

**Planning Committee:** 16 September 2014

**Item Number:** 6

**Application Nos:** W 11/0467

**Town/Parish Council:** Lapworth

**Registration Date:** 31/05/11

**Expiry Date:** 26/07/11

**Case Officer:** Penny Butler  
01926 456544 penny.butler@warwickdc.gov.uk

**Corner of Mill Lane and Old Warwick Road, Lapworth, Solihull, B94 6JX**

Demolition of existing shop, chiropody office and apartment over. Erection of new shop, chiropody office, apartment over plus 3No. 2 bed houses and 1No. 3 bed houses with ancillary parking FOR Mr I Potterton

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This application is being reported to Planning Committee because it is recommended that an existing legal agreement relating to the approved application be varied.

**RECOMMENDATION**

Planning Committee are recommended to resolve to vary the Section 106 agreement to accept a financial contribution of £68,750 in lieu of the affordable housing provision on site, with 50% to be paid on completion of the sale of the first dwelling, and the remaining 50% on completion of the sale of the second unit (as previously agreed by Planning Committee in October 2013-see below), with the amount to be index linked and with a deadline for payment within 2 years of the deed of variation.

**PLANNING HISTORY**

The application was originally considered by Planning Committee in September 2010 when it was resolved to grant planning permission subject to a legal agreement requiring 3 out of the 4 proposed new dwellings to be affordable. Prior to the completion of the agreement, in February 2012 the applicant asked Planning Committee to consider a revised proposal which provided 2 affordable dwellings out of 4. Planning Committee agreed this revised proposal and the permission was issued following the completion of the legal agreement in April 2012.

This S106 agreement was then agreed to be varied by Planning Committee in October 2013, to allow for a financial contribution of £68,750 in lieu of the affordable housing provision on site, with 50% to be paid on completion of the sale of the first dwelling, and the remaining 50% on completion of the sale of the second unit. However, this variation was not signed due to administrative delays.

## **DETAILS OF THE DEVELOPMENT**

The Council requests a variation to the legal agreement previously agreed in October 2013, to require the payment to be index linked and paid within 2 years of completing the deed.

## **THE SITE AND ITS LOCATION**

The application site fronts Old Warwick Road and Mill Lane, in Lapworth village (Kingswood) in the Green Belt. The approved development has now been completed and provides a single two storey building fronting both roads, which provides a replacement shop, office and flat, with four new attached dwellings, and parking at the rear.

## **RELEVANT POLICIES**

- SC11 - Affordable Housing (Warwick District Local Plan 1996 - 2011)
- National Planning Policy Framework

## **SUMMARY OF REPRESENTATIONS**

**Housing Development Officer:** The sum of £68,750 is acceptable in lieu of affordable housing. 50% can be paid on completion of the sale of the first dwelling, with the remainder on completion of the sale of the second unit. Request the payment to be index linked and paid within 2 years of completing the deed.

## **ASSESSMENT**

The dwellings have been completed, are currently rented and have not been sold. The current wording of the agreement does not include provision for payment of the commuted sum until the houses are sold, therefore there is a need to put a time limit on the payment of the commuted sum for affordable housing of two years. This sum to be should also be index linked, as this was not originally included.

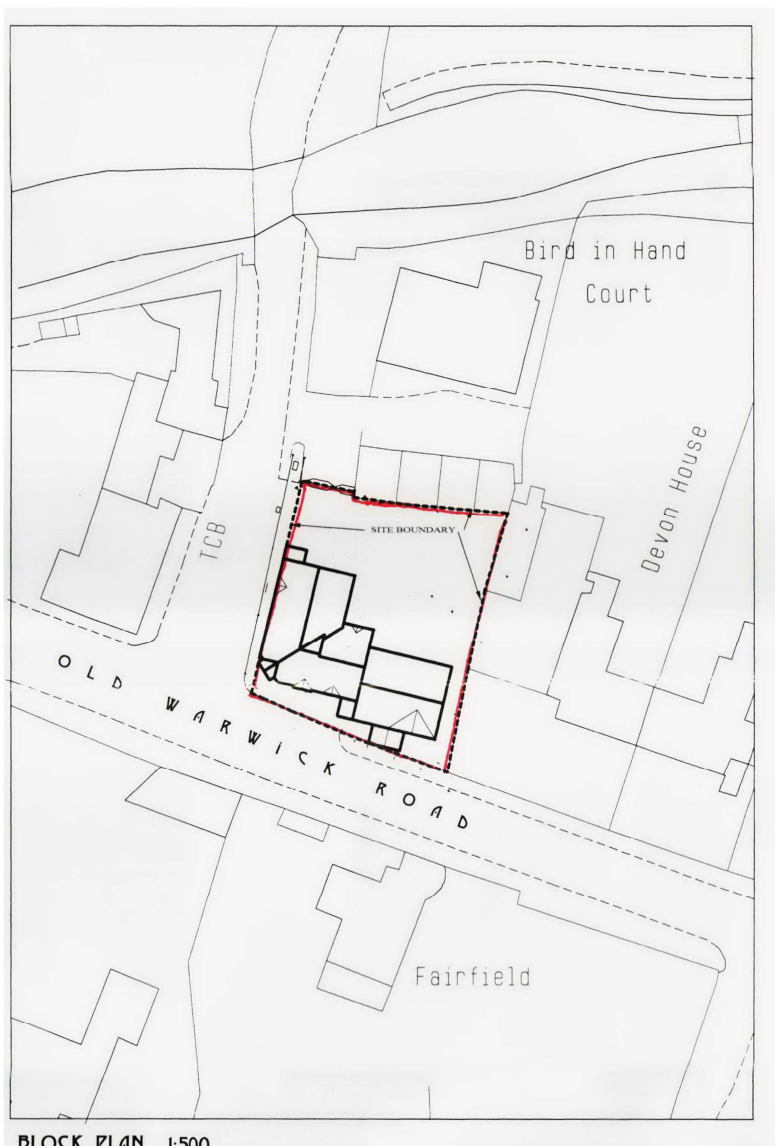
With regard to the change approved in 2013, the applicant previously requested variation to the legal agreement, on the grounds of the financial viability of the scheme, and because the properties do not meet the required standards of the registered housing provider. The submitted financial information was considered and it was accepted that the provision of 2 affordable units on site, based on the offer that could be made by the housing provider of £50,000 per dwelling, would render the scheme financially unviable.

The developer therefore requested agreement to pay a commuted sum to the Council in lieu of the on-site provision of one affordable unit. The methodology for calculating the sum is contained within the legal agreement and is based on the open market valuation of the unit, and that the unit would have been for rent (as the preferred tenure). This equates to a commuted sum of £68,750. The payment of a commuted sum in lieu of on-site provision of affordable housing was included within the existing legal agreement but would only have been triggered once the

dwellings had been completed and left vacant for over 6 months, therefore, the applicants proposal allows them to market the dwellings on the open market now they are completed rather than following a period of vacancy.

The applicant requested that they be allowed to make payment of 50% of the sum on completion of the sale of the first dwelling on site, and the remaining 50% on completion of the second sale. The Affordable Housing SPD does not specify how or when commuted sums should be paid, but the proposals are acceptable to the Housing Officer.

The NPPF was published in March 2012, following the last decision of the Planning Committee on this application, and at paragraph 173 requires viability to be taken into account to ensure development provides competitive returns to willing land owners, and to enable development to be deliverable. Taking all this information into account, and the response of the Housing Officer, it is considered reasonable to allow variation to the existing legal agreement, in order to ensure the development remains viable and deliverable. Local Plan Policy SC11 permits the payment of contributions in lieu of on site delivery in exceptional circumstances.





ELEVATION TO BIRD IN HAND COURT

ELEVATION TO OLD WARWICK ROAD



ELEVATION TO MILL LANE



CROSS SECTION AND REAR OF MILL LANE UNIT