

PLANNING COMMITTEE

Minutes of the meeting held on Wednesday 28 September 2011 in the Town Hall, Royal Leamington Spa at 6.00pm.

PRESENT: Councillor MacKay (Vice Chairman); Councillors Mrs Blacklock, Mrs Bromley, Brookes, Copping, Ms Dean, Mrs Higgins, Mobbs and Weber.

Apologies for absence were received from Councillors Illingworth, Rhead, Kinson and Weed.

(In the absence of the Chairman, Councillor Illingworth, the Vice Chairman, Councillor MacKay chaired the meeting.)

89. **SUBSTITUTES**

Councillor Mrs Bromley substituted for Councillor Illingworth, Councillor Mobbs for Councillor Rhead and Councillor Weber for Councillor Weed.

90. **DECLARATIONS OF INTEREST**

Minute Number 92 – W11/0800 – 59 Waverley Road, Kenilworth

For the avoidance of doubt, Councillor Mobbs confirmed that he had not attended the Kenilworth Town Council planning meeting when this item was discussed.

Minute Number 93 – W11/0373 – Footpath, Clarence Street, S/O Kilby Court, 31 Brunswick Street, Royal Leamington Spa

Councillor Weber declared a personal interest because he had attended the CAAF meeting where this item was discussed although he took no part in the discussion.

Minute Number 95 – W11/0846 – 63A Common Lane, Kenilworth

For the avoidance of doubt, Councillor Mobbs confirmed that he had not attended the Kenilworth Town Council planning meeting when this item was discussed.

91. **MINUTES**

The minutes of the meeting held on 16 August 2011 were agreed except for an alteration to Minute Number 64 Declarations of Interest. Councillor Ms Dean advised that she had not declared a personal interest in the Former Ford Foundry site because it was in her Ward but because a work colleague had written a letter of support. In addition, Councillor Ms Dean also advised that she had not declared an interest in the application for 4 Old Milverton Road. Subject to these amendments, the minutes were agreed as a correct record and signed by the Vice Chairman.

PLANNING COMMITTEE MINUTES (Continued)

The minutes of 6 September 2011 were taken as read and signed by the Vice Chairman as a correct record.

92. W11/0800 – 59 WAVERLEY ROAD, KENILWORTH

The Committee considered a retrospective application from Mr A Sayers for the construction of a rear decked area.

The application was presented to the Committee because an objection had been received from Kenilworth Town Council who felt that it was unneighbourly, overlooked the neighbouring property and caused a loss of amenity.

The application had been deferred at Planning Committee on 6 September 2011, to allow a site visit to take place. The visit was undertaken on Saturday 24 September 2011 and the report before the Committee was unaltered from the one previously submitted.

The case officer considered the following policies to be relevant:

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)

DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)

DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

In the case officer's opinion, the development would not cause unacceptable harm to the architectural and historic character of the Conservation Area within which the site is located. Furthermore, the proposal would not adversely affect the amenity of nearby residents and was therefore considered to comply with the policies listed.

Mr W Collier addressed the committee in objection to the application and stated that there was a loss of privacy to the residents of Number 57 Waverley Road and would cause them significant harm. He referred to policies DP2 and DAP8 with regard to the Conservation Area.

Mrs Sayers then spoke in support of their application, advising that they had always followed due process with regard to planning permission and this occasion had been a genuine mistake, as they had thought permission was not needed. She advised that the decking had been installed to enable better access for disabled relatives and to provide a safer area for children to play on. Mrs Sayers highlighted that had the decking been installed six inches lower, it would have been accepted under permitted development rights. In addition, she stated that the proposed 2m high fence should reduce the impact of overlooking.

Councillor Vincett spoke in his capacity as Ward Councillor in objection to the application and on behalf of the resident at Number 57 and reiterated the issue of the proposal being unneighbourly. He made reference to the existing jasmine hedge providing natural screening but highlighted that this, and the proposed 2m high fence, could create a tunnel view from the rear of number 57.

PLANNING COMMITTEE MINUTES (Continued)

Finally, Councillor Davis addressed members in his capacity as Ward Councillor in support of the application and stated that the applicants regretted the error in failing to apply for planning permission, but that this had been a genuine mistake due to the erection of similar structures being added to neighbouring properties. He made reference to permitted development rights and asked members to consider the difference that the additional height of the decking made. In conclusion, he felt that the proposal was of a suitable scale, height and form.

Following consideration of the report and presentation, along with the representations made at the meeting, the Committee were of the opinion that the application should be granted in accordance with the officer's recommendation.

RESOLVED that W11/0800 be GRANTED subject to the following condition:

- (1) the development hereby permitted shall be retained strictly in accordance with the details shown on the approved drawings of the garden side elevation and plan showing decking in relation to whole garden, and specification contained therein, submitted on 22nd June, 2011 and 14th July, 2011 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.

93. W11/0373 – FOOTPATH, CLARENCE STREET, S/O KILBY COURT, 31 BRUNSWICK STREET, ROYAL LEAMINGTON SPA

The Committee considered a retrospective application from Openreach for the installation of a 1.6 metre high broadband cabinet within the public footway on Clarence Street, at the side of Kilby Court, 31 Brunswick Street in Royal Leamington Spa.

The application was presented to the Committee because an objection had been received from Royal Leamington Spa Town Council who felt that the location outside the property was inappropriate and obtrusive.

The case officer considered the following policies to be relevant:

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
SC9 - Telecommunications (Warwick District Local Plan 1996 - 2011)
DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

It was the case officer's opinion that the development was not harmful in respect of highway safety nor on the conservation area, although it was accepted that it was not the most desirable design of street furniture. It was advised that this application needed to be taken in the wider context,

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with regard to the benefits of providing faster broadband to local residents, and none of the neighbouring buildings were of listed status. The colour of cabinet was considered to be as blended as possible with the remaining street scene.

Some members felt that the Council should have a policy to assist with the placement of these cabinets in the Conservation Area and officers agreed to investigate this possibility. It was suggested that the cabinets could be installed underground but it was accepted that this could cause access and maintenance issues.

Members were mindful that Openvision had again failed to apply for permission to erect this cabinet but, had this been outside of the Conservation Area, it would have been allowed under Permitted Development. The Vice-Chairman advised that BT Openvision had been spoken to previously regarding this issue which, in turn, had led to this retrospective application.

Following consideration of the report and presentation, the Committee were of the opinion that the application should be granted in accordance with the officer's recommendation.

RESOLVED that W11/0373 be GRANTED for the following reason:

The development achieves acceptable standards of layout and design and does not give rise to any harmful effects in terms of its effect on highway safety, living conditions or the character and appearance of the Royal Leamington Spa Conservation Area which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.

N.B. Officers to investigate the possibility of creating a policy document to give guidance on the installation of similar cabinets in Conservation Areas.

94. W11/0614 – THE COTTAGE, CHURCH LANE, BUDBROOKE

The Committee considered an application from Mr A Davies for the erection of a rear two storey extension, porch and the erection of a 1.8m high boundary fence.

The application was presented to the Committee because an objection had been received from Budbrooke Parish Council who felt that the new access was dangerous. In addition, they felt that the build was out of proportion with the existing dwelling, current footings may not coincide with the original application and felt that the height of the fence was inappropriate for the openness of the countryside.

The case officer considered the following policies to be relevant:

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)

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DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)

Planning Policy Guidance 2 : Green Belts

RAP2 - Extensions to Dwellings (Warwick District Local Plan 1996 - 2011)

DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)

Sustainable Buildings (Supplementary Planning Document - December 2008)

DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)

Officers advised that permission had previously been granted at this site, prior to the implementation of the Local Plan.

It was the case officer's opinion that the fall back position of the implemented extant consent, and the improved design of the proposed scheme, combined to constitute very special circumstances which outweighed the harm to the Green Belt, within which the property was situated. The proposal was therefore considered to comply with the policies listed.

Members supported the officer's recommendations but felt that it was important to ensure that the external materials used would match existing, to maintain the character of the building. It was therefore proposed and duly seconded that a condition be added to ensure that materials were agreed prior to construction commencing.

Following consideration of the report and presentation, the Committee were of the opinion that the application should be granted subject to the additional condition regarding external materials and in accordance with the officer's recommendation.

RESOLVED that W11/0614 be GRANTED subject to the conditions listed below:

- (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) (273-03A received on 10 May 2011. 273-04 received on 18 July 2011. 273-02B received on 21 July 2011), and specification contained therein, 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

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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; and
- (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;

95. W11/0846 – 63A COMMON LANE, KENILWORTH

The Committee considered a retrospective application from Warwickshire Homes Limited for the retention of a two storey dwelling (amended design).

The application was presented to the Committee because an objection had been received from Kenilworth Town Council who felt that it was overdevelopment of the site and unneighbourly.

The case officer considered the following policies to be relevant:

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
DP8 - Parking (Warwick District Local Plan 1996 - 2011)

It was the case officer's opinion that the development respected surrounding buildings in terms of scale, height, form and massing and did

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not adversely affect the amenity of nearby residents. The proposal was therefore considered to comply with the policies listed.

A further objection from a local resident was distributed at the meeting which should have formed part of the original report. The objection letter referred to the contentious development which they felt they had had little opportunity to comment formally on.

The officers advised that Permitted Development Rights would not apply until the property was occupied.

Members echoed the dismay felt by one of the objectors but were mindful that if enforcement action was pursued, and the single storey rear extension was taken down, a new occupier would be able to rebuild it under Permitted Development Rights.

Following consideration of the report and presentation, the Committee were of the opinion that the application be granted as per the officer's recommendation.

RESOLVED that W11/0846 be GRANTED subject to the conditions listed below:

- (1) the development hereby permitted shall be retained strictly in accordance with the details shown on the approved drawings 2491/02 Rev B, 08.6519.1103 Rev B, 08.6519.1102 Rev B, and specification contained therein, submitted on 4th July, 2011 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;

- (2) prior to the occupation of the development hereby permitted, the first floor side facing windows in the North West and South East elevations shall be permanently glazed with obscured glass to a degree sufficient to conceal or hide the features of all physical objects from view and shall be non-opening unless the parts of the window that can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The obscured glazed window(s) shall be retained and maintained in that condition at all times.

REASON : To protect the privacy of users and occupiers of nearby properties and or the privacy of future users and occupiers of the development hereby permitted and to satisfy the requirements of Policy DP2 of the Warwick District Local Plan 1996-2011; and

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- (3) the development hereby permitted shall not be brought into use unless there is available vehicular turning space within the site so that vehicles are able 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 ENV3 of the Warwick District Local Plan.

(The meeting ended at 7.35 pm)