

**Planning Committee:** 24 May 2016

**Item Number: 10**

**Application No:** [W 16 / 0702](#)

**Town/Parish Council:** Kenilworth  
**Case Officer:** Liam D'Onofrio  
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**Registration Date:** 18/04/16  
**Expiry Date:** 13/06/16

**The Castle Pavilion, Castle Road, Kenilworth**

Change of use and conversion of existing building to form 1no. dwellinghouse with associated residential curtilage FOR Mr A Cockburn

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

**RECOMMENDATION**

Planning Committee are recommended to grant planning permission, subject to conditions.

**DETAILS OF THE DEVELOPMENT**

Planning permission is sought for a change of use from a stable building to a dwellinghouse comprising 3 bedrooms, 4th bedroom/ study with open plan living room/ dining room/kitchen. External building changes are minimal, with some changes to fenestration. The proposal also includes a change of use of the land from paddock to residential. The scheme is the same as the previous application W/14/0522 and W/15/2169 but to overcome the previous refusal reasons/ appeal decision the external residential 'curtilage' has been significantly reduced in size.

The application is accompanied by a Design and Access Statement, Planning Statement and Sustainability Statement.

**THE SITE AND ITS LOCATION**

The application site relates to a detached stable building located to the west of Castle Road and accessed via an existing long unmade track. The site is located within open countryside with fields extending to the south. Immediately to the northern boundary is a Scheduled Ancient Monument (Kenilworth Castle outer defensive works) and the Kenilworth Conservation Area. Kenilworth Castle also has a Grade II\* Registered Park and Garden. The site falls outside of the urban area of Kenilworth and is within Green Belt.

**PLANNING HISTORY**

W/15/2169 - Proposed refurbishment of existing building to form dwelling:  
Refused 02/03/16

- W/14/0522 - Change of use of existing building to a dwelling (Use Class C3) - Refused 18/03/15 - Appeal dismissed 15/10/15.
- W/05/1464 - Change of use to stables: Granted 14/10/05
- W/99/1069 - Change of use from agriculture to office (B1a): Refused 1999
- W/96/0691 - Change of use from farm shop to storage for contract lawn mower
- W/95/0896 - Erection of dwelling and garage: Refused 1995
- W/95/0345 - Change of use from farm shop to tea room: Refused 1995
- W/91/0993 - Erection of bungalow and garage to replace existing timber framed building: Refused 1991
- W/90/1252 - Erection of dwelling and double garage: Refused 1990
- W/90/0191 - Erection of 2 bungalows and garages: Refused 1990

## **RELEVANT POLICIES**

- National Planning Policy Framework

### The Current Local Plan

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (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)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DAP11 - Protecting Historic Parks and Gardens (Warwick District Local Plan 1996 - 2011)
- RAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- RAP7 - Converting Rural Buildings (Warwick District Local Plan 1996 - 2011)

### The Emerging Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE4 - Converting Rural Buildings (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

- HE4 - Protecting Historic Parks and Gardens (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

#### Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Agricultural Buildings and Conversion - Barns (Supplementary Planning Guidance)
- Vehicle Parking Standards (Supplementary Planning Document)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)

### **SUMMARY OF REPRESENTATIONS**

**Kenilworth Town Council:** Members continued to object to this proposal. They could see no radical difference which would render this application acceptable in this location, and so confirmed previous comments which were due to the intrusion of the access track and intensification of use within the domestic curtilage. It is felt that the area is unsuitable for such development as it lies within an area of historic landscape close to the boundary of the Schedule of an Ancient Monument.

**Historic England:** No objection. "The unlisted building lies beside the outer defensive works of Kenilworth Castle. The proposals are to convert the building to residential use. Although they will affect the setting of the scheduled monument and the registered park the level of harm has been reduced considerably and we are content to see this scheme proceed".

**Natural England:** No objection.

**WCC Archaeology:** Further information requested regarding foundation depth for parking/patio areas. Further comments awaited.

**WCC Ecology:** Request further information relating to the building's roof and eaves. Further comments awaited.

**WCC Highways:** Comments awaited.

**Public Response:** 17 objections have been received from local residents raising the following concerns:

- Resubmission of two previous applications, both rejected, and appeal dismissed, this scheme is virtually identical.
- Suggested changes move the parking/patio area from the front to the side thus encroaching further on to the defensive works of Kenilworth Castle. Such a move reduces the overall area of the development but does not take into account the needs of domestic life: storage for refuse bins, parking for an average size car, parking for visitors' cars, children's play area.
- Suggested garden area extremely small/impractical.
- It would be impossible to enforce small garden area from spilling out into Green Belt.

- Impact upon openness of Green Belt/no very special circumstances exist.
- Inappropriate development within the Green Belt.
- Impact upon scheduled ancient monument/castle earthworks.
- Impact given close proximity to castle and grounds.
- Adverse impact upon rural area/encroachment by domestic living, noise, light pollution, washing, deliveries etc.
- Development will spoil outlook.
- Building is not substantial having been 'refurbished' in 2014/not appropriate for permanent dwelling.
- Impact upon wildlife.
- Precedent concerns.

## **ASSESSMENT**

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

- The principle of development;
- The impact upon landscape/heritage assets;
- The impact on the living conditions of nearby dwellings;
- Highway Safety;
- Drainage and Flood Risk;
- Energy efficiency/C02;
- Ecological Impact;
- Archaeology;
- Health and Wellbeing.

### Background

The previous scheme W/15/2169 was refused by Planning Committee for the following reasons:

1. The proposed change of use of Green Belt land to domestic garden would be inappropriate development, harmful by definition, and would have a significant impact upon the rural character and appearance of this land through the potential encroachment of domestic paraphernalia and visual clutter. The physical appearance of the land could also radically change by the introduction of manicured lawns, flower beds/domestic planting etc. which would be harmful to the existing rural, open, and character.

2. The residential paraphernalia, visual clutter and domestic activities associated with the proposed dwelling would result in harm to the currently open and rural nature of the land surrounding the building, which is considered to be damaging to the character and setting of the adjoining Scheduled Ancient Monument, Registered Park and Garden and conservation area.

The current application must therefore overcome these reasons.

### The Principle of the Development

The site is within Green Belt where the current Local Plan Policy in relation to residential development is RAP1 - 'Directing New Housing'. The National Planning Policy Framework (NPPF) 2012 states (para. 49) that relevant policies

for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites against their housing requirement. The Council's current position is that it cannot demonstrate a five year supply of deliverable housing sites against the housing requirement and Policy RAP1 is to be considered out-of-date.

NPPF paragraph 14 explains that, where relevant policies are out of date, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. However, this does not extend to development in the Green Belt.

The NPPF paragraph 90 notes that certain forms of development are not inappropriate provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction.

The building is described in the 1991 application as a timber framed structure. Timber structures are not ordinarily considered suitable for conversion to other uses since they are inherently temporary structures not designed for permanent use or habitation. It is noted, however, that the building is well-established and has a substantial brick base and brick chimney and the structure appears in good order. The building is therefore considered to be substantial and permanent as its construction would not preclude it from being successfully converted (a single skin brick barn would also need insulating internally) and the proposed conversion is not considered to represent inappropriate in principle. The external changes are limited and the change of use of the building would not have a significantly greater impact upon the openness of the Green Belt.

The previous schemes (refs: W/14/0522 and W/16/2169) were refused due to the size of the extensive curtilage and the change of use of the Green Belt land to domestic garden, which was considered to represent inappropriate development that would result in a significant detrimental impact upon the rural character and appearance of this land, by the introduction of domestic paraphernalia, washing lines, children's play equipment, manicured lawns, flower beds/domestic planting etc. all of which could not be controlled by a planning condition.

In order to address the previous refusal reasons (and appeal decision, which dismissed the scheme), the applicant has re-submitted the current scheme with a significantly reduced curtilage area to ensure that the garden and building are largely screened from public view. The previous refusal reasons and appeal decision are material considerations that must be overcome to enable the grant of planning permission to be recommended.

In the appeal decision the Inspector noted that NPPF paragraph 90 requires that any development allowed under its provisions must preserve the openness of the Green Belt. The Inspector considered that many domestic activities which would have an effect on the appearance of the curtilage and surrounding rural area would not be affected by the removal of permitted development rights and they considered that the appeal proposal would inevitably change the character of the

area around the building and would fail to preserve openness, thus representing inappropriate development within the Green Belt.

This site is within a particularly sensitive location adjacent to the Castle and its scheduled ancient monument. It is considered that the applicant has successfully addressed the previous refusal reasons by making the curtilage run in close proximity to the building with a small patio area and associated parking/turning area. Whilst the applicant could not be precluded from using and maintaining the adjoining pasture land it could not be formally used as garden land, which should avoid the introduction of residential paraphernalia outside of the agreed curtilage area. Grass had largely reclaimed the hardcore parking area and little weight should be given to the removal of this area. Given the past history and appeal decision the recommendation is considered to be finely balanced, however, subject to conditions restricting permitted development and securing appropriate low level boundary fencing the current scheme is considered to have overcome previous concerns and is will not contravene the aims and objectives of the NPPF, paragraph 90.

#### The Impact on Landscape and Heritage Assets

The stable building is isolated from the nearest existing dwelling 'Green Bank', which stands at the end of a line of existing residential development close to the south-eastern tip of the designated area. In the appeal decision the Inspector considered that as the stable building is immediately adjacent to the Castle's defensive works the changes to the outdoor area would be damaging to the setting of the Ancient Monument, Registered Park and Garden and Conservation Area. Historic England also objected to the previous schemes, noting that the activities associated with a domestic dwelling could be very damaging to the setting of the scheduled monument and the park.

In terms of the current scheme Historic England state that they have visited the site following the previous application. Historic England's view remains that the conversion of the building will have no direct impact on the Scheduled Monument or the Registered Park and Garden, however, the activities associated with a domestic dwelling, and the permitted development rights, could be very damaging to the setting of the scheduled monument and the park. For example, it would not be desirable to allow the building of a garage or any other associated structures, or to allow the establishment of a garden which would be visually disturbing if it is any more than the grassed field that is there at the moment.

Historic England notes that the proposed domestic curtilage has now been reduced to the bare minimum. The proposals will still affect the setting of the Scheduled Monument and the Registered Park to the extent that they will cause harm to their significance, but the impact has been reduced in each iteration of the scheme. There is still some harm, which is 'less than substantial' in terms of paragraph 134 of the NPPF, but Historic England considers that this is not sufficient to merit a refusal in heritage terms and raise no objection, subject to the removal of permitted development rights.

Whilst there are no public benefits arising from the scheme, in terms of paragraph 134, given that the development raises no heritage concerns that

would warrant refusal of the application the current scheme is therefore considered to have successfully overcome the previous refusal reason relating to heritage.

#### The impact on the living conditions of nearby dwellings

Policy DP2 requires development to not lead to an unacceptable adverse impact on the amenity or nearby users or residents, and to provide acceptable standards of amenity for future users/ occupiers of the development. Furthermore, the District Council has also adopted Supplementary Planning Guidance on Distance Separation Standards contained within the Residential Design Guide SPG which aims to limit the potential for over-development, loss of privacy and dominance over adjoining dwellings and secure a reasonable standard of amenity and outlook for local residents.

The building is sited over 70m from the nearest residential property which lies to the eastern side of the application site. Given the separation between surrounding buildings it is not considered that the proposal would result in an unacceptable loss of neighbouring amenity. The proposed use is not incompatible with another residential use.

For these reasons the proposal is considered to comply with Policy DP2 and the Residential Design Guide SPG.

#### Highway Safety

The Highway Authority's comments are awaited and Members will be updated at the meeting. It is noted that the Highway Authority previously raised no objections to the scheme, noting that access from the private drive onto the public highway (Castle Road) appears to be to an acceptable standard, with the required visibility splays being achieved in both directions at the junction onto Castle Road.

#### Drainage and Flood Risk

The site is located within Flood Zone 1, which has the lowest probability of flooding.

#### Energy efficiency/C0<sup>2</sup>

A Sustainable Buildings Statement has been submitted which sets out the improvements that will be made to the thermal efficiency of the building, and also includes the proposal to install an air source heat pump to provide energy for heating, which will be located to the rear (north) elevation. A condition is suggested to ensure these works are carried out prior to occupation to comply with Policy DP13 and the associated SPD.

#### Ecological Impact

A bat survey has previously been carried out to the satisfaction of the County Ecologist. The Ecologist has stated that their comments are likely to remain the same as those previously provided, i.e. no objection. However, as a number of years have now passed since the bat survey was completed recent photographs

of the building have been requested to show the existing roof structure. Members will be updated on the Ecologist's comments at the meeting.

### Archaeology

The County Archaeologist has requested further details on the foundation depths for the patio and parking areas, which are near to the Castle's defensive works. The applicant has confirmed these will be some 75cm deep. The response of the County Archaeologist is awaited and members will be updated at Committee.

### Health and Wellbeing

No issues are raised in terms of health and well-being.

## **SUMMARY/CONCLUSION**

The previous refusal reasons and the reasons for the previous Appeal are considered to have been successfully addressed and in the opinion of the Local Planning Authority, the development is acceptable in principle and does not adversely affect the amenity of nearby residents or highway safety. There is considered to be no significant harm to the nearby heritage assets and although there are no public benefits the scheme is not considered contrary to paragraph 134 of the NPPF. The proposal is therefore considered to comply with the policies listed.

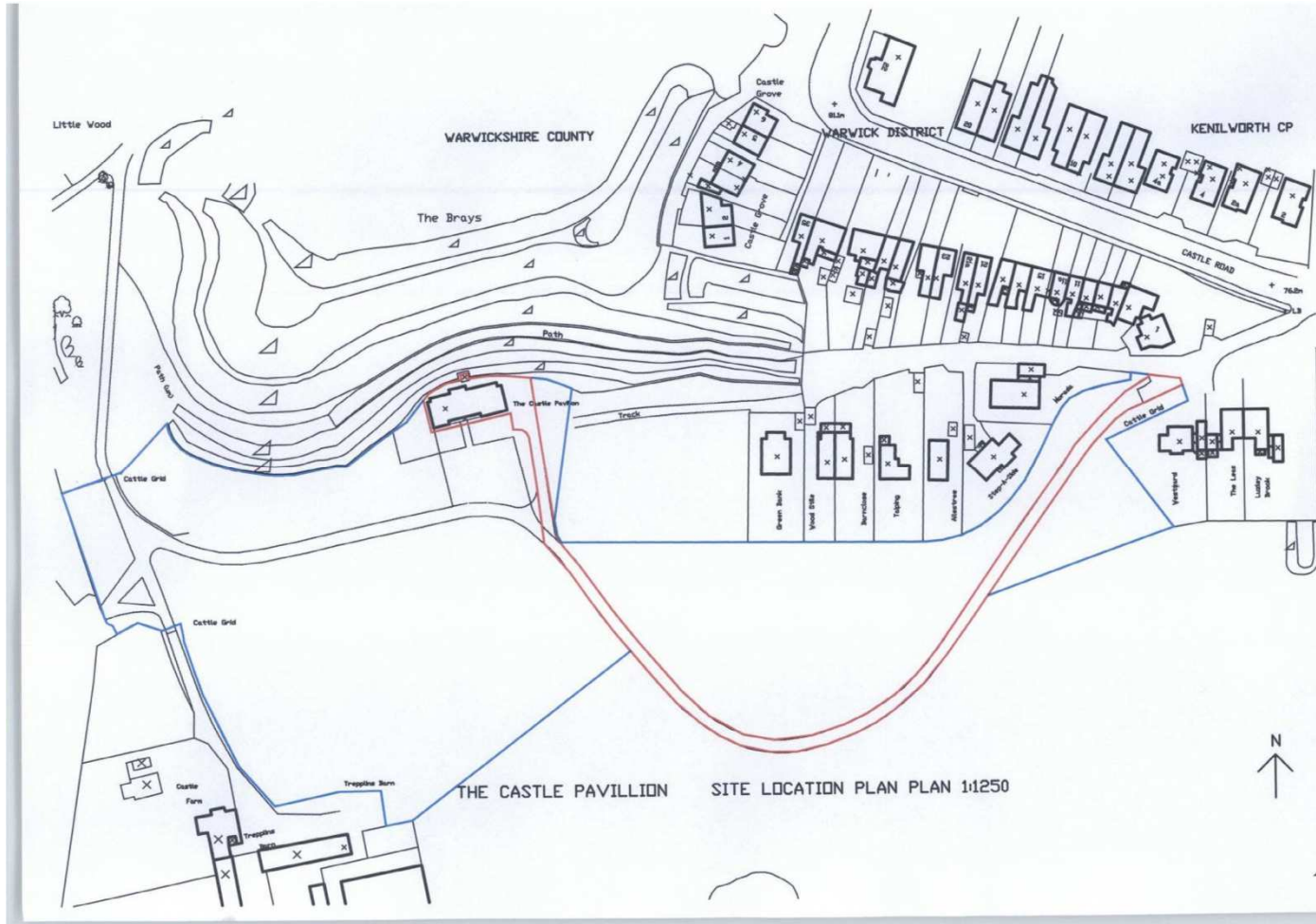
## **CONDITIONS**

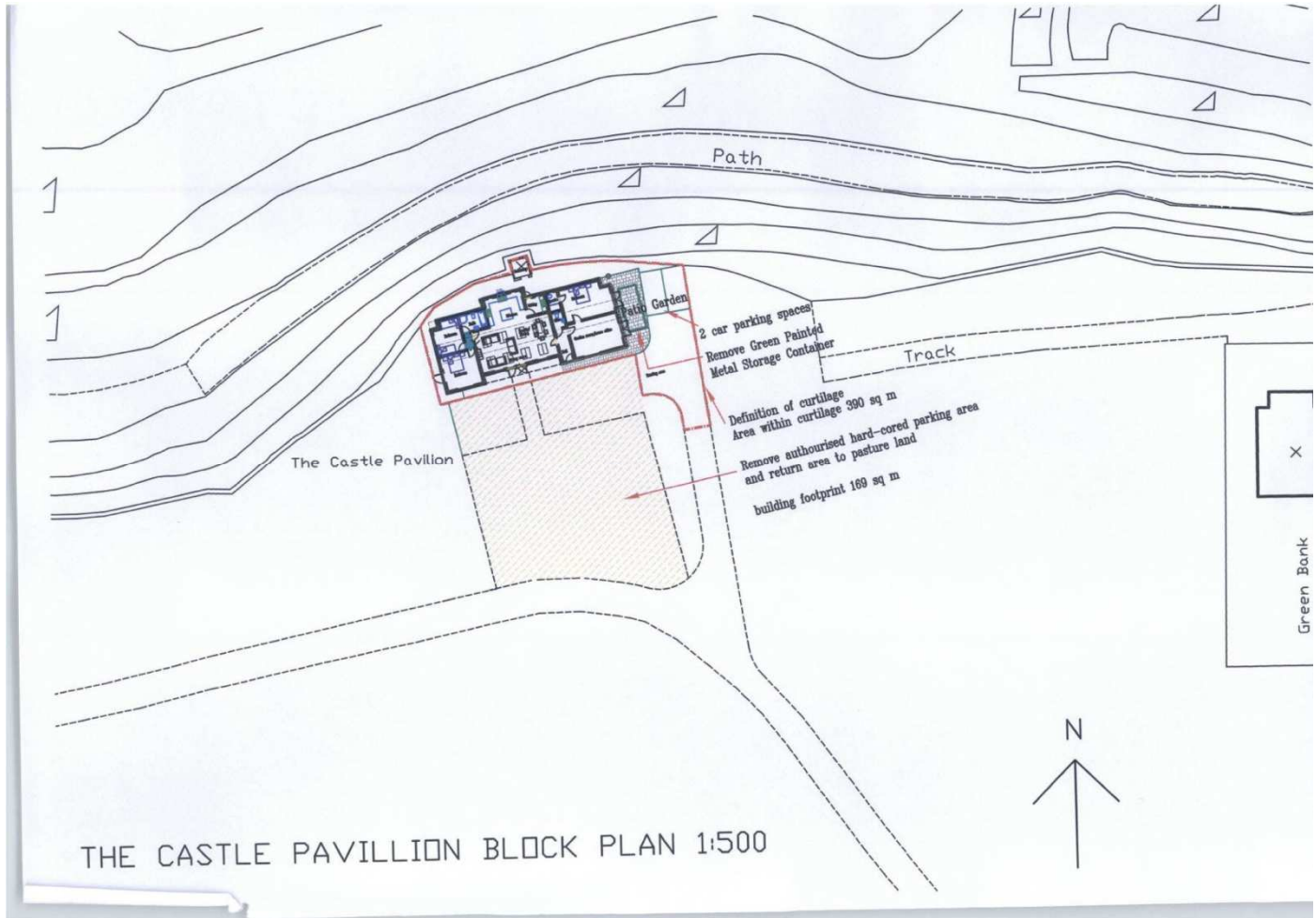
- 1 The development hereby permitted shall begin not later than three years from the date of this permission. **REASON:** To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawing(s) 5096/03A, 04A, and specification contained therein, submitted on 18/04/16. **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 development hereby permitted shall only be undertaken in strict accordance with details of hard landscaping works which have been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary fence and gates to be erected, specifying colours; and hard surfacing, which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first occupation of the development hereby permitted, other than that associated with parking which is required to be completed prior to occupation. **REASON:** To ensure a satisfactory standard of appearance of the development in the interests of the visual



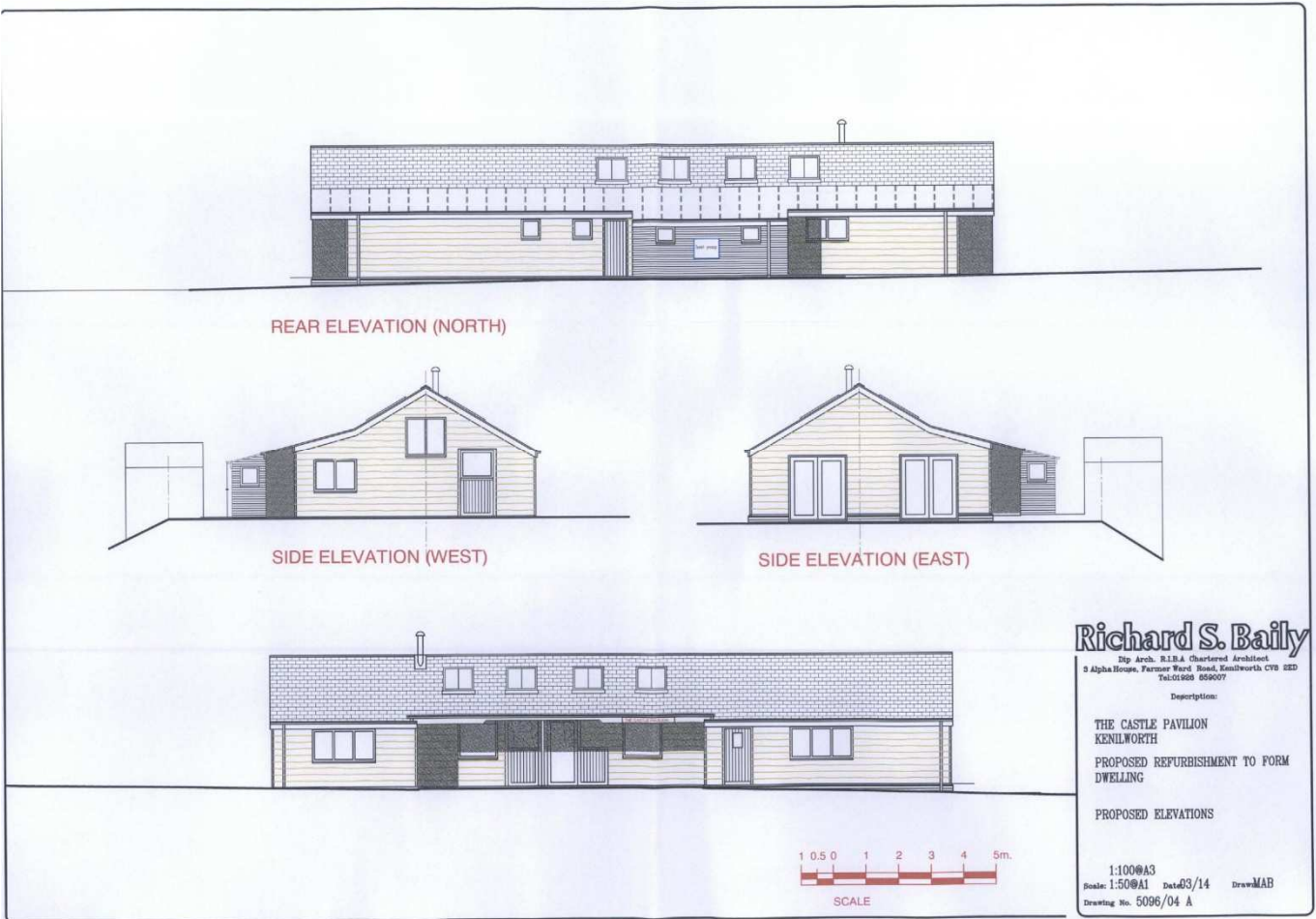
amenities of the area in accordance with Policies DP1, DP2 and DP3 of the Warwick District Local Plan 1996-2011.

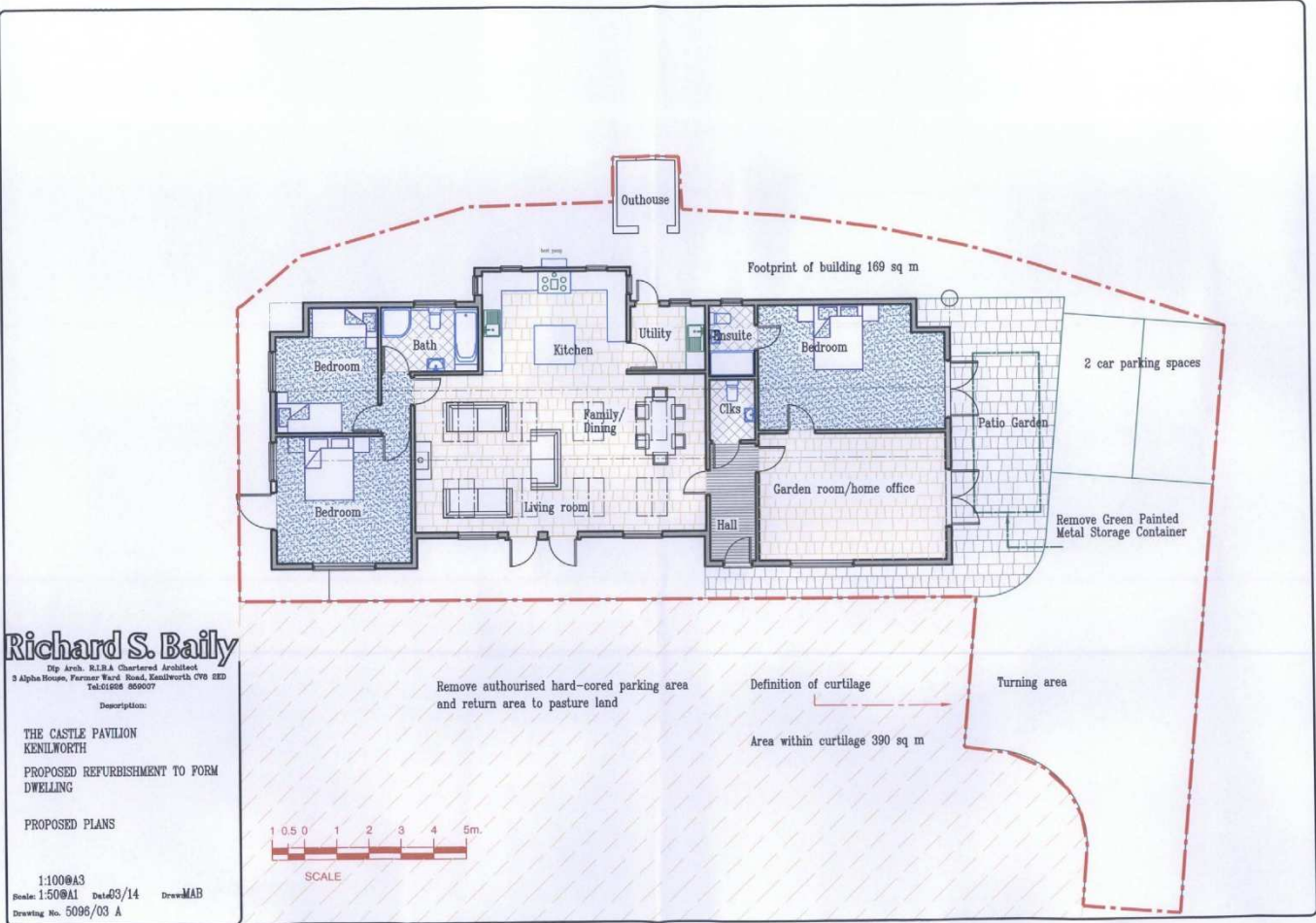
- 4 The development hereby permitted shall not be first occupied unless and until the renewable energy/fabric first scheme submitted as part of the application has been wholly implemented in strict accordance with the approved details. The works within this scheme shall be retained at all times thereafter and shall be maintained strictly in accordance with manufacturer's specifications. **REASON:** To ensure that adequate provision is made for the generation of energy from renewable energy resources or to achieve carbon savings in accordance with the provisions of Policy DP13 in the Warwick District Local Plan 1996-2011.
- 5 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 further development shall take place within the curtilage of the dwellinghouse hereby permitted without the prior written approval of the local planning authority. **REASON:** To ensure that the openness of the rural area and adjacent heritage assets are protected and the scale, character and appearance of the dwellinghouse is not altered by further extensions, in accordance with Policies RAP2, DAP4 and DAP11 of the Warwick District Local Plan 1996-2011.
- 6 The development hereby approved shall not be occupied unless and until the approved off-street car parking spaces and manoeuvring area have been provided in accordance with the approved details on drawing 5096/03 A. Thereafter car parking facilities shall remain available for use at all times. **REASON:** To ensure that a satisfactory provision of off-street car parking is 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.





THE CASTLE PAVILLION BLOCK PLAN 1:500









Previous site plan