

Planning Committee: 30 April 2013

Item Number: 12

Application No: W 13 / 0402

Town/Parish Council: Old Milverton

Case Officer: Rob Young

01926 456535 rob.young@warwickdc.gov.uk

Registration Date: 25/03/13

Expiry Date: 20/05/13

**Land at Walcote House, Sandy Lane, Blackdown, Leamington Spa, CV32
6QS**

Erection of a live-work unit and detached garage; use of existing outbuildings for storage purposes (Use Class B8); and discontinuing use of the site as a building contractor's yard FOR Mr P Jones

This application has been requested to be presented to Committee by Councillor MacKay.

RECOMMENDATION

Planning Committee are recommended to REFUSE planning permission.

DETAILS OF THE DEVELOPMENT

The application proposes the following development:

- erection of a live-work unit and detached garage;
- use of existing outbuildings for storage purposes (Use Class B8); and
- discontinuance of use of the site as a building contractor's yard.

The following amendments have been made to the application:

- confirmation that a revised plan will be submitted to show 3 additional parking spaces provided for the "work" element of the development;
- confirmation that all existing hard surfaces will be removed and replaced with new porous surfaces;
- confirmation that the existing outbuildings are to be used for storage in association with the proposed live-work unit and are not to be occupied separately; and
- confirmation that the employment element of the live-work unit will be used for the purposes of offices and research and development (Use Classes B1(a) and (b)) and not for manufacturing.

THE SITE AND ITS LOCATION

The application relates to land on the south-western side of Sandy Lane. The site is situated within the Green Belt. This part of Sandy Lane is fronted by

agricultural land and a small number of dwellings. This includes a dwelling adjacent to the north-western boundary of the application site (Malle Manor) and the apartments and other dwellings at Walcote House that are adjacent to the south-eastern boundary of the application site. There is also a dwelling facing the site from the opposite side of Sandy Lane (Hill Farm House).

There are two distinct parts to the application site. The northern half was the former car park of Walcote House and is surfaced with tarmac. This is currently used as a builder's yard, although this use appears to be fairly low key at present. This part of the site currently contains a small amount of building materials and two shipping containers. The southern half of the application site is currently overgrown and does not appear to be in any particular use.

In terms of buildings, there are currently two small brick outbuildings towards the eastern end of the Sandy Lane frontage. To the rear of these there is a dilapidated greenhouse. In terms of boundary treatment, along the Sandy Lane frontage there is currently a wall with a fence on top with a total height of approximately 2m. The north-western boundary with Malle Manor is defined by a tall brick wall (approximately 2.5m high). There is currently no boundary treatment along the southern boundary of the site. There is a Scotts Pine and a Western Red Cedar within the grounds of Malle Manor that are protected by a Tree Preservation Order. The branches of Scotts Pine overhang the northern corner of the application site.

PLANNING HISTORY

In 1996 planning permission was refused for the erection of 5 dwellings on the application site (Ref. W96/1026).

In 1998 planning permission was refused for the erection of a single dwelling on the application site (Ref. W98/0707).

In 2002 a planning application was submitted for the erection of a dwelling on the application site (Ref. W02/1019). This was subsequently withdrawn.

In 2011 a Lawful Development Certificate was issued for the following use on the northern half of the application site: "Use of site for the purpose of a building contractor's yard (not open to visiting members of the public) including ancillary open storage and ancillary secure storage with 2no. containers in connection with site development projects in Leamington Spa" (Ref. W11/0985).

RELEVANT POLICIES

- 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)
- 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)
- RAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- RAP7 - Converting Rural Buildings (Warwick District Local Plan 1996 - 2011)
- SC13 - Open Space and Recreation Improvements (Warwick District Local Plan 1996 - 2011)
- RAP6 - Directing New Employment (Warwick District Local Plan 1996 - 2011)
- National Planning Policy Framework

SUMMARY OF REPRESENTATIONS

Parish Council: No objection. It is thought to comply with the NPPF for development within the Green Belt.

Public response: One neighbour has objected on the following grounds:

- inconsistencies in the employment figures;
- concerns about the size of the proposed development;
- potential noise from the workshop; and
- concerns about whether this would be appropriate in a Green Belt location.

Cllr MacKay: Requests that the application be considered by Committee if Officers are minded to refuse permission on the grounds that he considers that there are very special circumstances that outweigh the conflict with Green Belt policy.

Environment Agency: No comment.

WCC Highways: Object on the following grounds:

1. The section of Sandy Lane onto which the proposed development emerges is subject to a 40mph speed limit. In accordance with standards, visibility from the access should be 2.4m x 120m in both directions as measured to the near edge of the public highway. From a site visit it has been determined that these visibility splays cannot be achieved. The applicant must demonstrate at least one of the following for the access to be acceptable:

- the proposed development will not lead to a significant intensification in movements compared to the number of movements that could be generated by existing permitted uses on the site; and/or
- approach speeds to the access are significantly lower than the posted speed limit. If the applicant can demonstrate the actual speeds of traffic

approaching the access the Highway Authority may be able to reduce visibility requirements.

2. The existing gates are set back less than 7.5 metres from the edge of the highway. Accordingly, vehicles accessing the proposed dwelling would have to wait within the limits of the public highway and/or obstruct the footway while opening the gates. This is not considered acceptable. Gates should be set back to allow for the largest vehicle that will regularly access the site to pull clear of the highway/footway while gates are being opened.

WCC Ecology: Recommend that an ecological appraisal of the site be carried out prior to determination.

An ecological appraisal has subsequently been submitted and comments on this are awaited from WCC Ecology.

WCC Fire & Rescue: No objection, subject to a condition to require details of water supplies and fire hydrants.

WDC Environmental Health: Recommend a condition to require a contaminated land risk assessment to be carried out.

WDC Tree Preservation Officer: No objection, subject to a condition to require an Arboricultural Method Statement.

ASSESSMENT

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

- Green Belt policy and the impact on the openness and rural character of the Green Belt;
- the principle of converting the existing outbuildings to storage use;
- whether the proposals constitute sustainable development;
- the impact on the living conditions of neighbouring dwellings;
- car parking and highway safety;
- the ecological impact of the proposals;
- the impact on trees; and
- contaminated land.

Green Belt policy and the impact on the openness and rural character of the Green Belt

Paragraph 89 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt, with certain exceptions. The erection of a live-work unit does not fall under any of these exceptions and therefore the proposals constitute inappropriate development within the Green Belt. Paragraph 87 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 of the NPPF goes on to state that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and that "very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In making this assessment, it is first necessary to consider whether any "other harm" is caused by the proposals.

The proposal would introduce a substantial building into what is currently a largely open site. With a floor area of 331 sq m (including the garage but excluding the first floor voids) the "live" element would be a very large dwelling in its own right. The "work" element would have a similar floorspace (325 sq m) and together this would amount to a very large building with a floor area of 656 sq m. This would undoubtedly result in a significant reduction in the openness of the Green Belt. In addition, it is proposed that the live-work unit would have a substantial curtilage, filling the entire 90m gap between the existing dwellings at Malle Manor and Walcote House. As a residential curtilage this area is likely to take on a much more urban character, with the introduction of garden buildings and other domestic paraphernalia. This would harm the rural character of the Green Belt.

For the above reasons it has been concluded that the proposals would cause significant harm to the openness and rural character of the Green Belt. It is now necessary to consider whether the applicant has demonstrated very special circumstances to outweigh the conflict with Green Belt policy and the harm to the openness and rural character of the Green Belt.

In their planning statement the applicant has made reference to the one of the exceptions to the normal restrictions on new buildings within the Green Belt, i.e. limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), which would not have a greater impact on the openness of the Green Belt. However, the application site does not comprise previously developed land as defined in the NPPF. The relevant definition in Annex 2 of the NPPF refers to land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. The only buildings on the application site are the two small outbuildings and the greenhouse at the far south-eastern end of the site. In view of the small size of these structures they would only have a very small curtilage and this may only include the small footprint of the buildings themselves.

Therefore, the only parts of the application site that could be considered to be previously developed land would be the footprint of those small buildings and perhaps a very small area adjacent to those buildings. Therefore the development of this substantial site would not meet this exception to normal Green Belt restrictions.

Furthermore, even if this was previously developed land (contrary to the definition in the NPPF), in order to comply with the relevant exception in the NPPF in relation to new buildings within the Green Belt, the proposed development would need to have no greater impact on the openness of the Green Belt. In assessing this change in impact it is first necessary to consider the impact that the existing site has on the openness of the Green Belt. The only buildings on the site at present are the small outbuildings and greenhouse in the south-eastern corner of the site. There are no buildings on the remainder of the site. The builder's yard use does have some impact on openness, due to the presence of the storage containers and building materials. However, the builder's yard use is currently very low key, with very little storage taking place. Furthermore, the existing walls, fences and vegetation around the site largely screen the builder's yard from view. In contrast, the proposed live-work unit would have a much greater impact on openness because it would comprise a substantial building that would be many times larger than the existing buildings on the site. Furthermore it would be a lot taller than any of the existing buildings or storage taking place on site and therefore it would be visible above the boundary wall / fence.

In addition, the builder's yard only accounts for approximately half of the application site. Therefore, even if the arguments relating to previously developed land were accepted (contrary to the NPPF), this would not justify a development that extends to a site twice the size of the builder's yard.

The applicant has suggested that the builder's yard gives rise to some levels of disturbance for existing nearby residents. The applicant has submitted letters of support from the nearby dwelling at Sandi Acre and from the residents association representing the 10 dwellings at Walcote House. However, neither of these letters makes any reference to noise and disturbance from the existing builder's yard use. Furthermore, Environmental Health have confirmed that they have not received any complaints about the builder's yard. Consequently there is no evidence to demonstrate that the builder's yard causes such noise and disturbance that would justify a departure from Green Belt policy.

One of the neighbour's letters that the applicant submitted in support of the application refers to the derelict, untidy, unsightly, overgrown and dilapidated state of the site. The applicant also makes reference to the "degraded state" of the site in their supporting statement. However, this is not considered to justify a departure from Green Belt policy for a number of reasons. Firstly, the site is largely screened by the existing boundary walls, fences and vegetation and therefore it does not have a significant impact on the amenity of the area. Secondly, it is a well established principle of Green Belt policy that the untidy or

derelict nature of a site does not justify departing from the strict controls over development within the Green Belt. Otherwise there are numerous similar sites across the Green Belt that would be considered suitable for development and cumulatively this would amount to a significant amount of new development that would seriously erode the openness of the Green Belt. Furthermore, granting planning permission for the development of such sites would encourage landowners to allow sites to become untidy and dilapidated in the expectation that they would then be able to build a house on it.

In this respect it is also important to have regard to the history of this site. The northern half of the site was turned into a builder's yard by the current applicant without planning permission (some time between 1996 and 2001). This use then became lawful having operated for 10 years and a Lawful Development Certificate was issued in 2011. Consequently if the current applicant had not unlawfully changed the use of the site to a builder's yard, they would not now be in a position to argue that planning permission should be granted on the grounds that a builder's yard is not an appropriate use for this site.

The applicant has also referred to the economic benefits of the proposals and to policies in the NPPF encouraging the integration of residential and commercial uses within the same unit. However, this is not considered to outweigh the harm to the Green Belt. This argument could be repeated for any site within the Green Belt. The applicant has not demonstrated any overriding economic need for the development.

All of the very special circumstances that have been put forward by the applicant have been considered but it has been concluded that these do not outweigh the conflict with Green Belt policy or the harm to the openness and rural character of the Green Belt.

The principle of converting the existing outbuildings to storage use

The conversion of the existing outbuildings to storage use would be in accordance with Local Plan Policy RAP7 and paragraph 90 of the NPPF. The buildings are of permanent and substantial construction and the proposed use can be accommodated without extensive rebuilding or alteration to the external appearance of the buildings (no external alterations are proposed). Furthermore, this part of the proposals would preserve the openness of the Green Belt and would meet all of the other criteria in Local Plan Policy RAP7.

Whether the proposals constitute sustainable development

Paragraph 55 of the NPPF states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 55 goes on to state that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- essential housing for rural workers;
- enabling development to secure the future of heritage assets;
- the re-use of redundant buildings where the development would lead to an enhancement to the immediate setting; or
- a dwelling of exceptional quality or innovative design.

The proposed development would not comply with any of these exceptions. The site is not situated within a defined settlement; it is situated close to the sporadic linear development that extends along the roads around Blackdown, but this does not include any local facilities. Consequently this would be a car dependant form of development, with occupants of the development having to travel by car to day-to-day facilities.

The applicant has suggested that the live-work nature of the proposals makes this a sustainable form of development. However, occupants would still be reliant on the car to access any local facilities. Furthermore, the business element is of such a size that it is likely to employ further staff that do not live on site and those employees are likely to have to drive to the site. Live-work units are not included as one of the exceptions in paragraph 55 of the NPPF. Therefore new build live-work units in the countryside represent an unsustainable form of development that would be contrary to the NPPF.

Impact on the living conditions of neighbouring dwellings

The proposals would not have a significant impact on the living conditions of neighbouring dwellings. The proposals would exceed the Council's Distance Separation Standards in relation to the nearest dwellings. Therefore it has been concluded the proposals would not cause unacceptable loss of light, loss of outlook or loss of privacy for neighbouring dwellings.

In terms of the impact of the proposed business use, the applicant has confirmed that this would be limited to uses falling within Use Class B1 (a) and (b), i.e. offices and research and development. It is not intended that the premises will be used for manufacturing. The Town and Country Planning (Use Classes) Order 1987 states that, to fall within the B1 Class, a use must be capable of being carried on without detriment to the amenity of any residential area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. It is considered that this definition is sufficient to ensure that the proposed business use would not cause undue noise and disturbance or other nuisance to neighbouring dwellings. On this issue it is also notable that Environmental Health have raised no objection.

Car parking and highway safety

The Council's Parking Standards would require 2 spaces for the residential element of the live-work unit and 6 spaces for the "work" element. The current plans meet this requirement for the residential element but only show 3 spaces for the "work" element. However there is space within the site to provide the 3

additional spaces and amended plans are expected to include these. Subject to this amendment, the proposals are considered to be acceptable in terms of car parking.

In terms of highway safety, the Highway Authority have objected to the proposals. The visibility splays for the access would not meet the minimum required for a 40mph road and the gates across the access are within 7.5m of the edge of the highway and this would require vehicles to wait within the highway and / or obstruct the footway while opening the gates. Therefore the proposals are considered to be detrimental to highway safety.

The Highway Authority's comments suggest two ways in which the applicant may be able to demonstrate that the existing access is acceptable: (a) that the proposals will not lead to a significant intensification in vehicle movements compared to the number of movements that could be generated by the existing lawful use of the site; and/or (b) that approach speeds to the access are significantly lower than the posted speed limit. Further information on this issue is awaited from the applicant and this will be included in the addendum report to Committee together with any revised comments from the Highway Authority, if applicable. However, based on the information that is available at present, it must be concluded that the proposals would be detrimental to highway safety.

Ecological impact of the proposals

An ecological appraisal of the site has been carried out at the request of the County Ecologist. In terms of habitat, this concludes that the proposed development will impact areas of medium ecological value. In terms of protected species, the appraisal refers to evidence of badgers using the application site and adjacent land. The appraisal recommends that a detailed badger survey be carried out; that the trees be retained and protected; that the rubble piles are carefully dismantled by hand; that restrictions are imposed in relation the location of the builder's compound and method of storage of building materials; and that any scrub or trees to be removed are surveyed for nesting birds. The County Ecologist's comments on the ecological appraisal are awaited. These will be included in the addendum report to Committee. If the County Ecologist accepts the findings of the appraisal, it will be concluded that the proposals would have an acceptable ecological impact and that any ecological issue could be dealt with by conditions or informative notes (if this had been a recommendation for approval).

Impact on trees

The protected Scotts Pine and Western Red Cedar trees in the grounds of Malle Manor are situated far enough away from the proposed building to ensure that they will not be adversely affected by the proposals. The replacement of the existing tarmac surface with a porous hard surface would represent an improvement in the environment for the trees. A condition to require the submission of an Arboricultural Method Statement will ensure that these re-

surfacing works will not adversely affect the protected trees. There are no other significant trees within or adjacent to the site that would be affected by the proposed development.

Contaminated land

Environmental Health have raised no objection to the application, subject to a condition to require a contaminated land risk assessment to be carried out. Therefore, subject to this condition, the proposals are considered to be acceptable in terms of contaminated land. In this regard it is also noted that the Environment Agency have declined to comment on the application.

Other matters

The application proposes the use of solar photovoltaic panels and an air source heat pump to meet 10% of the predicted energy requirements of the development. This would meet the requirements of Local Plan Policy DP13.

If this had been a recommendation for approval, a condition could have dealt with the issue of public open space provision. The Council's Open Space Supplementary Planning Document would require a contribution of £1,884 towards the provision and enhancement of public open space in relation to the proposed dwelling.

The proposed layout includes adequate space for the storage and collection of waste and recycling.

SUMMARY / CONCLUSION

The proposals represent inappropriate development that would harm the openness and rural character of the Green Belt. The applicant has not demonstrated very special circumstances to outweigh the conflict with Green Belt policy or the harm that would be caused. Furthermore, the erection of a new build live-work unit in this countryside location remote from any local services would represent an unsustainable form of development. There are also concerns about the substandard visibility splays for the access and the proximity of the access gates to the public highway. It is therefore recommended that planning permission is refused for the reasons listed below.

REFUSAL REASONS

- 1 The proposals represent inappropriate development within the Green Belt. Paragraph 87 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The proposals would introduce a substantial building into what is currently a largely open site. This would result in a significant reduction in the openness of the Green Belt. In addition, it is proposed that the live-work unit would have a substantial curtilage, filling the entire 90m gap between the existing dwellings at Malle Manor and Walcote House. As a residential curtilage this area is likely to take on a much more urban character, with the introduction of garden buildings and other domestic paraphernalia. For these reasons it has been concluded that the proposals would cause significant harm to the openness and rural character of the Green Belt. In the opinion of the District Planning Authority, the applicant has not demonstrated very special circumstances to outweigh the conflict with Green Belt policy or the harm that would be caused to the openness and rural character of the Green Belt.

Therefore it has been concluded that the proposals would be contrary to the NPPF.

- 2 Paragraph 55 of the NPPF states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 55 goes on to state that local planning authorities should avoid new isolated homes in the countryside other than in certain special circumstances.

The proposed development would not comply with any of the exceptions listed in paragraph 55. The application site is not situated within a defined settlement; it is situated close to the sporadic linear development that extends along the roads around Blackdown, but this does not include any local facilities. Consequently this would be a car dependant form of development, with occupants of the development having to travel by car to day-to-day facilities. Therefore, in the opinion of the District Planning Authority, the proposals represent an unsustainable form of development that would be contrary to the NPPF.

- 3 Policy DP6 of the Warwick District Local Plan 1996-2011 states that development proposals will be expected to demonstrate that they do not cause harm to highway safety. The application proposes to use the existing vehicular access to the site which has substandard visibility splays. Furthermore, the existing gates are set back less than 7.5m from the edge of the public highway and therefore vehicles accessing the proposed dwelling would have to wait within the limits of the public highway and/or obstruct the footway while opening the gates. Therefore, in the opinion of the District Planning Authority, the proposals would be detrimental to highway safety.

The proposals are therefore considered to be contrary to the

aforementioned policy.

