strategy (Warwickshire County Structure Plan 1996-2011)
H1 – Provision of Housing Land (Warwickshire County Structure Plan 1996-2011)

PLANNING HISTORY

Planning permission was granted in 1999 (Ref: W990106) for the erection of a large single storey swimming pool which had an eave height of approximately 4 metres to the northern boundary and a ridge height ranging from 4.5 metres to 6 metres.

KEY ISSUES

The Site and its Location

The application site occupies the rear section of the back garden of No 15 Knowle Hill. The dwelling on Knowle Hill currently has a garden of over 70 metres in length, of which the rear 49 metres is the application site. The remaining 22 metres depth would remain as the rear garden to No 15, giving a total rear garden area of approximately 660 square metres. The garden is well screened from surrounding areas with mature trees to all the boundaries, and in particular the eastern boundary, where there is a small coppice on the Golf Course. The garden is also very mature, although a number of the garden trees within the site would be removed as part of the gardens redevelopment. To the south of the site is the private road of Fairway Rise, which would act as the access point for the houses. The dwellings of Dunelm and The Cottage are located down hill from the northern boundary of the site, with the extended rear garden of Dunelm wraps around the rear of The Cottage, therefore creating a second dividing hedge between the application site and the dwellings.

Details of the Development

It is proposed to erect two large detached dwellings within the rear section of the rear garden of No 15 Knowle Hill. The dwellings are designed so as to be modern and contemporary in style, with similar characteristics to a number of the properties which front onto Knowle Hill. The houses would be orientated so that the main front and rear elevations face west and east respectively with the front of the houses facing towards No 15. As the land falls from south to north by approximately 3 metres over the whole width of the site, the houses have been designed to utilise the slope and therefore have three floors, with part of the ground floor being cut into the slope of the hill.

As the land is not directly accessible from Knowle Hill, the dwellings would be accessed via Fairway Rise, which is a private road currently accessing four large detached properties. The access point would therefore cut through the tree belt between the site and Fairway Rise and as such would result in the removal of a number of the trees at the entrance point.

Assessment

The dwellings proposed would occupy a site of approximately 2100 square metres, with each plot being approximately the same size, or larger than the largest plot on Fairway

Rise (No 4). However, the dwellings proposed do have a greater ground coverage, and as they would be three storey, they would have a greater floor area. It is considered that the mass and bulk of the dwellings proposed are in keeping with surrounding properties and utilise their respective plots.

The ridge height of the dwelling nearest Fairway Rise (House B) would be approximately 9 metres above the altered ground level, with the first floor being within the roofspace. The roof would then slope down to 2.5 metres above ground level on the elevation facing Fairway Rise, which results in a long roof slope with no windows facing up hill, towards No 4. It is considered that the mass and windows/balconies of House Type B would have a minimal impact upon the amenities of the current occupiers of Fairway Rise, with the nearest dwelling being approximately 18 metres away from the long sloping roof.

House Type A, situated approximately 3 metres from the dividing boundary with Dunelm, has been amended so as to have a ridge height of 7.5 metres, with the roof hipping adjacent to the northern boundary to create an eave height of approximately 6 metres, with a blank elevation on the ground floor and the first floor within the roofspace. The boundary is relatively well screened with some large mature trees and although the adjacent rear garden of Dunelm is set substantially lower, the main garden of the dwelling is over 15 metres from the proposed dwelling, with both the dwellings of Dunelm and The Cottage being approximately 40 metres from the dividing boundary.

Due to the boundary vegetation and the distances involved, the amended scheme, which has resulted in a hipped roof, is considered not to overdominate the rear section of the garden of Dunelm or the dwellings of Dunelm and The Cottage. It is also considered that there would be no loss of light to these properties especially as there is a second hedgeline between the boundary and the rear of the dwellings. The amended scheme has also resulted in the removal of a number of windows which did directly face towards the boundary with the garden of Dunelm. Although a number of windows remain facing towards the boundary, together with a balcony, these would be approximately 11 metres and 8 metres from the boundary and would be approximately 2.5 metres above the existing ground level.

The existing turning head built for Fairway Rise has been constructed in the wrong place as compared to the turning head which was originally approved by the various permissions for the dwellings. As the dwellings have been constructed, the turning head at the approved location could still be implemented, and therefore the trees removed. It is my understanding that a Tree Preservation Order cannot be placed on those trees which have already had approval to be removed under a planning permission. Therefore while the loss of mature oak trees along Fairway Rise for access to the site is unfortunate, it is not something which could be resisted. However, a Tree Preservation Order has been requested by residents to protect the tree belt and this is currently being processed.

Access to the site would be via Fairway Rise, which is currently a private road accessing four properties. Although this would increase to six, if permission is granted, Warwickshire County Council, as Highway Authority have raised no objection to the increased use of the access point of the road onto Knowle Hill. Although the amount of traffic would increase, it is not considered that traffic to two properties, although having five garages, would cause such nuisance to neighbouring properties as to warrant refusal. The use of the road as an access point, together with the issue of wear and damage on the road is not a planning issue as the road is privately owned. It is therefore a matter which residents need to raise independently.

It is recognised that the neighbours down the hillside are concerned over the potential for increased runoff and flooding from the site. Notwithstanding the details of drainage that the applicant has submitted on the plans, following discussions with the District Council's engineers it is proposed to condition any permission so that a drainage scheme, including geological and ground investigation supporting such a scheme be submitted for approval and approved prior to the commencement of development.

Whilst recognising that any development of the site accessing Fairway Rise may well cause disruption for residents due to contractor parking and vehicle / street cleanliness, these are private issues as the estate road is privately owned and is not adopted. If extraneous material is left on Knowle Hill from vehicles accessing the site, or vehicles are parking on the highway in dangerous locations or obstructing traffic, these are issues which can be dealt with via other legislation by the Highways Authority or the police.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

GRANT subject to the following conditions :

- 1 The development hereby permitted must be begun not later than the expiration of five years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawings 4411/02B, 04A, 05A, 06B, 07A, 08 and 09, and specification contained therein, submitted on 12 October 2004 and 8 December 2004, 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 Local Plan Policy ENV3.
- 3 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 4 No development shall be carried out on the site which is the subject of this permission, until details of the methods of construction, including cross sections, of the dwellings, garages and access road/turning areas, including areas and specification for 'no-dig' method of construction have been submitted to and approved in writing by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 5 No work of any kind shall be begun on the site until the protective fence(s) around the trees identified as being retained on the approved plans, have been erected and the fencing has been confirmed in writing to be acceptable by the District Planning Authority. Within the approved fenced area(s) there shall be no scaffolding, no stockpiling of any materials or soil, no machinery or other equipment parked or operated, no traffic over the root system, no changes to the soil level, no site huts, no fires lit and no excavation of trenches for drains, service

runs or for any other reason. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.

- 6 No development shall take place until details of the exact line and depth of the proposed foul and surface water drainage pipes and other trenched services required to service the development have been submitted to and approved by the local planning authority. The installation of the services shall be in accordance with the approved details. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 7 Details of the means of disposal of storm water from the development, including reasoning for such a scheme in the form of a geological and ground investigation shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced and the development shall not be carried out other than in strict accordance with such approved details. **REASON** : To ensure satisfactory provision is made for the disposal of storm water to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out which comes within Parts 1 and 2 of Schedule 2 of this Order, without the prior permission of the District Planning Authority. **REASON** : This site is of a restricted size and configuration and is in close proximity to trees and other dwellings. It is considered appropriate therefore to retain control over future development to ensure that the residential amenity of this locality is protected in accordance with the provisions of District-Wide Policy ENV3 of the Warwick District Local Plan.
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Planning Committee: 24 January 2005
Application No: W 04 / 2206

Principal Item Number: 4

Town/Parish Council: Leamington Spa
Case Officer: John Beaumont
01926 456533 planning_east@warwickdc.gov.uk

Registration Date: 08/12/2004
Expiry Date: 02/02/2005

99-101 and land r/o 97, 103-107 (odds) Lillington Road and Dormy House, Sandy Lane, Leamington Spa, CV32 6RD

Outline Planning Application for Residential Development for 12 No. dwellings and access road (Amended) (Re-submission of W04/1294) FOR Countrywide Homes Ltd.

SUMMARY OF REPRESENTATIONS

Town Council: Maintains its objection.

- "1. The proposal is considered to be detrimental to the amenity of the existing residential area, resulting from the demolition of acceptable housing.
2. The proximity of the site to a major highway and the increase in vehicular movements near to a school are considered matters of concern."

Neighbours: 4 letters of objection received on grounds of unacceptable loss of two sound dwellings and established gardens; loss of rural outlook; detrimental to established character of area; unacceptable overbearing/overlooking effect and noise/disturbance/pollution/loss of security to existing houses, detrimental to their amenity; dangerous access; traffic congestion (particularly if adjoining school site redeveloped); landscaping unlikely to soften impact; previous reasons for refusal still stand.

W.C.C. (Highways): No objection subject to access conditions.

W.C.C. (Fire & Rescue): No objection subject to condition of water supply.

W.C.C. (Planning): No objection subject to Section 106 contributions for education and library services; none for public transport.

RELEVANT POLICIES

(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
(DW) H5 - Infilling within the Towns (Warwick District Local Plan 1995)
DP6 - Access (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP3 - Natural Environment (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP5 - Density (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011 First Deposit Version)
GD1 - Overriding purpose (Warwickshire Structure Plan 1996-2011)
GD3 - Overall Development Strategy
T1, T4, T5 - Traffic
T10 - Developer Contributions (Warwickshire Structure Plan 1996-2011)
ER1 - Natural and cultural environmental access (Warwickshire Structure Plan 1996-2011)
PPG1 - General Principles (Government Guidance)
PPG3 - Housing (Government Guidance)
PPG13 - Transport (Government Guidance)

NB: Planning Committee on 28th January 2002 resolved that policies H22 (on housing density) and T7 (car parking) in the Warwick District Local Plan 1995 were not in conformity with the Warwickshire Structure Plan.

PLANNING HISTORY

Outline planning permission for the erection of 24 dwellings on land to the rear of Castel Froma to the south was granted on 28th May 2004; a subsequent application for the approval of reserved matters was refused at the Planning Committee meeting on 13th September 2004, reference W04/1179.

An outline planning application for the erection of 14 dwellings on a site similar to the present application but also incorporating land to the rear of 107 Lillington Road and to the rear of Dormy House was refused by Planning Committee, against officer recommendation, on 15th November 2004, reference W04/1294, for the following reasons:-

1. The application site occupies an edge of town location adjacent to the boundary of the Green Belt. In the opinion of the District Planning Authority the development would, by reason of its siting, excessive scale and mass, present an unacceptably hard edge to the Green Belt which would be detrimental to its setting. The proposal would thereby be contrary to the advice in paragraph 3.15 of PPG2, Green Belts which states that *'the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green Belt, might be visually detrimental by reason of their siting, materials or design'*. This is reflected by local plan policies to protect the Green Belt and achieve development which harmonises with its surroundings, positively contributing to the character and quality of its environment i.e. Policies DW (ENV1) and DW(ENV3) in the Warwick District Local Plan 1995 and DP1 and DAP1 in the Warwick District Local Plan 1996-2011 (First Deposit Version).
2. Policy (DW) ENV3 of the Warwick District Local Plan 1995 requires all development to have regard to the character of the surrounding area and harmonise with its surroundings, whilst Policy (DW) H5 states infill development will be permitted which does not have a serious adverse impact upon the amenity and environment of their surroundings. Within the Warwick District Local Plan 1996-2011 (First Deposit Version) Policy DP1 states development will only be permitted which positively contributes to the character of its environment through good layout and design whilst Policy DP2 states development will not be permitted which has an unacceptable adverse impact on the amenity of nearby uses and residents. Policy DP5 relates to density of development and, in accordance with PPG3, encourages development that makes the best use of land without compromising the character of an area or standards of residential amenity.

The site is located in a predominantly residential area and comprises the grounds of a pair of semi-detached dwellings and the rear portion of mature, landscaped gardens to neighbouring detached houses that stand in a row as a group of buildings on the western side of Lillington Road. The pattern of development in this locality is typically of detached and semi-detached dwellings with main road frontages and enclosed, undeveloped rear gardens. The application site presently forms part of this landscaped setting to adjoining properties, which benefit from an open and uninterrupted outlook over these garden areas.

In the opinion of the District Planning Authority, the proposed use of the site for an intensive development of fourteen dwellings of the siting and layout proposed would constitute an overdevelopment of the site, resulting in an excessive density of

development which is disproportionate to its surroundings, and would thereby unacceptably compromise the established character and appearance of the site and pattern of development in the surrounding area. The overall level of amenity space provided in the layout is also considered to be out of balance with the amount of development proposed. The proposals would thereby also be contrary to policies (DW) ENV3(i), (iii) and (DW) H5 of the Warwick District Local Plan 1995 and policies DP1(a), DP2 and DP5 of the Warwick District Local Plan 1996-2011 (First Deposit Version).

KEY ISSUES

The Site and its Location

The site is located on the northern side of Leamington Spa with a frontage to Lillington Road. No part of the site is within or adjoining a Conservation Area and no building on the site is 'listed' as being of special architectural or historic interest. To the west of the site is Manor Hall, an educational institution which lies within the Green Belt; to the south of the site is a pedestrian access onto that land off Lillington Road with a traffic light controlled crossing over Lillington Road. To the north of the site are the gardens of No. 107 Lillington Road, houses fronting Sandy Lane and dwellings within Bowers Croft; the rear gardens of Nos. 1, 2 and 3 Bowers Croft are of restricted depth with No. 3 having a minimum length of some 6 m. To the east of Lillington Road are further houses.

The application site itself incorporates a pair of semi-detached houses fronting Lillington Road with the rear gardens of those properties and part of the rear garden of other adjacent houses. Presently the houses fronting Lillington Road have rear gardens some 70 m deep; largely laid out to lawns, these gardens contain a variety of garden trees but none are considered to be particularly important specimens. An ash tree is located on the site frontage but would be retained as part of this proposed development.

Details of the Development

The proposal has been submitted by the applicant to seek to address the reasons for the refusal of planning application W04/1294. The site has been reduced in size and is now for 12 dwellings, not 14 as previously proposed, with an amended site layout.

The present application is for outline planning permission for the demolition of a pair of semi-detached houses (Nos. 99 and 101 Lillington Road) and the erection of 12 houses with garages. Means of access and siting are to be determined as part of this outline application with detailed design, external appearance and landscaping reserved for future approval; the applicant has stated, however, that consent is requested at this stage for a two storey dwelling to the Lillington Road frontage with 2 and a half storey dwellings (providing accommodation in the roofspace on the remaining plots with a height of 9.25 m to ridge).

The scheme contains the following key elements:-

- A new vehicular access off Lillington Road retaining the ash tree to the north of the site. This access would have a pavement on its southern side and would lead to a traditional turning head arrangement.
- A detached, two storey dwelling is shown to the south of the access adjacent to No. 97 Lillington Road.
- To the rear of the detached house is proposed a terrace of 3 dwellings orientated east-west (parallel to the southern boundary of the site) with integral garages.

- Running north-south across the rear of the site would be 4 pairs of semi-detached dwellings, 3 with attached garages and the balance having detached garaging. These dwellings would be sited some 14 m off the boundary of the school including a landscaped strip along that boundary (on the previous application that distance was 12 m albeit the applicant has stated they believe Members were incorrectly informed it was only 7 m).
- The dwellings proposed on the southern boundary of the site would have frontages some 53 m from the rear elevation of properties in Bowers Croft whilst the dwellings on the western boundary of the site would be some 40 m from the rear of properties on the Lillington Road.

The site area now proposed would be some 0.38 hectares (0.94 acre) with a density of some 31 dwellings per hectare (i.e. at the lower end of the range of housing density of 30-50 dwellings per hectare proposed in Government guidance, PPG3 Housing). The applicant has submitted a statement in support of the application, together with reports on highways and the highway verge ash tree.

Assessment

Clearly I am conscious that the Planning Committee have recently refused planning permission, reference W04/1294, for residential development in this location (albeit on a larger site and for 14 not 12 dwellings as now proposed) as set out in the Planning History section of this report. Nevertheless, this present application must be considered on its own individual merits and the previous scheme refused by the Planning Committee has been amended to seek to address Members objections, in particular by increasing the distance the dwellings would be set back from the Green Belt boundary to the west from 12 m to 14 m, and by reducing the site area and the number of dwellings proposed. I consider that the present application would be an acceptable form of development which would accord both with Government advice in PPG3, Housing, and policies in both the existing Development Plans and the Warwick District Local Plan 1996-2011, first deposit version. In my opinion, however, the issues this proposal raises are similar to those considered by the Planning Committee in determining application W04/1294 and, therefore, I again set these issues out below:-

Demolition of existing houses and residential redevelopment of the site

The demolition of the existing houses is not subject to planning control and it does not require planning permission. The buildings Nos. 99 and 101 are not of 'listable' status and are not within a Conservation Area. PPG3 Housing, states Government is committed to promoting more sustainable patterns of development by concentrating new housing development within urban areas making more efficient use of land by maximising the reuse of previously developed land; the definition of previously developed land includes land which is, or was, occupied by permanent buildings and their curtilages.

I am conscious of the resolution of Council in May 2004 concerning PPG3 (Housing) and the issue of redevelopment, but the response from the Office of the Deputy Prime Minister and the Local Government Association recognised that redevelopment of houses and gardens can be appropriate, providing that it is to a good design which does not unacceptably compromise local environments, and that it would be wrong to have a blanket ban on new development or rule out intensification in principle. Similarly, whilst noting the issue raised of housing 'need', the present housing policies of this District Council do not preclude further housing provision within the urban areas.

In the context of existing planning guidance, I do not consider an objection in principle to the principle of demolition of Nos. 99 and 101 Lillington Road and a redevelopment of this area of rear gardens at a higher density could therefore be sustained.

The density of the proposed development and its impact on the character of this locality and the amenity of neighbours

Clearly the proposed redevelopment of this site will change the existing appearance of this site and the outlook from dwellings which presently overlook the site. I consider, however, that the amended siting and layout now proposed at a density of some 31 dwellings per hectare would not be excessive (being at the lower end of the Government's guidance of 30-50 dwellings per hectare) and would maintain separation distances generally well in excess of those contained in the District Council's adopted supplementary planning guidance. There is scope within the layout for additional screen planting to further soften the impact of this proposal on both the outlook from adjacent dwellings and the Green Belt to the west (albeit the site is in part already screened from the Green Belt by an existing building on the Manor Hall development).

The applicant has suggested that the design of the proposed houses, albeit accommodating accommodation in the roofspace of the dwellings to the rear of the Lillington Road frontage, would be of a traditional 2 storey appearance with a ridge height to a maximum of approximately 9.25 metres which will be comparable with the neighbouring dwellings on the slightly higher ground on the Lillington Road frontage. The application is in outline with the siting and access shown to be for approval at this stage whilst the details of design, external appearance and landscaping would be the subject to a further submission for consideration by the District Council.

Whilst a number of neighbours have objected to this proposal, I consider that, on the basis of the siting now proposed, the impact of this residential development on the existing housing adjoining this site would not cause an unacceptable loss of amenity (including by reason of overshadowing, dominance or loss of privacy) such as would justify refusal.

Access, highway safety and car parking

Access to the site would be gained off Lillington Road; there is a pedestrian access to North Leamington School/Manor Hall to the south of the application site with a traffic light controlled junction. The siting and design of the access has been considered by the Highway Authority who have raised no objections. Whilst recognising the concerns expressed, therefore, on highway safety and traffic generation, I consider it would not be possible to sustain an objection on those grounds. With regard to car parking, the scheme entails the provision of a garage and off-street car parking space for each dwelling which would be in excess of the average of 1.5 spaces per dwelling recommended by Government in PPG3, Housing. I consider, therefore, the development would provide adequate car parking.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

That subject to the satisfactory conclusion of a Section 106 Agreement to secure the financial contributions requested by Warwickshire County Council (as set out in the representations section above), outline planning permission be GRANTED, subject to the following conditions :

- 1 This permission is granted under the provisions of Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995, on an outline application and the further approval of the District Planning Authority shall be required to the undermentioned matters hereby reserved before any development is commenced:-

 - (a) the design and external appearance of the proposed 12 dwellings,
 - (b) details of landscaping.

REASON : To comply with Section 92 of the Town and Country Planning Act 1990.
- 2 In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the District Planning Authority not later than the expiration of three years beginning with the date of this permission. **REASON** : To comply with Section 92 of the Town and Country Planning Act 1990.
- 3 The development to which this permission relates must be begun not later than the expiration of five years from the date of this permission or within the expiration of two years from the final approval of all reserved matters, whichever is the later. **REASON** : To comply with Section 92 of the Town and Country Planning Act 1990.
- 4 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) 000090/01B and specification contained therein, deposited with the District Planning Authority on 8th December 2004 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 Local Plan Policy ENV3.
- 5 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 6 The landscaping scheme submitted as part of the application hereby permitted shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees of similar size and species to those originally required to be planted. Existing trees which are shown as being retained shall be dealt with in accordance with BS 5837:1991. In particular, before any materials are brought on the site or any demolition or development commenced, stout protective fencing should be erected to enclose the perimeter of the branch spread of each tree or shrub to be retained, together with the branch of any tree growing on adjoining land which overhangs the site. Such fencing shall be satisfactorily maintained until all development has been completed. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 7 The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the District Planning Authority. The development shall not then be occupied until the scheme

has been implemented to the satisfaction of the District Planning Authority.

REASON : In the interests of fire safety, and to secure a satisfactory development in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.

- 8 No development shall be carried out on the site which is the subject of this permission, until details of provision for storage of refuse have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details.
REASON : To protect the amenities of occupiers of the site and the character and appearance of the locality, in accordance with Policy ENV3 of the Warwick District Local Plan.
- 9 No development shall be carried out on the site which is the subject of this permission, until details of existing and proposed ground levels of the development, including the finished floor levels of the dwelling(s) have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To protect the character of the area and the amenities of adjoining occupiers in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 10 No development shall be carried out on the site which is the subject of this permission, until satisfactory details of boundary treatment have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details.
REASON : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 11 The development hereby permitted shall not be brought into use until all parts of existing accesses to Lillington Road, not included in the proposed means of access, have been permanently closed and reinstated in accordance with details approved in writing by the District Planning Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 12 The roads and footways serving the development hereby permitted shall not be designed or constructed other than in accordance with the requirements and standard specifications of the Highway Authority as set out in "Transport and Roads for Developments - The Warwickshire Guide 2001", together with any published amendments to it. **REASON** : To ensure compliance with the Council's standards and to achieve highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 13 The development hereby permitted shall not be brought into use until the proposed means of access has been constructed in strict compliance with details approved in writing by the District Planning Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan and to ensure that the works do not adversely affect the existing ash tree immediately to the north of the proposed access.
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Planning Committee: 24 January 2005
Application No: W 04 / 2194

Principal Item Number: 5

Town/Parish Council: Warwick
Case Officer: Steven Wallsgrove
01926 456527 planning_west@warwickdc.gov.uk

Registration Date: 10/12/2004
Expiry Date: 04/02/2005

**Land adjacent to Gymnasium, Kings High School for Girls, Smith Street, Warwick,
CV34 4HJ**

Erection of classroom block and sixth form centre and reconstruction of part of front
boundary wall. FOR Warwick Independant Schools

SUMMARY OF REPRESENTATIONS

Warwick Town Council:

i) Any permission granted should be subject to a S106 Agreement being the submission and approval of a green traffic plan and requires the applicant to provide off road coach/bus standing to avoid highway congestion resulting from coach/bus descending and loading children attending the school.

ii) The Council are also concerned that the 45 degree angle from the adjoining flats and the development is not being observed.

English Heritage: Do not wish to make any representations.

Environment Agency: Have no objection.

WCC (Archaeology): Have no objection subject to archaeological excavation condition.

WCC (Highways): Have no objection subject to a School Travel Plan Condition.

Warwick Society: We wish to object to this planning application for the proposed erection of a Sixth Form Centre on the site located between The Butts and Chapel Street. This revision of planning application W2004/1587/1599CA does not address our previous objections which are reiterated at paragraphs 1 and 3 below.

1. The development is unneighbourly in that it overlooks the rows of houses in Chapel Street and will detract from their setting in the Conservation Area. The ground level of the site is already 2.5 metres above the level of the road so that the proposed building will seriously detract from the amenity of the residents in terms of loss of privacy and loss of light. We are concerned that there will be an irretrievable loss of trees on the boundary in The Butts during construction.

2. Notwithstanding our objection at paragraph 1, the quality of the proposed building is unworthy of a prestigious school such as Kings High. Its bulk and intrusion into the streetscape of The Butts and will exclude daylight from the houses in Chapel Street. Its frontage on to The Butts, with its restless gable ends and protruding gables, is out of place in a setting where eaves on all other buildings are parallel to the road. The fenestration is awkward and made worse by the heavy handed framing of windows in pre-cast concrete, the components are merely applied decoration and, together with the heavy hood mouldings, are non structural non functional and unnecessary. We find the vertical lettering proclaiming the sixth form centre frivolous and tiresome which belies the use of the building for serious educational purposes. These new proposals still compare unfavourably with the standard of design of other recent developments at the school.

3. It is understood that the proposal for a new building at the school is to meet the need created by the introduction of an additional stream of pupils which will build up over the next five years to a significant increase in school numbers. Because much of the traffic congestion that occurs in the morning and evening rush hours in the area of the school, particularly in Chapel Street, can be directly attributed to the activities of the School, the applicant should be required to provide a Traffic Assessment in accordance with Policy DP7 Traffic Generation of the 1996-2011 Local Plan and, if necessary, a Travel Plan. It would seem to us that further expansion of the school in its restricted town centre site is unsustainable.

We would ask the Warwick District Planning Committee to refuse planning permission for this application.

Neighbours: 5 letters of objection have been received on grounds of loss of privacy, loss of light, traffic pollution, parking problems, decreasing quality of life, building too large, Conservation Area, conflicts with Local Plan policies (e.g. 3.19, ENV8 & ENV9), and loss of view.

RELEVANT POLICIES

(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
(DW) ENV3A - Sustainable Development and Energy Conservation (Warwick District Local Plan 1995)
(DW) ENV6 - Protection and Enhancement of Conservation Areas (Warwick District Local Plan 1995)
(DW) ENV7 - Demolition of Non-Listed Buildings within Conservation Areas (Warwick District Local Plan 1995)
(DW) ENV8 - New Development within Conservation Areas (Warwick District Local Plan 1995)
(DW) ENV9 - Design Guidance for New Development within Conservation Areas (Warwick District Local Plan 1995)
(DW) ENV10 - Detailed Planning Applications within Conservation Areas (Warwick District Local Plan 1995)
(DW) ENV12 - Protection of the Setting of Listed Buildings (Warwick District Local Plan 1995)
(DW) ENV22 - Evaluation of the Archaeological Effects of Development Proposals (Warwick District Local Plan 1995)
(DW) ENV22A - Archaeological Investigations in Advance of Development (Warwick District Local Plan 1995)
The 45 Degree Guideline (Supplementary Planning Guidance)

PLANNING HISTORY

This school has been the subject of numerous applications with the last one being withdrawn. This was for a similar application to the present one but which attracted some 20 neighbour objections and a 28 signature petition. Since that time the applicants have revised the scheme and held a meeting with the residents to explain the background to their proposals.

KEY ISSUES

The Site and its Location

The application site forms that part of the playground/netball courts area which fronts The Butts between the gymnasium and Mitchell House. this land has a row of mature

trees behind the boundary wall and lies at a lower level to this road. The whole site lies within the Conservation Area.

Details of the Development

The proposal is to erect a classroom and sixth form centre block fronting The Butts behind the trees. It would appear to be three and a half storeys in height when viewed from this side but, due to the differences in ground level, four storeys when seen from Chapel Street. The end adjoining the flats in Mitchell House would be single storey, and of lean-to design.

The building has been designed to look like a short row of substantial town houses (rather than a single, large, building), from The Butts but with a significantly different approach at the back, where the end units are still residential in appearance but the central two units have a more contemporary approach, being the foyer to the sixth form centre and the toilets.

The materials to be used are traditional brick, slate, and render, with timber windows.

Assessment

The principal issues in this case are the affect on the character of the Conservation Area, the affect on surrounding neighbours, and potential traffic impacts.

The proposed building is quite large but, in fact, it replaces a school and church hall complex which was only demolished in the early 1980's and which stretched from The Butts through to Chapel Street. The mature trees at the back of the wall on The Butts also form a significant "enclosure" feature in the street scene. It is considered, therefore, that while the proposed building will have an effect on the character of the Conservation Area, that effect will not be unreasonable in terms of its bulk.

The building has also been designed to respect the, quite varied, character of the street scene with the ridge line being broken up so that it steps down from the height of Mitchell House (which is lower than the adjoining, older, building) down to the existing gymnasium building. This has been achieved by the use of raised additional details which give an interesting street elevation while respecting the proportions of older buildings in the street. In this context, the Warwick Society have objected to the design, in particular the use of gable features, but there are, in fact, a number of similar features in The Butts, including on the most recent school building and older property (such as the County Museum building). It is considered, therefore, that the design is acceptable and reflects the details of traditional buildings in the area.

The rear elevation, being within the school site, is not so open to general view, although, of course, it can be seen from Chapel Street, despite the high wall on this frontage. It is considered, however, that this is an appropriate location for a modern, contemporary, element in the design and will not detract from the character of the Conservation Area.

In terms of the affect on surrounding residential properties, since the site lies in the Conservation Area, and there is a duty to protect the character of such areas, the normal distance separation standards and 45 degree Code need not be applied since to do so could prejudice the character of the area. In the present case, however, the scheme has been designed to comply with the 45 degree Code and the distance between the nearest windows (tutorial rooms, offices, etc) and the houses on Chapel Street is some 26 metres. This is considered to be acceptable, particularly since the intervening space is a netball court/playground used by pupils so that there is no increased loss of privacy.

On the traffic side, the applicants have made it clear that this building is not intended to increase pupil numbers beyond the level of about 600 for which the school is registered (There are, at present, around 570 girls, including about 140 in the Sixth Form). The intention is to meet modern educational requirements to meet the increasing need for specialist facilities for Science, Art, etc, to expand the use of I.T., to provide more large classrooms to increase flexibility to external access for disabled staff and pupils, to alleviate the shortage of staff and administrative accommodation, and to alleviate the shortage of storage space.

The school has been trying to discourage the use of cars and to encourage the use of public transport and car sharing. They say that 50% already use these methods, according to a survey, and that they are currently working with the County Council looking at Green Travel planning and the possibility of a Drop and Ride Scheme. This is reflected in the condition requested by the County Council. If the school moved out of the town centre, this could only be a less sustainable alternative to the present position and could reduce accessibility by public transport, e.g. trains. It is considered, therefore, that to develop the present site is the best option, but with greater attention to encouraging the use of public transport, shared cars, and walking.

In summary, it is considered that this revised application will protect the character of the Conservation Area and the setting of nearby listed buildings, will not have an unreasonable affect on residents amenities, and should not result in increased car use, subject to conditions.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

GRANT subject to the following conditions :

- 1 The development hereby permitted must be begun not later than the expiration of five years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing nos. 2072-01D, -02D, -03D, -04D, .06 and .07, and specification contained therein, received on 10th December 2004 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 Local Plan Policy ENV3.
- 3 No development shall be carried out on the site which is the subject of this permission, until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy ENV8 of the Warwick District Local Plan.

- 4 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 5 No development shall take place until the applicant has secured the implementation of a written programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the District Planning Authority. **REASON** : To ensure any items of archaeological interest are adequately investigated, recorded and if necessary, protected, in order to satisfy the requirements of Policy ENV22 of the Warwick District Local Plan.
- 6 The use hereby permitted shall not commence until the applicant has submitted and the planning authority has approved in writing a School Travel Plan and any measures proposed to be carried out in that plan before the use commences have been implemented. Following commencement of the use, the measures (and any variations) so approved shall continue to be implemented in full at any time when the use is being carried on. The plan shall:
- (a) Specify targets for the proportion of pupils and staff travelling to and from the site by foot, cycle, public transport, shared vehicles and other modes of transport which reduce emissions and the use of non-renewable fuels;
 - (b) Set out measures designed to achieve those targets together with timescales and arrangements for their monitoring, review and continuous improvement;
 - (c) Identify a member of staff using the site with overall responsibility for the plan and a scheme for involving pupils and staff in its implementation and development.
- REASON** : To minimise the number of motor vehicles coming to the school, reduce congestion, and minimise vehicle impacts on the environment in accordance with Policy (DW) ENV3 of the Warwick District Local Plan 1995.
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Planning Committee: 24 January 2005
Application No: W 04 / 2160

Principal Item Number: 6

Town/Parish Council: Leamington Spa
Case Officer: Alan Coleman
01926 456535 planning_east@warwickdc.gov.uk

Registration Date: 07/12/2004
Expiry Date: 01/02/2005

Land rear of 31, Clarendon Square, Leamington Spa, CV32 5GZ
Erection of 3 No. dwellings FOR Crabb Curtis & Co (Homes) Ltd

SUMMARY OF REPRESENTATIONS

Town Council: *"The application represents an intensity of development that is detrimental to the Conservation Area generally and fails to respect the character and distinctiveness of the neighbourhood."*

CAAF: *"It was pointed out that generally these buildings are parallel to the road with the exception of corner plots. It was therefore felt that this should be a parallel development rather than 'L' shaped and that instance therefore (sic) a single dwelling would be most appropriate. The possibility of flats in a parallel building were (sic) also suggested as an alternative."*

Highway Authority: *"The proposed development does not include any off-street parking provision. Where similar development has taken place along Trinity Street this has resulted in a demand for on-street parking resulting in a reduced carriageway width and visibility for the drivers of vehicles emerging from access onto Trinity Street. Being mindful of the guidance contained within PPG13, whilst development close to the town centre (such as this) may reduce private car usage, it does not necessarily reduce car ownership of potential residents and where no off-street parking is provided, this will result in an increased demand for on-street parking. However, with no parking restrictions along Trinity Street and opportunity for additional on-street parking the Highway Authority have no objection to the proposals."*

Neighbours: 10 letters of objection on grounds relating to:-

1. harm to the character, appearance and environmental quality of the street scene and conservation area by reason of the loss of the site as garden land/wildlife habitat, excessive scale and density of development and inappropriate form of development in relation to prevailing pattern and layout of neighbouring dwellings;
2. lack of off-road parking and increased demand for on-road parking in Trinity Street that currently experiences problems of congestion, and;
3. harm to neighbouring residents' amenities from noise and disturbance arising from the intensification in the residential use of the site, loss of light, outlook and privacy from the scale and layout of the development and over-bearing impact on garden areas of neighbouring properties.

RELEVANT POLICIES

(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
(DW) ENV6 - Protection and Enhancement of Conservation Areas (Warwick District Local Plan 1995)
(DW) ENV8 - New Development within Conservation Areas (Warwick District Local Plan 1995)
(DW) ENV12 - Protection of the Setting of Listed Buildings (Warwick District Local Plan 1995)
(DW) H5 - Infilling within the Towns (Warwick District Local Plan 1995)
(DW) IMP1 - Infrastructural and Community Requirements Associated with Major Development (Warwick District Local Plan 1995)

(DW) IMP2 - Meeting the Needs of People with Disabilities (Warwick District Local Plan 1995)
DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP5 - Density (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP8 - Parking (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP14 - Accessibility and Inclusion (Warwick District Local Plan 1996 - 2011 First Deposit Version)

SC1 - Securing a Greater Choice of Housing (Warwick District Local Plan 1996 - 2011 First Deposit Version)
UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DAP10 - Protection of Conservation Areas (Warwick District 1996 - 2011 First Deposit Version)

PLANNING HISTORY

There are no previous applications for development of the site of direct relevance to the proposals.

KEY ISSUES

The Site and its Location

The site is situated on the southern side of Trinity Street within a predominantly residential part of the Conservation Area. The site has an area of 225 sq. m. and was formerly part of the rear garden serving 31 Clarendon Square, which is a Grade II Listed Building that has been converted to self-contained flats. The site is enclosed by boundary walls to Trinity Street to the north, the neighbouring dwelling at 161 Trinity Street to the west and a garage courtyard to the east, above which it is elevated. The site contains mature and semi-mature planting that is currently overgrown.

There is a mix of properties in the vicinity of the site, including flat conversions in the host and neighbouring properties in Clarendon Square, out-building conversions and infill mews dwellings on the southern side of Trinity Street between the site and junction with Binswood Street that stand opposite a terrace of 8no. 3-storey houses first approved in 1988.

Details of the Development

The development consists of the erection of 3no. 2-bed dwellings that would have an inverted 'L' shape configuration adjoining the existing boundary walls to Trinity Street and the garage courtyard. In order to accommodate the development, the ground level of the site would be reduced by approximately 1.4 metres and the site would be cleared. A 2.5 metre high wall would be erected at the rear of the site to separate it from the remaining garden area of 31 Clarendon Square that would be off-set by screen planting. Access to the site would be from Trinity Street via the existing gate opening adjacent to the neighbouring dwelling at 161 Trinity Street and would run parallel to the boundary wall to provide rear access to the host property.

The development would be similar in eaves and ridge height to the neighbouring dwellings on this side of Trinity Street and would stand approximately 6.5 metres apart from the side elevation of the neighbouring property at 161 Trinity Street for a depth of some 9.5 metres. This area would be laid out as forecourt gardens enclosed by low walls

with railings through which there would be footpath access to the proposed dwellings . The development would then extend westwards across the site to within a metre of the boundary and 2.4 metres of the rear side elevation of No. 161 for a depth of 4 metres beyond its rear elevation. The remaining area of the site up to the rear boundary would be laid out as two private garden areas of between 3.7 and 5.4 metres in depth.

The rear elevation of the development has been designed with a 'cat-slide' roof to reduce the mass of the gable and height of the eaves to 4 metres, so that it would be broadly one and a half storeys in height. The 45° Code relates to single and two storey development. In relation to single storey development the assessment is made from the centre point of the nearest ground floor habitable room window and from the quarter point in relation to two storey development. The rear elevation of No. 161 is single storey in height. When measured from the centre point of the nearest habitable room window in this elevation, the proposal would comply with the 45° Code. When measured from the quarter point there would be a marginal breach of approximately 200mm.

No provision for off-road parking is proposed.

Assessment

In my opinion, the main issues raised by the proposals relate to:-

1. the principle of development;
2. car parking;
3. the impact of the development on neighbouring residents' amenities, and;
4. the impact of the development on the character and appearance of the Conservation Area/impact on the setting of adjoining listed buildings.

1. The Principle of Development

The site is located within the Leamington Conservation Area and is allocated within an "Area to be Primarily in Residential Use" as defined by the Local Plan. The authorised planning use of the site is as garden, which constitutes previously developed land as defined in PPG3: *Housing* and where both Structure Plan and Local Plan policies regarding residential development apply. PPG3: *Housing* states that the Government is committed to promoting more sustainable patterns of development by concentrating new housing development within urban areas, making more efficient use of land by maximising the re-use of previously developed land.

Whilst noting the objections raised in principle to the loss of the garden and the residential redevelopment of the site, I consider such an objection could not be sustained in principle and inasmuch as it has not been formally allocated for development in the Local Plan, it properly falls to be considered as a 'windfall site'. As such, I consider the proposals are acceptable in principle.

2. Car Parking

No provision for car parking to serve the development is proposed.

Recent advice on parking and housing issues is contained in PPG13: *Transport* which advises that in considering planning applications, local authorities should, inter alia, accommodate housing principally within existing urban areas, planning for increased intensity of development for both housing and other uses at locations which are highly accessible by public transport, walking and cycling, and to use parking policies, alongside other planning and transport measures, to promote sustainable transport choices and reduce reliance on the car for work and other journeys. In relation to

implementing policies on car parking, local authorities are advised not to require developers to provide more spaces than they themselves wish, other than in exceptional circumstances (para. 51).

The site is located within the defined Town Centre of Leamington Spa and is within easy walking distance of town centre services and facilities, employment areas and the public transport network.

I note the concerns of local residents regarding this aspect of the proposals. I also recognise the implications of this for highway safety by increasing demand for on-street parking in Trinity Street and the surrounding area, which currently experience problems of congestion. However, the Highway Authority has raised no objection to this aspect of the proposals and, in light of current government guidance on car parking, I consider the proposals are acceptable on these grounds.

3. The impact of the development on neighbouring residents' amenities

The aspects of concern to neighbouring residents are summarised above and relate principally to the introduction, layout, density and form of development on the site. I fully understand these concerns and appreciate that the proposal would undoubtedly have an impact on neighbouring residents. However, I do not consider that the effect of the proposed development would be intolerable to the extent that it would unacceptably diminish neighbouring residents' amenities.

4. The impact of the development on the character and appearance of the Conservation Area/ setting of Listed Buildings

The scheme has been designed to reflect and mirror the form and layout of the existing development at 169-173 Trinity Street to create a 'bookend' development adjacent to the garage courtyard, which marks a discernible transition in the scale and nature of development on both sides of the street to the east. I note the concerns expressed by the Town Council, CAAF and neighbouring residents that the location of the site does not lend itself to such a layout and that the proposed density would be excessive in comparison with neighbouring sites. Whilst I acknowledge that this may not be the preferred layout for development of the site, nevertheless I do not consider the proposal is entirely unacceptable in terms of the capacity of the site to accommodate the development or its impact on the character and appearance of the street scene in this particular part of the Conservation Area.

With regard to the impact on the setting of the listed host and neighbouring buildings in Clarendon Square, the layout of the site is not dissimilar to the configuration of adjacent plots to the west on this side of Trinity Street.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

GRANT subject to the following conditions :

- 1 The development hereby permitted must be begun not later than the expiration of five years from the date of this permission.
REASON : To comply with Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawings 1463/2 and 1463/4A, and specification contained therein, submitted on 7th December 2004 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 Local Plan Policy ENV3.
- 3 No development shall be carried out on the site which is the subject of this permission, until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges, rooflights, railings and rainwater goods at a scale of 1:5 have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details.
REASON : To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy ENV8 of the Warwick District Local Plan.
- 4 No development shall be carried out on the site which is the subject of this permission, until details of the proposed bin store have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details.
REASON : Insufficient details were submitted for this matter to be fully and properly considered as part of the approval hereby granted.
- 5 All window frames shall be constructed in timber, painted and not stained, and be set in reveals of 75mm from the face of the building.
REASON : To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy ENV8 of the Warwick District Local Plan.
- 6 Detailed drawings shall be submitted to and approved by the Local Planning Authority before any work is commenced to indicate the finished site and ground floor levels intended at the completion of the development in relation to the existing site levels and the levels of the adjoining land and the development shall be carried out and completed in accordance with the details so approved.
REASON : To protect the character of the area and the amenities of adjoining occupiers in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 7 No development shall be carried out on the site which is the subject of this permission, until satisfactory details of garden area and site boundary treatments have been submitted to and approved by the District Planning Authority and the development shall not be carried out otherwise than in full accordance with such approved details.
REASON : Insufficient details were submitted for this matter to be fully and properly considered as part of the approval hereby granted.
- 8 Samples of all external facing and surfacing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details.
REASON : To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy ENV8 of the Warwick District Local Plan.

- 9 The roofing material for the development shall be natural slate, a sample of which has been submitted to and approved in writing by the District Planning Authority. The development shall be carried out in accordance with the approved details.
REASON : To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy ENV8 of the Warwick District Local Plan.
- 10 All rainwater goods for the development hereby permitted shall be metal and no development on site shall take place until a sample of the rainwater goods has been submitted to and approved by the District Planning Authority.
REASON : To ensure an appropriate standard of design and appearance within the Conservation Area, and to satisfy Policy ENV8 of the Warwick District Local Plan.
- 11 A landscaping scheme for the whole of those parts of the site not to be covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted.
REASON : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out which comes within Parts 1 and 2 of Schedule 2 of this Order, without the prior permission of the District Planning Authority.
REASON : This site is of a restricted size and configuration and is in close proximity to other dwellings. It is considered appropriate therefore to retain control over future development to ensure that the residential amenity of this locality is protected in accordance with the provisions of District-Wide Policy ENV3 of the Warwick District Local Plan.
-

Planning Committee: 24 January 2005
Application No: W 04 / 2161 LB

Principal Item Number: 7

Town/Parish Council: Leamington Spa
Case Officer: Alan Coleman
01926 456535 planning_east@warwickdc.gov.uk

Registration Date: 07/12/2004
Expiry Date: 01/02/2005

Land rear of 31, Clarendon Square, Leamington Spa, CV32 5GZ
Erection of 3 No. dwellings FOR Crabb Curtis & Co (Homes) Ltd

SUMMARY OF REPRESENTATIONS

Town Council: *"The application represents an intensity of development that is detrimental to the Conservation Area generally and fails to respect the character and distinctiveness of the neighbourhood."*

CAAF: *"It was pointed out that generally these buildings are parallel to the road with the exception of corner plots. It was therefore felt that this should be a parallel development rather than 'L' shaped and that instance therefore (sic) a single dwelling would be most appropriate. The possibility of flats in a parallel building were (sic) also suggested as an alternative."*

Highway Authority: *"The proposed development does not include any off-street parking provision. Where similar development has taken place along Trinity Street this has resulted in a demand for on-street parking resulting in a reduced carriageway width and visibility for the drivers of vehicles emerging from access onto Trinity Street. Being mindful of the guidance contained within PPG13, whilst development close to the town centre (such as this) may reduce private car usage, it does not necessarily reduce car ownership of potential residents and where no off-street parking is provided, this will result in an increased demand for on-street parking. However, with no parking restrictions along Trinity Street and opportunity for additional on-street parking the Highway Authority have no objection to the proposals."*

Neighbours: 10 letters of objection on grounds relating to:-

1. harm to the character, appearance and environmental quality of the street scene and conservation area by reason of the loss of the site as garden land/wildlife habitat, excessive scale and density of development and inappropriate form of development in relation to prevailing pattern and layout of neighbouring dwellings;
2. lack of off-road parking and increased demand for on-road parking in Trinity Street that currently experiences problems of congestion, and; harm to neighbouring residents' amenities from noise and disturbance arising from the intensification in the residential use of the site, loss of light, outlook and privacy from the scale and layout of the development and over-bearing impact on garden areas of neighbouring properties.

RELEVANT POLICIES

(DW) ENV11 - Retention of Listed Buildings (Warwick District Local Plan 1995)

(DW) ENV12 - Protection of the Setting of Listed Buildings (Warwick District Local Plan 1995)

DAP6 - Protection of Listed Buildings (Warwick District 1996 - 2011 First Deposit Version)

PLANNING HISTORY

There are no previous applications for development of the site of direct relevance to the proposals.

KEY ISSUES

The Site and its Location

The site is situated on the southern side of Trinity Street within a predominantly residential part of the Conservation Area. The site has an area of 225 sq. m. and was formerly part of the rear garden serving 31 Clarendon Square, which is a Grade II Listed Building that has been converted to self-contained flats. The site is enclosed by boundary walls to Trinity Street to the north, the neighbouring dwelling at 161 Trinity Street to the west and a garage courtyard to the east, above which it is elevated. The site contains mature and semi-mature planting that is currently overgrown.

There is a mix of properties in the vicinity of the site, including flat conversions in the host and neighbouring properties in Clarendon Square, out-building conversions and infill mews dwellings on the southern side of Trinity Street between the site and junction with Binswood Street that stand opposite a terrace of 8no. 3-storey houses first approved in 1988.

Details of the Development

The development consists of the erection of 3no. 2-bed dwellings that would have an inverted 'L' shape configuration adjoining the existing boundary walls to Trinity Street and the garage courtyard. In order to accommodate the development the ground level of the site would be reduced by approximately 1.4 metres and the site would be cleared. A 2.5 metre high wall would be erected at the rear of the site to separate it from the remaining garden area of 31 Clarendon Square that would be off-set by screen planting. Access to the site would be from Trinity Street via the existing gate opening adjacent to the neighbouring dwelling at 161 Trinity Street and would run parallel to the boundary wall to provide rear access to the host property.

The development would be similar in eaves and ridge height to the neighbouring dwellings on this side of Trinity Street and would stand approximately 6.5 metres apart from the side elevation of the neighbouring property at 161 Trinity Street for a depth of some 9.5 metres. This area would be laid out as forecourt gardens enclosed by low walls with railings through which there would be footpath access to the proposed dwellings. The development would then extend westwards across the site to within a metre of the boundary and 2.4 metres of the rear side elevation of No. 161 for a depth of 4 metres beyond its rear elevation. The remaining area of the site up to the rear boundary would be laid out as two private garden areas of between 3.7 and 5.4 metres in depth.

The rear elevation of the development has been designed with a 'cat-slide' roof to reduce the mass of the gable and height of the eaves to 4 metres, so that it would be broadly one and a half storeys in height. The 45° Code relates to single and two storey development. In relation to single storey development the assessment is made from the centre point of the nearest ground floor habitable room window and from the quarter point in relation to two storey development. The rear elevation of No. 161 is single storey in height. When measured from the centre point of the nearest habitable room window in this elevation the proposal would comply with the 45° Code. When measured from the quarter point there would be a marginal breach of approximately 200mm.

No provision for off-road parking is proposed.

Assessment

In my opinion, the main issues raised by the proposals relate to:-

1. the principle of development;
2. car parking;
3. the impact of the development on neighbouring residents' amenities, and;
4. the impact of the development on the character and appearance of the Conservation Area/impact on the setting of adjoining listed buildings.

1. The Principle of Development

The site is located within the Leamington Conservation Area and is allocated within an "Area to be Primarily in Residential Use" as defined by the Local Plan. The authorised planning use of the site is as garden, which constitutes previously developed land as defined in PPG3: *Housing* and where both Structure Plan and Local Plan policies regarding residential development apply. PPG3: *Housing* states that the Government is committed to promoting more sustainable patterns of development by concentrating new housing development within urban areas, making more efficient use of land by maximising the re-use of previously developed land.

Whilst noting the objections raised in principle to the loss of the garden and the residential redevelopment of the site, I consider such an objection could not be sustained in principle and inasmuch as it has not been formally allocated for development in the Local Plan, it properly falls to be considered as a 'windfall site'. As such, I consider the proposals are acceptable in principle.

2. Car Parking

No provision for car parking to serve the development is proposed.

Recent advice on parking and housing issues is contained in PPG13: *Transport* which advises that in considering planning applications, local authorities should, inter alia, accommodate housing principally within existing urban areas, planning for increased intensity of development for both housing and other uses at locations which are highly accessible by public transport, walking and cycling, and to use parking policies, alongside other planning and transport measures, to promote sustainable transport choices and reduce reliance on the car for work and other journeys. In relation to implementing policies on car parking, local authorities are advised not to require developers to provide more spaces than they themselves wish, other than in exceptional circumstances (para. 51).

The site is located within the defined Town Centre of Leamington Spa and is within easy walking distance of town centre services and facilities, employment areas and the public transport network.

I note the concerns of local residents regarding this aspect of the proposals. I also recognise the implications of this for highway safety by increasing demand for on-street parking in Trinity Street and the surrounding area, which currently experience problems of congestion. However, the Highway Authority has raised no objection to this aspect of the proposals and, in light of current government guidance on car parking, I consider the proposals are acceptable on these grounds.

3. The impact of the development on neighbouring residents' amenities

The aspects of concern to neighbouring residents are summarised above and relate principally to the introduction, layout, density and form of development on the site. I fully understand these concerns and appreciate that the proposal would undoubtedly have an impact on neighbouring residents. However, I do not consider that the effect of the proposed development would be intolerable to the extent that it would unacceptably diminish neighbouring residents' amenities.

4. The impact of the development on the character and appearance of the Conservation Area/ setting of Listed Buildings

The scheme has been designed to reflect and mirror the form and layout of the existing development at 169-173 Trinity Street to create a 'bookend' development adjacent to the garage courtyard, which marks a discernable transition in the scale and nature of development on both sides of the street to the east. I note the concerns expressed by the Town Council, CAAF and neighbouring residents that the location of the site does not lend itself to such a layout and that the proposed density would be excessive in comparison with neighbouring sites. Whilst I acknowledge that this may not be the preferred layout for development of the site, nevertheless I do not consider the proposal is entirely unacceptable in terms of the capacity of the site to accommodate the development or its impact on the character and appearance of the street scene in this particular part of the Conservation Area.

With regard to the impact on the setting of the listed host and neighbouring buildings in Clarendon Square the layout of the site is not dissimilar to the configuration of adjacent plots to the west on this side of Trinity Street.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

GRANT subject to the following conditions :

- 1 The works hereby permitted must be begun not later than the expiration of five years from the date of this consent.
REASON : To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawings 1463/2 and 1463/4A, and specification contained therein, submitted on 7th December 2004 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 Local Plan Policy ENV3.
- 3 No works shall be carried out on the site which is the subject of this permission, until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges, rooflights, railings and rainwater goods at a scale of 1:5 have been submitted to and approved by the District Planning Authority. The works shall not be carried out otherwise than in full accordance with such approved details.
REASON : To ensure a high standard of design and appearance for the setting of the adjoining and neighbouring Listed Buildings, and to satisfy Policy ENV11 of the

Warwick District Local Plan 1995.

- 4 No development shall be carried out on the site which is the subject of this permission, until details of the proposed bin store have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details.
REASON : Insufficient details were submitted for this matter to be fully and properly considered as part of the approval hereby granted.
- 5 All window frames shall be constructed in timber, painted and not stained, and be set in reveals of 75mm from the face of the building.
REASON : To ensure a high standard of design and appearance for the setting of the adjoining and neighbouring Listed Buildings, and to satisfy Policy ENV11 of the Warwick District Local Plan 1995.
- 6 No works shall be carried out on the site which is the subject of this permission, until satisfactory details of garden area and site boundary treatments have been submitted to and approved by the District Planning Authority and the works shall not be carried out otherwise than in full accordance with such approved details.
REASON : Insufficient details were submitted for this matter to be fully and properly considered as part of the approval hereby granted.
- 7 Samples of all external facing and surfacing materials to be used for the construction of the dwellings hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. The works shall be carried out in accordance with the approved details.
REASON : To ensure a high standard of design and appearance for the setting of the adjoining and neighbouring Listed Buildings, and to satisfy Policy ENV11 of the Warwick District Local Plan 1995.
- 8 The roofing material for the dwellings shall be natural slate, a sample of which has been submitted to and approved in writing by the District Planning Authority. The works shall be carried out in accordance with the approved details.
REASON : To ensure a high standard of design and appearance for the setting of the adjoining and neighbouring Listed Buildings, and to satisfy Policy ENV11 of the Warwick District Local Plan 1995.
- 9 All rainwater goods for the dwellings hereby permitted shall be metal and no works on site shall take place until a sample of the rainwater goods has been submitted to and approved by the District Planning Authority.
REASON : To ensure a high standard of design and appearance for the setting of the adjoining and neighbouring Listed Buildings, and to satisfy Policy ENV11 of the Warwick District Local Plan 1995.
- 10 A landscaping scheme for the whole of those parts of the site not to be covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted. **REASON** : To ensure a high standard of layout and appearance for the setting of the adjoining and neighbouring Listed Buildings, and to satisfy Policy ENV11 of the Warwick District Local Plan 1995.
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Planning Committee: 24 January 2005
Application No: W 04 / 1997

Principal Item Number: 8

Town/Parish Council: Warwick
Case Officer: Martin Haslett
01926 456526 planning_west@warwickdc.gov.uk

Registration Date: 10/11/2004
Expiry Date: 05/01/2005

Former Council Depot, Saltisford, Warwick, CV34

Development of site with 2 and 3 storey office buildings FOR Shepherd Development Co,

SUMMARY OF REPRESENTATIONS

Town Council: no objection, subject to a section 106 agreement on transport assessment and green travel plan.
Severn Trent Water: no objection, subject to condition on surface water drainage.
Transco: no objection.
Environmental health: no objection, subject to condition on land contamination, and noise control.
English Heritage: no objection.
WCC (Highways): no observations received, but scheme is similar to W03/1339 where no objection was raised, subject to a section 106 agreement to require a travel plan and contributions to off-site highway works (to improve the signalised junction with Birmingham Road.)

RELEVANT POLICIES

(DW) ENV12 - Protection of the Setting of Listed Buildings (Warwick District Local Plan 1995)
(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
(DW) EMP5 - Employment Development in Urban Areas (Warwick District Local Plan 1995)
(DW) ENV22 - Evaluation of the Archaeological Effects of Development Proposals (Warwick District Local Plan 1995)
DP6 - Access (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP10 - Flooding (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DP4 - Archaeology (Warwick District Local Plan 1996 - 2011 First Deposit Version)
UAP2 - Directing New Employment Development (Warwick District 1996 - 2011 First Deposit Version)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011 First Deposit Version)
DAP6 - Protection of Listed Buildings (Warwick District 1996 - 2011 First Deposit Version)

NB. This site is Council-owned and in the event of a grant of planning permission it is anticipated that the land will be sold for development.

PLANNING HISTORY

The whole site was the subject of a Brief which proposed employment uses. This allocation has now been brought forward into the Deposit Draft Warwick District Local Plan, presently in the process of approval.

The adjoining site, on the other side of Ansell Way, which formed another part of the Council Depot, was granted planning permission for residential development (subject to a legal agreement) on 31 March, 2004. The current site was granted planning permission at the meeting on 26 July 2004, which was subject to the completion of some off-site flood relief works and a legal agreement to require a travel plan and off-site transport contributions (to fund the improvement of the signalised junction of Ansell Way and Birmingham Road).

KEY ISSUES

The Site and its Location

The major part of the site was used as a council depot until comparatively recently, but is now derelict. In the front of the site, fronting Birmingham Road, there are five modern industrial units which would need to be demolished. Adjoining the site on Birmingham Road a new church has recently been completed and next to that, a little to the north lie the listed buildings of the former Leper Hospital. To the rear of the application site is the Warwick to Birmingham Snow Hill railway line which is on a substantial embankment. To the east, Ansell Way gives access to the site, from a traffic-light controlled junction with Birmingham Road. To the south of that junction are the former gas works, another listed building.

Details of the Development

It is proposed to build 5 office buildings, with access taken from two points on Ansell Way. The gross external floorspace of the buildings would be 7663 square metres. Starting from the front of the site, on Birmingham Road, a 2-storey building would complete the frontage to the road, and the existing trees would be retained. Behind this, there would be a smaller 2-storey building. At the rear of the site there would be three buildings, the central one of three storeys, the outer two being two storeys. Car parking would be provided in the form of 253 spaces for the whole site and remaining areas would be landscaped.

The buildings would be of uniform style, with brick walls and interlocking concrete tiled roofs. Windows would be finished in powder-coated aluminium.

The proposals differ from the previously approved scheme in that the number of buildings has been reduced from 6, the total floor area of the buildings is slightly reduced and their configuration is changed.

Assessment

The proposals are comparatively similar to the previous scheme and their impact on the area is similar. Consideration of the previous scheme involved negotiations which included English Heritage who were concerned about the impact of the proposals on the adjoining listed buildings, The Leper Hospital and the former gas works.

English Heritage have raised no objection to the amended plans and the proposals, like the previous ones, represent a very considerable improvement to the setting of the Leper Hospital and of the approach to the town. The setting of the listed former gas works on the opposite corner of Ansell Way would also be improved.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

After the completion of a legal agreement to require green travel plans and a contribution to the improvement of the Birmingham Road/Ansell Way junction;
GRANT subject to the following conditions :

- 1 The development hereby permitted must be begun not later than the expiration of five years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990.
- 2 No development shall be carried out on the site which is the subject of this permission, until large scale details of doors, windows (including a section showing the window reveal, heads and cill details), eaves, verges and rainwater goods at a scale of 1:5 have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To ensure that the setting of the listed buildings is protected, in accordance with policy ENV12 of the Warwick District Local Plan, 1995.
- 3 No development shall be carried out on the site which is the subject of this permission, until details of existing and proposed ground levels of the development, including the finished floor levels of the buildings and sections through the site between Plots 1 and 4 and 1 and 2 have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON** : To protect the character of the area and the amenities of adjoining occupiers in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
- 4 Development shall not be commenced until:

 - a) A desk-top study identifying previous site uses, potential contaminants and other relevant information and using this information a diagrammatical representation (conceptual model) for the site of all potential contaminant sources, pathways and receptors has been undertaken and approved in writing by the local planning authority;
 - b) if deemed necessary as a result of the desk study, a site investigation has been designed, using the information obtained from the desk-top study and any diagrammatical representations (conceptual model), and has been submitted to an approved in writing by the local planning authority;
 - c) the site investigation has been undertaken in accordance with details approved and a risk assessment has been produced;
 - d) a method statement detailing the remediation requirements using the information obtained from the site investigations has been approved in writing by the local planning authority. **REASON:** To identify contamination which may pose a risk to the environment or harm to human health.
- 5 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an addendum to the Method Statement. This addendum to the Method Statement must detail how this unsuspected contamination shall be dealt with. **REASON:** To ensure that the development complies with approved details in the interests of protection of Controlled Waters.

- 6 The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the District Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the District Planning Authority. **REASON** : In the interests of fire safety.
- 7 A landscaping scheme, incorporating existing trees and shrubs to be retained and new tree and shrub planting for the whole of those parts of the site not to be covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting, shall be replaced by trees of similar size and species to those originally required to be planted. Existing trees which are shown as being retained shall be dealt with in accordance with BS 5837:1991. In particular, before any materials are brought on the site or any demolition or development commenced, stout protective fencing should be erected to enclose the perimeter of the branch spread of each tree or shrub to be retained, together with the branch spread of any tree growing on adjoining land which overhangs the site. Such fencing shall be satisfactorily maintained until all development has been completed. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 8 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 9 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawings 01-069/0069/c, /135,/136, /137, /138, /139 and specification contained therein, submitted on 8 November 2004 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 Local Plan Policy ENV3.
- 10 There shall be no buildings, structures (including gates, wall and fences) or raised ground levels with 5 metres of each side of the existing Saltisford Brook culvert, unless agreed otherwise in writing by the District Planning Authority. **REASON**: To maintain access to the watercourse for maintenance or improvements and provide for overland flood flows.
- 11 Floor levels shall be set at least 600mm above the modelled 1 in 100 year (plus climate change) flood level of 55.553 metres above Ordnance Datum. **REASON**: To prevent the development from flooding.
- 12 No construction works on the B1 offices hereby permitted shall be commenced until the flood alleviation works in relation to the Saltisford Broom have been carried out to the satisfaction of the District Planning Authority in accordance with previously approved details. **REASON**: To ensure satisfactory provision is made for disposal of storm water so as to prevent any additional flooding in the locality.

- 13 All remediation works detailed in the method statement shall be undertaken and a report submitted to the local planning authority providing verification that the works have been carried out in accordance with the approved details. **REASON:** To protect controlled waters by ensuring that the works have been carried out in accordance with the approved details.
- 14 No development shall be carried out on the site which is the subject of this permission, until details of a scheme for the provision of foul drainage have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details. **REASON:** To prevent flooding and pollution, in accordance with the requirements of policy ENV3 of the Warwick District Local Plan, 1995.
- 15 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Road water shall not pass through the interceptor. **REASON:** To prevent pollution of the water environment.
- 16 Service vehicles shall only have access to the site between 0700-1900 hours Monday to Friday, on Saturday from 0700 to 1300 hours and not at any time on Sundays or Bank Holidays. **REASON :**To protect the amenities of adjoining proposed dwellings, in accordance with policy ENV3 of the Warwick District Local Plan, 1995.
- 17 The level of noise from plant and equipment, measured one metre from the nearest noise sensitive facade(s), shall not increase the background noise level. **REASON:** To protect amenity of adjoining properties in accordance with Policy ENV3 of Warwick District Local Plan 1995.
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Planning Committee:	24 January 2005	Principal Item Number: 9
Application No:	TPO 271	
Town/Parish Council	Rowington	
Case Officer	Sandip Sahota 01926 456522 planning_appeals@warwickdc.gov.uk	

Oaktrees, The Cumsey, Pinley Green, Rowington
Provisional Tree Preservation Order: 4 Oak trees (TPO 271)

SUMMARY OF REPRESENTATIONS

The Tree Preservation Order took effect, on a provisional basis, on 1 October 2004 and continues in force on this basis for a further six months, or until the Order is confirmed by the Council whichever first occurs. Before the Council can decide whether the Order should be confirmed, the people living in the vicinity of the Order have a right to make representations.

Oaktrees, The Cumsey – OBJECT because due to the size and proximity of the trees to the property it is considered that there is a problem of visibility from the existing vehicular access to the property.

KEY ISSUES

The site of the four mature oak trees is some distance away from the two nearest properties (Oaktrees and Ednam Cottage) within a highway hedgerow on The Cumsey. All four trees are visible from The Cumsey in addition to the gardens of the neighbouring properties. The whole of the immediate area is within a Green Belt and the Arden Special Landscape Area.

Assessment

The Oak trees are all tall mature individual specimen trees located adjacent to the highway. All four of the trees make a significant positive contribution to the amenity of this part of the Arden Special Landscape Area because of their height, shape and size of canopy which all combine to enhance the attractiveness of this part of the rural area.

The representation expresses concern with the problem of visibility from the existing driveway at Oaktrees. A planning application to modify the existing driveway was refused in March 2004 (W04/0282) because the proposed visibility would be less than that currently available. A second application was then submitted for an alternative access at Oaktrees (W 04/1167) which would involve the creation of a new access drive through part of the adjacent field which is in the same ownership. This was refused in August 2004 due to the adverse impact that the proposed entrance upon the rural landscape and due to the degree of root loss which would be caused to the oak trees in implementing such a scheme. The layout plan of the new driveway shows it abuts two of the mature oaks and would potentially leave both trees unstable and would certainly prejudice their health.

The representation made on behalf of Oaktrees appears to recognise that the trees do contribute to the amenity of the area and that the objection to the TPO only stands until a meeting/negotiation for another vehicular access into the site (Oaktrees) has taken place and permission secured.

Taking into account the interests of protecting the visual amenity of this part of The Cumsey, and to ensure that all future proposals to carry out development in close proximity to some of the trees take proper account of the visual contribution to the character of the area made by the trees it is considered appropriate to ensure that each of the trees are protected so as to control any proposed work to the trees.

RECOMMENDATION

That TPO 271 be confirmed, to ensure that the oak trees continue to make a significant positive contribution to the visual amenity of this part of The Cumsey, the rural area and the Arden Special Landscape Area and that any future works to the trees are able to be suitably controlled.
