

**Planning Committee:** 09 December 2009

**Item Number:**

**Application No:** W 09 / 1068

**Registration Date:** 27/08/09

**Town/Parish Council:** Leamington Spa

**Expiry Date:** 22/10/09

**Case Officer:** Rob Young

01926 456535 [planning\\_east@warwickdc.gov.uk](mailto:planning_east@warwickdc.gov.uk)

**Land to rear of 96 Cubbington Road, Lillington, Leamington Spa, CV32 7AG**  
Erection of two detached dwellings FOR Mr P Akhter

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This application is being presented to Committee due to the number of objections received.

This application has been requested to be presented to Committee by Councillor Boad.

### **SUMMARY OF REPRESENTATIONS**

**Town Council:** No objection. Care should be taken that adequate access provision is provided which does not interrupt entry to the school.

**Public response:** 7 objections have been received raising the following concerns:

- detrimental to the amenity of neighbouring dwellings;
- loss of privacy;
- the proposed dwellings would be situated on higher ground than the adjacent dwellings in The Greenways;
- the separation distance from the adjacent dwellings in The Greenways is less than the minimum when including interpolation for the difference in land heights;
- loss of light;
- a bungalow would be a more practical proposal;
- detrimental to highway safety;
- the drive to the school is not wide enough for two cars to pass;
- conflict with pedestrians and school children using the school access;
- the proposed widening of part of the school drive would not help because it is not possible to widen the whole of the drive;
- detrimental to the character and appearance of the area;
- the area should be a Conservation Area - the land in question is the last remaining untouched paddock of old Lillington and can be seen on old C17th maps;
- the site may contain some interesting archaeology;
- there is an abundance of wildlife on the site, especially amphibians;
- a previous application for a single dwelling on this site was refused and there is less land now as part of the site has been sold to the school;
- the development now proposed is more intensive than the previously refused application; and
- if the objections are not accepted, please consider alternative options for mitigating the detrimental effects on neighbours - alternative options could include single storey dwellings or the orientation of dwellings to face Cubbington

Road to increase separation distances and allow privacy screening to all sides. In addition a reduction of chimney heights and hipped roof construction would lower roof lines.

**Governors of Lillington Primary School:** The volume of traffic during the building of the dwellings would be considerable and would cause a lot of congestion. There is a lot of traffic using the drive already. The drive is also used by parents bringing children to school in cars and on foot. We are very concerned that the traffic the building would generate would create a hazard and endanger the lives of others using the drive. The driveway is narrow and there is not enough room for cars to pass which involves cars having to reverse to manoeuvre to gain access. The access from Cubbington Road is also not wide enough for cars to access the site.

**Cllr Boad:** Requests that the application be considered by the Planning Committee given its potential impact upon the only (difficult) vehicular access to Lillington Primary School, which despite the statements in the application to the contrary, is also used by parents and children on foot. There is also lack of clarity on access rights over the Primary School's driveway.

**WCC (Highways):** No objection, subject to conditions to require the provision of turning space for vehicles and prohibition of the movement of construction plant and equipment between the following times during the academic year: 0815 - 0900 hours, 1200 - 1300 hours and 1500 - 1615 hours.

The Highway Authority do not object to the proposals subject to conditions, however access to the proposed development is along a private drive that leads to the school. The applicant has not demonstrated that they have access rights and as the proposals also include amendments to the existing access road it will be necessary for the applicant to contact the County's Estates Group in order to secure the right of way required for the development to proceed.

**WCC (Estates):** No objection, in principle, however we would need to be liaised with closely over any potential impacts there may be to the access of the school. Also, the current right of way only allows access to the school and will therefore need to be amended to permit access for the new dwellings. The developer will therefore need to negotiate with WCC over this right of access. We would also recommend that the developer complies with all requirements as detailed by our Highways Officer.

**WCC (Ecology):** I would recommend a note relating to nesting birds, as protected species, is attached to any approval granted as there appear to be shrubs within the application site that may be impacted on by the proposal.

Also, please note that we have a record for the BAP butterfly White-Letter Hairstreak nearby, therefore vegetation should be retained and enhanced where possible. We also have a badger record in the surrounding area and I recommend that a note relating to badgers and development is attached to any approval granted.

**WCC (Archaeology):** The proposed development lies within an area of significant archaeological potential, within the medieval settlement of Lillington (Warwickshire Historic Environment Record MWA 9729). There is a potential for the proposals to

impact upon archaeological deposits, including structural remains, boundary features and domestic refuse pits, associated with the occupation of this area during the medieval and later periods.

I do not wish to object to the principle of development but do consider that some archaeological work should be required if consent is forthcoming. I therefore recommend that a condition should be imposed to require the implementation of a programme of archaeological work.

**Waste Management:** I can see no problems with the site storing wheeled bins on our alternate week collections, it just has to be made clear to the owners to place wheeled bins on Cubbington Road on collection days.

### **RELEVANT POLICIES**

- The 45 Degree Guideline (Supplementary Planning Guidance)
- Distance Separation (Supplementary Planning Guidance)
- Vehicle Parking Standards (Supplementary Planning Document)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP5 - Density (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)
- DP4 - Archaeology (Warwick District Local Plan 1996 - 2011)

### **PLANNING HISTORY**

In 1988 planning permission was refused for "Erection of a dwelling" (Ref. W88/0845). The reason for refusal was as follows:

*"1. The development proposed would constitute undesirable backland development not conforming to the District Planning Authority's standards of layout and access, and being detrimental to the amenities of the adjoining residential properties. If permitted, the proposal would also be likely to encourage similar applications which would be difficult to resist and would result in an unsatisfactory form of development for the neighbourhood.*

*2. The means of access to the site is inadequate as the road is a private road of restricted width and any intensification of use of this access would be undesirable".*

### **KEY ISSUES**

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

The application relates to an L-shaped plot of land to the rear of Nos. 94-102 Cubbington Road. The main part of the site is situated to the rear of Nos. 94 and 96, with a further narrow strip of land to the rear of Nos. 98-102. The land previously formed part of the rear garden of No. 96 Cubbington Road, but it has now been fenced off as a separate plot.

There are no significant trees on the site and the site is bounded by fencing and hedges. The site is situated within a predominantly residential area.

The car park of Lillington Primary School adjoins the south-eastern boundary of the site, and the vehicular access to the school runs along the south-western boundary and this provides vehicular access to the site. The rear boundaries of dwellings in The Greenways are situated on the opposite side of this access. The dwellings and shops at Nos. 94-102 Cubbington Road bound the site to the north-west. The side boundary and a long single storey rear extension to the rear of the shop at No. 98 Cubbington Road bound part of north-eastern boundary of the site, while a footpath to the school runs along the remainder of this boundary. On the opposite side of this footpath is the car park for the dwellings in Old School Mews.

### **Details of the Development**

The application proposes the erection of 2 detached dwellings fronting onto the school access drive. Each dwelling would have 4 bedrooms and would have a garage and a 3 car driveway. The dwellings would be accessed via the school drive. The plans show proposals to widen the part of the school drive in front of the site to provide a 4.5m wide drive with a 1.5m wide footpath alongside. The proposed works to the school drive are outside of the application site. The proposals also include a bin store to the front / side of unit 2, to be shared between the two dwellings.

The following amendments have been made to the application:

- unit 1 moved back into site by 1.5m;
- proposed dwellings set 600mm below existing site level; and
- lower pane of first floor windows in front elevations obscure glazed.

### **Assessment**

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

- the impact on the living conditions of neighbouring dwellings;
- highway safety; and
- the impact on the character and appearance of the area.

#### Impact on the living conditions of neighbouring dwellings

As amended, I am of the opinion that the proposals would have an acceptable impact on the living conditions of neighbouring dwellings. The separation distances

from neighbouring dwellings would exceed the minimum separation distances specified in the Council's Distance Separation Supplementary Planning Guidance. Therefore I do not consider that the proposals would result in undue loss of light or loss of privacy for neighbours. The closest front to back relationship would be the 24.5m between the front elevation of unit 1 and the rear elevations of Nos. 7 & 9 The Greenways. This would be in excess of the normal 22m minimum distance. Whilst the site is situated at a higher level to the houses in The Greenways, I note that the proposed amendments to the site levels will reduce this difference in levels to approximately 500mm. Therefore I am satisfied that the proposed separation distance in excess of the normal minimum would be sufficient to protect the living conditions of the houses in The Greenways. I further note that the applicant has proposed to obscure glaze the lower half of the windows in the front elevations, and this would preserve added privacy for the dwellings in The Greenways. There would be a greater separation distance from the neighbouring dwellings in Old School Mews, at approximately 30m.

Unit 2 would be approximately 18m from the nearest windows in the rear of the neighbouring dwellings on Cubbington Road. No windows are proposed in the gable end facing those properties, and therefore this separation distance would be well in excess of the 12m minimum specified in the Council's standards.

#### Highway safety

I note the concerns that have been raised by the school and neighbours about the use of the school drive. However, I also note that the Highway Authority have not objected to the proposals, subject to certain conditions. The existing school drive is too narrow to enable 2 cars to pass, and given the length of the drive this could cause problems at busy times. However, the plans include proposals to widen the part of the school drive in front of the site to 4.5m wide plus a 1.5m footway. This would then enable 2 cars to pass on this part of the drive. Taking these improvements into account, and in view of the lack of objection from the Highway Authority, I do not consider that the addition of 2 dwellings would worsen the existing situation in terms of highway safety. I also note that the proposed dwellings would be provided with ample parking.

The widening of the school drive would require work to be carried out on land outside the application site and outside of the control of the applicant. However, a condition can be imposed to require the works to be carried out before development commences. I note that the County Council Estates Department have raised no objection to the proposals.

#### Impact on the character and appearance of the area

I am of the opinion that the proposals would be in keeping with the character and appearance of the area. The design and form of the proposed dwellings would be in keeping with surrounding development. The layout of this part of Cubbington Road includes a number of developments extending back behind the frontage buildings, including The Greenways and Old School Mews, and therefore I am of the opinion that the layout of development that has been proposed would be appropriate in this location.

## Other matters

I note that planning permission was refused for the erection of one dwelling in this location in 1988. This was a slightly different site including the south-eastern part of the current application site and the north-western part of the adjacent school car park. Notwithstanding this previous refusal, the Highway Authority have not objected to the current application and I have concluded that the proposals would meet the Council's current standards in terms of the impact on the living conditions of neighbours. Therefore I do not consider that a refusal could be justified now.

I note the concern that has been raised regarding the impact on wildlife on the site. However, the County Ecologist has not objected to the proposals and consequently there is no reason to believe that there are protected species on the site or that the proposals would have an unacceptable ecological impact.

The proposals include a bin store that would be 28m from Cubbington Road. This would be slightly further than the 25m minimum distance that is normally sought, but the Council's Waste Management team have confirmed that they have no objections to the proposals.

The application proposes that renewable energy will be produced on site by using solar panels for heating water. A condition is recommended to require the submission of a detailed scheme to provide 10% of the predicted energy requirements of the dwellings.

A condition is recommended to require the implementation of a programme of archaeological work, in accordance with the comments of the County Archaeologist.

## **RECOMMENDATION**

GRANT, subject to the conditions listed below.

## **CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) 1239/11C, 1239/12, 1239/14a, 1239/15 & 1239/100L and specification contained therein, submitted on 27 August 2009 & 13 November 2009, unless first agreed otherwise in writing by the District Planning Authority. **REASON** : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

- 3 The development hereby permitted shall not be commenced unless and until a scheme showing how 10% of the predicted energy requirement of this development will be produced on site, or in the locality, from renewable energy resources, has been submitted to and approved in writing by the District Planning Authority. The development shall not be first occupied until all the works within this scheme have been completed and thereafter the works shall be retained at all times and shall be maintained strictly in accordance with manufacturers specifications. **REASON** : To ensure that adequate provision is made for the generation of energy from renewable energy resources in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.
- 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 DP1 of the Warwick District Local Plan 1996-2011.
- 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 DP4 of the Warwick District Local Plan 1996-2011.
- 6 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 Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 7 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 DP1 of the Warwick District Local Plan 1996-2011.
- 8 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 DP1 of the Warwick District Local Plan 1996-2011.

- 9 Details of the means of disposal of storm water and foul sewage from the development shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced and the development shall not be carried out other than in strict accordance with such approved details. **REASON** : To ensure satisfactory provision is made for the disposal of storm water and foul sewage and to satisfy Policy DP11 of the Warwick District Local Plan 1996-2011.
- 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 Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.
- 11 The development hereby permitted to be carried out shall not be commenced until the school drive from Cubbington Road has been widened in accordance with a scheme approved in writing by the District Planning Authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 12 The development hereby permitted shall not be commenced until a turning area has been provided within the site to enable the largest vehicle that is anticipated on site to enter and leave the public highway in a forward gear. Such area shall thereafter be kept available for that purpose. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 13 During the academic year for Lillington Primary School there shall be no construction deliveries and no movement of construction plant and equipment to or from the application site between the following times: 0815 to 0900 hours, 1200 to 1300 hours & 1500 to 1615 hours. A delivery schedule for materials and plant shall be produced to ensure that there will not be any conflict between construction traffic and vehicles and pedestrians accessing Lillington Primary School. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 14 The car parking areas shown on the approved plans shall be constructed prior to occupation of the development and thereafter be permanently retained for parking purposes for the development hereby permitted.



**REASON** : To ensure that adequate parking facilities are retained for use in connection with the development, in accordance with the requirements of Policy DP8 of the Warwick District Local Plan 1996-2011.

- 15 Prior to the occupation of the development hereby permitted, the bottom half of the first floor windows in the front elevation of the dwellings shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view. The obscured glazed windows shall be retained and maintained in that condition at all times.

**REASON** : To protect the privacy of users and occupiers of nearby properties and to satisfy the requirements of Policy DP2 of the Warwick District Local Plan 1996-2011.

- 16 All hard surfaces hereby approved shall be made of porous materials.

**REASON** : To reduce surface water run-off and to ensure that the development does not increase the risk of flooding elsewhere, in accordance with Policy DP11 of the Warwick District Local Plan.

- 17 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, Classes A, B & E of Schedule 2 of this Order, without the prior permission of the District Planning Authority.

**REASON** : This site is of a restricted size and configuration and is in close proximity to other dwellings. It is considered appropriate therefore to retain control over future development to ensure that the residential amenity of this locality is protected in accordance with the provisions of District-Wide Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

## **INFORMATIVES**

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

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

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