

Planning Committee: 31 March 2015

Item Number: 11

Application No: W 15 / 0161

Town/Parish Council: Weston under Wetherley
Case Officer: Emma Spandley
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Registration Date: 03/02/15
Expiry Date: 31/03/15

**The Barn, 1 Sabin Drive, Weston Under Wetherley, Leamington Spa,
CV33 9GA**

Change of use of public open space to garden land incidental to the enjoyment
of the dwelling house. FOR Miss Roberts

This application is being presented to Committee as the Parish Council supports the application and it is recommended for refusal.

RECOMMENDATION

Planning Committee are recommended to REFUSE planning permission.

DETAILS OF THE DEVELOPMENT

The application proposes to change the use of part of the existing public open space to a residential garden to serve number 1 Sabin Drive.

THE SITE AND ITS LOCATION

No.1 Sabin Drive, was a former agricultural building converted as part of the redevelopment of the Weston Hospital site. The application site is located within the Green Belt and forms part of wider area of public open space.

The application site forms part of the wider Weston Hospital redevelopment site referred to in the planning history. Prior to the redevelopment of the site, a Development Brief was produced in order to provide the principles to guide the future redevelopment of the site. One of the key principles of the brief was to "*assimilate new development into the rural landscape, through sensitive planting and landscaping which could contribute to enhanced amenity.*"

Furthermore, public opens spaces were a requirement through the approved local plan. However, due to the size of the site and financial constraints on the Parish Council coupled with the lack of need for additional sports pitches, the requirement for the sports pitches within the public open spaces was waived, provided that open space was provided in excess of what was required. Amenity open space is that which can be used passively for an individual's enjoyment of their surroundings and include verges, woodlands, commons, ornamental parks and gardens and open spaces around buildings which can contribute to their design and setting.

PLANNING HISTORY

W/95/1361 - Erection of 57 dwelling units; conversion of administration building into 14 dwelling units and 2 barns into 2 dwelling units; erection of a community building; construction of access roads; provision of car parking, public open spaces and public right of way, granted 14th February 1997.

W/14/0492 - Change of use of public open space to residential garden at 3 Sabin Drive - refused in June 2014 for the same reasons as those recommended in this committee report.

RELEVANT POLICIES

- National Planning Policy Framework
- The Current Local Plan
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)
- The Emerging Local Plan
- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

SUMMARY OF REPRESENTATIONS

Weston under Wetherley Parish Council - Supports the planning application, but requests that the applicant agrees to a covenant not to erect any permanent structures above 1 metre in height.

Public Response - 5 letters of objection have been submitted on the following grounds:

- The public open space has historically been an important focal point at the heart of the village and to grant permission would set an undesirable precedent;
- Do not agree that privacy is an issue as this area is not subject to pedestrian traffic; The proposal will destroy the open space which was a key element in the plan for the village;
- The proposal will blight the area with domestic paraphernalia; Will harm the character and appearance of the entrance to Sabin Drive.
- Inappropriate development in the Green Belt
- Would be harmful to the character and appearance of the entrance to Sabin Drive
- s.106 agreement relating to the residential development stipulates the area to be public open space

3 letters of support have been submitted on the basis that they agree with the points put forward by the applicants.

ASSESSMENT

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

- Whether the proposal constitutes appropriate development in the Green Belt and if not, whether any very special circumstances exist to outweigh the harm by reason of inappropriateness.
- Impact on character and appearance of the area and the setting of Listed Buildings

Green Belt

The NPPF sets out the types of development which are considered to be appropriate in the Green Belt. A change of use of public open space to garden land is not listed as an exception to inappropriate development. Case law in *Fordent Holdings Ltd v SSLCG & Cheshire West and Chester Council* [2013] EWHC 2844 (Admin) confirms that material changes of use in the Green Belt were inappropriate development. The erection of new buildings is also inappropriate development in the Green Belt. The term 'building' refers to any structure or erection (s.336 of the TCPA 1990) and it therefore includes fencing. The proposal is therefore clearly inappropriate development in the Green Belt, harmful by definition, and should not be permitted except in very special circumstances.

An assessment must be made as to whether very special circumstances exist which outweigh the harm by reason of inappropriateness and any other harm.

The supporting statement makes the case that the change of use of the land and the fencing is required to secure an appropriate level of privacy as the dwelling, including windows to habitable rooms, currently abuts the public open space. However, there is no public footpath in this area and comments received through the consultation process have stated that no pedestrian activity takes place in this area. The statement also states that damage is being done to the external fabric of the property, although no evidence has been submitted to substantiate this claim and no damage was apparent on site at the time of the case officer's site visit. In addition, the supporting statement states that the request for the 5 metre stretch of land around No.1 Sabin Drive is to encompass 7 drains. However, these do not actually belong to the application property and are the responsibility of the respective utility companies. The request for the 5 metres is also stated to be required to enable the opening and closing of the existing barn doors. It is considered that these reasons do not constitute the very special circumstances required to outweigh the harm to the Green Belt by reason of inappropriateness and the proposal is contrary to the NPPF.

Impact on open space

The public open space which the application site forms part of was included within the original Design Brief for the redevelopment of the Weston Hospital site. The open character of the area around the junction of the access road (Sabin Drive) and B4453 (Rugby Road) was required to be retained and the area landscaped to provide a green gateway to the development and also to provide a suitable setting to the adjacent Listed Buildings. Development is set back from

the highway in this area which forms an open setting to the Grade II Listed Buildings to the east, known as Timbers and Wedgewood. It is considered that the open characteristics of this area should be respected and retained, and in particular that the area between the barn conversion (No.1 Sabin Drive) and the new building (No.3 Sabin Drive) and the Listed Buildings should remain undeveloped.

Even though the land concerned may still be "open", in the sense that it is not being built upon permanently, the suburbanising effect of garden fences, garden buildings, and other domestic paraphernalia associated with use of land as a domestic garden, is considered to be harmful to the character and appearance of the open rural countryside and the Green Belt. Even allowing for the mitigating effect of the removal of permitted development rights, the area of land will have to be enclosed and it would be difficult to control domestic paraphernalia. The proposal would therefore result in significant harm to the established character and appearance of this carefully planned development. To allow permission in this case will set an undesirable precedent whereby the Local Planning Authority will find it difficult to resist similar proposals which would result in further cumulative harm.

The proposal is therefore considered to be contrary to Policies DP1 and DP2 of the Local Plan.

Other matters:

The s.106 for the residential development stipulates the application site to be public open space. If planning permission is granted, this agreement would need to be amended prior to the sale of the land from the Council to the applicant.

SUMMARY/CONCLUSION

The change of use of land to residential curtilage and the erection of fencing is inappropriate development in the Green Belt, harmful by definition. The proposal is also harmful to the character and appearance of the area and the setting of Listed Buildings. The proposal would constitute a domestic encroachment into an open area of the Green Belt, the harm of which would be made worse through the presence of domestic paraphernalia. In the opinion of the Local Planning Authority, no very special circumstances have been put forward to justify the development. Furthermore, the loss of public open space goes against the carefully planned design ethos of the original redevelopment of the Weston Hospital.

REFUSAL REASONS

- 1 The application site is located within the Green Belt where the change of use of undeveloped open land to residential curtilage is considered to be inappropriate development, which is harmful by definition. The erection of fencing is also considered to be inappropriate development.

The domestic encroachment into an open area of Green Belt is considered to cause significant harm to the openness of the Green Belt,

by reason of its enclosure and that it would be realistic to expect the presence of domestic paraphernalia and a residential character and appearance.

In the opinion of the Local Planning Authority, no very special circumstances have been put forward to outweigh the harm by reason of inappropriateness.

For these reason the site is considered to contrary to the aims and objectives of the National Planning Policy Framework 2012.

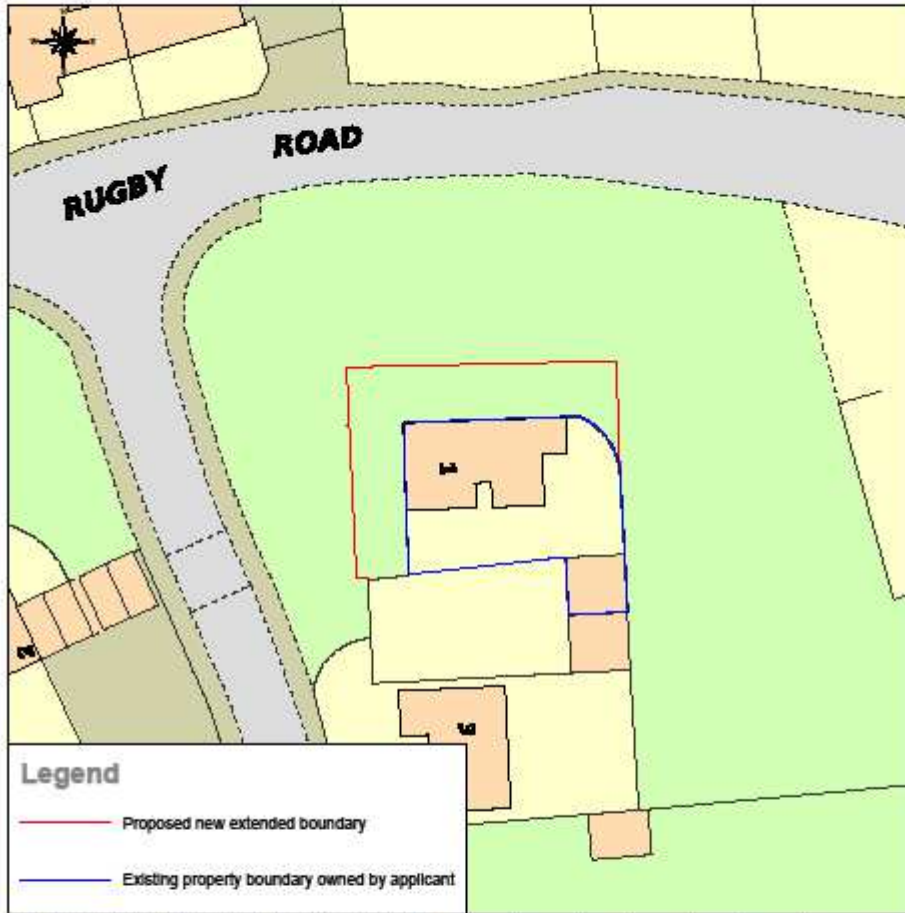
- 2 The smaller areas of amenity open space included within the original Design Brief for the redevelopment of Weston Hospital were required as a function of design within the new housing layouts. The open character of the area around the junction of the access road (Sabin Drive) and B4453 (Rugby Road) was required to be retained and the area landscaped to create a green gateway and setting to the adjacent Listed Buildings. Therefore the area around the junction with Sabin Drive and Rugby Road has village green characteristics. Development is set back from the highway in this area which forms an open setting to the Grade II Listed Buildings know as Timbers and Wedgewood.

In the opinion of the Local Planning Authority, the open characteristics of this area should be respected and retained, and in particular the area to the front of the barn conversion (No.1 Sabin Drive) and the Listed Buildings should remain undeveloped.

Although the application land may still be "open", in the sense that it is not proposed to build upon, the suburbanising effect of means of enclosures, hardstandings and other domestic paraphernalia associated with use of land as a domestic garden, is considered to be harmful to the character, appearance and setting of this carefully planned development and on the setting of the Listed Buildings.

The proposal is therefore considered to be contrary to Policies DP1, DP2 and DAP4 of the Local Plan.

Site Plan of No.1 The Barn, Sabin Drive, CV33 9GA



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Prepared by: Beth Roberts, 29-12-2014

