

Planning Committee:

Item Number: 8

Application No: W 10 / 1288

Registration Date: 28/09/10

Town/Parish Council: Kenilworth

Expiry Date: 23/11/10

Case Officer: Steven Wallsgrove

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Land between Abbey End & Southbank Road, Kenilworth, CV8 1LA

Erection of extra care accommodation for the elderly (50 units + staff unit), senior citizens club, communal facilities, landscaping and car parking FOR McCarthy & Stone Retirement Lifestyles Ltd

The application raises a number of complicated issues and the District Council is the landowner.

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council: No reason to object.

Green Infrastructure Manager: No objection subject to pre-commencement conditions on protection of trees, location of underground services, and construction of hard surfacing.

WCC (Ecology): Recommend conditions on bats, tree felling, great crested newts, a landscape and ecological management plan, and protection of trees. They also recommend notes on nesting birds, badgers, lighting, bird boxes, and bat boxes etc.

WCC (Archaeology): Consider it unlikely there would be any archaeological damage and, therefore, have no comment.

WCC (Highways): No objection subject to access and turning conditions.

WCC (Contributions): No contribution for libraries or education are requested.

Conservation: No objection as it considered that the current block massing has been achieved in relation to the adjoining Conservation Area and that the detailing will also have no detrimental effect.

Kenilworth Society: Object as the proposals are exclusively for elderly people and fail to address the housing needs of younger people, including affordable housing. They do not accord with Policy SC11 of the Local Plan, or Policy UAP1 of PPS3. The development is only likely to 'free up' larger houses, and there is no guarantee that there will be a public gain from the development.

CAAF: Concerns were expressed that this significant development, although not in the conservation area, would be seen from the conservation area, particularly across Abbey Fields where the taller buildings may rise above the existing buildings which are in the conservation area. It was felt that the new buildings facing Abbey End were not particularly distinguished in design and that possibly a better contemporary building could be designed. Some concerns were expressed that Wilton House is to be demolished in Southbank Road and it was suggested that this could be retained and

converted with traditional extensions to it. It was pointed out that the replacement building, although a traditional design, is much larger than Hibberd Court next door and also much larger than any of the other houses in Southbank Road.

Generally it was felt the contemporary building needed to be treated as a prominent building which would make an impact in the area and therefore needed a better approach to the design. Generally the maintenance of the trees on the site was supported and it was felt that possibly there could be more paths in the garden for the residents to use.

Residents of Central Kenilworth: Are pleased to see that pre-application comments have been taken into account but still have some detailed concerns about overlooking from apartments 8 and 9 in the block on Southbank Road, the design of the porch on this building, the use of a timber fence for part of the site boundary instead of a brick wall, noise from vehicles on the graveled areas, the location of the electricity sub-station, working hours, siting of the materials compound, site security, and CCTV locations. They also comment on problems with the fence at Hibberd Court.

Senior Citizens Club: Support proposal as will result in better facilities.

Public Response: Letters of support have been received from 22 residents, with comments being made about it being an excellent site and many referring to the comments by ROCK. Other comments refer to the 'Blundells' boundary treatment, other boundary treatments, the use of gravel, the electricity substation, and possible archaeological interest. One person comments on the details of the porch on the Southbank Road block, contractors access, the size of the replacement Citizens Club building, and possible archaeological interest.

Objections have been received from 2 residents on grounds of overlooking, too large and bulky, not in keeping, insufficient parking, insufficient protection of trees, and insufficient shielding from existing properties.

RELEVANT POLICIES

- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP1 - Layout and Design (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)
- DP8 - Parking (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)
- DP15 - Accessibility and Inclusion (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)
- SC8 - Protecting Community Facilities (Warwick District Local Plan 1996 - 2011)
- SC11 - Affordable Housing (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)

PLANNING HISTORY

The only planning history relates to the existing uses on the site, namely the offices, the Old Folks Club, and the three dwellings.

KEY ISSUES

The Site and its Location

The site consists of Wilton House (the Town Council offices) on Southbank Road, the Old Folks Club behind, and three dwellings (two bungalows and a house) which have a shared drive with the Old Folks Club. The site contains a substantial number of mature trees in both the main part of the site and the northern end, which adjoins the Conservation Area at Abbey Hill.

Details of the Development

The proposal is to replace all the existing buildings with two, linked, blocks one fronting Southbank Road (roughly on the site of the present Wilton House) and the other having a long frontage onto the Abbey End car park with a return beside the path from this car park to Southbank Road. This path is now referred to as The Blundells, but is not a public right of way. In total, there would be 50 self contained units of extra care accommodation for the elderly, a separate staff unit, and a replacement for the Senior Citizens Club, which would have access direct from the Abbey End car park.

The Southbank Road block is of a traditional design, mainly of two-storeys but with the central part three-storey. This block has been amended since the original submission to add a unit at second floor level in the roofspace (to replace a unit removed from the other block). This means there will be 15 units in this block.

The other block is larger and is of a more contemporary design. It is mainly four-storeys in height with parts being three-storey and two-storey, the replacement Senior Citizens Club occupying part of the ground floor at the north end. The eastern end of the block has been amended since the original submission to omit a second floor unit that was close to The Blundells and the Hibberd Court flats.

The layout shows a total of 22 parking spaces, accessed off Southbank Road, the removal of one large tree in the middle of the site and a number of other, smaller, trees in various parts of the site. The northern end of the site is shown as to be retained as a substantial area of open space for the development, with its substantial number of trees.

The main block, with the Senior Citizens Club, also includes a 'restaurant', a communal lounge, a main kitchen, a community room, a buggy store, a guest suite, staff room, laundry, and refuse rooms.

The application was accompanied by a Planning Statement, a Design and Access Statement, a Tree Report, an archaeological report, an extended Phase 1 Habitat Survey, a site investigation report, and a statement of community involvement.

Assessment

The proposal, in simple terms, is the erection of two, linked, blocks of accommodation, with various facilities, as the redevelopment of a mixed use site on the edge of the commercial centre of the town. This raises a number of issues, most being relatively straightforward but one being complicated. This relates to the type of accommodation and into which 'Use Class' it falls, as this determines whether affordable housing provision should be made, either on or off site.

The straightforward issues include the impact of the proposals on the street scene and on neighbours, car parking provision, and trees with various minor issues raised by consultees. Other issues are the loss of employment land, and building on gardens, which arise since the site is not a single use site but a combined site of various uses. Under these circumstances the decision that has to be made is whether the benefits of the proposal outweigh those policy issues. In the present case, the principal character of Southbank Road is residential, so the loss of one office building, where there are vacant office buildings in the town centre, is considered to be not significant. The garden areas being lost are also not so significant as to justify a refusal, and the largest and best landscaped of them is actually retained as the main garden area for the development.

The principal issue is the use. The concept put forward by the applicant is to provide "extra care" accommodation for the more frail elderly, typically people over 80 years of age, with the aim of maintaining their independence but with a wider range of communal facilities and care packages tailored to their individual needs as frailty increases through later life. They acknowledge that this is a very specialised form of accommodation. The 'baseline' service and facilities are specified as including an element of domiciliary care, the proposal providing for an on-site team of carers, 24 hour cover, the ability to provide daily hot meals (from an on site kitchen), a 'heavy duty' laundry, and enhanced bathing and toilet facilities.

The question is whether the proposal is a C2 and C3 use, as set out in the Use Classes Order, as amended in April 2010, as a C3 use would attract affordable housing provisions. The Order states:

"Class C2. Residential Institutions.

Use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwellinghouses))."

"Class C3. Dwellinghouses.

Use as a dwelling house (whether or not as a sole or main residence) by -

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4). "

There have been various cases that have been taken to appeal on similar types of accommodation, and one Planning Consultancy prepared a briefing note on the subject in November last year.

The C2 Use Class, while referring to 'residential accommodation', does not exclude self contained dwellings while the C3(b) Use Class refers to households 'where care is provided'. The two Use Classes, therefore, appear to have some overlays but, in essence, the C2 Class is for people 'in need of care' while the C3(b) Use can be read as meaning that, when care is needed by a house occupier, it does not automatically take it out of the definition of a 'dwellinghouse'. The other point in the C2 definition is that there is no minimum level of care that has to be provided.

In this context the applicants have stated that they would be prepared to accept a condition limiting the minimum age of occupants to 70, and a condition could also be imposed requiring that the units shall not be let, leased or sold to people other than those in need of care, as specified in the C2 Use Class. Such a condition would support the applicants statements about the need for occupiers to enter into a minimum care package, which can be enhanced as need demands, and would also support the facilities to be provided on the site, including the 24 hour care availability. Under these circumstances it is considered that the proposal can come within the C2 Use Class, which means that there is no requirement for affordable housing. This conclusion has been supported by an opinion from Counsel, although it suggests that the occupancy be controlled through a S106 Agreement rather than by a condition on a planning permission.

The minimum age limit mentioned above also has implications for the level of car parking needed on the site. The Vehicle Parking Standards SPD would require a total of 25 spaces, plus ambulance and warden spaces for 'very sheltered' accommodation, and 59 spaces for 'sheltered' accommodation. The applicants, however, have carried out a parking survey of their six other, similar, developments which demonstrate that, for this type of use, it is likely that about 20 spaces would be adequate, as residents have an increasing tendency to use buggies, for which there is separate provision.

In terms of the impact on the street scene, the replacement for 'Wilton House' is larger, but it is considered that it is not so large as to seriously detract from the street scene, and there are various sizes and designs of houses in the road. It is considered, therefore, that this is acceptable. The other block is of a modern design and is also larger, but this has to be seen in the context of the Abbey End shops and flats and, as such, this building is considered to be acceptable as well.

In terms of details raised by consultees, one resident has expressed concern about loss of privacy. This is in relation to one, small, first floor window in the north gable end of the Southbank Road block, which is a secondary living room window some 15 m away from the gable end windows of No. 16 Southbank Road. This distance is less than the normal minimum, but it is only a small, secondary, window and could be obscure glazed, a request made by the neighbour.

Residents have also expressed concern that part of the boundary on the north side is to be a timber frame, rather than a wall. It is considered, however, that this is not unreasonable as there is a mixture of fences and walls in the area at present. In the case of The Blundells footpath, the boundary is to be set back and the path widened. In this context it is considered that fencing is appropriate since a wall, particularly close to the retained trees, could seriously affect those trees. In the case of the frontage to the Abbey End car park, the existing fence is to be set back to provide a new path and the intervening strip is to be landscaped. The design of the porch to the Southbank Road block has also been challenged but, again, it is considered that the design is reasonable since this is a modern building, which reflects the existing building, and the site is not in the Conservation Area.

A point not raised by residents is the proximity of the main building to the flats in Hibberd Court. The original plans showed this as being only some 8 m away, corner to corner, which was considered to have an overbearing impact since the new building was three storeys high at this point. This has now been improved by omitting the top unit so that the corner is now only two-storeys high, the same as Hibberd Court. This unit was replaced by an additional unit in the loft space of the Southbank Road building, which has a window in the gable end which looks over the roofs of Hibberd Court.

Residents have also raised concerns about the use of ground for the driveway but the materials schedule says that the paths/parking/driveway areas are to be furnished in black paving and tarmac. The schedule also lists the bricks, tiles, windows and boundary treatment details.

The substation, also referred to by residents, is labelled as 'if required' and would not need planning permission. There are many such structures in residential areas and none are known to have caused problems.

It is considered, therefore, that the scheme can be supported, subject to conditions.

RECOMMENDATION

GRANT, subject to 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 drawing nos 1703-1-01, -02, -03 Rev A., -04 Rev. A, -05 Rev. A, -06 Rev. A, -07, Landscaping sheets 1, 2 and 3 and specification contained therein, received on 28th September 2010 and 13th January 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.
- 3 The landscaping scheme submitted as part of the application hereby permitted shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees of similar size and species to those originally required to be planted. Existing trees which are shown as being retained shall be dealt with in accordance with BS 5837:2005. In particular, before any materials are brought on the site or any demolition or development commenced, 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 of any tree growing on adjoining land which overhangs the site. Such fencing shall be satisfactorily maintained until all development has been completed. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011.
- 4 No development shall be carried out on the site which is the subject of this permission, until details of the alignment of all underground services in relation to the retained trees 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** : To ensure that the trees are safeguarded in the long term in accordance with Policy DP3 of the Warwick District Local Plan 1996-2011.
 - 5 Prior to the occupation of the development hereby permitted, the first floor window in the north gable end elevation of the Southbank Road building 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.
 - 6 All of the residential units, other than the staff unit and the guest suite, shall be occupied by persons aged over 70 years and in need of care, as defined in the Town and Country Planning (Use Classes) Order 1987, as amended. **Reason:** To ensure that the development is used for the purposes specified in the application since occupation by other ages could result in the need for additional parking and an unlimited residential consent would have required the provision of affordable housing in accordance with Policy SC11 of the Warwick District Local Plan 1996-2011.
 - 7 The development hereby permitted shall not be first occupied unless and until the renewable energy scheme submitted as part of the application has been wholly implemented in strict accordance with the approved details. The works within this scheme shall be retained at all times thereafter 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.

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 achieves acceptable standards of layout and design and does not give rise to any harmful effects in terms of impact on residential amenities, the setting of the Conservation Area or the street scene which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.