

# PLANNING COMMITTEE

Minutes of the meeting held on Tuesday 2 July 2013 in the Town Hall, Royal Leamington Spa at 6.00 pm.

**PRESENT:** Councillor Rhead (Chairman); Councillors Barrott, Boad, Brookes, Mrs Bunker, Dagg, De-Lara-Bond, MacKay, Wilkinson and Williams.

## 30. **SUBSTITUTES**

Councillor Barrott substituted for Councillor Weber.

## 31. **DECLARATIONS OF INTEREST**

Minute Number 34 - Item 10 – W13/0602 LB Pear Tree Cottage, 5 Vicarage Road, Stoneleigh

Councillor MacKay declared an interest because the application site was located in his Ward.

Minute Number 35 - Item 11 – W13/0636 Land r/o 2 Church Street, Barford

Councillor Barrott declared an interest because he was a resident of the village.

Councillor Rhead declared an interest because the application site was located in his Ward and he was a resident of the village.

Minute number 36 – Item 6 – W13/0464 Land at Earl Rivers Avenue, adj. Gallagher House, Gallagher Business Park, Warwick

Councillor Rhead declared an interest because the applicant was known to him.

## 32. **SITE VISITS**

No site visits had been undertaken in relation to the following planning applications.

## 33. **MINUTES**

The minutes of the meetings held on 11 and 12 June 2013 were taken as read and signed by the Chairman as a correct record.

## 34. **W13/0509 – 2 HILL WOOTTON ROAD, LEEK WOOTTON**

The Committee considered an application from Mr and Mrs Bajaj for the erection of a first floor extension to the existing garage and change of use to an annexe.

The application was presented to the Committee because an objection had been received from Leek Wootton Parish Council.

## **PLANNING COMMITTEE MINUTES (Continued)**

The 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)  
DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)  
Residential Design Guide (Supplementary Planning Guidance - April 2008)  
DP8 - Parking (Warwick District Local Plan 1996 - 2011)  
Vehicle Parking Standards (Supplementary Planning Document)  
DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)  
National Planning Policy Framework  
DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)

An addendum circulated at the meeting advised that an additional condition would be added to the permission, should the Committee be minded to approve the application. This condition would ensure that the garage would not be used as primary living accommodation or for the purpose of business or trade.

It was the officer's opinion that any further development on this site was considered inappropriate development within the Green Belt, due to the existence of the existing garage. However, it was considered that the increase in height of the garage would be read against the host dwelling and it was therefore considered that the proposals would not harm the openness of the Green Belt and, would not contribute to urban sprawl.

Parish Councillor Mr Eldridge addressed Members and advised that following receipt of the additional condition detailed in the addendum, the Parish Council would have no objection. The applicant, Mrs Bajaj, also addressed the Committee.

Following consideration of the report and presentation, along with the representations made at the meeting and the information contained in the addendum, the Committee resolved to grant the application subject to conditions.

**RESOLVED** that W13/0509 be GRANTED subject to the following conditions:

- (1) the development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended);
- (2) the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan submitted 18th April 2013 and approved drawings 1358-4J and specification contained therein, submitted on 18th June 2013  
**REASON :** For the avoidance of doubt and to

## **PLANNING COMMITTEE MINUTES (Continued)**

secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011;

- (3) no facing and roofing materials shall be used other than materials similar in appearance to those used in the construction of the exterior of the existing building. **REASON:** To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the locality in accordance with Policy DP1 of the Warwick District Local Plan 1996-2011;
- (4) 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 undertaken under Class A, Class C, Class D or Class E of the above Order. **REASON:** That due to the property being located within the Green Belt, and the extent of development already permitted it is considered important to ensure that no additional development is carried out without the permission of the local planning authority in accordance with the NPPF; and
- (5) The garage hereby permitted to be converted and extended shall be used only for a purpose incidental to the residential use of the application property and the building shall not be used as primary living accommodation or for the purpose of any trade or business unless otherwise agreed in writing by the local planning authority. **REASON:** To ensure that the outbuilding is not used in a manner prejudicial to or likely to cause nuisance to occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.

### **35. W13/0602 LB – PEAR TREE COTTAGE, 5 VICARAGE ROAD, STONELEIGH**

The Committee considered an application from Mr and Mrs Beaumont for proposed extensions to the dwelling forming a larger kitchen, larger office and guest bedroom, bathroom and boot room from the existing utility and relocated downstairs WC at the ground floor. In addition, a new first floor en-suite and a re-planned bathroom and new dormer to bedroom.

## **PLANNING COMMITTEE MINUTES (Continued)**

The application was presented to the Committee because an objection had been received from Stoneleigh Parish Council.

The officer considered the following policies to be relevant:

National Planning Policy Framework

DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)

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

It was the officer's opinion that the proposal was considered to be appropriate for the listed building and was not considered to adversely affect the special architectural or historic interest, integrity or setting of the Listed Building to the extent that would justify a refusal of Listed Building Consent. The recommendation was one of approval.

Mr Ellson addressed the Committee in support of the application.

Following consideration of the report and presentation, along with the representations made at the meeting and the information contained in the addendum, the Committee resolved to grant the application.

**RESOLVED** that W13/0602 LB be GRANTED subject to the following conditions:

- (1) the works hereby permitted shall begin not later than three years from the date of this consent. **REASON:** To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended); and
- (2) the development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings 002A, 005A, 006A, 007A, and specification contained therein, submitted on 07/05/2013 and 18/06/2013. **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.

### **36. W13/0636 – LAND REAR OF 2 CHURCH STREET, BARFORD**

The Committee considered an application from Ms Hope for a proposed single dwelling to the rear of 2 Church Street, Barford.

The application was presented to the Committee because an objection had been received from Barford Parish Council.

The officer considered the following policies to be relevant:

## **PLANNING COMMITTEE MINUTES (Continued)**

DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)  
DP2 - Amenity (Warwick District Local Plan 1996 - 2011)  
DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)  
DP4 - Archaeology (Warwick District Local Plan 1996 - 2011)  
DP6 - Access (Warwick District Local Plan 1996 - 2011)  
DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)  
DP8 - Parking (Warwick District Local Plan 1996 - 2011)  
DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)  
DP11 - Drainage (Warwick District Local Plan 1996 - 2011)  
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)  
DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)  
RAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)  
RAP4 - Providing Rural Affordable Housing (Warwick District Local Plan 1996 - 2011)  
SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)  
Residential Design Guide (Supplementary Planning Guidance - April 2008)  
Open Space (Supplementary Planning Document - June 2009)  
Sustainable Buildings (Supplementary Planning Document - December 2008)  
Vehicle Parking Standards (Supplementary Planning Document)  
National Planning Policy Framework

It was the officer's opinion that the development would be an appropriate design that would not cause unacceptable harm to the architectural and historic character of the Conservation Area within which the site was located. Officer felt that the development would not result in an unacceptable adverse impact on the amenity of nearby residents by reason of overbearing effect, loss of light or privacy and was therefore considered to comply with the policies listed.

Dr Magson addressed the Committee in objection to the application.

Members raised concerns that the original permission granted for this site (W11/0804) had secured the second dwelling as affordable housing for a five year period, due to the specific need for market housing in the village.

This new permission was for a replacement dwelling house for No 2 Church Street but would result in the affordable housing requirement being lost.

Members queried why the Barford Village Design Statement had not been referred to in the report and considered how much weight should be given to the emerging Local Plan. It was agreed that there was a need for both affordable and market housing for Barford and Members felt that the current policy had more strength than any emerging ones.

Following consideration of the report and presentation, and along with the representations made at the meeting, the Committee resolved that the application be refused because it was contrary to policies RAP1 and SC11 and the site would no longer be providing any affordable housing.

## **PLANNING COMMITTEE MINUTES (Continued)**

**RESOLVED** that W13/0636 be REFUSED because it was contrary to Council policies RAP1 and SC11, which included the requirement for affordable housing in rural areas. Members agreed that these existing policies carry more weight than the emerging Local Plan which has limited weight at this stage in the process.

### **37. W13/0464 – LAND AT EARL RIVERS AVENUE ADJACENT GALLAGHER HOUSE, GALLAGHER BUSINESS PARK, WARWICK**

The Committee considered an application from ECVP Warwick Ltd and Gallagher Estates Ltd for the erection of a Continuing Care Retirement Community (Use Class 2) comprising a core building (including Care bedrooms, Close Care units and ancillary facilities), Assisted Living Units, landscaped grounds, internal highways and car parking (outline application including full details of access).

The application was presented to the Committee because an objection had been received from Warwick Town Council and because it was recommended that planning permission be granted subject to the completion of a legal agreement.

The 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)  
DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)  
DP4 - Archaeology (Warwick District Local Plan 1996 - 2011)  
DP6 - Access (Warwick District Local Plan 1996 - 2011)  
DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)  
DP8 - Parking (Warwick District Local Plan 1996 - 2011)  
DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)  
DP11 - Drainage (Warwick District Local Plan 1996 - 2011)  
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)  
DP14 - Crime Prevention (Warwick District Local Plan 1996 - 2011)  
SC1 - Securing a Greater Choice of Housing (Warwick District Local Plan 1996 - 2011)  
SC2 - Protecting Employment Land and Buildings (Warwick District Local Plan 1996 - 2011)  
SC11 - Affordable Housing (Warwick District Local Plan 1996 - 2011)  
SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)  
UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)

An addendum circulated at the meeting gave further detail on the Affordable Housing proposals and Section 106 contributions viability. Details were also provided on further public response received since the agenda was published along with an amendment to Condition 10 and additional conditions 21, 22 and 23.

It was the officer's opinion that the conflict with Policies SC2 and UAP1 was considered to be outweighed by other material considerations. The

## **PLANNING COMMITTEE MINUTES (Continued)**

proposals would have an acceptable impact on the living conditions of neighbouring dwellings and would be acceptable in terms of car parking and highway safety. Furthermore, the proposals were considered to be acceptable in terms of drainage and flood risk and it was recommended that permission be granted, subject to conditions and a Section 106 agreement.

Officers gave advice concerning the arrangements for the Section 106 agreement and the contribution for off-site provisions. Members were mindful that the application site had been marketed for employment premises for some time and had been vacant since 2002.

Members were supportive of the application on the whole but requested that timescales be shortened to encourage progress. In addition, it was suggested that an additional condition be added to ensure that the height of the dwellings located near to the cycleway be restricted to two storeys.

Members received assurances that any offsite affordable housing provision would come to fruition via the Section 106 agreement, which would also include the timescale for continuing with the scheme.

Following consideration of the report and presentation, along with the information contained in the addendum, the Committee resolved to grant permission. The permission would be subject to the conditions in the report, one amended condition and additional conditions detailed in the addendum and the proposed changes agreed at the meeting.

**RESOLVED** that W13/0464 be GRANTED in accordance with the recommendations in the report, as amended in the addendum, subject to conditions and subject to the completion of a Section 106 Agreement.

In the event that a satisfactory Section 106 Agreement has not be completed by 8 July 2013, authority is delegated to the Head of Development Services to refuse planning permission.

- (1) details of the appearance of the building(s), landscaping of the site, layout of the site and its relationship with adjoining development, and the scale of building(s) (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out in full accordance with these reserved matters as approved. **REASON:** To comply with Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995 (as amended);
- (2) application for approval of the reserved matters shall be made to the local planning

## **PLANNING COMMITTEE MINUTES (Continued)**

authority not later than 18 months of the date of this permission. **REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended);

- (3) the development to which this permission relates shall begin within three years of the date of permission or within two years of the final approval of the reserved matters, whichever is the later. **REASON:** To comply with Section 92 of the Town and Country Planning Act 1990 (as amended);
- (4) the development hereby permitted shall be carried out in strict accordance with the details of surface and foul water drainage works that have been submitted to and approved in writing by the local planning authority. The surface water drainage details shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development and shall include details of how the scheme will be maintained and managed after completion. The details should demonstrate that the surface water run-off generated up to and including the 1 in 100yr plus climate change allowance critical storm will not exceed the run-off from the undeveloped site. **REASON:** To ensure that adequate drainage facilities are available for the satisfactory and proper development of the site in accordance with Policy DP11 of the Warwick District Local Plan 1996-2011;
- (5) 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 or near to the site, 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. Microgeneration equipment no longer needed for microgeneration shall be removed as soon as reasonably practicable. **REASON :** To ensure that adequate provision is made for the generation of energy from renewable energy resources in accordance with the provisions of



## **PLANNING COMMITTEE MINUTES (Continued)**

Policy DP13 in the Warwick District Local Plan 1996-2011;

- (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 Local Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the Local Planning Authority.

**REASON:** In the interests of fire safety;

- (7) no development shall commence until a Landscape and Ecological Management Plan for the application site has been submitted to and approved in writing by the District Planning Authority. The plan should include details of habitat creation measures, native tree and shrub planting, as well as details of on-going management of these features for wildlife. Details of species proposed and sourcing of plants should be included as should proposed locations of bird boxes. Such approved measures shall thereafter be implemented in full. **REASON:** To ensure no net loss of biodiversity and to enhance opportunities for biodiversity at the site in accordance with the National Planning Policy Framework and Policy DP3 of the Warwick District Local Plan 1996-2011;

- (8) the development hereby permitted shall only be undertaken in strict accordance with a scheme of site investigation of the nature and extent of contamination within the application site that has been undertaken in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall not be occupied until remediation measures have been carried out in full accordance with such approved details and a soil validation report has been submitted to and approved in writing

## **PLANNING COMMITTEE MINUTES (Continued)**

by the local planning authority. **REASON:** To safeguard health, safety and the environment in accordance with Policies DP3 & DP9 of the Warwick District Local Plan 1996-2011;

- (9) no development shall take place within the application site, unless and until a programme of archaeological works and investigations has been secured and initiated in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. **REASON:** In order to ensure any remains of archaeological importance, which help to increase our understanding of the Districts historical development are recorded, preserved and protected where applicable, before development commences in accordance with Policy DP4 of the Warwick District Local Plan 1996-2011;

- (10) no development shall commence until a construction management plan has been submitted to and approved in writing by the local planning authority. This shall detail:

(a) the likely number of vehicles accessing the site during the construction phase, the routes they will use and measures that will be put in place to ensure that mud and debris will not be deposited on the highway as result of construction traffic leaving the site; and  
(b) details of how noise and dust from demolition and construction activities will be controlled to prevent nuisance.

The development shall be carried out strictly in accordance with the approved details.

**REASON:** In the interests of highway safety and to protect the amenities of nearby residents, in accordance with Policies DP2, DP6 and DP9 of the Warwick District Local Plan 1996-2011;

- (11) the vehicular accesses to the development shall be constructed in accordance with the details shown on drawing no. 2311.002I, submitted on 8 April 2013. **REASON:** In the interests of highway safety, in accordance with Policy DP6 of the Warwick District Local Plan 1996-2011;

- (12) the development shall not be occupied until visibility splays have been provided to the

## PLANNING COMMITTEE MINUTES (Continued)

vehicular accesses to the site with 'x' distances of 2.4 metres and 'y' distances of 43 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

**REASON:** In the interests of highway safety, in accordance with Policy DP6 of the Warwick District Local Plan 1996-2011;

- (13) the development shall not be occupied until the accesses for vehicles have been provided to the site not less than 5 metres in width for a distance of 7.5 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 Policy DP6 of the Warwick District Local Plan 1996-2011;
- (14) the accesses to the site for vehicles shall not be used until they have been provided with 6 metre kerbed radius turnouts on each side. **REASON:** In the interests of highway safety, in accordance with Policy DP6 of the Warwick District Local Plan 1996-2011;
- (15) the accesses to the site for vehicles shall not be used in connection with the development until they have been surfaced with a bound material 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 Policy DP6 of the Warwick District Local Plan 1996-2011;
- (16) no part of the development hereby permitted shall be occupied unless and until the car parking, cycle parking and vehicle manoeuvring areas indicated on the drawings approved as part of any reserved matters submission for that part of the development have been provided and thereafter those areas shall be kept marked out and available for such use at all times. **REASON:** To ensure that a satisfactory provision of off-street car parking, cycle parking and turning facilities are maintained at all times in the interests of the free flow of traffic and highway safety in accordance with Policies DP6 & DP8 of the Warwick District Local Plan 1996-2011;

- (17) the reserved matters to be submitted in accordance with Condition 1 shall include details of all earthworks, mounding and the finished floor levels of all buildings, together with details of existing and proposed site levels on the application site and the relationship with adjacent land and buildings, and the development shall be carried out in strict accordance with these approved details or any subsequently approved amendments.

**REASON:** To ensure sufficient information is submitted to demonstrate a satisfactory relationship between the proposed development and adjacent land and buildings in the interests of amenity in accordance with Policies DP1 & DP2 of the Warwick District Local Plan 1996-2011;

- (18) all existing trees and hedgerows on the application site shall be retained and shall not be cut down, grubbed out, topped, lopped or uprooted without the written consent of the local planning authority. Any tree(s) or shrub(s) removed without such consent or dying, or being severely damaged or diseased or becomes, in the opinion of the local planning authority, seriously damaged or defective, within five years from the substantial completion of development shall be replaced, as soon as practicable with tree(s) and shrub(s) of such size and species details of which must be submitted to and approved by the local planning authority. All tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations (excluding hard surfaces). **REASON:** To protect those landscape features which are of significant amenity value and which ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011;

- (19) fume extraction and odour control equipment (including external ducting flues) shall be properly installed in their entirety in accordance with details first submitted to and approved in writing by the local planning authority and such installation shall have been carried out to an approved standard before the use of any communal kitchen facilities hereby

## PLANNING COMMITTEE MINUTES (Continued)

permitted commences. Any external ducting shall be colour coated in accordance with the approved details within one month of its installation and any replacement or modification shall be colour coated to match within one month of its installation. The equipment shall be permanently maintained in accordance with the manufacturer's instructions and be operated at all times when cooking is carried out. **REASON:** To protect the amenities of surrounding properties within the development and outside of the site, in accordance with Policy DP9 of the Warwick District Local Plan 1996-2011;

- (20) any landscaping (other than the planting of trees and shrubs) including boundary treatment, paving and footpaths referred to in condition one shall be completed in all respects, with the exception of tree(s) and shrub(s) planting, within the first planting season following the first use of the development hereby permitted and the tree(s) and shrub(s) shall be planted within six months of that first use. Any tree(s) or shrub(s) removed, dying, or becoming in the opinion of the local planning authority seriously damaged, defective or diseased within five years from the substantial completion of the scheme shall be replaced within the next planting season by tree(s) or shrub(s) of similar size and species to those originally required to be planted. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies DP1, DP2 and DP3 of the Warwick District Local Plan 1996-2011;
- (21) no development shall commence until details of measures to protect residents of the development from excessive traffic noise entering habitable rooms or garden areas have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details. **REASON:** To ensure that occupants of the development are not adversely affected by traffic noise, in accordance with Policies DP2 & DP9 of the

## **PLANNING COMMITTEE MINUTES (Continued)**

Warwick District Local Plan 1996-2011;

(22) noise arising from any plant or equipment at these premises, when measured one metre from the façade of any noise sensitive premises (including any habitable rooms within the development), shall not exceed the background noise level by more than 3dB(A) (measured as LAeq(5 minutes)). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level. **REASON:** To protect the amenities of occupants of nearby properties, including those within the development, in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011;

(23) no development shall commence until details of the proposed combined heat and power plant, including any associated chimney, have been submitted to and approved in writing by the local planning authority. The development shall be carried out strictly in accordance with the approved details. **REASON:** To protect the amenities of occupants of nearby properties, including those within the development, in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011;

(24) the height of the dwellings located to the east of the cycle route be restricted to two storeys.

### **38. W13/0517 – GREYS MALLORY, BANBURY ROAD, BISHOPS TACHBROOK**

This item was withdrawn from the agenda following Bishops Tachbrook Parish Council withdrawing their objection.

An addendum circulated at the meeting advised that temporary planning permission had been granted under delegated powers.

### **39. W13/0528 – REGENT COURT, LIVERY STREET, ROYAL LEAMINGTON SPA**

The Committee considered an application from New River Retail for the removal of condition 17 of planning permission W01/0483 (condition 17 restricted the total amount of A3 (restaurant and cafe) floorspace within the units fronting Livery Street and Regent Street to no more than 1,115 sq m).

## **PLANNING COMMITTEE MINUTES (Continued)**

The application was presented to the Committee due to the number of objections received.

The 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)  
DP8 - Parking (Warwick District Local Plan 1996 - 2011)  
DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)  
DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)  
TCP5 - Secondary Retail Areas (Warwick District Local Plan 1996 - 2011)  
DAP4 - Protection of Listed Buildings (Warwick District Local Plan 1996 - 2011)  
DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)  
Vehicle Parking Standards (Supplementary Planning Document)  
Sustainable Buildings (Supplementary Planning Document - December 2008)  
National Planning Policy Framework  
TCP4 - Primary Retail Frontages (Warwick District Local Plan 1996 - 2011)

It was the officer's opinion that the proposals would have an acceptable impact on the vitality and viability of Leamington Town Centre and on the character and appearance of the Conservation Area. The proposals would also have an acceptable impact on the living conditions of nearby dwellings and it was therefore recommended that the application be approved.

Some Members raised concerns that the area of Livery Street could become overrun with restaurants and food premises and felt that the objectors had raised relevant points with regard to refuse collection, noise and disturbance.

It was therefore proposed and duly seconded that an additional condition be added to restrict the number of A3 class units to 2230 sq m.

This proposal was put to the vote and was lost 5 votes to 4.

A second proposal was made and seconded to accept the recommendations as per the officer's report. The Committee agreed that the viability of Leamington Town Centre needed to be encouraged and made attractive to visitors to the town.

Following consideration of the report and presentation the Committee resolved to grant removal of the condition, subject to the conditions listed.

**RESOLVED** to GRANT removal of condition 17 of planning permission no. W01/0483 subject to the following conditions:

- (1) noise arising from any plant or equipment at any further A3 premises, when measured one metre from the façade of any noise sensitive premises, shall not exceed the background

## **PLANNING COMMITTEE MINUTES (Continued)**

noise level by more than 3dB(A) (measured as LAeq(5 minutes)). If the noise in question involves sounds containing a distinguishable, discrete, continuous tone (whine, screech, hiss, hum etc) or if there are discrete impulses (bangs, clicks, clatters, thumps etc) or if the noise is irregular enough to attract attention, 5dB(A) shall be added to the measured level.

**REASON:** To protect the amenities of the occupiers of nearby properties in the locality in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011;

- (2) no further units shall be used for A3 purposes unless:

(a) a noise assessment has been undertaken to assess the impact of noise arising from any plant, fume extraction, air conditioning or refrigeration equipment that is required to serve that unit;

(b) a noise assessment has been undertaken to assess the suitability of the existing sound insulation in the ceiling of that unit to ensure that internal noise levels within adjoining or nearby residential premises comply with the criteria outlined in BS8233:1999 and World Health Organisation guidelines;

(c) the results of the noise assessments carried out to comply with criteria (a) and (b), together with details of any necessary mitigation measures, have been submitted to and approved in writing by the local planning authority; and

(d) any necessary mitigation measures approved under (c) have been implemented in full accordance with the approved details.

The mitigation measures shall be retained at all times thereafter and shall not be removed or altered in any way without the prior written approval of the local planning authority.

**REASON:** To ensure that the premises are not used in a manner prejudicial to or likely to cause nuisance or disturbance to the occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011;

- (3) no further units shall be used for A3 purposes unless:

(a) an odour assessment has been undertaken



## **PLANNING COMMITTEE MINUTES (Continued)**

to assess the impact of odour arising from cooking and any proposed fume extraction system that is required to serve that unit;  
(b) the results of the odour assessments carried out to comply with criterion (a), together with details of any necessary mitigation measures, have been submitted to and approved in writing by the local planning authority; and  
(c) any necessary mitigation measures approved under (b) have been implemented in full accordance with the approved details.

The mitigation measures shall be retained at all times thereafter and shall not be removed or altered in any way without the prior written approval of the local planning authority.

**REASON:** To ensure that the premises are not used in a manner prejudicial to or likely to cause nuisance to the occupiers of nearby properties in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011; and

- (4) no customers shall be permitted to use any external seating area associated with any further change of use to A3 use within Livery Street before 0930 hours or after 2230 hours. All furniture shall be removed from any such external seating areas by 2330 hours and no furniture shall be permitted within the external seating areas between 2330 hours and 0900 hours. **REASON:** To ensure that any external seating areas are not used at a time which would be likely to cause nuisance or disturbance to nearby residents in accordance with Policies DP2 & DP9 of the Warwick District Local Plan 1996-2011.

(The meeting ended at 7.55pm)