PLANNING COMMITTEE 21st and 22nd July 2015

OBSERVATIONS RECEIVED FOLLOWING PREPARATION OF AGENDA

Item 5 - W/15/0851 - Grove Farm, Harbury Lane

WCC Archaeology: No objection, subject to a condition to secure archaeological evaluative work across the site and a mitigation strategy, as necessary.

There have been three further objections from local residents raising issues already identified within the committee report.

Councillor Rhead has objected to the application raising the following concerns:

1. The report asks you to delegate authority to the Head of Development Services on the important matter of a satisfactory Section 106 Agreement. However importantly the Report cannot advise you of the full extent of the intended S.106 details. Such important details as Highway Infrastructure, Secondary Education Provision, NHS Hospital contributions and Police Contributions are all unknown. So how can you delegate such unknowns? As Chair of the March meeting we had no S.106 details at all which was then a cause for concern and little has changed.
2. Currently the Emerging Local Plan is recommended by the Inspector to be unsound. In particular there will be a need to reconsider additional housing needs from Coventry which might (in all probability will) mean reconsidering redefining the Green Belt (GB). Currently WDC Planners are going back to recommending using the GB for a Gypsy & Travellers site which had before been rejected as unsuitable. Now in such uncertain times we should not be continuing with sites until we have more clarification of the potential redefining of the GB which might permit a more even distribution of the current unallocated and unmet housing needs.
3. As you will be aware I have made some pertinent enquiries about the uncertain state of the Infrastructure Development Plan and its current unknown funding. Again we should not be granting planning for a further 520 homes in such uncertain conditions.
4. The Planning Officers will try and impress upon you the danger of losing an Appeal if you either refuse or defer your decision. This should not be a material consideration as such. There is only a need to have good planning reasons for your decision and fear of losing an appeal is not one of them.
5. The report uses the 5-Year Housing supply as a reason that RAP1 is not applicable. The 5-Year Housing Supply has been one matter that has been controversial for some many months and I consider that the current uncertainty of the Emerging Local Plan only serves to cast doubt on the veracity of the Report's claims.

Councillor Day has objected to the scheme, raising the following concerns:

The planning website has not been updated with representations that have been made in the past ten days concerning this application.

There are concerns that traffic issues that will be exasperated by this scheme. The Parish Council has commissioned a study of the current traffic congestion and a technical review of the transport documentation because of concerns about the cumulative effect of traffic generated by a number of new housing schemes in this vicinity.

This scheme if approved now, will *not* be required to pay the new Community Infrastructure Levy and this scheme is therefore premature and would be more appropriate to come forward once we have a new Local Plan, so a proper contribution can be made to the infrastructure investment that will be needed.

I find the arguments being put by the Parish Council and local residents to be compelling and therefore urge the Committee to once again refuse permission for this scheme, which is ill-conceived and premature of our Local Plan.

Bishop's Tachbrook Parish Council: Strong objection on the following grounds summarised as:

WDC does have a 5 year housing land supply (5.66 years calculated) even allowing for the 20% buffer and therefore, there is no sound basis for approving this application now, nor is it necessary to do so because this development is not plan-led by the current Local Plan adopted in 2007 which designates the land as rural. Planning Permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. NPPF 14 and 49 are not engaged.

This application should not be determined until at least the outcome of the new HMA review is known and a clear strategy for the distribution of additional sites that cannot be met within Coventry's own boundary has been accepted by the Examining Inspector. He expects that the spatial distribution of sites in the HMA for this purpose will be substantially different to the plan submitted for examination.

The Parish Council's objections, with reference to the NPPF, existing Local Plan policies and the emerging Neighbourhood Plan are -

- This is the same application that was refused on 31st March 2015.
- This application has not been amended from the application that has been refused.
- Since then the position on the emerging Local Plan position has changed, at the Initial hearing of the Examination of the Local plan, the inspector found that the Local Plan is not sound and cannot proceed. Although he found that the duty to cooperate had been complied with, he found that draft Local Plan was not sound as regards the overall housing provision and the supply and delivery of housing land in the plan. The Inspector did however find that the Objectively Assessed Need for Warwick District at 606 dwellings per annum was reasonable

and that the Objectively Assessed need for the Housing Market Area at 4,004 dwellings per annum was also reasonable.

- Although the Secretary of State has been asked to call in the decision, unless and until the position changes, the emerging local plan carries little weight and the Local Plan adopted in 2007 remains the Local Plan that determines the granting of planning permissions (this includes Policy RAP1).
- It should not be considered out of date simply because it was adopted prior to the publication of the Framework (211). Due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, the closer the policies the greater the weight that may be given (215).
- Coventry has the unmet need. They have not yet asked for the rest of the Housing Market Area to assist. Until they do the strategy for unmet need cannot be determined.
- The application increases Grove farm development to 720 dwellings. The developer has said that they expect to deliver at 50 per annum. The last 20 houses will be still being built after the end of this plan period and because the 200 that have already been granted will not be starting on site until 2016, those 200 will complete in 2020, 5 years from now.
- This application is for dwellings that won't start until 2020 and take to 2030 to complete and so will not count towards a 5 years housing land supply. This does not provide housing that is urgently required.
- Natural Environment – loss of valued landscapes, agricultural land (the land is almost all Grade 2, the remainder is Grade 3a), soil, water, air pollution.
- Plans should allocate land with the least environmental or amenity value and encourage the effective use of land by re-using land that has previously been developed (brownfield land) (111), reinforced by the ministers statement on using brownfield sites.
- Planning decisions should aim to identify and protect areas of tranquillity which remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason. (123.4). This should apply to the Tachbrook Valley.
- Heritage assets whose settings should be considered are St. Chad's Church in Bishop's Tachbrook, Grade I listed, with views to the north from the church tower which will be materially affected by the housing proposed and The Barracks, Grade II listed, 17th C, building, which has open views to it from across the development site.
- Traffic/Transport concerns. A technical report is being prepared that will deal in more detail with these issues and their cumulative impacts that is anticipated to show that traffic issues are not resolved.
- Coalescence of settlements.
- Conclusion: A decision to lose this greenfield site now , is not shown to be required by Warwick District housing need, not known to be either needed by or In the right place for Coventry's housing need and cannot be delivered to a viable timescale in any case. THIS CONFIRMS THE PREMATURITY OF THE APPLICATION WHICH WAS A REASON FOR ITS REFUSAL AT ITS FIRST APPLICATION. The Parish Council considers therefore that this application

should be refused for ALL these reasons because the totality of the cumulative damage that would be caused to the area, when the need for housing in this location is neither certain nor deliverable within a reasonable timescale to meet the urgent need for housing demonstrably outweighs any benefits of the scheme. In the context of the Framework, the proposal would perform poorly against the environmental dimension to sustainable development, the very reason why the appeal on land south of Mallory Road was dismissed.

The Parish Council has instructed Solicitors to send a letter of objection on their behalf. The letter raises a number of points, which are listed below and followed by a response by the case officer in italics:

- Legal requirements – Section 70(2) of the Town and Country Planning Act 1990, Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are absent from the Committee report.

Officer reports do not reference primary planning legislation. There is no requirement to specify each and every statutory test or discretion that is engaged in an officer's report. Members of the Planning Committee have received training and are familiar with the considerations to which they must have regard when determining planning applications.

- The adopted, statutory Development Plan comprises the saved policies of the Warwick District Local Plan 1996-2011, and the application site forms part of open countryside where rural policies (RAP1-16) apply. There are also several listed buildings nearby and although a list of relevant policies are listed in the committee report there is no exposition of the requirements of the policies, nor any attempt to assess the proposals against them.

The Council do not have a 5 year housing land supply and Policy RAP1 is to be considered out-of-date. Policies in the LP relating to listed buildings may be considered up-to-date as they are broadly consistent with the NPPF. Para.14 of the NPPF indicates development should be approved without delay that accord with the development plan. The officer report has a clear section on 'Heritage and Visual Impact' and states that Historic England considers the scheme will have a relatively minor impact on the significance of heritage assets. This includes all surrounding listed buildings, it is noted that the Parish Council have specifically mentioned views from St Chads Church and The Barracks, which adjoins the eastern side of Oakley Wood Road. For clarity the scheme is not considered to harm the special architectural or historic interest, integrity or setting of surrounding listed buildings and is in accordance with Policy DAP4 of the adopted LP. The Section 66 test and the test within the NPPF have also been considered.

- The emerging LP is given significant weight; however it is currently held in abeyance and is not sound. In this context it is inappropriate for the development site to be referred to as 'allocated', as this is dependent upon the plan passing through examination and being adopted. Furthermore the allocation is opposed and runs contrary to policies contained in the Bishops Tachbrook Neighbourhood Plan (BTNP).

The NPPF is a material consideration that is afforded significant weight in the officer report. The report is clear that the application site is an allocation within the

emerging Local Plan, i.e. it is a proposed allocation. The result of the Examination is also detailed within the report; the pertinent issue raised by the Inspector is that the total supply of houses set out in the plan is not sufficient. The un-adopted Bishops Tachbrook Neighbourhood Plan is referred to in the report and is considered to have limited weight. As part of the NP process the NP has to reflect the emerging LP.

- Prematurity/cumulative impact – Highly material that the application is one of several applications submitted for the urban extensions south of Leamington/Warwick and yet no consideration is given to the cumulative impact of those applications. There is no reference to the BTNP, which is dismissed as carrying limited weight. While the emerging LP is held in abeyance pending further work regarding overall housing provision it would be premature to permit the current application given the prejudice it might have on the preparation in light of the Inspector's concerns.

The cumulative impact has been considered as part of the (proposed) housing allocations in the emerging LP and there is a strategic framework for these sites as detailed in the report. The report also recognises that the likely implications of the Inspector's decision will be the requirement for further housing sites, not less. Officer advice is that the BTNP does carry limited weight. It is the officers' view that approving this development would be consistent with the NPPF paras.14 and 49.

- Consistency – The application is a re-submission of W/15/0271 refused in March 2015, which is a material consideration. The committee report must grapple effectively with the reasons for refusal and set out why the Committee should reach a fundamentally different decision.

The reasons for refusal of the previous scheme are set out in full within the officer report. There has been a material change in the circumstances since the previous decision, in that the Council can no longer demonstrate a 5 year housing supply and although the recommendation is the same the reasons for the recommendation are different, thus overcoming reasons 1 and 2. In terms of reason 3 Historic England have noted the further assessment undertaken with regard to the impact of traffic generated by this scheme and raises no objection. Reason 4 was applied as no S106 had been signed; again this is addressed in the report.

- The report misdirects Members to the status of Policy RAP1 and the relevance of para.49 of the NPPF, which states that applications should be considered in the context of the presumption in favour of sustainable development. This must be read in the context of Para.14 of the NPPF states where the development plan is out-of-date permission should be granted unless: Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against polices in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted. The three dimensions to 'sustainable development' within the report are broad generalisations and unsubstantiated.

Although Para 14 is not specifically referenced the officer report states that application site has: 'already been specifically identified through the current Local Plan process to meet the future housing needs of the District and is considered to be within a sustainable location and compatible with the policies within the NPPF when taken as a whole'. The site will therefore have been already assessed against

a range of sustainability factors. The three dimensions to sustainable development: economic, social and environmental are outlined in the report. It is correct that development should only be permitted in accordance with Paragraph 14 of the NPPF provided that any adverse impacts of doing so would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or where there are no specific policies in the NPPF that indicate that development should be restricted. Members of the Planning Committee will need to apply this test and make their decision accordingly. However, it is clear from the Committee report that Officer's do not take the view that there are any adverse impacts that significantly and demonstrably outweigh the benefits of the proposed development in this case or that there are any specific policies in the NPPF that indicate that development should be restricted.

- The PC has commissioned independent advice with regard to the impact that the scheme would have on traffic and transport on the local highway network.

The independent advice was submitted on the afternoon of 20th July 2015, however the County Highway Authority has been able to view the document and confirm that their view remains one of <u>no objection</u> to the scheme. The site has been assessed at a strategic level and the previous application W/15/0271 did NOT refuse the application on highway safety grounds. As there has been no material change in this respect and there remains no objection from the Highway Authority, the recommendation to Members is that the application should not be refused on highway safety grounds.

- Design/Natural Environment: *These matters are considered to have been adequately addressed within the committee report. Members will be aware that this is an Outline planning application and that matters relating to detailed design will be determined at Reserved Matters stage. The report clearly states that "While detailed layout, design and landscaping would be assessed at reserved matters stage, the indicative plan demonstrates that <u>there is the ability</u> to secure a high quality residential scheme that meets the Council's "garden suburb" guidance"*
- Contributions/Legal Agreement: There is concern that the application is presented to committee without the settled heads of terms for a Section 106 Agreement. Members can have no confidence as to the extent that the impact of the development can be mitigated.

In terms of Planning Obligations Officers have now had an opportunity to seek further information and advice in respect of the requests for Section 106 obligations relating to Education, Highways, Policing, Health and Indoor & Outdoor Sports.

<u>Education</u>

Warwickshire County Council has identified needs to expand both primary and secondary education as part of the overall planning for residential developments in this area. It is proposed that the applicant be required to make contributions, whether financial or in kind, in line with those sought from other developers. The County Council is planning expenditure in a manner which ensures that no more than five planning obligations require contributions to any one project forming part of the education infrastructure supporting growth in this area. Therefore, the request is considered to be compliant with Regulation 123 of the CIL Regulations,

which imposes a limit of 5 Section 106 obligations that can be taken into account in respect of an infrastructure project when determining a planning application. Based on the representations made by the County Council, officers are satisfied that the requested obligations are necessary to make the development acceptable in planning terms, directly related to the development and fairly related to the development in scale and kind as required by CIL Regulation 122.

Highways

The Highway Authority has requested a contribution of £6,000 per open market dwelling towards the programme of improvements identified for the area south of Leamington in the Infrastructure Development Plan. This programme is necessitated by the cumulative impacts of a number of developments in this area, with all the other developments having agreed similar contributions. The pooling restrictions in Regulation 123 (see above) do not apply to agreements under section 278 of the Highways Act 1980 which it is proposed to use to secure this contribution.

Based on the representations made by the Highway Authority, officers are satisfied that the requested contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly related to the development in scale and kind.

NHS

The South Warwickshire Foundation Trust has requested £540,781.91 towards additional facilities to meet additional patient demand generated by the proposed development. A breakdown of what this money will be spent on has been provided in their consultation response. Officers have reviewed this response and are satisfied that the contribution is necessary to make the development acceptable in planning terms, directly related to the development and fairly related to the development in scale and kind.

The South Warwickshire Foundation Trust has confirmed that the pooling limit in CIL Regulation 123 would not be exceeded by this obligation.

Police

Warwickshire Police have requested the sum of £107,892 towards the additional costs of equipping staff, police vehicles and premises in respect of the Warwick Rural West Safer Neighbourhood Team, which is the team responsible for policing the area of the proposed development.

Officers have reviewed the consultation response and are satisfied that the contribution is necessary to make the development acceptable in planning terms, directly related to the development and fairly related to the development in scale and kind.

Warwickshire Police have confirmed that there are presently only two Section 106 contributions towards infrastructure for the Warwick Rural West Safer Neighbourhood Team and are therefore satisfied that the pooling limit in CIL Regulation 123 would not be exceeded by this obligation.

Indoor/Outdoor Sports

A contribution is sought by Warwick District Council's Cultural Services Department towards two projects, namely;

(1) A new sports hall and enhancement to the swimming pool and health and fitness facilities at Newbold Comyn Leisure Centre

(2) Improvements to the drainage, parking and pitch surface at Harbury Lane Playing Fields

It is considered that these works are necessary to make the development acceptable in planning terms, are directly related to the development and fairly related to the development in scale and kind.
The District Council's Cultural Services Department has confirmed that there are presently less than 5 obligations in respect of each project and therefore that the pooling limit in CIL Regulation 123 would not be exceeded by this obligation. The indoor sport contribution will be £831.04 x 520 = £432,140.80 and the outdoor Sport contribution will be £56.73 x 520 = £29,499.60.

Item 6: W15/0646 – Opus 40, Birmingham Road, Warwick

Section 106 agreement

The applicant has agreed to enter into a Section 106 agreement to secure the following:

1. A contribution of £97,077.19 towards off-site public open space (Saltisford Common or Warwick Cemetery)
2. A contribution of £10,000 for the provision of signage alongside the Grand Union Canal to give information about walking routes
3. A contribution of £233,740 towards enhanced pre-school and reception facilities at Woodloes Primary School
4. A contribution of £1,860 towards library facilities (the provision of new and replacement stock, targeted collections and targeted promotions to inform new residents of services available to them)
5. A contribution of £72,520.30 towards indoor sports facilities (improvements to the existing sports hall at St. Nicholas Park)
6. A contribution of £4,822.05 towards outdoor sports facilities (resurfacing the artificial pitch at St. Nicholas Park)
7. A contribution of £88,397.04 towards acute and community healthcare facilities
8. A contribution of £200,000 towards the signalisation of the Birmingham Road / Haywood Road junction (part of the Highway Authority's Stanks Island Scheme)
9. Provision of land to enable the completion of the Highway Authority's Stanks Island Scheme
10. A contribution of £6,375 towards sustainable welcome packs
11. Payment of a Section 106 monitoring fee – precise amount to be confirmed once the full costs of drawing up and monitoring the agreement are known
12. Laying out and future management of the on-site public open space
13. Provision and future management of the on-site children's play area
14. Provision of 40% affordable housing

It is considered that the provisions of the Section 106 agreement are all necessary to make the development acceptable in planning terms, are directly related to the development and are fairly related to the development in scale and kind. Therefore

the Section 106 provisions comply with the limitations of Regulation 122 of the Community Infrastructure Levy Regulations. Furthermore, it is considered that none of the contributions breaches the pooling restrictions of Regulation 123.

Further comments from WCC Highways

WCC Highways have now objected to the application on the grounds that they do not consider the agreed contribution towards their scheme for the signalisation of the Birmingham Road / Haywood Road junction to be sufficient.

The agreed contribution (£200,000) is less than that requested by WCC Highways (£306,000). However, notwithstanding the comments of WCC Highways, it is not considered that the full £306,000 is justified given that the existing use of the site as a car park currently results in a significant amount of traffic using the Birmingham Road / Haywood Road junction during peak periods. Nevertheless, it is noted that WCC Highways are concerned that a change to a residential use could result in an increase in the likelihood of illegal right-turns or U-turns in Eastley Crescent during the AM peak, which they consider to be a safety issue. Therefore it is considered that there is a highway justification for some contribution towards the scheme for the signalisation of the Birmingham Road / Haywood Road junction. The contribution agreed amounts to two-thirds of the amount requested by WCC Highways and this is considered to be an appropriate contribution given the existing traffic impact of the car park on the site and given the fact that the Section 106 agreement will also require the applicant to gift land to the Highway Authority.

Further condition

A further condition is recommended to require chimneys to be added to the proposed dwellings.

Item 7: W15/0594 – Leamington Tennis Club

Further consultation responses
Public response: 4 further objections have been received, raising car parking and highway safety concerns similar to those summarised in the report.

WCC Highways: No objection. Guys Cliffe Avenue is approximately 11.0 metres wide and from site inspections undertaken, whilst the demand for on-street parking appears to be greater during the evening, at this time on street car parking spaces were nevertheless available.

Although there are a number of access driveways on the eastern side of Guys Cliffe Road, these are for the most part shared access points with extended dropped crossing areas. The impact on the visibility of the drivers of cars exiting from these access points by adjacent parked vehicles on Guys Cliffe Avenue is lessened due to the width of the accesses and that of the public highway carriageway.

The proposed development is for an additional squash court. The additional trips generated by this proposal will be minimal when considered within the context of the existing facilities on site and could be accommodated within the existing highway without being to the detriment of highway safety.

Further comments from the applicant

The applicant has submitted the following response in relation to parking issues:-

1. 2 off street car parking spaces have been provided for the proposal in accordance with the council's parking standards.
2. The vast majority of nearby properties, which are mainly flats adjacent to the club, have their own off street parking.
3. Guys Cliffe Avenue is approximately 11m wide (twice the width of a standard residential road) such that even with vehicles legally parked on both sides of the road, access into and from drives and off road parking areas is assisted relative to a typical residential road of 5.5m.
4. The club already holds competitions and the new extension will provide improved facilities comparable with other clubs. On competition nights it will allow one of the hard back courts to be released for recreational use (2 additional users). The competitions are normally on Saturday evenings when there is less pressure on street parking.
5. The club has engaged with local residents regarding parking issues:

    - There have been many meetings and regular contact with resident representatives: a common approach was agreed in June 2012.
    - Joint meetings have been arranged with residents and the Police from the Leamington North Safer Neighbourhood Team who have agreed to carry our additional patrols on weekday evenings and Saturday mornings.
    - Fixed notices have been placed on the club entrance gate encouraging considerate parking.
    - Photographs of inappropriate parking have been displayed on the club's notice boards to discourage this behaviour,
    - The issue of inappropriate parking has been raised at AGMs and other meetings and in cub newsletters.

6. There is an assumption that inappropriate parking arises from club members, however within a few hundred meters there is a popular pub and fish & chip shop, which could be contributing to this issue at peak times.

7. It is unlikely the two camper and large white vans who park regularly in Guys Cliffe Avenue are club members.

An objector has submitted comments disputing the above points made by the applicant. These comments have been forwarded direct to the members of the Planning Committee.

Item 10: W/15/0777 59 Albert Street, Warwick

3 further public responses received objecting to the proposals which would be out of keeping within the surrounding area.

Item 11: W/15/0936 – 1 Lancaster Place:

Kenilworth Town Council comments: no objection.

Item 12 : W/15/0939 – 12 Coventry Road, Baginton

Clarification on **Siting and Design** Paragraph – The Proposed dwelling house will sit within part of the existing footprint of the existing garage (not 'sit within')

Item 13 W/15/0677 - Barford Playing Fields, Church Lane Barford

1 no. further letter of support has been received.
Further information has been provided on the proposed tennis practise wall: This is a heavy duty version of conventional tennis fencing with excellent rebound qualities. It is favoured by tennis coaches and is a cost effective option without the potential for structural failure which might be associated with a brick or block wall.

A further benefit is its transparency which minimizes any security concerns.

Visually the practise wall will look identical to the proposed tennis fencing and will not be prominent in the area. The feature will be positioned so as to not effect any neighbouring properties in relation to "rebound noise."

An additional condition is recommended: to require the submission of the details of the in relation to the Tennis Practise wall.

Item 15 – W/15/0778 – 38 Coventry Road:

4 further public responses have been received objecting to the proposal because of

Item 16 – W/15/0779 – 48 Coventry Road:

3 further public responses have been received objecting to the proposal predominantly by reason of the visual impact of the rendered property with a prominently brick built area.

Item 17 W/15/0938 33 Morse Road, Whitnash

The item is withdrawn from the agenda as the Whitnash Town Council have amended their comments in relation to the application