

Planning Committee: 14 February 2005
Application No: W 04 / 2212

Principal Item Number: 01

Town/Parish Council: Kenilworth
Case Officer: Steven Wallsgrove
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Registration Date: 16/12/2004
Expiry Date: 10/02/2005

66-70 Leamington Road, Kenilworth, CV8 2AA

Erection of six dwelling and associated works (including demolition of no. 66). FOR Cala Homes Midlands Limited

This application was deferred at Planning Committee on the 24th January 2005 for further information about the access, for which a representative of the Highway Authority has been asked to attend. The comments included in the addendum report have been incorporated into this report. Since the meeting, a comment has also been received from Warwickshire Police as set out in the representations section.

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council

"Whilst noting the further changes from the earlier applications, Members MOST STRONGLY RECOMMEND REFUSAL on the grounds that:-

1. Although the applicant's state that they have adjusted the visibility splays to meet the 120 metres requirement they question whether this is true in practice.
2. They note with grave concern that, given the 40 mph speed limit, the splay visibility is based upon a 2.0 metre line rather than 2.4 metre line. This area has established trees, including conifers and mature hedgerow which will seriously impede visibility. Consequently it is considered that, given the nature of the road and traffic flows, the full 2.4 line is absolutely essential in safety terms.
3. The road is becoming ever busier (a private survey found between 1400 and 1600 vehicles per hour), often with directional peaks concomitant with the rush hour periods and with vehicles appearing to exceed the speed limit. Developments already approved by the District will certainly exacerbate the situation on this narrow and congested roadway, where turning in either direction is already dangerous.
4. The road has witnessed many accidents, including a fatal, and is considered to be an accident black spot. Accordingly, if the District is minded to approve the application, it is most strongly recommended that County Highways should be requested to undertake a full on-site visibility splay review to ensure that both notional and requisite visibility levels are achieved, comprehensive traffic flow assessments made in both directions and a review of the speed limit undertaken. Restrictions on both turning into and out of the proposed development should also be considered to reduce the hazards associated with the S bend structure of the road.
5. The revised design does nothing to assuage Members earlier and most earnest concerns that the scheme:-
 - (a) Constitutes a disastrous intrusion into the semi rural street scene of this most important entrance into the Town.

- (b) Starts to destroy the character of this important entrance of the Town.
- (c) Would set a precedent for a development, which is out of character with the adjoining properties and could well lead to similar development along Leamington Road.

A separate communication will also be dispatched to County Highways to further reinforce the concerns already expressed by this Council."

WCC (Ecology) - Have no objection subject to a protected species survey and an arboricultural survey being carried out.

Environmental Health - Have no comments.

Environment Agency - Have no objections.

WCC (Highways) - Have no objection, subject to conditions, following further information received.

Kenilworth Society

"This latest application appears to amount to no more than a minor adjustment of W04/0295. We therefore wish to reiterate the objections set out in our letter dated 22nd April 2004."

The attempt to improve the visual splays is unsatisfactory. It relies on the edges on either side of the entrance being cut back and maintained at a much reduced height. We do not see how proper on-going maintenance can be guaranteed in future, especially as part of the land appears to be a communal area; i.e. it will not belong to any of the new or existing houses. The visibility would be improved if the hedges and other forms of fencing were removed altogether, but this solution to the problem would result in an unacceptable alteration to the street scene.

We hope that the Planning Committee will refuse this application. However, if Councillors are minded to grant it, we request that they impose a condition that there should be no right turn from the Leamington Road into the new development. This would reduce the likelihood of queues and "shunt" accidents at peak traffic times."

Neighbours - Letters of objection have been received from/on behalf of 14 residents on grounds of insufficient parking, increased traffic, inaccuracy of the Ordnance Survey map, access concerns, frequent accidents, privacy, does not enhance the street scene, impact on sunlight and daylight, noise and disturbance from traffic.

Warwickshire Police (Road Safety Unit) consider access visibility splays should be 2.4 m x 120 m.

Andy King MP has written to outline residents concerns about highway safety and lack of visibility. Concern is also expressed about the scale of notification to residents about the new application and the visibility of the site notice that was displayed. A committee site visit is requested.

Mr. Connolly of 72 Leamington Road has submitted a set of photographs of a damaged vehicle involved in an accident with his on 19th January when he was turning into his drive when coming from Kenilworth.

RELEVANT POLICIES

(DW) ENV3 - Development Principles (Warwick District Local Plan 1995)
(DW) H5 - Infilling within the Towns (Warwick District Local Plan 1995)
(DW) ENV3A - Sustainable Development and Energy Conservation (Warwick District Local Plan 1995)
UAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011 First Deposit Version)

PLANNING HISTORY

There have only been two, relevant, applications on this site. These were for the erection of 6 dwellings and the second one was dismissed on appeal, although the Inspector only refused it on not meeting highway visibility standards. All other aspects were considered acceptable by the Inspector. A copy of the appeal decision is attached as an appendix.

KEY ISSUES

The Site and its Location

The site consists of No. 66 and the back garden of No. 70 Leamington Road, the gardens of both properties being large and including a number of ornamental trees and conifers. Each property has its own access, with No. 66 have both 'in' and 'out' accesses.

Details of the Development

The proposal is almost identical to the previous schemes and involves the demolition of No. 66 with the revised access being moved to the north end of the site. This access would serve the proposed 6 detached houses, with No. 70 retaining its existing access, and would consist of a 5m wide shared drive.

The existing boundary screen planting would be retained, as with the previous applications.

The applicants have engaged specialist surveyors who have designed the access following site surveys.

Assessment

Since the layout has not been altered from that considered by the Appeal Inspector, except for the access, the only issue which can be considered is the access. The appeal decision is attached in full to this report and now constitutes a material consideration of significant weight in the consideration of the present application. Indeed D.O.E. Circular 8/93 (Award of Costs incurred in planning and other proceedings) advises:-

'A planning authority are likely to be regarded as having acted unreasonably, in the event of a successful appeal against their refusal of planning permission, if it is clear from a relevant earlier appeal decision that the Secretary of State or a Planning Inspector would have no objection to a revised application in the form which was ultimately allowed, and circumstances have not changed materially meantime.'

Given that the inspector raised no objection to the proposals on amenity grounds, the issue to be resolved is one of access and the requisite visibility. The revised access has been specifically designed to meet the objection of the Inspector, namely it provides for

2.0 metres 'x' distance and 120metre 'y' distance for the visibility splays. These measurements can be met within the highway boundary and only requires the pruning of overhanging vegetation. Although there are concerns about future maintenance of the visibility splays, the highway authority has powers to require cutting back of overhanging vegetation in order to ensure highway safety.

The repositioning of the access point has implications for turning into, and out of, the site since it is now not a straight roadway. This was the point made by the Highway Authority. This has been checked and an amended plan received which clarifies this aspect.

It is considered, therefore, in the light of the appeal decision, that this proposal is acceptable and satisfies the relevant, listed, policies since the issues raised by the County Ecology service were the subject of surveys at the time of the appeal.

REASON FOR RECOMMENDATION

The proposal is considered to comply with the policies listed above.

RECOMMENDATION

GRANT subject to the following conditions:

- 1 The development hereby permitted must be begun not later than the expiration of five years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990.
- 2 The development hereby permitted shall be carried out strictly in accordance with the details shown on the approved drawing(s) B3262/14D, /16B, /17, /18A, /19A, /20B, /22, /24A, /30, /40, /41, /42, /43 and CBBAFT/002, and specification contained therein, submitted on 14th December 2004 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 Samples of all external facing materials to be used for the construction of the development hereby permitted, shall be submitted to and approved by the District Planning Authority before any constructional works are commenced. Development shall be carried out in accordance with the approved details. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 4 A landscaping scheme, incorporating existing trees and shrubs to be retained and new tree and shrub planting for the whole of those parts of the site not to be covered by buildings shall be submitted to and approved by the District Planning Authority before the development hereby permitted is commenced. Such approved scheme shall be completed, in all respects, not later than the first planting season following the completion of the development hereby permitted, and 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 5837:1991. 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 spread 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 Policy ENV3 of the Warwick District Local Plan.

- 5 With regard to the dwellings on plots 2-7 and 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 A, B, E, G) of this Order where the development would front the private driveway, without the prior permission of the District Planning Authority. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy ENV3 of the Warwick District Local Plan.
- 6 The vehicular access to the site shall not be used until visibility splays have been provided to the public highway carriageway with an 'x' distance of 2.0m metres and 'y' distances of 120 metres. No structure, erection, trees or shrubs exceeding 0.6 metres in height above the adjoining highway carriageway shall be placed, allowed to grow or be maintained within the visibility splays so defined. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy ENV3 of the Warwick District Local Plan.
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