

**Planning Committee:** 14 December 2005

**Item Number:** 13

**Application No:** W 05 / 1795

**Registration Date:** 25/10/05

**Town/Parish Council:** Bubbenhall  
**Case Officer:** Alan Coleman

**Expiry Date:** 20/12/05

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

**Land Adjacent to The Manor House, Church Road, Bubbenhall, Leamington  
Spa, CV8 3BE**

Erection of new dwelling and double garage FOR Mr & Mrs M Evans

---

This application is being presented to Committee due to the number of objections and an objection from the Parish Council having been received.

**SUMMARY OF REPRESENTATIONS**

**Bubbenhall Parish Council:** *"Bubbenhall Parish Council has the following concerns.:*

1. *It is thought that the size of this property represents overdevelopment. The footprint of the site being disproportionate to the Manor house on whose land this dwelling is being placed.*
2. *Continued concern over the access road and its opening onto the road.*
  - a. *The splay being accommodated only by the cutting of hedgerow.*
  - b. *The access road being in close proximity to the junction.*
  - c. *The access road being used by both the new dwelling and the business offices at the back of the Manor House.*
3. *This is regarded as back land development and restrictions on size etc. may be expected.*
4. *This is a conservation area. Particularly related to the trees bordering this property. The parish Council has concerns that work already started is in close proximity to the conserved trees.*

*It is for these reasons that the Parish Council oppose this development."*

**Highway Authority:** No objection.

**Neighbours:** 5 letters of objection from the residents of 'Pangbourne', 'Tantara', 'The Old Forge', 'White Gables' and 'Halfpenny House' on grounds that can be summarised as follows:

1. inappropriate backland development, contrary to Policy RAP2 of the Warwick District Local Plan 1995;
2. over-intensification of the use of the site;
3. harm to highway safety from the volume of traffic generated by proposals and the business activities being undertaken at the Manor House adjacent to a busy road junction from an access with inadequate visibility splays;
4. harm to neighbouring residents' amenities from intrusive landscaping, loss of privacy, noise and disturbance from vehicle movements accessing and egressing the site along the driveway in proximity to the neighbouring dwelling;

5. harm to the character and appearance of conservation area by reason of the siting, design and layout of the development at variance with established pattern of development in the surrounding area, and;
6. inadequate details of proposed septic tank and its location.

Comment has also been made that the south-eastern boundary of the site has been inaccurately defined in relation to the existing hedge and filled ditch.

### **RELEVANT POLICIES**

- RR1 - Rural Renaissance (Regional Planning Guidance 11 - June 2004)
- CF2 - Housing beyond the Major Urban Areas (Regional Planning Guidance 11 - June 2004)
- GD.1 - Overriding Purpose (Warwickshire Structure Plan 1996-2011).
- GD.3 - Overall Development Strategy (Warwickshire Structure Plan 1996-2011).
- GD.5 - Development Location Priorities (Warwickshire Structure Plan 1996-2011).
- GD.6 - Green Belt (Warwickshire Structure Plan 1996-2011).
- RA.1 - Development in Rural Areas (Warwickshire Structure Plan 1996-2011).
- RA.3 - Housing and Industrial Development and Hierarchy of Settlements in Rural Areas (Warwickshire Structure Plan 1996-2011).
- H.3 - Greenfield Land for Housing (Warwickshire Structure Plan 1996-2011).
- (DW) ENV1 - Definition of the Green Belt (Warwick District Local Plan 1995)
- (DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
- (DW) ENV3A - Sustainable Development and Energy Conservation (Warwick District Local Plan 1995)
- (DW) ENV6 - Protection and Enhancement of Conservation Areas (Warwick District Local Plan 1995)
- (DW) ENV8 - New Development within Conservation Areas (Warwick District Local Plan 1995)
- (DW) ENV9 - Design Guidance for New Development within Conservation Areas (Warwick District Local Plan 1995)
- (DW) ENV26 - The Implementation of Tree Planting Schemes (Warwick District Local Plan 1995)
- (DW) ENV27 - Ecological Development (Warwick District Local Plan 1995)
- (DW) H8 - Limited Infill Villages (Warwick District Local Plan 1995)
- DAP1 - Protecting the Green Belt (Warwick District 1996 - 2011 Revised Deposit Version)
- DAP10 - Protection of Conservation Areas (Warwick District 1996 - 2011 Revised Deposit Version)
- DAP11 - Unlisted Buildings in Conservation Areas (Warwick District 1996 - 2011 Revised Deposit Version)
- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011 Revised Deposit Version).
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- DP6 - Access (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- DP12 - Energy Efficiency (Warwick District Local Plan 1996 - 2011 Revised Deposit Version)
- RAP1 - Development within Rural Areas (Warwick District 1996 - 2011 Revised Deposit Version)

- RAP2 - Directing New Housing (Warwick District 1996 - 2011 Revised Deposit Version)
- Distance Separation (Supplementary Planning Guidance)
- The 45 Degree Guideline (Supplementary Planning Guidance)

## **PLANNING HISTORY**

Planning permission was granted at appeal for the erection of two detached bungalows with detached garages on 21 November 1995 (WDC Reference: W940622).

In the interim period between the appeal and renewal of planning permission in 2000, two further applications were submitted. Planning application W96/0963 for the erection of 2 bungalows with detached garages (amendment to siting on W940622) was refused for the following reason:

*In the opinion of the District Planning Authority, the size of the proposed bungalows is excessive and would represent an overdevelopment of the site. In particular, Plot 1 which lies within the Bubbenhall Conservation Area would be sited too close to the access road serving Plot 2, and will appear cramped for that reason. Furthermore, Plot 2 would be unacceptably close to the important row of protected lime trees along the south west boundary of the site. If permitted, the development would be likely to prejudice the health and long term amenity value of these protected trees, by reason of the extent of built development so close to the trees, destruction of roots, the potential for damage to roots, trunks, and crowns at construction stage and the likely future pressure from occupiers for lopping or removal of trees so close to the bungalow.*

An amended planning application W97/0242 for the erection of a bungalow and garage off existing access (Plot 1), and; demolition and rebuilding of part of wall in a new position (revised application of W960963) was also refused for the following reason:

*In the opinion of the District Planning Authority, the size of the proposed bungalow is excessive and would represent the overdevelopment of the site. In particular, the proposed bungalow, which lies within the Bubbenhall Conservation Area, would be sited too close to the access road serving Plot 2, and will appear cramped for that reason, thereby detrimentally affecting the character and appearance of the Conservation Area.*

Thereafter the original permission was renewed under application W20000497 on 31 May 2000. Both applications were granted subject to a number of conditions set down by the Appeal Inspector. These included a number of pre-commencement conditions that were discharged on 26 May 2005 to allow a material start to be made on implementing this scheme. To date, this comprises the excavation of foundation trenches for plot 2, which have been inspected and approved by Building Control in accordance with the provisions of the Building Regulations on 31 May 2005. (WDC Reference: W05/0769BR). I am therefore satisfied that this permission now remains extant. I consider this permission is a significant material consideration of substantial weight in the assessment of this application.

## **KEY ISSUES**

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

The site lies on the northern periphery of Bubbenhall village within the Green Belt that washes over the village. The proposed dwelling would be located on the north-eastern half of the site outside the Conservation Area, whereas the balance of the site to the south is within it. Bubbenhall is also identified as a 'Limited Infill Village' by the Warwick District Local Plan 1995. The status of the site within the Green Belt is proposed to be maintained in the Revised Deposit Version of the Local Plan.

The site itself has an area of approximately 0.32 ha. within a larger land holding. This comprises the host property, which is prominently sited at the junction of Church Road and Lower End, and an open field that extends westwards from the north-eastern half of the site where it is contained by a tributary of the River Avon to the north and west and by the rear garden boundaries of 'Langlands', 'Ivetsey' and 'Halfpenny House' to the south. This part of the site is separated from this field by a row of mature Lime trees, which are the subject of a group Tree Preservation Order (No. 190), whilst the remainder of the south-western boundary is formed by the side garden boundary of 'Halfpenny House' that comprises a timber fence and screening of leylandii trees. To the south/north-east, the site is bounded by the rear garden boundaries of 'Tantara', 'Appledore', 'The Old Forge', 'Pangbourne', 'White Gables' and 'Whiteoaks', along which are planted mature deciduous and evergreen trees, including conifers, together with hedgerow shrubs. A pond is located adjacent to the northern-most boundary of the site, which is fed by the tributary from the River Avon, with agricultural land beyond.

Access to the site is gained from Church Road via a driveway that runs alongside the side garden boundary of 'Halfpenny House' and which also serves the host property. The site entrance is directly opposite the junction of Church Road and Stoneleigh Road.

### **Details of the Development**

The proposal is for the erection of a single detached bungalow in lieu of the pair of bungalows approved under application W940622. The applicant has confirmed his intention to rescind this permission as part of this application via a section 106 Agreement.

The proposed bungalow would be sited on approved plot 2 that extends to the rear of 'The Old Forge', 'Pangbourne', 'White Gables' and 'Whiteoaks' to the north-east. The proposed bungalow would be greater in width and depth than the bungalow originally approved on this plot but would have a floor area less than the combined floor areas of the approved dwellings. The main body of the bungalow would have a pitched roof that would present gables to the front and rear elevations and to the western wing. In terms of its height, the bungalow would stand 2.2 metres at the eaves and 6.4 metres at the ridge and would have a depth of 11 metres and a width of 3.2 metres across the main body extending to 8.0 metres across the lounge and master bedroom wings.

Access to the site would be in accordance with the extant permission and would serve a detached double garage that would be sited to the front of the proposed bungalow adjacent to the rear garden boundary of 'Halfpenny House'. No trees are proposed to be felled to accommodate the development and additional tree and shrub planting is proposed to supplement existing landscaping along the north-eastern boundary of the site.

### **Assessment**

The starting point for the consideration of this and all other applications is Section 38(6) of the Planning and Compensation Act 1991, which stipulates:

*"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

The Development Plan for Warwick District comprises:

- West Midlands Regional Spatial Strategy, adopted in June 2004;
- The Warwickshire Structure Plan, adopted in August 2002; and
- The Warwick District Local Plan, adopted in April 1995, which is currently under review.

With regard to housing development proposals in rural areas, it is apparent that there are tensions between the policies of the adopted Local Plan and those of the Regional Spatial Strategy and, more significantly, the Structure Plan which now presume against such proposals unless they are for affordable housing or meet an identified local need. This is reflected in Policy RAP2 of the Warwick District Local Plan 1996-2011 (Revised Deposit Version), which effectively supersedes Policy H8 of the adopted Local Plan in accordance with the provisions of Policy H.3 of the Structure Plan which, in turn, reflects the advice and guidance in Planning Policy Guidance Note 3: *Housing*.

Nevertheless, having regard to Section 38(6) I do not consider the development plan is material to the principle of development in this case given the extant permission for the erection of two bungalows on the site under application W940622.

As such, I consider the main issues concern the siting, design and appearance of the development in relation to the character and appearance of the Conservation Area, neighbouring residents' amenities and highway safety. There has been no change in the status or layout of the site since the appeal decision. I therefore consider the Inspector's decision is a material consideration in the assessment of the proposals.

#### 1. Character and Appearance

In assessing this aspect of the appeal scheme the Inspector concluded as follows:

*"There would be a view of the bungalows from Stoneleigh Road which joins Church Road almost opposite the site entrance. However, the proposed buildings would be relatively low and set well back from the highway. The view of the buildings would be restricted by vegetation and the high walls surrounding the garden of the Manor House. Therefore, although the site is backland and the position of the bungalows one behind the other would have some of the characteristics of tandem development, in my opinion, in this enclosed location, the siting of two buildings would not form a prominent visual feature out of keeping with the range of buildings and varied pattern of development nearby. PPG15 states that it is not the purpose of conservation to prevent new development and I consider that the limited views of the proposed bungalows would not harm the appearance or character of the surroundings, and hence there is no justification to refuse the proposal on these grounds."*

In comparison with the approved scheme, the development now proposed would be limited to a single bungalow on the site of plot 2 on the rearmost portion of the site furthest away from the public highway. The remainder of the more prominent portion

of the site would be left undeveloped by rescinding the extant permission, thereby enabling the retention of a substantial open setting on this currently open land.

In terms of its design and appearance, the proposed bungalow would be significantly different to the approved development, most notably on account of its comparative size and gabled elevations. As proposed, I consider it would be acceptable in this location which, as recognised by the Appeal Inspector, includes a significant number of modern houses in the immediate vicinity in the conservation area.

## 2. Residential Amenity

The proposed bungalow would be erected at the rear of 'The Old Forge' and 'Pangbourne'. In comparison with the extant permission, the bungalow now proposed would be greater in depth at some 22 metres instead of 10.5 metres and would be set 5 metres away from the rear garden boundaries of these properties at its closest point rather than some 9 metres. The rear elevation of both the approved and proposed bungalows would align in broadly the same position with the garden boundary between 'Pangbourne' and 'White Gables', whilst the front elevation would extend approximately 8 metres beyond the boundary between the gardens of 'Pangbourne' and 'The Old Forge' rather than being broadly aligned with it. In elevation the bungalow would stand at an equivalent height of 2.2 metres at the eaves and approximately a metre taller at 6.4 metres at the ridge.

In considering this aspect of the development in relation to the appeal scheme, the Inspector concluded that although the development would intrude into views from the rear gardens of the adjacent dwellings in Lower End, it would not reduce the outlook across the site to an extent which would be out of keeping with typical residential standards in a village of this size and character.

As to privacy the Inspector found that, in conjunction with the provision of a boundary fence of appropriate height, an adequate level of privacy would be preserved in these gardens and dwellings due to the presence of boundary screening, the orientation of the proposed bungalow and the spacing between the existing and proposed dwellings, which would considerably exceed the distances set out in the SPG on the separation of dwellings.

As proposed, I acknowledge that the proposed development would be in closer proximity to the rear garden boundaries of the adjacent dwellings in Lower End and would have a greater appreciable mass than the approved bungalow on this plot. As such, I consider the development would undoubtedly alter the outlook from these properties. However, having regard to factors such as the retention of boundary screening, supplementary landscaping proposals, the design of the dwelling with only a limited number of non-habitable room windows on the facing side elevation, combined with the generous separation distance to those properties, I consider that there would not be an adverse effect on the outlook of those properties or unacceptable overlooking.

Concerns have also been raised regarding noise and disturbance from the residential use of the site, the unfettered movement of vehicles along the driveway and vehicle manoeuvres. This too was commented upon by the Appeal Inspector who concluded that the activities associated with the use of the proposed bungalows and their gardens would not be materially different to those of the area within which the existing houses are set. As such, it was not a matter which he considered weighed heavily against the scheme. Whilst the development would inevitably increase activity

on the site, nevertheless any noise generated would be domestic in nature and I do not consider it would be unacceptable.

With regard to traffic, the Inspector also considered the noise generated would not be out of keeping with a residential area either and, separated from the garden of 'Halfpenny House' for most of its length by dense tree growth, the likely volume of passing vehicles would not be unacceptably disturbing to the occupants of that property. The manoeuvring of vehicles in association with the garage would also be at the bottom of the long garden to 'Halfpenny House' and not in a position to cause unacceptable intrusion.

Indeed, the extant permission allows for the erection of two 3-bed bungalows whereas the proposed development is for a single 1-bed bungalow. In my opinion, the proposal would result in a less intensive form of development in terms of density, occupation, activity, traffic and noise.

### 3. Highway Safety

Considerable reference is made in the objections to inadequate visibility at the entrance to the site and problems of satisfying the visibility splay requirements set out in Condition 9 of the extant appeal decision. This would rely upon a bush in the front garden of 'Halfpenny House' being cut back to ensure the splays would be free from visual obstruction. Comments have also been made that this would also require alterations to the stone boundary wall of The Manor House. However, the Highway Authority has no objection to the current proposal and do not require provision for visibility splays to be made to serve the development now proposed.

### 4. Landscape

I am satisfied that the proposed development could be satisfactorily accommodated on the site without adverse impact on the future well-being of the existing trees on the boundaries of the site that are to be retained. However, I consider it would be advisable to attach appropriate conditions in order to protect them during construction and to secure appropriate additional planting and boundary treatment. I note the objection from the resident of 'White Gables' to any additional planting along the boundary of this property and I am satisfied that this could be accommodated in the landscaping proposals without detriment to the character and appearance of the site.

### 5. Other Matters

With regard to the definition of the north-eastern boundary of the site in relation to the infilled ditch, I consider that this is a private matter between the parties concerned.

## **RECOMMENDATION**

GRANT, subject to the completion of a Section 106 Agreement to rescind extant planning permission W940622 and 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 drawings 1171/01D, 02E, 03, 04, 05A and 06, and specification contained therein, submitted on 25 October 2005 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 Local Plan Policy (DW) ENV3 of the Warwick District Local Plan 1995.

- 3 No development shall be carried out on the site which is the subject of this permission, until details of the form and siting of the proposed septic tank to serve the development have been submitted to and approved by the District Planning Authority. The development shall not be carried out otherwise than in full accordance with such approved details.

**REASON** : Inadequate details were submitted for this matter to be fully and properly considered in respect of the approval hereby granted.

- 4 No development shall commence until a method statement including details of fencing and other protective measures for the retained trees, and the timing and phasing of operations has been submitted to and approved in writing by the District Planning Authority. All works undertaken thereafter shall be carried out in accordance with the approved details.

**REASON** : To ensure that the retained trees are properly protected during the course of development in order to maintain the environmental quality of the site, and to satisfy Policy (DW) ENV3 of the Warwick District Local Plan 1995.

- 5 No development shall take place until full details of hard and soft landscape works, including boundary treatment and surfacing, have been submitted to and approved in writing by the District Planning Authority. Details of hard landscape works shall include finished ground and floor levels (in relation to existing levels of the site and adjoining land), surfacing materials and means of enclosure. Details of soft landscaping works shall identify trees to be retained and shall include species of new trees and shrubs, their sizes and positions, and the timetable for their planting. If, within a period of 5 years from the date of planting, any tree or shrub is removed, destroyed, dies, another of the same species and size shall be planted at the same place in the next planting season, unless the District Planning Authority gives its written consent to any variation.

**REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy (DW) ENV3 of the Warwick District Local Plan 1995.

- 6 The existing trees and shrubs shall be retained in accordance with BS 5837:2005. Before any equipment, machinery or materials are brought on the site for the purposes of the development, stout protective fencing should be erected to enclose the perimeter of the branch spread of each tree or shrub to be retained, together with the branch spread of any tree growing on adjoining land which overhangs the site. Such fencing shall be maintained until all equipment, machinery and surplus material has been removed from the site. Nothing shall be stored, erected or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made or other works undertaken, without the written consent of the District Planning Authority.

**REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy (DW) ENV3 of the Warwick District Local Plan 1995.



- 7 In this condition "retained tree" means an existing tree which is to be retained in accordance with the landscaping scheme approved pursuant to condition (5); and paragraphs (i) and (ii) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use:  
i) No retained tree shall be cut down, uprooted or destroyed, nor shall any tree be topped or lopped without the prior written consent of the District Planning Authority;  
II) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the District Planning Authority.  
**REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policy (DW) ENV3 of the Warwick District Local Plan 1995.
- 8 The garage shown on the plans hereby approved shall be erected and completed before the dwelling is occupied. Thereafter the garage shall be retained and kept available for the purposes of parking by the occupiers of the development and shall not be altered either internally or externally without the prior consent of the District Planning Authority.  
**REASON** : To ensure that there are adequate parking facilities to serve the development, in accordance with the requirements of Policy (DW)N ENV3 of the Warwick District Local Plan 1995.
- 9 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 living accommodation shall be provided above ground floor level.  
**REASON** : To ensure that the residential amenity of this locality is protected in accordance with the provisions of Policy (DW) ENV3 of the Warwick District Local Plan 1995.

## **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 would represent appropriate infilling within the village and would not harm the appearance and character of the conservation area. It is also considered that the privacy of neighbouring residents would be adequately protected and the use of the bungalow, its garden and the scale and nature of vehicular traffic emanating from the development would not generate noise or activity out of keeping with this location. The proposal is therefore considered to comply with the policies listed.

-----