

Planning Committee: 22 August 2006

Item Number:

Application No: W 06 / 1003

Registration Date: 06/07/06

Town/Parish Council: Warwick

Expiry Date: 31/08/06

Case Officer: Steven Wallsgrove

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66 Mercia Way, Warwick, CV34 4QB

Extension of existing residential garden FOR Mr M Marshall

This application is being presented to Committee due to the number of objections received.

SUMMARY OF REPRESENTATIONS

Warwick Town Council : "The Town Council considers that any permission should be conditional to require that any flood alleviation works on the land, including any flood bund, be maintained and retained to the satisfaction of the Local Planning Authority and the Environment Agency's satisfaction."

Environment Agency : Have no objection subject to conditions about not altering ground level and details of fencing.

WCC (Ecology) : Consider proposal will have a low adverse ecological impact.

Neighbours : 21 letters of objection have been received on grounds of affecting flood defences and being so large an area as to lead to future development.

RELEVANT POLICIES

- (DW) ENV3 - Development Principles (Warwick District Local Plan 1995)

PLANNING HISTORY

The site of this property (and the adjoining 4 houses) was identified as a development site in the 1995 Warwick District Local Plan. Planning permission for the five dwellings (a terrace of three properties and a pair of semi-detached houses) was granted, on appeal, in 1998. Planning permission was granted for a conservatory on this house (the easternmost house of the terrace of three) in 2004.

KEY ISSUES

The Site and its Location

These five houses lie on land at the end of Mercia Way, the site being above the level of the other dwellings in the road. The development of the site included the retention of a vehicular access to the land to the east, which is at a lower level and forms part of the flood plain.

Details of the Development

The proposal is to extend the garden over the right of way up to an established 'hedge' of willow, all of the land being at the higher level. The work has already been carried out.

The original plans showed a linear bank to the east and south of these properties, but this does not exist and a corrected plan has now been received.

Assessment

The sole issue in this case is whether the development will affect the ground levels so as to allow the river to flood into Mercia Way from this end.

In this context, the existing ground levels are above those of the older part of Mercia Way and the application is simply to use the land as part of the garden, rather than letting it stay overgrown and disused. This means that the use will have little impact and this was the conclusion of the Inspector when allowing the original appeal, following a public inquiry.

In order to safeguard the situation, the Environment Agency have requested a condition to prevent ground levels being altered and, although no similar condition was imposed originally on the appeal permission for the dwellings themselves, this is something which could be done.

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 no. 4360/06A, and specification contained therein, submitted on 8th August 2006 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 ENV3.
- 3 A topographic survey showing existing ground levels on the site shall be submitted to and approved by the District Planning Authority within two months of the date of this permission. The existing ground levels shall not be altered or reduced without the prior written consent of the District Planning Authority. **REASON** : To ensure that the possibility of flooding of adjoining properties is not increased and to ensure that an accurate record of existing levels is available.
- 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 carried out which comes within Part 1 (Class E) of Schedule 2 of this Order, without the prior permission of the District Planning Authority. **REASON** : To prevent any obstructions to flood flows across the site which could increase flood risk elsewhere. T

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 reducing ground levels so as to affect flooding in the adjoining street which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.
